

**Moorabool Shire Council**

**Councillor Code of Conduct**

This Code, which incorporates the statutory requirements specified for a Code of Conduct under section 139 of the *Local Government Act 2020*, was adopted by resolution of Moorabool Shire Council on   
24 February 2021.

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# Introduction

The Code of Conduct is a tool of corporate governance. As Moorabool Shire Councillors, we are committed to working together in the best interests of our communities’ and discharging our responsibilities to the best of our knowledge, skill, and judgement. This Code of Conduct is established as part of Council’s commitment to govern our Shire effectively and adhering to the principles of good governance.

Good governance involves making and implementing good decisions which are based upon processes, protocols, and good conduct.

Good conduct and good relationships are particularly significant because it relies on working together as the government to make decisions in the name of the Council, regardless of individual differences. This involves mutual respect, shared values and courtesy which are important especially when there are differences of opinion.

This Code of Conduct is established in accordance with the requirements of section 139 of the *Local Government Act 2020* and will be reviewed periodically.

Further to this Councillor Code of Conduct, there is also the Employees Code of Conduct which Council staff are bound by and adhere to as part of good conduct.

# Definitions

The following definitions are listed to assist with the reading of the document:

|  |  |
| --- | --- |
| **Word** | **Definition** |
| Act | means the *Local Government Act* 2020 (as Amended) and sections made under it. |
| Bullying | means the Councillor repeatedly behaves unreasonably towards another Councillor(s) or member of Council staff and that behaviour creates a risk to the health and safety of that other Councillor(s) or member of Council staff. |
| Council | means Moorabool Shire Council, being a body corporate constituted as a municipal Council under the *Local Government Act* 2020. |
| Councillor Conduct  Officer | means the person appointed in writing by the Chief Executive Officer to be the Councillor Conduct Officer for the Council under section 150 of the Act. For this purpose, the General Manager Customer Care & Advocacy has been appointed to this role. |
| Councillor Conduct Panel (CCP) | means a panel selected by the Principal Councillor Conduct Registrar under section 153 of the Act. |
| Councillors | means the individuals holding the office of a member of Moorabool Shire Council. |
| Council Officers | means the Chief Executive Officer (CEO) and staff of Council appointed by the CEO. |
| Community | means the whole of the Moorabool community. |
| Complaint | means a grievance concerning the conduct of a Councillor or a member of the organisation. |
| Dispute | means a circumstance in which 2 or more Councillors are unable to resolve an interpersonal conflict amongst themselves. |
| Gross misconduct | means behaviour that demonstrates that a Councillor —   * is not of good character; or * is otherwise not a fit and proper person to hold the office of Councillor, including behaviour that is sexual harassment and that is of an egregious nature. |
| Internal resolution procedure | means the procedure specified in the Councillor Code of Conduct. |
| Misconduct | means any breach by a Councillor of the prescribed standards of conduct included in the Councillor Code of Conduct. |
| Principal Councillor  Conduct Registrar | means the person appointed by the Secretary to be the Principal Councillor Conduct Registrar under section 148 of the Act. The Principal Councillor Conduct Registrar’s role is to administer Councillor Conduct Panel processes. |
| Serious misconduct | means:   * the failure by a Councillor to comply with the Council's internal arbitration process; * the failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147; * the failure of a Councillor to attend a Councillor Conduct Panel hearing in respect of that Councillor; * the failure of a Councillor to comply with a direction of a Councillor Conduct Panel; * continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by an arbiter or by a Councillor Conduct Panel under section 167(1)(b); * bullying by a Councillor of another Councillor or a member of Council staff; * conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or a member of Council staff; * the disclosure by a Councillor of information the Councillor knows, or should reasonably know, is confidential information; * conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff; * the failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision-making process when required to do so in accordance with the Act. |

# Values and Principles

## 3.1 Moorabool Shire Council Values

Moorabool Shire Council has determined the following Values to guide its decision making and operations.

* Respect Treat others the way you want to be treated.
* Integrity Do what is right.
* Practicality Always be part of a solution.
* Excellence Continually improve the way we do business.
* Equity Fair distribution of resources.

These Values are laid out in the Council Plan that is adopted by the Council each term. Based on these Values and the Conduct Principles within the *Local Government Act* 2020, Moorabool Shire Council has developed the following set of Principles for this Code of Conduct.

## 3.2 Moorabool Shire Council Principles

As Councillors of Moorabool Shire Council we endorse that it is a primary principle of Councillor Conduct that, in performing the role of a Councillor, we as Councillors will:

* Act with integrity;
* Impartially exercise our responsibilities in the interests of the local community; and
* Not improperly seek to confer an advantage or disadvantage on any person.

Furthermore, we acknowledge that in performing our role as Councillors we will:

* Avoid conflict between our public duties as a Councillor and our personal interests and obligations;
* Act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
* Treat all persons with respect and have due regard to the opinions, beliefs, rights, and responsibilities of other Councillors, Council staff and other persons;
* Exercise reasonable care and diligence and submit ourselves to the lawful scrutiny that is appropriate to our office;
* Endeavour to ensure that public resources are used prudently and solely in the public interest;
* Act lawfully and in accordance with the trust placed in each of us as elected representatives;
* Ensure when expressing our own opinions on Council matters, it does not undermine the standing of Council in the community and/or doesn’t impede with the decisions of Council.
* Conduct ourselves in a manner that does not cause detriment to Council or the community of Moorabool Shire; and
* Support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

## 3.3 Prescribed Standards of Conduct for Councillors

The Local Government Act 2020 requires a Councillor code of conduct to include the standards of conduct prescribed by the regulations expected to be observed by Councillors.

As Councillors of Moorabool Shire Council, we are committed to the standards of conduct contained in the Local Government (Governance and Integrity) Regulations 2020, which are:

* 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—

1. takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the Equal Opportunity Act 2010; and
2. supports the Council in fulfilling its obligation to achieve and promote gender equality; and
3. does not engage in abusive, obscene, or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and
4. 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.
   1. **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—

1. 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
2. diligently uses Council processes to become informed about matters which are subject to Council decisions; and
3. is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
4. 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.
   1. **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—

1. 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;
2. the Council expenses policy adopted and maintained by the Council under section 41 of the Act;
3. the Governance Rules developed, adopted, and kept in force by the Council under section 60 of the Act;
4. any directions of the Minister issued under section 175 of the Act.
   1. **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.

* 1. **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.

# Roles and Responsibilities

## The Role of a Councillor

We acknowledge the role of a Councillor as specified in section 28 of the Act which articulates the role is to:

* Participate in the decision-making of the Council;
* Represent the local community in that decision-making; and
* Contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.

We acknowledge that the administrative management of the Council is the responsibility of the Chief Executive Officer, and Councillors have no authority to give directions to Council staff. We endeavour to ensure our interactions with members of Council staff do not, and are not perceived to, improperly direct or influence members of Council staff in the exercise of their duties, or in their professional advice to Council. Accordingly, our interactions with the administration will be through the Chief Executive Officer, General Managers and Managers in accordance with the *Local Government Act* 2020.

## The Role of the Mayor

The Mayor is elected by Council to represent the views and directions of Council and the role of the Mayor is to:

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

The Chief Executive Officer is to support the Mayor in the performance of his or her role. This includes managing the interactions between Councillors and staff.

## Working with the Chief Executive Officer and Management

The Chief Executive Officer is responsible for administrative and operational matters of Council including the appointment of Council officers and structuring an organisation that allows the implementation of decisions made by Council. The Council appoints and reviews the performance of the Chief Executive Officer.

Staff are responsible for providing information to Councillors that will assist their representation and decision-making roles. To obtain information that is up-to-date and offered in the right context, liaison should occur with the Chief Executive Officer, or appropriate General Manager. Speaking directly to Council officers below General Manager level without the authorisation of the officer's General Manager may result in Councillors receiving advice that has not been formally endorsed by senior management.

Exceptions are made with support staff and other designated staff who, for operational reasons, will have regular contact with Councillors. The provision of information and advice to Councillors operates on the principle that information provided to one Councillor should generally be made available to all Councillors.

Councillors should refrain from publicly criticising Council officers in a way that casts aspersions on their professional competence or credibility. Councillors should advise the Chief Executive Officer in a timely fashion of any concerns that a Council officer has acted contrary to a formal Council policy or decision.

In addition to statutory provisions regarding confidential information, Councillors must not release to an external person or organisation any documents or information that the Chief Executive Officer or a General Manager has deemed to be kept confidential by informing the Councillors as such in writing or by marking the material as confidential.

## The Functions of the Councillor Conduct Officer

The Councillor Conduct Officer of the Council plays a key role in the Code of Conduct dispute resolution process. The functions of a Councillor Conduct Officer include to assist the Council in the implementation of, and conduct of, the internal arbitration process of a Council as specified under the Act.

## The Functions of the Independent Arbiter

The role of the independent arbiter is to:

* consider applications alleging a contravention of the prescribed Councillor Conduct Standards by a Councillor;
* make findings and give a written statement of reasons supporting the findings in relation to any application alleging a contravention of the prescribed Councillor Conduct Standards to the Council, for tabling at the next Council meeting and recording in the minutes of that meeting;
* Impose an appropriate sanction or sanctions in accordance with section 147 of the Act, where the arbiter has found that a Councillor has contravened the prescribed Councillor Conduct Standards.

# Councillor Conduct

## 5.1 Use of Council Resources

We commit to using Council resources effectively and economically. We will:

* Maintain adequate security over Council property, facilities and resources provided to us to assist in performing our role and will comply with any Council policies applying to their use;
* Ensure any expense claims that we submit are in compliance with the relevant legislative provisions and Council policy;
* Not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate; and
* Not use public funds or resources in a manner that is improper or unauthorised.

[Refer - Council Expenses Policy]

## 5.2 Gifts and Benefits

We will scrupulously avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits, or hospitality of any kind, is attempting to gain favourable treatment from an individual Councillor or from the Council.

We will take all reasonable steps to ensure that our immediate family members (parents, spouse, children, and siblings) do not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.

Where a gift is received on behalf of the Council, the gift becomes the property of the Council. For transparency and accountability purposes, these gifts will be recorded in the Councillors Gifts Register with a notation that it is the property of the Council.

We recognise that gifts equal to or above the gift disclosure threshold received in the twelve months prior to election from a person or body that has a direct interest in a matter may give rise to an indirect interest because of receipt of an applicable gift.

We will record all campaign donations in our “campaign donation return.

## 5.3 Communication

We recognise that as representatives of the local community, we have a primary responsibility to be responsive to community views and to adequately communicate the position and decisions of Council.

The Mayor is the designated official spokesperson for all Council policies and decisions and will provide official comment to the media on behalf of Council where the matter is of a political, controversial, or sensitive nature. This includes major Council announcements and civic occasions. Where the Mayor is not available, he/she may delegate authority to another Councillor.

We acknowledge that individual Councillors are entitled to express their personal opinions through the media (both public and private).

Where we choose to do so, we will make it clear that such comment is a personal view and does not represent the position of Council. We undertake to ensure that any such comment is devoid of comments that could reasonably be construed as being derogatory, offensive, or insulting to any person. Furthermore, our dealings will be in accordance with the principles as set in this code

The Chief Executive Officer will be the official spokesperson on behalf of Council for all media enquiries regarding operational matters.

## 5.4 Personal Dealings with Council

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

## 5.5 Vexatious and Malicious Claims

A vexatious or malicious complaint is a contravention of the Councillor Code of Conduct.

## 5.6 Dealing with Contraventions of Conduct

The following table below summarises the authority responsible for addressing a contravention of the Code, misconduct, serious misconduct, and gross misconduct as defined within the Act:

|  |  |
| --- | --- |
| **Type of Contravention** | **Responsible Authority** |
| Conduct inconsistent with standards Council has set itself | Council  (via Internal Dispute Resolution Procedure) |
| Misconduct | Internal Arbitration Process (Independent Arbiter) |
| Serious misconduct | Councillor Conduct Panel |
| Gross misconduct | VCAT |

# Dispute Resolution

## 6.1 A Multi-Phase Internal Resolution Procedure

The dispute resolution process is intended to be used when a conflict and/or dispute emerges when differences between Councillors become personal or the behaviour of Councillors towards each other and/or staff is of a nature that unduly affects the operation of the Council. It is not intended to resolve differences in policy or decision making, which are appropriately resolved through discussion and voting in Council and committee meetings. Disputes may also involve allegations of contraventions of this Code of Conduct.

All Councillors are committed to resolving disputes or dealing with alleged contraventions of the Code of Conduct without the need for external assistance as a demonstration of unity and teamwork wherever possible and to resolve issues using their best endeavours without resorting to this dispute resolution process.

Where, after these endeavours have been exhausted, the matter still remains unresolved, the parties may resort to any or all of the Council’s dispute resolution processes.

Each of the phases follow set processes and these have been provided as appendices to this Councillor Code of Conduct.

|  |  |  |
| --- | --- | --- |
| **Phase** | **Description** | **Appendix** |
| 1 | **Direct Negotiation** between the parties in dispute with the Mayor in attendance to provide guidance; | 1 |
| 2 | **Using External Mediation** by an independent mediator engaged by the Chief Executive Officer; | 2 |
| 3 | **Application for Internal Arbitration Process** using an Independent Arbiter to be appointed by the Principal Councillor Conduct Registrar. | 3 |
| 4 | **Application for a Councillor Conduct Panel** to be appointed by the Principal Councillor Conduct Registrar | N/A |

## 

## 6.2 Failure of the Councillor to Comply

In the event a Councillor fails to comply with an Internal Arbitration Process, this will constitute serious misconduct under the Act, and therefore will be dealt with by a Councillor Conduct Panel.

## 6.3 Internal Resolution Procedure – During the Election Period

An application cannot be made for an internal resolution procedure during the election period for a general election. Any internal resolution procedure that is in progress is to be suspended during the election period for a general election.

If the respondent to an application for an internal resolution procedure is not returned to office as a Councillor in the election, the application lapses. If the respondent is returned to office in the election, the application may resume if:

* The application was made by the Council and the Council so resolves; or
* The application were made by a group of Councillors and any one (or more) of those Councillors who has been returned to office wishes to proceed with the application; or
* The applicant (individual Councillor) is returned to office and wishes to proceed with the application.

# Misconduct Resolutions Processes

## 7.1 Councillor Conduct Panel (Serious Misconduct)

The Council notes that in relation to a formal dispute resolution process, the Act provides for the establishment of Councillor Conduct Panels to hear allegations of serious misconduct by Councillors.

The Principal Councillor Conduct Registrar manages the establishment of Councillor Conduct Panels.

All applications (supported with evidence) to establish a Councillor Conduct Panel (CCP) to hear allegations of misconduct or serious misconduct must go to the registrar. The panel must be established if the registrar is satisfied that the application is not frivolous or misconceived or lacking in substance, is supported by evidence and council processes have been fully exhausted or are not appropriate.

If a CCP makes a finding of Misconduct against a Councillor, then the Councillor may be ineligible to hold the office of Mayor, reprimanded, directed to make a formal apology, or be suspended from office a specified period up to 12 months. The CCP may also direct that the Councillor is ineligible to Chair a Delegated Committee for a specified period not exceeding the remainder of the Council term.

## 7.2 Jurisdiction of VCAT

VCAT will hear allegations of Gross Misconduct. The Chief Municipal Inspector will be responsible for making applications to VCAT for findings of Gross Misconduct against Councillors.

If VCAT makes a finding of Gross Misconduct, then a Councillor may be disqualified from office for a maximum of 8 years. Councillors may also be ineligible to hold the office of Mayor for a maximum period of 8 years.

If a Councillor party to the matter is not satisfied with the ruling of the Councillor Conduct Panel, that Councillor can take the matter to VCAT for a review of that decision.

# Guidance and Advice

Councillors are individually responsible for seeking relevant advice from the Mayor, Chief Executive Officer or General Manager Customer Care & Advocacy as to the application of the Code.

# Related Policies & Procedures

Other related Council policies and procedures are:

* Councillors and Members of Council Committees Expenses Policy
* Protected Disclosure Procedures
* Privacy Policy
* Governance Rules (incorporating the Election Period Policy)
* Occupational Health & Safety Policy

## APPENDIX 1

**Phase 1 – Direct Negotiation**

Where Councillors who are in dispute have not been able to resolve the dispute between them, either (or both) party (parties) may request the Mayor to convene a meeting of the parties.

A dispute referred for direct negotiation may relate to:

* an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or
* an alleged contravention of the Councillor Code of Conduct.

The steps in Phase 1 are set out below:

1. The party requesting the direct negotiation meeting is to provide the Mayor with the name of the other Councillor and the details of the dispute in writing. The written request is to indicate that it is for a “direct negotiation” dispute resolution process. Where the request relates to an alleged contravention of the Councillor Code of Conduct, the request must:

* specify the name of the Councillor alleged to have contravened the Code;
* specify the provision(s) of the Code that is alleged to have been contravened;
* include evidence in support of the allegation;
* name the Councillor appointed to be their representative where the request is made by a group of councillors; and
* be signed and dated by the requestor or the requestor’s representative.

2. The Mayor is to notify the other party of the request and provide him or her with a copy of the written request as soon as practicable thereafter receiving the request for direct negotiation.

3. The Mayor is to ascertain whether or not the other party is prepared to attend a “direct negotiation” meeting.

4. If the other party is not prepared to attend a meeting, the Mayor is to advise the requestor forthwith. The requestor can then choose to resolve the matter using either Phase 2 or Phase 3 internal disputes resolution procedures.

5. If the other party declines to participate in a meeting, this does not constitute a contravention of this Councillor Code of Conduct.

6. If the other party consents to a meeting, the Mayor is to convene a meeting of the parties at the earliest available opportunity. Unless one or both parties are unavailable, this should be within 5 working days of receiving the consent of the other party.

7. The Mayor may present the parties with guidelines, in advance of the meeting or at the meeting, to help facilitate the meeting.

8. The role of the Mayor at the meeting is to provide guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under the Act, and the observation of the Councillor conduct principles and the Councillor Code of Conduct.

9. The Mayor is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to external mediation or the internal arbitration procedure where the matter relates to an alleged contravention of the prescribed Standards of Conduct.

10. If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, either or both of the parties have recourse to Phase 2 - external mediation or Phase 3 – an internal arbitration process where the matter relates to an alleged contravention of the prescribed standards of Conduct.

11. Where the Mayor is a party to the dispute, the request is to be made to the Deputy Mayor. In the absence of a Deputy Mayor the request is to be made to the immediate past Mayor in office. The Deputy Mayor or the immediate past Mayor in office will perform the functions ascribed to the Mayor.

## APPENDIX 2

**Phase 2 – Using External Mediation**

A Councillor or a group of Councillors may make an application for a dispute to be referred for external mediation whether or not the dispute has been the subject of an application for “direct negotiation”.

An application made for a dispute to be referred for external mediation may relate to:

* an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or
* an alleged contravention of the Councillor Code of Conduct.

The steps in Phase 2 are set out below:

1. The applicant is to submit a written application to the Councillor Conduct Officer setting out the name of the Councillor and the details of the dispute. The application is to indicate that the application is for an “external mediation”. Where the application relates to an alleged contravention of the Councillor Code of Conduct, the application must:

* specify the name of the Councillor alleged to have contravened the Code;
* specify the provision(s) of the Code that is alleged to have been contravened;
* include evidence in support of the allegation;
* name the Councillor appointed to be their representative where the application is made by a group of councillors; and
* be signed and dated by the applicant or the applicant’s representative.

2. The Councillor Conduct Officer is to notify the other party of the request and provide him or her with a copy of the application as soon as practicable thereafter receiving the application for external mediation.

1. The Councillor Conduct Officer is to ascertain (in writing) whether or not the other party is prepared to attend an “external mediation”. If the other party declines to participate in an external mediation, he or she is to provide their reasons for doing so in writing to the Councillor Conduct Officer. These reasons may be taken into account if the matter is, subsequently, the subject of an application for a Councillor Conduct Panel.
2. When the other party declines to participate in an external mediation, this does not constitute a contravention of this Councillor Code of Conduct.
3. If the other party agrees to participate in an external mediation, the Councillor Conduct Officer is to advise the applicant, the Mayor and Chief Executive Officer forthwith.
4. The Councillor Conduct Officer is to engage the services of an external mediator to conduct the mediation at the earliest practicable opportunity.
5. The mediator is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties, the Mayor and the Chief Executive Officer. Where one party does not comply with the agreement, the other party has recourse to Phase 3 of Councils internal resolution procedures where the matter relates to an alleged contravention of the Councillor Code of Conduct.
6. If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, the applicant has recourse to Phase 3 of Councils internal resolution procedures where the matter relates to an alleged contravention of the Prescribed Standards of Conduct.

## APPENDIX 3

**Phase 3 – Internal Arbitration Process**

**Making an Application**

An application for an internal arbitration process to make a finding of misconduct against a Councillor may be made by—

* the Council following a resolution of the Council; or
* a Councillor or a group of Councillors.

An application under section 143 of the Act must be made within 3 months of the alleged misconduct occurring and must be given to the Principal Councillor Conduct Registrar in the manner specified by the Principal Councillor Conduct Registrar in any guidelines published under section 149(1)(c).

The prescribed process for an application for internal arbitration must include:

* the name of the Councillor alleged to have breached the standards of conduct; and
* 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; and
* after receiving an application under section 143 of the Act, the Councillor Conduct Officer provides the application to the Councillor who is the subject of the application.

An arbiter appointed to hear a matter subject to an application must:

1. conduct the hearing with as little formality and technicality as the proper consideration of the matter permits; and
2. ensure that the hearing is not open to the public.

An arbiter—

1. may hear each party to the matter in person or solely by written or electronic means of communication; and
2. is not bound by the rules of evidence and may be informed in any manner the arbiter sees fit; and
3. may at any time discontinue the hearing if the arbiter considers that:

(i) the application is vexatious, misconceived, frivolous or lacking in substance; or

(ii) the applicant has not responded, or has responded inadequately, to a request for further information.

**Principal Councillor Conduct Registrar must examine application**

1. The Principal Councillor Conduct Registrar, after examining an application under section 143, must appoint an arbiter to the Council to hear the matter if the Principal Councillor Conduct Registrar is satisfied that—
2. the application is not frivolous, vexatious, misconceived or lacking in substance; and
3. there is sufficient evidence to support an allegation of a breach of the Councillor Code of Conduct as specified in the application.
4. The Principal Councillor Conduct Registrar must reject an application if the Principal Councillor Conduct Registrar is not satisfied under subsection (1)(a) or (b).
5. The rejection of an application by the Principal Councillor Conduct Registrar under this section does not prevent a further application being made under section 143 in respect of the same conduct by a Councillor that was the subject of the rejected application.
6. Information provided to an arbiter or produced by an arbiter for the purpose of an internal arbitration process, other than the findings and the reasons, is confidential information.

**Arbiter must refer certain applications**

1. If, at any time before, during or after the hearing of an application for an internal arbitration process, the arbiter believes that the conduct that is the subject of the application for an internal arbitration process appears to involve serious misconduct and would more appropriately be dealt with as an application under section 154, the arbiter must refer the matter in writing to the Principal Councillor Conduct Registrar.
2. If the Principal Councillor Conduct Registrar receives a referral under subsection (1), the Principal Councillor Conduct Registrar must notify the parties to the application for an internal arbitration process that the matter has been referred by the arbiter.

**Sanctions that may be imposed by an arbiter on finding of misconduct**

1. If after completing the internal arbitration process, the arbiter determines that a Councillor has failed to comply with the prescribed standards of conduct, the arbiter may make a finding of misconduct against the Councillor.
2. If an arbiter has made a finding of misconduct against a Councillor, the arbiter may do any one or more of the following—
3. direct the Councillor to make an apology in a form or manner specified by the arbiter;
4. suspend the Councillor from the office of Councillor for a period specified by the arbiter not exceeding one month;
5. direct that the Councillor be removed from any position where the Councillor represents the Council for the period determined by the arbiter;
6. direct that the Councillor is removed from being the chair of a delegated committee for the period determined by the arbiter;
7. direct a Councillor to attend or undergo training or counselling specified by the arbiter.
8. The arbiter must provide a written copy of the arbiter's decision and statement of reasons to—
9. the Council; and
10. the applicant or applicants; and
11. the respondent; and
12. the Principal Councillor Conduct Registrar.
13. Subject to subsection (5), a copy of the arbiter's decision and statement of reasons must be tabled at the next Council meeting after the Council received the copy of the arbiter's decision and statement of reasons and recorded in the minutes of the meeting.
14. If the arbiter's decision and statement of reasons contains any confidential information, the confidential information must be redacted from the copy tabled under subsection (4).