

## COUNCIL POLICY



## COUNCILLOR CODE OF CONDUCT

DOCUMENT UNCONTROLLED WHEN PRINTED

### DOCUMENT CONTROL

<b>Policy Number:</b> 080	<b>Status:</b> Draft for councillor consideration	
<b>Approved by:</b> Council	<b>Date approved/adopted:</b> 28 June 2016	<b>Next review date:</b> 22 February 2017
<b>Department:</b> Corporate	<b>Contact person:</b> Manager Corporate	

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## REVISION RECORD

<b>Date:</b>	<b>Version:</b>	<b>Revision description:</b>
06/10/2009	1	Adopted Version 1
28/05/2013	1.01	Draft Version 1.01 for councillor steering group discussion
19/07/2013	1.02	Draft Version 1.02 for councillor steering group discussion
13/08/2013	1.03	Draft Version 1.03 circulated for councillor comment
03/09/2013	2	Adopted Version 2
03/06/2014	3	Adopted Version 3 - Includes Council values
28/06/2016	4	Adopted Version 4 – new additions from <i>Local Government Act 1989</i>

## SECTION ONE:

### 1. TITLE

Alpine Shire Council: Councillor Code of Conduct.

### 2. INTRODUCTION

The Alpine Shire Council consists of seven councillors who are democratically elected by persons enrolled to vote in the Alpine Shire in accordance with the *Local Government Act 1989*.

The primary role of the Council is to provide leadership for the good governance of the Alpine Shire. This role includes the Council:

- 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.

### 3. PURPOSE AND COMMITMENT

#### 3.1 Purpose

[Section 76C of the \*Local Government Act 1989\*](#) requires that Council:

- adopt a Councillor Code of Conduct; and
- review the Code [within four months after a general election at a special council meeting solely for the purpose of reviewing the councillor code of conduct](#).

[It is the personal responsibility of councillors to ensure that they are conversant with, and comply with, the provisions of this code of conduct.](#)

## 3.2 Commitment

The Mayor, Deputy Mayor and councillors commit to working together:

- in the best interests of the people of the Alpine Shire;
- to discharge their responsibilities to the best of their skill and judgment;
- constructively and in a manner that is consistent with Council's values.

This commitment will enable the achievement of the community and Council's shared vision:

*Providing outstanding opportunities for the Shire's residents and visitors through sustainable growth in balance with the natural environment.*

## 3.3 Values

The values of the Alpine Shire Council are:

<b>Accountable</b>	<b>We are accountable</b> and responsible for our decisions and actions, and the impacts of these on our community and the organisation
<b>Leadership</b>	<b>We demonstrate leadership</b> by being informed, applying innovative thinking and solutions and making fair and timely decisions in the best interest of our community and the organisation for now and the future.
<b>Productive</b>	<b>We are productive</b> by focusing on delivering efficient and high quality services and projects that respond to the needs and priorities of our community and the organisation.
<b>Integrity</b>	<b>We have integrity</b> by being committed, truthful and transparent in our decision making and our interactions with our community and the organisation.
<b>Nurture</b>	<b>We nurture</b> the relationships, contributions and strengths of our community and the individuals of the organisation.
<b>Engaged</b>	<b>We are engaged</b> with our community, and within the organisation, to build strong and effective relationships and inform our choices.

## SECTION TWO: COUNCILLOR CONDUCT AND RELATIONSHIPS

### 4. COUNCILLOR CONDUCT PRINCIPLES

~~Section 76C(3)(a) of the Act requires that this Code of Conduct include all councillor conduct principles as outlined in the Act.~~

Sections 76B and 76BA of the Act identify the primary principle and seven general principles respectively that must be observed by every Councillor. These principles are the standards of conduct that the community has a right to expect of all councillors.

In line with the above legislation, Alpine Shire Council therefore affirms the following principles of behaviour:

#### 4.1 Primary principle

In carrying out the role of a councillor, a councillor must:

- act with **integrity**; and
- impartially exercise his or her responsibilities in the interests of the local community; and
- not improperly seek to confer an advantage or disadvantage on any person."

#### 4.2 General principles

In carrying out the role of a councillor, a councillor must also:

- avoid conflicts between his or her public duties as a councillor and his or her 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 officers and other persons;
- exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her 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 him or her as an elected representative; 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.

- *Local Government Act 1989*

## 5. COUNCILLOR CONDUCT AND BEHAVIOURS

*Councillors will at all times:*

- *act with respect, integrity and honesty; and*
- *be trustworthy and accountable.*

### 5.1 Respect

Councillors will treat all people with courtesy and respect, recognising that there are legitimate differences in opinions, race, culture, religion, language, gender and abilities.

Councillors must:

- Treat members of the community with dignity and ensure that neither offence nor embarrassment is knowingly caused.
- Treat fellow councillors with respect, even when disagreeing with their views or decisions.
- Debate contentious issues without resorting to personal acrimony or insult.
- Ensure regular attendance at Council meetings and briefing sessions.
- Notify the relevant Council staff of their attendance or otherwise at Council meetings, briefing sessions and other Council sanctioned meetings and events.
- Act with courtesy towards Council staff.
- Avoid intimidating behaviour towards fellow councillors, Council staff and the community.
- Listen to others with intent and without distraction or interjection.
- Turn off (or to silent) mobile devices when attending Council meetings, briefing sessions and other meetings and events.

### 5.2 Integrity and honesty

Councillors will always act with integrity and honesty.

Councillors must:

- Be honest in all dealings with the community, with other councillors and with Council staff
- Always act with impartiality and in the best interests of the community as a whole
- Not act in ways that may damage the Council or its ability to exercise good government
- Exercise reasonable care and diligence in performing their functions as councillors.
- Not make improper use of Council information.
- Comply with all relevant Federal, State or Local laws.



### **5.3 Trust**

Councillors recognise that theirs is a position of trust and that they will not misuse or derive undue benefit from the position.

Councillors must:

- 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
- 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 themselves.
- Maintain confidentiality.

### **5.4 Accountability**

Councillors recognise that they are accountable to the organisation and the community.

Councillors must:

- Monitor and report on their expenses.
- Report monthly on their portfolio responsibilities.

## 6. ROLES, RESPONSIBILITIES AND RELATIONSHIPS

### 6.1 Key roles and responsibilities

*Councillors accept:*

- *the role of the Mayor as the leader of the Council; and*
- *the CEO as the leader of the organisation.*

<b>Mayor or Deputy Mayor in the Mayor's absence</b>	<p>Section 73AA of the Act describes the functions of the Mayor.</p> <p>In addition, the Mayor will be responsible for:</p> <ul style="list-style-type: none"> <li>• representing the Council as spokesperson and in welcoming politicians and distinguished persons;</li> <li>• providing leadership for councillors;</li> <li>• ensuring compliance with this Code of Conduct;</li> <li>• assisting individual Councillors to work together;</li> <li>• resolving disputes between councillors;</li> <li>• chairing Council meetings, special Council meetings, committee meetings;</li> <li>• providing a conduit and managing the relationship between councillors and the CEO and directors;</li> <li>• working with all Councillors and assisting them to achieve their goals and to use the authority of the position to suggest processes to tackle and resolve issues; and</li> <li>• keeping abreast of progress on key issues and keeping Councillors informed about those key issues.</li> </ul>
<b>Council</b>	<p>Responsible for:</p> <ul style="list-style-type: none"> <li>• making decisions;</li> <li>• make local laws as appropriate;</li> <li>• employing and performance managing the chief executive officer.</li> </ul> <p>Role includes:</p> <ul style="list-style-type: none"> <li>• acting as a representative government by taking into account the diverse needs of the local community in decision making;</li> <li>• providing leadership by establishing strategic objectives and monitoring their achievement;</li> <li>• maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner;</li> <li>• advocating the interests of the local community to other</li> </ul>

	<p>communities and governments;</p> <ul style="list-style-type: none"> <li>• acting as a responsible partner in government by taking into account the needs of other communities; and</li> <li>• fostering community cohesion and encouraging active participation in civic life.</li> </ul>
<b>Councillors including the Mayor and Deputy Mayor</b>	<p><a href="#">Section 65 of the Act outlines the role of a councillor, and other issues that councillors must observe.</a></p> <p><a href="#">In addition, councillors will also be responsible for:</a></p> <ul style="list-style-type: none"> <li>• strategic planning for the whole municipality and a sustainable future;</li> <li>• determining the financial strategy and allocating resources via the council budget;</li> <li>• representing ratepayers and residents;</li> <li>• advocating on a broad range of issues;</li> <li>• liaising and coordinating with other levels of government, non-government, community groups and the private sector;</li> <li>• facilitating community participation;</li> <li>• debating issues in an open, honest and informed manner to assist the decision-making process; and</li> <li>• participating in Council decision-making and activities in a way which supports the interests of the whole Alpine community.</li> </ul> <p>Individual councillors do not have any decision making or purchasing authority.</p> <p>The role of a councillor does not include the performance of any functions that are specified as functions of the Chief Executive Officer (CEO) under section 94A of the Act.</p>
<b>Chief Executive Officer</b>	<p><a href="#">Section 94A of the Act outlines the responsibilities of the Chief Executive Officer.</a></p> <p>In addition, the CEO is also responsible for:</p> <ul style="list-style-type: none"> <li>• working closely with councillors to provide leadership and direction to the organisation;</li> <li>• liaising between the councillors and the organisation;</li> <li>• establishing and maintaining an appropriate organisational structure for the Council;</li> <li>• ensuring that the decisions of the Council are implemented without undue delay;</li> <li>• ensuring that councillors' requests are handled by the organisation without causing an excessive workload for officers and/or budget implications;</li> </ul>

	<ul style="list-style-type: none"> <li>• the day to day management of the Council's operations in accordance with the Council Plan;</li> <li>• fostering a positive culture within the organisation;</li> <li>• developing, adopting and disseminating a code of conduct for Council staff;</li> <li>• providing timely advice to the Council;</li> <li>• appointing, directing, managing and dismissing Council staff;</li> <li>• all other issues that relate to Council staff; and</li> <li>• being the spokesperson for Council on administrative and procedural matters.</li> </ul>
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## 6.2 Misuse of position

Councillors acknowledge the requirements of Section 76D and will not misuse their position to gain an advantage for themselves or for any other person or to cause detriment to the Council or another person.

## 6.3 Councillor relationships with Council employees and improper influence

Councillors will work as part of the Council team with the Chief Executive Officer and other Council employees. There must be mutual respect and understanding between councillors and officers in relation to their respective roles, functions and responsibilities. For this team approach to be successful, councillors must:

- Accept that their role is one of advocacy, policy development and leadership rather than management and administration.
- Acknowledge and accept that the Chief Executive Officer is responsible for employee matters.
- Request information and advice (other than calendar items, vehicle, and accommodation or conference/training bookings) through the CEO, directors and other councillors.
- Acknowledge the requirements of section 76E of the Act and not use their position, or seek to, improperly direct or influence Council employees in the exercise of their duties or functions or to gain an advantage for themselves or others.

## 6.4 Communication

As representatives of the community, councillors have a primary responsibility to be responsive to community views and to adequately communicate the attitudes and decisions of Council.

Councillors will endeavour to ensure that the messages communicated through the media are clear and consistent, and positively portray the Council as a decisive and responsible governing body.

The Mayor, or the Deputy Mayor in the Mayors absence, will be the only councillors that may provide official comment to the media on behalf of Council.

The Mayor, or the Deputy Mayor in the Mayors absence, and the CEO will be the spokespersons for Council on all governance, advocacy, political and community issues. This includes:

- State-wide political issues affecting Local Government
- Contentious local issues that impact the community that do not relate directly to the business of Council but to the representation of the community
- Issues pertaining to policy and Council decisions
- Issues relating to the strategic direction of the Council.

The CEO, or a nominated delegate, will be the spokesperson for Council on administrative and procedural matters.

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| <ul style="list-style-type: none"> <li>• Provision of Information Policy No. 45</li> <li>• Release of Information to the Public Domain Policy No.90</li> </ul> |
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## 6.5 Appointment as Council representative to **committees portfolios** and other bodies

As part of their representative role, a councillor may be ~~allocated to a portfolio and may be~~ elected or appointed to represent Council on an external organisation such as a government committee or as a community representative on a particular group.

When appointed to represent Council on ~~portfolio issues or to~~ an external organisation, councillors must:

- Clearly understand the basis of their appointment.
- Provide regular (within one month) reports to Council on their activities and the activities of the external organisation.
- Make formal reports to an Ordinary Meeting of the Council where they are acting as delegate of the Council to that external organisation.

## SECTION THREE: SUPPORTING PROCEDURES AND GUIDELINES

### 7. DECISION MAKING

#### 7.1 Participation in Council decision making

*Councillors will:*

- *participate fully and openly in all Council briefing sessions and meetings ;*
- *ensure that they are fully informed on matters requiring a Council decision;*
- *focus on the issues not the people involved; and*
- *accept the final decision of the Council.*

Councillors are committed to making all decisions impartially and in the best interests of the whole community.

Councillors acknowledge that effective decision-making is vital to the democratic process and an essential component of good governance.

Councillors will:

- Actively and openly participate in the decision making process, striving to be informed to achieve the best outcome for the community.
- Respect the views of the individual in the debate while accepting that decisions are based on a majority vote.
- Accept that no councillor can direct another councillor on how to vote on any decision.
- Adhere to the meeting procedures in Council's Local Law No. 1 Council Administration.
- Accept the collective decision of Council once it is made and ensure that they do not undermine or publicly denigrate the decision.
- Bear in mind that post-decision dissent weakens the Council in the eyes of the community and therefore will only express dissent if they are of the opinion that their accountability to constituents requires them to and this action is taken carefully and with respect.

- Local Law No. 1 Council Administration
- Local Government Victoria (2013) Ensuring Unbiased Democratic Council Decision Making: Principles to Guide Good Practice

## 7.2 Conflict of interest

*Councillors will:*

- *comply with all the provisions of the Act in regard to conflict of interest;*
- *follow the principle of 'when in doubt' declare an interest.*

In making decisions impartially, councillors recognise the importance of fully observing the requirements of the Act in regard to the disclosure of conflicts of interest.

All the provisions of the Act in regard to conflicts of interest will be adhered to including:

- If a 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 Councillor 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, any special committee to which we belong, or assembly of councillors, to ascertain if we have a conflict of interest.
- Recognise that the legal onus to determine whether a conflict of interest exists rests entirely with each individual councillor and that Council officers cannot offer any advice in relation to potential conflicts.
- If a councillor cannot confidently say that they do not have a conflict of interest, they will declare a conflict of interest and comply with the relevant requirements as if they had a conflict of interest
- Where a councillor considers that they may be unable to vote on a matter because of a conflict of interest, notify, as soon as possible, the Mayor or the Committee Chair, depending on whether the matter is to be considered by the Council, a special committee, or an assembly of councillors, as well as the Chief Executive Officer.

- Local Government Victoria (2012) Conflict of Interest: A Guide for Councillors

## 8. INFORMATION

*Councillors will:*

- *treat all information they receive appropriately;*
- *not release confidential information to the public domain; and*
- *not misuse information in their possession.*

### 8.1 Confidential information

Councillors acknowledge that they will comply with their obligations under section 77 of the Act in relation to confidential briefings or information (as defined under the Act) and.

Councillors will:

- Ensure the safekeeping and disposal of confidential information.
- Not release information deemed 'confidential information' in accordance with section 77 of the Act.

- *Local Government Act 1989*

### 8.2 Access to and use of Council information

Councillors will treat all Council information appropriately by:

- Not using information gained by virtue of their position as a councillor for any purpose than to exercise their role as a councillor
- Respecting the Council's policies in relation to public comments and communications with the media (refer section 6)
- Not releasing information deemed 'confidential information' in accordance with section 77 of the Act (refer section 8.1)
- Recognising the requirements of the *Information Privacy Act 2000* regarding the access, use and release of personal information.

- *Information Privacy Act 2000*
- Provision of Information Policy No. 45
- Release of Information to the Public Domain Policy No.90



## 9. USE OF PUBLIC RESOURCES

*Councillors will:*

- *use Council resources for the conduct of their role as councillors only;*
- *maintain and keep secure all Council provided resources;*
- *adhere to all Council policies relating to public resources.*

### 9.1 Council resources

Councillors will exercise appropriate care and consideration in the use of Council resources.

Any use of Council resources must be in accordance with relevant Council policies.

Councillors will:

- Maintain adequate security over Council property, facilities and resources provided to them to assist in performing their role.
- Not use Council resources, including the services of Council employees, telephones or other plant and equipment, for electoral or private purposes, unless legally or properly authorised to do so and payment is made to Council where appropriate.
- Not use public funds or resources in a manner that is improper or unauthorised including using their position as a councillor to purchase goods on Council accounts.

Where Council provided resources are lost or damaged and require replacement the councillor must inform the Mayor (or the Deputy Mayor where the Mayor is making the claim) and the CEO in writing of the circumstances surrounding the loss or damage and complete an incident report if required.

Lost or damaged resources will be replaced after the first incident only. The replacement of any resources after second and any subsequent incidents will be the responsibility of the councillor.

### 9.2 Telephones and mobile equipment

Councillors will use Council provided telephones and other mobile, communication and computer equipment in accordance with the relevant Council policies and procedures.

Councillors will be provided with details of mobile phone usage and are required to declare that costs incurred relate to Council business, except for incidental personal use.

Councillors will reimburse Council for personal use exceeding incidental use.

- Use of Council Computer, Email and Internet Policy No. 33
- Mobile Phone Policy No. 66

### 9.3 Council provided vehicles

Council vehicles will be made available to Councillors to meet their transport needs in undertaking the legitimate business of Council.

Private use of a Council provided vehicle will only be permitted in accordance with Council's Mayoral and Councillor Vehicle Policy No. 75.

- Mayoral and Councillor Vehicle Policy No. 75

### 9.4 Access to Council buildings

Every endeavour will be made to make meeting rooms at the Council offices in Bright available to councillors to conduct Council business.

Councillors will be given priority use of the Mayor's Office.

All meeting rooms are used during the day by Council employees. If a councillor requires the use of a meeting room a booking must be made via the Client Liaison Coordinator. If a booking is requested at short notice councillors must understand that the room may have already been allocated and an alternative venue, time or date will need to be considered.

Councillors have the same access to other Council buildings and facilities as any other member of the public, during business hours and on payment of the required fee or charge if the entry is for personal use.

Councillors will be issued with a computerised access code to the Council offices in Bright to allow them access during business hours only.

- *Local Government Act 1989*
- Use of Council Computers, Emails & Internet Policy No. 33
- Mobile Phone Policy No. 66
- Mayoral and Councillors Motor Vehicle Policy No. 75
- Draft Fraud and Corruption Control Policy No. 91

## 10. EXPENSES

*Councillors will:*

- *adhere to all Council policies relating to reimbursement of expenses incurred while performing the duties as a councillor.*

### 10.1 Reimbursement of expenses

Councillor Reimbursement of Expenses Policy No. 76 establishes the out of pocket expenses which will be reimbursed to councillors pursuant to section 75 of the Act.

### 10.2 Expense Claim Declaration

Councillors must ensure that:

- Council policy in regard to the claiming of out of pocket expenses is complied with.
- Only claims for expenses incurred while undertaking official duties as a Councillor or member acting on behalf of the Council are submitted for reimbursement.
- When submitting claims for out of pocket expenses or vehicle reimbursement use, Councillors must declare that the claim is accurate and relates strictly to Council business and activities.

- *Local Government Act 1989*
- Councillor Reimbursement of Expenses Policy No. 76
- Draft Fraud and Corruption Control Policy No. 91

## 11. CONFERENCE ATTENDANCE AND TRAVEL BY COUNCILLORS

Councillors may avail themselves of opportunities to undertake appropriate professional development (conferences, seminars, workshops and training sessions) that may be of benefit to the individual councillor and Council as a whole.

Councillors will seek approval to undertake discretionary trips, interstate travel and attendance at conferences in accordance with Councillor Reimbursement of Expenses Policy No. 76.

- Councillor Reimbursement of Expenses Policy No. 76

## 12. GIFTS, BENEFITS AND HOSPITALITY

Councillors will not expect or seek to accept any gifts, benefits or hospitality either in their role as a councillor or where it could be perceived to influence them in their role as a councillor.

The only exception to this is where:

- the gift, favour or hospitality would generally be regarded as only having a token value (less than \$25) and could not be perceived to influence their actions as a councillor; or
- refusal of a gift may cause offence or embarrassment, in which case the councillor will accept the gift on behalf of the Council and the gift becomes the property of the Council.

Under NO circumstances is a councillor to accept:

- A gift of money.
- A gift, benefit or hospitality from persons or bodies engaged in:
  - a competitive tendering process; and/or
  - seeking an approval from Council in respect to planning, building, local laws approvals or health registration or under any other statutory approval process.

- *Local Government Act 1989*
- Gifts, Benefits and Hospitality Policy No. 65
- Draft Fraud and Corruption Control Policy No. 91

## 13. ELECTIONS

*Councillors understand that:*

- *Council resources, of any kind, must not be used in election campaigning;*
- *Council must not make 'significant' decisions as outlined in the Act.*

### 13.1 Election ~~Caretaker~~ period

The election ~~caretaker~~ period is defined as commencing on the last day on which nominations for that election can be received, ~~Entitlement Day~~ and finishing at 6pm on Election Day.

## 13.2 Decisions during the ~~caretaker~~ election period

Councillors understand that in the period before a Council election, the Council should not make ~~significant~~ decisions that bind or commit the subsequent Council to a particular course of action. This does not preclude Council from continuing its normal business and making decisions, ~~other than those that are regarded as "significant" under the Local Government Act 1989 and this Code of Conduct.~~

~~Significant decisions which should not be taken during this period include those that:~~

- ~~• Commit the subsequent Council to the spending or use of new resources in other than routine operational areas~~
- ~~• Commit the subsequent Council to a new policy~~
- ~~• Involve the appointment or renewal of contract and/or remuneration of the CEO, other than the decision to appoint an Acting CEO~~
- ~~• Involve contracts with a value more than whichever is the greater of \$100,000 or 1% of rate revenue in the previous financial year~~
- ~~• Involve entering into an entrepreneurial arrangement under section 193 of the Act in which the sum involved, under section 193 (5A) is the greater of \$100,000 or 1% of rate revenue in the previous financial year~~

Councillors commit to not only complying with the requirements of section 93A of the Act, pertaining to 'major policy decisions', but also relating to 'inappropriate decisions' as specified in section 93B of the Act, and 'significant decisions' as defined within Council's Election Period Policy and Guidelines.

When in doubt, the CEO should be asked to determine whether an issue is significant in terms of this Code of Conduct.

- *Local Government Act 1989*
- Election Period Policy and Guidelines No. 87

## 13.3 Electoral material

Councillors understand that in the ~~caretaker~~ election period, the Council must not inappropriately publish or distribute electoral material. Also the resources of the Council must not be used to support the election of a councillor or councillors.

Councillors understand this to mean:

- No resources from the Council must be used by any councillor to assist with his or her election campaign. This includes their Council supplied communications equipment. Where it is impractical to discontinue use of this equipment during this period, Councillors will reimburse Council for usage that exceeds normal usage levels.
- Councillors must keep their roles as councillors separate to their roles as candidates. All activities to do with campaigning should be conducted outside the Council.

- Council, in line with section 55D of the *Local Government Act 1989* will not publish or distribute any electoral material unless it only contains information about the electoral process.
- Media services and speeches that may be perceived as being electoral material will not be provided by the administration to individual Councillors during the election caretaker period.
- Councillors will not use the Council logo or stationery in any way that relates to the election.

Councillors note that these provisions do not preclude Council from publishing normal material, such as Annual Reports during this period.

## SECTION FOUR: ENFORCING THE CODE

*Councillors will:*

- *adhere to this Code and their legislative responsibilities;*
- *identify and deal with any breaches of this Code;*
- *take responsibility for settling differences;*
- *work together to settle disputes;*
- *accept the outcome of the dispute resolution process; and*
- *not take the dispute to the press.*

### 14. COMPLIANCE

Councillors commit to complying with this Code of Conduct. Breaches of this code will be dealt with under:

- the following provisions of this Code;
- sections 76B, 76BA, 76D, 76E, 77 and Part 4, Divisions 1B, 1C and 1D of the Act;
- any other legislative provisions that may apply.

### 15. INTERNAL **DISPUTE** RESOLUTION PROCEDURES

~~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.~~

~~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.~~

This internal resolution procedure is concerned with alleged contraventions of the Councillor Code of Conduct and is not intended to resolve differences in policy or decision-making, which are appropriately resolved through discussion and voting in Council meetings.

Before commencing this formal internal resolution procedure, the Councillor/s who are parties to any disagreement concerning an alleged contravention of the Councillor Code of Conduct 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.

The Act provides for escalation of allegation of breaches of the councillor code of conduct in the following ways:

Degree of Seriousness	Definition	Responsible Authority
Conduct inconsistent with standards council has set	Breaches of Councillor Codes of Conduct	Council

itself		
Misconduct	Failing to comply with a council's internal resolution procedure, including failure to abide by any decision of council in relation to a breach of the code and repeated breaches of councillor conduct principles	Panel
Serious misconduct	Failing to comply with panel processes, bullying, improperly directing staff, releasing confidential information and repeated misconduct	Panel
Gross misconduct	Behaviour that demonstrates lack of character to be a councillor	VCAT

### **~~15.1 Mayoral or CEO Mediation – Breach of Code or Interpersonal Conflict~~**

~~Where one or more councillors have not resolved an interpersonal conflict or are of the opinion that there is a breach of this Councillor Code of Conduct, then the aggrieved councillor/s must advise the Mayor (or the Deputy Mayor where the Mayor is a party to the dispute) and the CEO in writing of the unresolved interpersonal conflict or breach of the Code.~~

~~After consultation, the Mayor (or Deputy Mayor as the case may be) and CEO will undertake the following:~~

- ~~• Consider the allegation and obtain further information from the aggrieved councillor/s if required.~~
- ~~• Either separately or jointly, informally attempt to resolve the issue.~~
- ~~• Where considered necessary, appoint a facilitator to attempt to resolve the issue.~~

~~If the Mayor and the Deputy Mayor are parties to the dispute, the CEO will appoint a facilitator to attempt to resolve the issue.~~

~~If the Mayor or CEO receives further advice in writing from one or more councillors that they are unable to effectively perform their role because of a dispute between councillors and that attempts to resolve the dispute (as detailed in 15.1) have not been effective, the Mayor and/or CEO will bring the dispute to the Council's attention within seven days.~~

~~In this event 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 CEO and acceptable to both parties, or failing agreement, nominated by the President of the Municipal Association of Victoria and appointed by the Chief Executive Officer.~~

~~Once 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.~~

## **15.2 Allegations of breach of Councillor Code of Conduct**

A councillor or a group of councillors may make an application alleging that a Councillor has contravened this Councillor Code of Conduct. The application must:

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

The application must be submitted to the Principal Conduct Officer.

## **15.3 Application during 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.

## **15.4 Role of Principal Conduct Officer**

On receiving an application, the Principal Conduct Officer will:

- advise the Mayor and CEO of the application without undue delay;
- provide a copy of the application to the Councillor who is the subject of the allegation at the earliest practical opportunity;
- identify a proposed arbiter to hear the application
- ensure any proposed arbiter is suitably independent and able to carry out the role of arbiter fairly;
- obtain from any proposed arbiter written advice that they have no conflict of

interest in relation to the Councillors involved;

- notify the parties of the name of the proposed arbiter and provide them with the opportunity (2 working days) to give their views on the proposed arbiter;
- consider the views of parties and decide to appoint either the proposed arbiter or identify an alternative proposed arbiter;
- provide a copy of the application to the arbiter as soon as practicable after the opportunity for the parties to object to an arbiter has expired; and
- after consultation with the arbiter, advise the applicant and the respondent of the time and place for the hearing.

## 15.5 Role of the Arbiter

The role of the arbiter is to:

- consider applications alleging a contravention of the Councillor Code of Conduct by a Councillor;
- make findings in relation to any application alleging a contravention of the Councillor Code of Conduct;
- give a copy of his or her findings and a statement of supporting reasons to the Council, the applicant and the respondent; and
- recommend an appropriate sanction or sanctions where the arbiter has found that a Councillor has contravened the Councillor Code of Conduct for consideration Council.

## 15.6 Arbiter considerations

In considering an application alleging a contravention of the Councillor Code of Conduct, an arbiter will:

- in consultation with the Principal Conduct Officer, fix a time and place to hear the application;
- authorise the Principal Conduct Officer to formally notify the applicant and the respondent of the time and place of the hearing;
- hold as many meetings as he or she considers necessary to properly consider the application;
- have discretion to conduct the hearings as he or she deems fit while ensuring that the hearings are conducted with as little formality and technicality as due and proper consideration of the application allows;
- ensure that the parties to and affected by an application are given an opportunity to be heard by the arbiter;
- consider an application by a respondent to have legal representation at the hearing to ensure that the hearing is conducted fairly and may, in his or her absolute discretion, grant the application or deny the application;
- ensure that the rules of natural justice are observed and applied in the hearing of the application; and
- ensure that the hearings are closed to the public.

## 15.7 Legal representation

Where an application to have legal representation is granted by an arbiter, the costs of the respondent's legal representation are to be borne by the respondent in their entirety.

## 15.8 Arbiter findings

An arbiter:

- may find that a Councillor who is a respondent to an internal resolution procedure application has not contravened the Code;
- may find that a Councillor who is a respondent to an internal resolution procedure has contravened the Code;
- will suspend consideration of an internal resolution procedure during the election period for a general election.

A copy of the arbiter's findings, statement of reasons and any recommended sanctions is to be submitted to the next ordinary meeting of Council for its consideration.

## 15.9 Sanctions

If an arbiter has found that a contravention of the Code has occurred, the Council may, after considering the arbiter's findings, statement of reasons and recommendation on sanctions, give any or all of the following written directions to the Councillor:

- direct the Councillor to make an apology in a form or manner specified by Council;
- direct the Councillor to not attend up to, but not exceeding, 2 meetings of Council (in respect of the next scheduled meetings of the Council);
- direct that, for a period of up to, but not exceeding, 2 months on a date specified by the Council the Councillor:
  - be removed from any position where the Councillor represents Council; and
  - to not chair or attend any advisory committee or special committee meeting or an assembly of Councillors or any other meeting specified in the direction.

## 15.10 Finding of misconduct

A Councillor who does not participate in this internal resolution procedure may be guilty of misconduct. The Act provides that misconduct by a Councillor means any of the following:

- failure by a Councillor to comply with the Council's internal resolution procedure;
- failure by a Councillor to comply with a written direction given by the Council under section 81AB; or
- repeated contravention of any of the Councillor conduct principles.

## 15.11 Misconduct or Serious misconduct

Council or any individual Councillor may report allegations of Misconduct or Serious Misconduct to the Principal Councillor Conduct Registrar for investigation by a Councillor Conduct Panel.

## 15.12 Gross misconduct

All allegations relating to Gross Misconduct must be referred to the Chief Municipal Inspector for investigation by VCAT.

## 16. COUNCILLOR CONDUCT PANELS

~~In the event that a dispute cannot be resolved through application of the processes outlined in 15.1 may be made to a Councillor Conduct Panel.~~

~~If the dispute relates to an apparent offence under the *Local Government Act 1989* it should be referred to the Minister for Local Government and not the subject of an application to a Councillor Conduct Panel.~~

~~The role of a Councillor Conduct Panel is to hear or to otherwise deal with applications seeking the resolution of an issue relating to a particular instance of conduct on the part of an individually named councillor that has not been, or cannot be, resolved using the Council's internal dispute resolution processes.~~

~~A Panel:~~

- ~~• can only be established following a resolution of the Council or an application by a councillor or group of councillors;~~
- ~~• is established from lists of members maintained by the Municipal Association of Victoria;~~
- ~~• has disciplinary powers in relation to breaches of the Councillor Code of Conduct which has been adopted by the relevant Council;~~
- ~~• can require remedial action to be undertaken by a councillor to assist good governance at the Council;~~
- ~~• conducts hearings in the municipal area of the Council for which they are appointed;~~
- ~~• has its costs and administrative needs met by the relevant Council; and~~
- ~~• decision is tabled in Council meetings and become part of the Council records.~~

~~While the purpose of a Councillor Conduct Panel is to support a particular Council, it remains an independent body that operates under rules laid down in the Act.~~

- ~~• *Local Government Act 1989*~~
- ~~• *Local Government Victoria (2013) Guide to Councillor Conduct Arrangements*~~

## SECTION FIVE: OTHER LEGISLATIVE REQUIREMENTS

*Councillors will adhere to the requirements of all relevant legislative requirements including:*

- *protected disclosures;*
- *equal opportunity;*
- *racial, sexual, disability discrimination;*
- *human rights; and*
- *occupational health and safety.*

### 17. PROTECTED DISCLOSURE

The Alpine Shire Council is committed to the aims and objectives of the *Protected Disclosure Act 2012*.

Improper conduct by councillors will not be tolerated nor will reprisals against any person who discloses such conduct.

Under the *Protected Disclosure Act 2012* improper conduct means:

- a) corrupt conduct;
- b) conduct that if proved would constitute:
  - i. a criminal offence;
  - ii. reasonable grounds for dismissing or dispensing with, or otherwise terminating, the services of a public officer who was or is engaged in that conduct.

Including:

- dishonest performance of functions;
- knowingly or recklessly breaching public trust;
- misusing information or material acquired through performing functions;
- substantial mismanagement of public resources;
- substantial risk to public health or safety; and
- substantial risk to the environment.

- *Protected Disclosure Act 2012*
- Protected Disclosure Policy No. 092

## 18. EQUAL OPPORTUNITY

The Alpine Shire Council is committed to the principles of Equal Opportunity as established by the *Equal Opportunity Act 1995*, the *Racial Discrimination Act 1975*, the *Sex Discrimination Act 1984* and the *Disability Discrimination Act 1992*.

Equal opportunity ensures that all people are treated fairly and decisions are not made on the basis of a race, age, sex, disability, marital status, parental status, career status, religious beliefs, political beliefs, industrial beliefs, lawful sexual activity, gender identity, sexual orientation or any other personal characteristics or on the grounds of association with another person on the basis of these matters.

Councillors will adhere to all relevant legislation and refrain from discriminating, harassing or bullying other people and using offensive language in their capacity as a councillor. This type of behaviour by councillors is not condoned and will not be tolerated.

- *Equal Opportunity Act 1995*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *Disability Discrimination Act 1992*
- Equal Employment Policy No. 35
- Sexual harassment Policy No. 36
- Disability Access and Inclusion Policy No.51

## 19. CHARTER OF HUMAN RIGHTS

This policy has been considered in relation to the Victorian *Charter of Human Rights and Responsibilities Act 2006* and it has been determined that it does not contravene the Charter.

- *Charter of Human Rights and Responsibilities Act 2006*

## 20. OCCUPATIONAL HEALTH AND SAFETY

Councillors are required to:

- Comply with all requirements of the Council occupational health and safety management system.
- Work safely and not place at risk the health and safety of other councillors, Council employees, contractors or the public.
- Wear appropriate protective equipment when required.
- Actively contribute to the hazard identification process.
- Encourage other councillors to consider safety factors within the work environment.

The health and safety of councillors is not the sole responsibility of the Council. It is also the responsibility of each individual councillor to ensure both familiarity with, and observation of, workplace occupational health and safety requirements.

### 20.1 Incident reporting

Subject to the terms and conditions of relevant legislation, all councillors are covered by workers compensation insurance in the case of an accident or injury. If a councillor has an accident conducting Council business, or experiences a near miss, or identifies a hazard (regardless of severity) the councillor must inform the CEO immediately and complete an incident report.

- OHS Policy No. 52
- Risk Management Policy No. 54

## **SECTION SIX: ADMINISTRATION OF THE CODE**

### **21. MONITORING AND REVIEW**

#### **21.1 Monitoring**

Councillors will undertake to meet every six months to reflect on and assess:

- their behaviours;
- the delivery of their commitment;
- their observation of the Councillor Conduct Principles;
- their compliance with this Code of Code.

The assessment will be on the basis of each individual councillor and the councillors as a group. The half yearly reviews will be conducted by the end of June and December each year.

At the request of the Mayor, the CEO will co-ordinate a facilitator to assist councillors in undertaking this monitoring and review.

#### **21.2 Administrative updates**

It is recognised that, from time to time, circumstances may change requiring minor administrative changes to this Code of Conduct.

Where a minor administrative change does not materially alter this code, the code may be updated by the administration.

Any change or update which materially alters this Code of Conduct must be made by resolution of Council.

#### **21.3 Review**

This policy will:

- be reviewed after every general election in accordance with the requirements of section 76C of the Act

The Corporate ~~Governance~~ department will coordinate the circulation, review and changes to the policy.



## 22. DEFINITIONS AND ABBREVIATIONS

Definitions of terms used in the policy and explanations of any abbreviations and acronyms.

Term	Meaning
Act	the <i>Local Government Act 1989</i>
Arbiter	Independent person appointed to hear, consider and provide a written assessment of an allegation as part of the internal resolution procedure.
Bullying	S3(1): Bullying by a Councillor means the Councillor repeatedly behaves unreasonably towards another Councillor or member of Council staff and that behaviour creates a risk to the health and safety of that other Councillor or member of Council staff.
CEO	Chief Executive Officer
Code	the Council Policy – Councillor Code of Conduct
Conflict of interest	A direct or indirect interest in a matter
Council	Alpine Shire Council
Councillor Conduct Panel	a panel appointed pursuant to the Act
Direct interest	a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the person would be directly altered if the matter is decided in a particular way.
Gift	Defined in section 78A of the Act
Gross misconduct	S3(1): Gross misconduct by a Councillor 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;
Independent Appointee	a person suitably qualified in mediation or conciliation nominated by the President of the Law Institute of Victoria
Indirect interest	<ul style="list-style-type: none"> <li>• a close association as specified in section 78 of the Act; or</li> <li>• an indirect financial interest as specified in section 78A of the Act; or</li> <li>• a conflicting duty as specified in section 78B of the Act; or</li> <li>• received an applicable gift as specified section 78C of the Act.</li> </ul>
Information	includes letters, reports, documents, facsimiles, attachments, tapes or electronic media and/or other forms of information including verbal

<b>Term</b>	<b>Meaning</b>
Misconduct	<p>S3(1): Misconduct by a Councillor means any of the following—</p> <p>(a) failure by a Councillor to comply with the Council's internal resolution procedure; or</p> <p>(b) failure by a Councillor to comply with a written direction given by the Council under section 81AB; or</p> <p>(c) repeated contravention of any of the Councillor conduct principles;</p>
Policy	any policy adopted by Council from time to time
Principal Conduct Officer	S3(1): means the person appointed in writing by the Chief Executive Officer to be the Principal Conduct Officer for the Council under section 81Y. They are a senior officer at Council.
Principal Councillor Conduct Registrar	S3(1): means the person appointed by the Secretary to be the Principal Councillor Conduct Registrar under section 81S;
Resources	Includes all Council resources including property, facilities, mobile phones, computers, iPads, motor vehicles etc
Serious misconduct	<p>S3(1): Serious misconduct by a Councillor means—</p> <p>(a) the failure of a Councillor to attend a Councillor Conduct Panel hearing formed to make a finding in respect of that Councillor; or</p> <p>(b) the failure of a Councillor to give a Councillor Conduct Panel any information the Councillor Conduct Panel has requested the Councillor to give; or</p> <p>(c) the failure of a Councillor to comply with a direction of a Councillor Conduct Panel; or</p> <p>(d) continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by a Councillor Conduct Panel; or</p> <p>(e) bullying of another Councillor or member of Council staff by a Councillor; or</p> <p>(f) conduct by a Councillor in respect of a member of Council staff in contravention of section 76E; or</p> <p>(g) the release of confidential information by a Councillor in contravention of section 77.</p>
VCAT	Victorian Civil and Administrative Tribunal

## 23. APPROVAL

This Code of Conduct was adopted at the meeting of the Alpine Shire Council held on 28 June 2016.

We the undersigned declare that we will abide by the Councillor Code of Conduct, and make this declaration in accordance with section 76C(6A).

THE COMMON SEAL OF THE

ALPINE SHIRE COUNCIL was

hereunto affixed this 28th day of

June 2016:

Councillor	Signature	Date	Witnessed by Dave Barry, Chief Executive Officer
Cr Kate Farrell	_____	_____	_____
Cr John Forsyth	_____	_____	_____
Cr Ron Janas	_____	_____	_____
Cr Tony Keeble	_____	_____	_____
Cr Daryl Pearce	_____	_____	_____
Cr Peter Roper	_____	_____	_____
Cr Jan Vonarx	_____	_____	_____