

1 PURPOSE

This Code of Conduct sets out the standards of behaviour expected of councillors of Burnie City Council, with respect to all aspects of their role. This policy incorporates the Model Code of Conduct made by Order of the Minister responsible for local government.

2 SCOPE

The Code of Conduct applies to all Councillors at Burnie City Council while performing the functions and exercising the powers of their office with the council.

3 POLICY

*A copy of the **Code of Conduct** is attached to this policy. The code of conduct framework is legislated under the *Local Government Act 1993*.*

3.1 Making a Code of Conduct Complaint

A person may make a code of conduct complaint against a councillor in relation to the contravention by the councillor of the relevant council's code of conduct.

A person may make a complaint against more than one councillor if the complaint relates to the same behaviour and the same code of conduct contravention.

Code of conduct complaints are lodged with the general manager of the relevant council and must comply with legislative requirements, as outlined below.

A complaint may not be made by more than two complainants jointly.

A code of conduct complaint is to –

- be in writing; and
- state the name and address of the complainant; and
- state the name of each councillor against whom the complaint is made; and
- state the provisions of the relevant code of conduct that the councillor has allegedly contravened; and
- contain details of the behaviour of each councillor that constitutes the alleged contravention; and
- be lodged with the general manager of the relevant council within six months after the councillor or councillors against whom the complaint is made allegedly committed the contravention of the code of conduct; and
- be accompanied by a statutory declaration, signed by the complainant or by each complainant, verifying the accuracy of the information in the complaint; and

- contain details of all efforts by the complainant to resolve the issue the subject of the complaint; and
- be accompanied by the code of conduct complaint lodgement fee (being 50 fee units as prescribed under the Act).

Once satisfied that the code of conduct complaint meets prescribed requirements, the General Manager forwards the complaint to the Code of Conduct Panel.

3.2 Councillors' Dispute Resolution

Councillors commit to developing strong and positive working relationships and working effectively together at all times.

Prior to commencing a formal code of conduct complaint, the councillors who are parties to any disagreement should endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to act in the best interests of the community.

A councillor who is party to any disagreement should request the Mayor or the General Manager to assist that councillor in resolving the disagreement informally.

If the informal assistance does not resolve the disagreement, the General Manager may, with the consent of the parties involved, choose to appoint an external mediator to assist in the resolution of the disagreement. If an external mediator is appointed, councillors who are party to the disagreement must strive to cooperate with the mediator and use their best endeavours to assist the mediator and participate in the mediation arranged.

Where a matter cannot be resolved through internal processes, the next step may be to lodge a formal code of conduct complaint.

Councillors should only invoke the provisions of the Code of Conduct in good faith, where it is perceived that another councillor has not complied with the provisions or intent of the Code of Conduct.

3.3 Public Interest Disclosure

Any instances of suspected corrupt conduct, maladministration and serious and substantial waste of public resources or substantial risk to public health or safety or to the environment should be reported in accordance with the *Public Interest Disclosures Act 2002*. Disclosures may be made to the Tasmanian Ombudsman or the Tasmanian Integrity Commission.

4 LEGISLATION

Local Government Act 1993
Public Interest Disclosures Act 2002



COUNCIL POLICY

Councillor's Code of Conduct

Approved By: **Council**
Doc Controller: **Executive Manager
Corporate Governance**

File: 4/14/2

Document Code: **CP-CCS-CG-024**
Version: **6.0**
Approved Date: **28 Feb 2023**
Next Review Date: **28 Feb 2027**

5 RELATED DOCUMENTS

Model Code of Conduct by Ministerial Order: Local Government (Model Code of Conduct) Order 2016 incorporating Local Government (Model Code of Conduct) Amendment Order 2018.

Code of Conduct Complaint Form available from the Department of Premier and Cabinet website

Public Interest Disclosure Procedures PRO-CCS-CG-105

Receipt of Gifts and Benefits Policy CP-CCS-CG-028

Councillor's Declaration of Interest Form FO-CCS-CG-010

Code of Conduct Flowchart as updated from time to time by the Local Government Division

6 OTHER REFERENCES

Department of Premier and Cabinet's Local Government Division

Email: lgd@dpac.tas.gov.au

Web: www.dpac.tas.gov.au/divisions/local_government

Policy Endorsement	
Responsibility:	It is the responsibility of the Executive Manager Corporate Governance to review this policy and ensure compliance with the <i>Local Government Act 1993</i> . It is the responsibility of the Governance Unit to maintain this policy within the Corporate Document Framework.
Minute Reference:	Item AO033-23
Council Meeting Date:	28 February 2023
Strategic Plan Reference:	Strategy 7.7.3 Provide support to elected members to assist them to fulfil their roles effectively.
Previous Policies Replaced:	This policy replaces the previous policy <i>Code of Conduct</i> version 5.0 dated 19 Feb 2019 (Item Number AO041-19), and subsequent amendment to version 5.1 dated 7 August 2019.
Date of Commencement:	1 March 2023
Review Requirements:	This policy must be reviewed by Council within three months of an ordinary election, or within three months of a new Code being issued by the Minister for Local Government, in accordance with section 28T of the Local Government Act 1993.
Publication of policy:	Members of the public may access this policy on Council's website (www.burnie.net)



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ATTACHMENT 1

Local Government (Model Code of Conduct) Order 2016 incorporating the Local Government (Model Code of Conduct) Amendment Order 2018: Schedule 1 – Model Code of Conduct

CODE OF CONDUCT

PART 1 - Decision making

- 1) A councillor must bring an open and unprejudiced mind to all matters being decided upon in the course of his or her duties, including when making planning decisions as part of the Council's role as a Planning Authority.
- 2) A councillor must make decisions free from personal bias or prejudgement.
- 3) In making decisions, a councillor must give genuine and impartial consideration to all relevant information known to him or her, or of which he or she should have reasonably been aware.
- 4) A councillor must make decisions solely on merit and must not take irrelevant matters or circumstances into account when making decisions.

PART 2 - Conflict of interests that are not pecuniary

- 1) When carrying out his or her public duty, a councillor must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests that he or she may have.
- 2) A councillor must act openly and honestly in the public interest.
- 3) A councillor must uphold the principles of transparency and honesty and declare actual, potential or perceived conflicts of interest at any meeting of the Council and at any workshop or any meeting of a body to which the councillor is appointed or nominated by the Council.
- 4) A councillor must act in good faith and exercise reasonable judgement to determine whether he or she has an actual, potential or perceived conflict of interest.
- 5) A councillor must avoid, and remove himself or herself from, positions of conflict of interest as far as reasonably possible.
- 6) A councillor who has an actual, potential or perceived conflict of interest in a matter before the Council must –
 - a) declare the conflict of interest and the nature of the interest before discussion of the matter begins; and
 - b) act in good faith and exercise reasonable judgement to determine whether a reasonable person would consider that the conflict of interest requires the councillor to remove himself or herself physically from any Council discussion and remain out of the room until the matter is decided by the Council.
- 7) This Part does not apply in relation to a pecuniary interest.



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PART 3 - Use of Office

- 1) The actions of a councillor must not bring the Council or the office of councillor into disrepute.
- 2) A councillor must not take advantage, or seek to take advantage, of his or her office or status to improperly influence others in order to gain an undue, improper, unauthorised or unfair benefit or detriment for himself or herself or any other person or body.
- 3) In his or her personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant), a councillor must not expect nor request, expressly or implicitly, preferential treatment for himself or herself or any other person or body.

PART 4 - Use of resources

- 1) A councillor must use Council resources appropriately in the course of his or her public duties.
- 2) A councillor must not use Council resources for private purposes except as provided by Council policies and procedures.
- 3) A councillor must not allow the misuse of Council resources by any other person or body.
- 4)

PART 5 - Use of information

- 1)
- 2) A councillor must only access or use Council information needed to perform his or her role and not for personal reasons or non-official purposes.
- 3)
- 4) A councillor must only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

PART 6 - Gifts and benefits

- 1) A councillor may accept an offer of a gift or benefit if it directly relates to the carrying out of the councillor's public duties and is appropriate in the circumstances and is not in contravention of any relevant legislation.
- 2) A councillor must avoid situations in which a reasonable person would consider that any person or body, through the provisions of gifts or benefits of any kind, is securing (or attempting to secure) influence or a favour from the councillor or the Council.
- 3)
- 4)
- 5)
- 6)



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- 7)
- 8)

PART 7 - Relationships with community, councillors and Council employees

- 1) A councillor –
 - a) must treat all persons fairly; and
 - b) must not cause any reasonable person offence or embarrassment; and
 - c) must not bully or harass any person.
- 2) A councillor must listen to, and respect, the views of other councillors in Council and committee meetings and any other proceedings of the Council, and endeavour to ensure that issues, not personalities, are the focus of debate.
- 3)
- 4) A councillor must not contact or issue instructions to any of the Council's contractors or tenderers, without appropriate authorisation.
- 5) A councillor must not contact an employee of the Council in relation to Council matters unless authorised by the General Manager of the Council.

PART 8 - Representation

- 1) When giving information to the community, a councillor must accurately represent the policies and decisions of the Council.
- 2) A councillor must not knowingly misrepresent information that he or she has obtained in the course of his or her duties.
- 3) A councillor must not speak on behalf of the Council unless specifically authorised or delegated by the Mayor or Lord Mayor.
- 4) A councillor must clearly indicate when he or she is putting forward his or her personal views.
- 5) A councillor's personal views must not be expressed publicly in such a way as to undermine the decisions of the Council or bring the Council into disrepute.
- 6) A councillor must show respect when expressing personal views publicly.
- 7) The personal conduct of a councillor must not reflect, or have the potential to reflect, adversely on the reputation of the Council.
- 8) When representing the Council on external bodies, a councillor must strive to understand the basis of the appointment and be aware of the ethical and legal responsibilities attached to such an appointment.

PART 9 - Variation of Code of Conduct

- 1) Any variation of this model code of conduct is to be in accordance with section 28T of the Act.