

Councillor Internal Resolution Procedure

Policy Number:	N/A	Directorate:	Customer and Performance
Approval by:	Council	Responsible Officer:	Manager Governance and Risk
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1. Purpose

Council must implement and adopt an internal resolution procedure that may be followed by Councillors to deal with alleged breaches of the Model Councillor Code of Conduct.

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

This Procedure will be observed when dealing with alleged breaches of the Model Councillor Code of Conduct.

2. Context

Disputes between Councillors may arise in a variety of circumstances. This Procedure provides both parties to a dispute with support and encouragement to resolve the dispute in a manner that enables the Councillors to move forward and maintain effective working relationships.

All parties should initially seek to resolve disputes through early, genuine and respectful discussion with each other. Direct communication is encouraged as the primary approach to dispute resolution, as it is often the most effective means of preventing escalation and maintaining constructive working relationships. This Procedure is designed to provide a structure that guides Councillors through a tiered dispute resolution process. It is intended to minimise the cost and disruption of disputes to Council and individual Councillors and, where possible, avoid disputes escalating and becoming the subject of internal arbitration.

3. Scope

This Procedure applies to:

- Interpersonal disputes between Councillors; and
- Disputes in which one Councillor (the Complainant) alleges that another Councillor (the Respondent) has breached the Model Councillor Code of Conduct.

It is acknowledged that this Procedure will not be suitable for resolution of all disputes between Councillors.

It is also acknowledged that disputes addressed according to this procedure may remain unresolved, and parties may escalate the matter to an internal arbitration. Internal arbitration involves the appointment of an independent arbiter by the Principal Councillor Conduct Registrar and is outside the scope of this Procedure.

4. Internal Resolution Procedure

The Internal Resolution Procedure is a process that Councillors may follow to address alleged breaches of the Model Councillor Code of Conduct. An overview of the Procedure is annexed, in the form of a flowchart.

First Stage of Internal Resolution Procedure – Discussion

- 4.1 A Complainant is encouraged to raise their issue directly with the Respondent in a respectful and courteous manner, either in person or in writing, where they feel comfortable to do so.

Councillors are encouraged to recognise that:

- (a) Certain behaviours and communications may be perceived by others to be causing issues or offence that may not have been intended;
- (b) It can provide useful insight to reflect on their own behaviour or motivation and possible contribution to the dispute, whether intended or not; and
- (c) Dealing with the dispute early is more likely to avoid the issue escalating and resolve it before it threatens the effective operation of Council.

It is useful to frame any issue from the Councillor's perspective (eg "I felt disrespected when you said / did ..."), rather than accusing another person of holding a particular position or taking a negative action deliberately. A Councillor should let the other Councillor know how they feel and ask for an explanation, rather than making accusations or assumptions.

Second Stage of Internal Resolution Procedure – Conciliation

- 4.2 Where a direct conversation between Councillors has not been successful in resolving the dispute, or a Councillor does not feel comfortable communicating directly with another Councillor, the second stage of this Procedure is conciliation.

Initiating conciliation

- 4.3 A Complainant initiating conciliation must notify the Councillor Conduct Officer of the dispute by completing a Conciliation Application Form. The Councillor Conduct Officer will notify the Mayor and Respondent(s) of the Application and provide them with a written copy of the Application. That form (see Attachment 1 to this Procedure) must:
- (a) Specify the names of the Complainant and Respondent;
 - (b) Specify the provision (or provisions) of the Model Councillor Code of Conduct alleged to have been breached;
 - (c) Detail what was said or done by the Respondent to constitute a breach of the Model Councillor Code of Conduct;
 - (d) Attach any supporting information to provide examples of the behaviour complained of (eg screenshots or emails); and
 - (e) Be dated and signed by the Complainant.

Participating in conciliation

- 4.4 Councillors are not obliged to engage in conciliation but should only decline to participate if they honestly and reasonably believe that their participation would adversely affect their health or wellbeing or would otherwise be unsafe.

A Respondent declining to participate in the conciliation must advise the Complainant and the Mayor of their unwillingness to participate, and the reasons for it. That advice must be provided no more than one week after receiving the Conciliation Application Form.

Conduct of conciliation

- 4.5 Conciliation is to be conducted by the Mayor except when the Mayor is a party to the dispute or otherwise unavailable to conduct conciliation. In that case the Deputy Mayor will assume the role of the Mayor in the conciliation process. If both the Mayor and the Deputy Mayor are parties to the dispute or otherwise unavailable to conduct the conciliation, the role of the Mayor must be performed by a Councillor jointly chosen for the purpose by the parties.

The conciliation process will be assisted by a Conciliation Support Person - a suitably qualified external person, with experience in conciliation.

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

- (a) The Deputy Mayor; and
 - (b) A Councillor jointly chosen for the purpose by the parties,
- when the Mayor and/or the Deputy Mayor are parties to the dispute or otherwise unavailable to conduct a conciliation.

Roles and responsibilities during dispute resolution

- 4.6 The role of the Mayor is to provide guidance to the parties to the dispute about the Standards of Conduct in the Model Councillor Code of Conduct, and actively explore whether the dispute can be resolved by agreement between them.
- 4.7 The role of the Complainant and Respondent is to explain their respective positions and, in a show of goodwill, actively explore the possibility of resolving the dispute by agreement.
- 4.8 The Complainant and Respondent may bring another Councillor with them as a Councillor Support Person. This role is optional for each party and can only be filled by another current Knox City Council Councillor. The Councillor Support Person may attend to provide emotional or personal support only. They must not speak on behalf of the Councillor or intervene in the process.
- 4.9 All Councillors are responsible for conducting themselves in a courteous and respectful manner at all times.
- 4.10 The role of the Councillor Conduct Officer is to provide the Mayor with the administrative support necessary for the implementation and conduct of the Internal Resolution Procedure, including the internal arbitration process under the Act; to engage a Conciliation Support Person to assist the Mayor; and to assist the Principal Councillor Conduct Registrar to perform the functions specified in Section 149 of the Act.

- 4.11 The role of the Conciliation Support Person is neutral and supportive, helping the Mayor to create a respectful environment in which both parties can communicate openly and constructively, and to ensure the process is impartial, balanced, and informed by contemporary dispute resolution practices. The conciliation support person does not make findings or direct outcomes but may assist the Mayor and the parties to clarify issues, explore underlying concerns, and identify options for resolution.
- 4.12 The role of the Chief Executive Officer is to support the Councillor Conduct Officer, and to provide support to the Mayor and Councillors in the performance of their roles consistent with the Act; in support of a fair and efficient dispute resolution process.

Support from Council

- 4.13 Council, through the Councillor Conduct Officer, will provide administrative assistance to the Mayor when arranging a time and place for conciliation. Council will make a venue available to the Councillors within Council's offices that is private and suited to the conciliation process.
- 4.14 The Councillor Conduct Officer, will engage the services of Conciliation Support Person to assist the Mayor in the conciliation process.
- 4.15 Council will not provide any substantive guidance or advice about the subject matter of the dispute, or pay the costs of legal advice or representation for any Councillor in connection with this Procedure. Parties to a dispute may seek their own legal or other advice at their own cost, if they choose to do so.

End or termination of conciliation

- 4.16 Conciliation will end or be terminated if any of the following occurs:
- (a) The parties cannot jointly choose a Councillor to conduct the conciliation within one week of being asked to do so;
 - (b) The Respondent notifies the Mayor that they do not wish to participate in conciliation, and the reasons for it, within one week of receiving the Conciliation Application Form;
 - (c) The Respondent does not respond to the Conciliation Application Form at all within two weeks of receiving it;
 - (d) Conciliation has not occurred within four weeks of the Complainant submitting the Conciliation Application Form;
 - (e) Conciliation has occurred and the parties have been unable to resolve the dispute; or
 - (f) The dispute has been resolved.

The time for conciliation may be extended by agreement between the parties to the dispute, whether or not the matter has been escalated to one of the formal dispute resolution procedures outlined in the Act.

Confidentiality

- 4.17 Parties and other participants involved in a dispute must maintain confidentiality regarding both the substance of the dispute and the operation of this Procedure. This obligation applies during the conciliation process and continues afterward, covering all information shared, discussed, or documented as part of the process or outcome. This includes refraining from both internal and external disclosure of confidential information or information provided in confidence.

Breaches may be addressed under the Model Councillor Code of Conduct or applicable legislation.

This confidentiality obligation is subject to any overriding legal obligations, including any obligations under the Local Government Act.

Record of outcome

- 4.18 The Mayor must document any agreement that is reached between the Complainant and Respondent. The agreement must be signed by the Complainant, Respondent and Mayor. Copies must be provided to the Complainant, Respondent, Mayor and Chief Executive Officer and the original must be retained by the Councillor Conduct Officer.

All parties (including the Mayor, Councillor Conduct Officer, and Chief Executive Officer) must maintain confidentiality of the agreement reached.

Internal Resolution Procedure does not Apply in these Circumstances

- 4.19 The following disputes are not covered by this Procedure:
- (a) Differences between Councillors in relation to policy or decision making, which are appropriately resolved through discussion and voting in Council meetings;
 - (b) Complaints made against a Councillor or Councillors by a member or members of Council staff, or by any other external person;
 - (c) Allegations of sexual harassment;
 - (d) Disclosures made about a Councillor under the Public Interest Disclosures Act 2012, which can only be made to the Independent Broad-based Anti-corruption Commission; and
 - (e) Allegations of criminal misconduct, which should be immediately referred to Victoria Police or the relevant integrity authority.

Formal Dispute Resolution Procedure

- 4.20 This Procedure operates alongside, and does not replace, the formal dispute resolution procedures outlined in the Act. The formal dispute resolution procedure applies to misconduct, serious misconduct and gross misconduct.

Section 141 of the Act provides for an internal arbitration process concerning a breach of the Standards of Conduct set out in the Model Councillor Code of Conduct.

Section 154-156 of the Act provides for the formation of Councillor Conduct Panels to hear applications where serious misconduct is alleged by a Councillor.

5. References

5.1 Community Plan 2021-2031 & Council Plan 2021-2025

- 5.3 Ensure our processes are transparent and decisions are accountable

5.2 Relevant Legislation

- Local Government Act 2020
- Local Government (Governance and Integrity) Amendment Regulations 2024
- Public Interest Disclosures Act 2012

5.3 Charter of Human Rights

- This policy has been assessed against and complies with the charter of Human Rights.

5.4 Related Council Policies and Procedures

- Councillor Equal Opportunity Policy
- Councillor Workplace Bullying and Violence Policy
- Interaction between Councillors and Staff Policy
- Model Code of Conduct
- Public Interest Disclosures Procedure

6. Definitions

Complainant	means the Councillor making the allegation that another Councillor has breached the Model Councillor Code of Conduct
Council	Knox City Council
Councillor Conduct Officer	as defined under the Local Government Act 2020
Respondent	means the Councillor who is alleged to have breached the Model Councillor Code of Conduct

7. Administrative Updates

From time to time, circumstances may change leading to the need for minor administrative changes to this Policy. Where an update does not materially alter this Policy, such a change may be made administratively on approval of the Chief Executive Officer. Examples of minor administrative changes include change to names of Council departments or positions, change to names of Federal or State Government departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this Policy, it must be considered by Council.

Attachment 1 Conciliation Application Form

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

Signed by)
)
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 on)

Annexure

INTERNAL RESOLUTION PROCEDURE FLOWCHART

