



# Governance Code

## **Bayside City Council**

### **Governance Code**

(Councillors Code of Conduct)

22 September 2009

**This Code, which incorporates the statutory requirements specified for a Code of Conduct in accordance with section 76C of the *Local Government Act 1989*, was adopted by resolution of the Bayside City Council on 22 September 2009**

## **Governance Code (Councillor Code of Conduct)**

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## Councillor Code Of Conduct

### 1. Introduction

As Bayside City Councillors we are committed to working together in the best interests of the people within our municipality and in discharging our responsibilities to the best of our skill and judgment.

Our commitment to working together constructively will enable us to work with and empower the community by taking a strategic and forward thinking approach to our future. One that is mindful of our heritage, enhances our environment; creates economic growth and fosters a strong community spirit.

This Code of Conduct is part of Council's part of Council's commitment to governing our City effectively and adhering to the principles of good governance.

Good governance is the complex set of processes, protocols and behaviours which lead to good decisions.

Good decisions are those which are informed by evidence and good advice, contributed to and understood by communities, underpinned by integrity and make sense in the long term interests of the community.

We also recognise that good governance means ensuring that the diversity of views and opinions in our community are given proper weight in the decision making process. However, Good Governance is also about **accountable leadership**. When we meet as a Council and take decisions, those decisions must be made in the long term best interests of the whole Municipality.

This Code of Conduct does not apply to Council Staff. Council Staff are bound by the Employees Code of Conduct.

### 2. Definitions

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

**Act** - means the Local government Act 1989 (as Amended) and sections made under it.

**Council** – means Bayside City Council, being a body corporate constituted as a municipal Council under the Local government Act 1989.

**Councillors** – means the individuals holding the office of a member of Bayside City Council.

**Council Officers** – means the Chief Executive Officer (CEO) and staff of Council appointed by the CEO.

**Community** – means the whole of the Bayside community.

### 3. Values and Behaviours

As Councillors we will strive to demonstrate the following values and behaviours towards each other, our staff and our community.

**Trust**, we will strive to build trust and we agree to a 'no-surprises policy'.

We accept the **responsibility** of our position and we acknowledge that as Council, we act on behalf of the whole Bayside community.

We act with **integrity**, being **open, honest and transparent** in our dealings.

We show **respect** to each other, our staff and our community.

We **communicate** openly, we keep an open mind and strive to respect our different views and opinions.

We strive to build a **team** of Councillors, where we work together in a co-ordinated, co-operative and synergistic way, we value consensus decision making and we recognise and exploit our diversity within the team.

### 4. Primary role of Council

The primary role of the Council is to provide leadership for the good governance of Bayside. The role of the council also includes:

- acting as a representative government by taking into account the diverse needs of the local community in decision making;
- providing leadership by establishing strategic objectives and monitoring their achievement;
- maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner;
- advocating the interests of the local community to other communities and governments;
- acting as a responsible partner in government by taking into account the needs of other communities; and
- fostering community cohesion and encouraging active participation in civic life.

## **5. Community Expectations**

The community's expectations of us their elected representatives are high. The business of Council will be conducted in a professional manner with efficiency and impartiality, whilst demonstrating compassion and sensitivity towards the needs of the community.

We acknowledge our obligations as Councillors to carry out our duties:

- (a) In the best interests of the community, and
- (b) In accordance with the Local Government Act 1989.

## **6. Councillors working together (Commitment Statements)**

Our primary role as Councillors is to set the vision and directions for City of Bayside and to advocate on behalf of the whole community. We recognise that, as Councillors we should represent and promote the interests of the Bayside community as a whole whilst recognising our special relationships with our constituents.

## **7. Councillor Conduct Principles**

In carrying out our role as Councillors, we will:

- Act with integrity and honesty;
- Exercise our responsibilities impartially in the interests of the local community;
- Not make improper use of our position to advantage or disadvantage any person;
- Adhere to the conflict of interest requirements of the Local Government Act and avoid any other conflicts between our public duties as Councillors and our personal interests and obligations;
- Avoid making oral or written statements and avoid actions that may mislead a person;
- Treat all persons with respect and we will show due respect for the opinions, beliefs, rights and responsibilities of other Councillors, council officers and other people;
- Exercise reasonable care and diligence and we will submit to lawful scrutiny that is appropriate to our office;
- Try to ensure that public resources are used prudently and solely in the public interest;
- Act lawfully and in accordance with the trust placed in us as elected representatives of our community; and
- We will support and promote these principles by leadership and example so as to ensure the public has confidence in the office of Councillor.

## 8. Adherence to code of conduct

We confirm that we will adhere to these principles in our general conduct as councillors and specifically by:

- Treating all people with **courtesy and respect**, respecting differences in opinions, race, culture, religion, language, gender and abilities. This includes:
- Treating members of the community with dignity and ensuring that neither offence nor embarrassment are caused
- Treating fellow councillors with respect, even when disagreeing with their views or decisions
- Debating contentious issues without resorting to personal acrimony or insult
- Ensuring our punctual attendance at Council and committee meetings
- Acting with courtesy towards Council staff.

Always acting with **integrity and honesty**:

- Being honest in all dealings with the community, with other councillors and with Council staff
- Always acting with impartiality and in the best interests of the community as a whole
- Not acting in ways that may damage the Council or its ability to exercise good government
- Exercising reasonable care and diligence in performing our functions as councillors
- Complying with all relevant laws, be they Federal, State or Local Laws.

Recognising that we hold a **position of trust** and will not misuse or derive inappropriate benefit from our position:

- We will avoid conflicts of interest and comply with the relevant provisions of the Act and this Code of Governance relating to interests and conflicts of interest
- We will not exercise undue influence on other councillors, members of Council staff or members of the public to gain or attempt to gain an advantage for ourselves
- We will not accept gifts either in our role as councillor or where it could be perceived to influence councillors except:
- Where the gift would generally be regarded as only having a token value and could not be perceived to influence our actions
- Where refusal of the gift may cause offence or embarrassment, in which case the gift may be accepted on behalf of the Council and becomes the property of the Council.

Exercising appropriate prudence in the use of **Council resources**. This includes:

- Not using Council resources, including staff, equipment and intellectual property for electoral or other personal purposes
- Ensuring that Council resources are always used effectively and economically and for the purposes for which they are provided
- Ensuring that Council's letterhead or logo is not inappropriately used or not used in a way that creates an impression of Council endorsement
- Ensuring that claims for out of pocket expenses are accurate and relate strictly to Council business.

Treating **Council information** appropriately, by:

- Not using information gained by virtue of being a councillor for any purpose than to exercise our role as a councillor
- Respecting the Council's policies in relation to public comments and communications with the media.
- Not releasing information deemed 'confidential information' in accordance with section 77 of the Act (refer section 9)
- Recognising the requirements of the Information Privacy Act 2000 regarding the access, use and release of personal information.

## 9. Confidential information

Councillors acknowledge that we will comply with our obligations under s77 in relation to confidential briefings or information (as defined under the Act) and recognise that this obligation extends to ensuring the safekeeping of confidential information.

## 10. Conflict of Interest Procedures

The Council is committed to making all decisions impartially and in the best interests of the whole community. It therefore recognises the importance of fully observing the requirements of the Act in regard to the disclosure of conflicts of interest.

For the purpose of this Code, "direct interest", "indirect interest" and "conflicts of interest", have the meanings specified in the Act.

Councillors will comply with all the provisions of the Act in regard to Conflicts of Interest:

- If the councillor considers that they have a **direct or indirect interest** in a matter before the Council, a special committee of council or an assembly of councillors, they have a conflict of interest

- If a councillor has a **conflict of interest** in a matter they will comply with the requirements of the Act and ensure they disclose the class and nature of the interest leave the room in which the meeting or assembly is being held during any discussion, debate and vote on the matter.
- If a councillor has a personal interest in a matter to be considered by the Council or special committee that is not a conflict of interest, and the Councillor considers that their personal interest **may be in conflict** with their public duty to act impartially and in the interest of the whole community, the Councillor will declare a **conflicting personal interest** under section 79B of the Act immediately before the matter is considered at the relevant meeting and apply to the Council or special committee to be exempted from voting on the matter.

In addition to the requirements of the Act:

- Councillors will give early consideration to each matter to be considered by the Council, special committee of which the councillor is a member, or assembly of councillors, to ascertain if they have a conflict of interest
- Councillors recognise that the legal onus to determine whether a conflict of interest exists rests entirely with the individual councillor and that Council Officers cannot offer legal advice in relation to potential conflicts.

## 11. Dispute Resolution Procedures

1. Before commencing any formal dispute resolution process, the councillors who are parties to any disagreement will endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the community.
2. In the event that the parties cannot resolve their differences, the first stage of the dispute resolution process is for the Councillor team to meet to assist discussions between the parties, this is to be undertaken in a collegiate spirit without taking sides or taking positions on the topic of disagreement. This meeting must be undertaken within 7 days of Councillors being informed that there is an issue. If the parties do not wish this step to be undertaken, then the parties will move to 3 (below).
3. Where a dispute occurs and councillors are unable to resolve interpersonal conflicts that adversely affect the operation of the Council, the parties to the dispute agree to work together to try to resolve the dispute and will agree to the appointment of a mediator nominated by the Chief Executive Officer and acceptable to both parties, or failing agreement, seek assistance from peak bodies or the Dispute Settlement Centre Victoria.
4. If a mediator is appointed, all Councillors agree to cooperate with the dispute resolution process and use their best endeavours to assist the mediator when requested.

5. In the event that a dispute cannot be resolved through application of these processes, it may be referred to a Councillor Conduct Panel.
6. If the dispute relates to an apparent offence under the *Local Government Act* it should be referred to the Minister for Local Government and not the subject of an application to a Councillor Conduct Panel.
7. The dispute resolution procedure is not intended to resolve differences in policy or decision making, which are appropriately resolved through debate and voting in Council and Committee meetings.

The Charter of Human Rights and Responsibilities Act 2006 (Vic) (Charter), recognises 20 rights grouped into the four key themes of Freedom, Respect, Equality and Dignity.

Section 4 of the Act covers Public Authorities which includes Councils and Councillors.

In accordance with Section 38 of the Act, Councillors are required to act compatibly with the Charter rights and to give proper consideration to Charter rights in all our decision making.

## **12. Review Period**

Council may review this Code of Conduct when and if it is required.

## **13. Endorsement**

In accordance with section 76C of the Local Government Act 1989, which came into operation in November 2008, Council is required develop and approve a Code of Conduct within 12 months after a general election.

It is acknowledged that in accordance with the legislation, this Code addresses the statutory requirements set out in section 76C of the Act, namely it:

- Includes Councillor conduct principles;
- Establishes a process for resolving disputes between Councillors; and
- Provides procedures for disclosure of interests and conflict of interests.

This Code also provides guidance and direction in relation to providing its community the highest standards of democratic and corporate governance.

This Code of Conduct was adopted by the Council on 22 September 2009 and is signed by the following councillors:

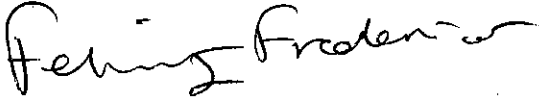
**14. Signatures**



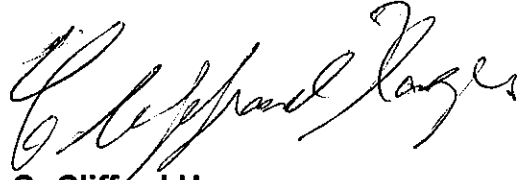
**Cr Louise Cooper-Shaw**



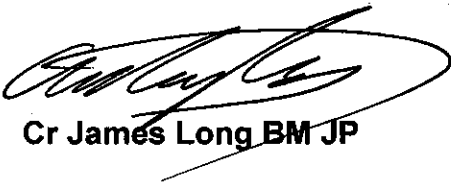
**Cr Alex del Porto**



**Cr Felicity Frederico**



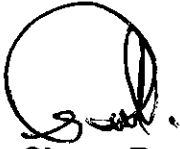
**Cr Clifford Hayes**



**Cr James Long BM JP**



**Cr Michael Norris**



**Cr Simon Russell JP**