

# Internal Resolution Procedures

TRIM Reference: D25/23693 Due for Review: June 2029  
Responsible Officer: Manager Integrity and Governance

## 1. Purpose

- 1.1 This document has been developed to form the Internal Resolution Procedures of Council, in accordance with the requirements described in section 140 of the *Local Government Act 2020* and regulation 12A and Schedule 1A of the *Local Government (Governance and Integrity) Regulations 2020*.

## 2. Introduction

- 2.1 Surf Coast Shire Council is committed to promoting conduct and behaviour which is consistent with statutory requirements and community expectations for elected representatives. Councillors, through their oaths or affirmations of office, have each committed to conducting themselves in accordance with the standards of conduct as prescribed through the Model Councillor Code of Conduct.
- 2.2 Where one or more Councillors (Complainant/s) allege that other Councillor/s (Respondent/s) have breached the Model Councillor Code of Conduct, these procedures provide the framework for the informal resolution process. These procedures will be made available to Councillors via the Councillor Portal, and will also be published on Council's website.
- 2.3 The procedures outlined in this document are designed to facilitate the early resolution of disputes. The internal resolution of matters is preferable wherever possible, as this reduces the impact on the effective operation of Council and can preserve positive working relationships amongst Councillors.

## 3. Scope

- 3.1 These procedures apply to all Surf Coast Shire Councillors when dealing with alleged breaches of the Model Councillor Code of Conduct.

### **Scope Limitations:**

- 3.2 Where matters pertaining to an alleged breach of the Model Councillor Code of Conduct are unable to be resolved through the processes described in these procedures, or where the procedures are unsuitable for dealing with the specific conduct, the Complainant/s may seek to submit a request for internal arbitration to the Principal Councillor Conduct Registrar (the Registrar).
- 3.3 In accordance with section 144(1)(c) of the *Local Government Act 2020*, in determining whether to appoint an arbiter for the purpose of conducting an internal arbitration process, the Registrar must be satisfied that:
- (c) *The Council –*
    - (i) *has taken sufficient or appropriate steps to resolve the matter and the matter remains unresolved; or*
    - (ii) *has not taken any steps to resolve the matter but the reason for this is adequate.*

- 3.4 Section 144(1) demonstrates an expectation that the Complainant/s will take reasonable steps to informally resolve matters prior to initiating formal processes. Notwithstanding this, these procedures will not apply in the following disputes:
- 3.4.1 differences between Councillors in relation to policy or decision making, which are appropriately resolved through discussion and voting in Council meetings;
  - 3.4.2 complaints made against a Councillor or Councillors by a member or members of Council staff, or by any other external person;
  - 3.4.3 allegations of sexual harassment;
  - 3.4.4 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
  - 3.4.5 allegations of criminal misconduct, which should be immediately referred to Victoria Police or the relevant integrity authority.

#### 4. Internal Dispute Resolution Procedures: Stage 1 – Discussion

- 4.1 The first stage of the internal resolution procedure is a discussion between the Complainant and the Respondent. A Complainant should raise their issue directly with the Respondent in a respectful and courteous manner, either in person or in writing.
- 4.2 If the Complainant is not comfortable directly initiating a discussion with the Respondent, they should seek support from the Mayor to facilitate this process.
- 4.3 Where discussions are formally initiated, the Complainant and the Respondent are each entitled to have a fellow Councillor present as a support person.
- 4.4 Upon request to the Chief Executive Officer (CEO), the CEO, Councillor Conduct Officer, General Manager Strategy and Effectiveness, the Manager Integrity and Governance or another senior member of Council staff may also attend the discussion for the purpose of documenting any agreed actions or outcomes and providing general process information.

#### 5. Internal Dispute Resolution Procedures: Stage 2 – Conciliation

##### Overview:

- 5.1 Where the dispute has not been resolved through the 'discussion' process described in Part 4, or the Complainant is not comfortable directly communicating with the Respondent, the matter should proceed to the conciliation stage of the internal dispute resolution process.
- 5.2 Where the dispute resolution process has proceeded to the conciliation stage, Councillors should only decline to participate if they hold a reasonable belief that their participation would adversely affect their health or wellbeing or would otherwise be unsafe.
- 5.3 Councillors are expected to conduct themselves in a courteous and respectful manner at all times during the conciliation process.

##### Conduct of Conciliation:

- 5.4 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 generally assume the role of the Mayor in the conciliation process. In cases where it is not appropriate for the Mayor or the Deputy Mayor to conduct the conciliation (e.g if they are parties to the dispute or otherwise unavailable to conduct the conciliation), the

role of the Mayor must be performed by a person jointly chosen for the purpose by the parties in consultation with the CEO.

- 5.5 Any reference to 'Mayor' within this process should be replaced as applicable with reference to 5.4.

**Roles and Responsibilities:**

- 5.6 **Mayor:** 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, including by conducting the conciliation process in accordance with this procedure.
- 5.7 **Complainant:** to explain their respective positions and actively explore the possibility of resolving the dispute by agreement
- 5.8 **Respondent:** to explain their respective positions and actively explore the possibility of resolving the dispute by agreement.
- 5.9 **Chief Executive Officer:** to provide support (either directly or as delegated to another member of Council Staff), as necessary to arrange and conduct the conciliation.

**Initiating Conciliation:**

- 5.10 A Complainant initiating conciliation must notify the Mayor of the dispute by completing a Conciliation Application Form (Appendix 1).
- 5.11 A Respondent declining to participate in conciliation must advise the Mayor of the reason/s why they are declining. This information must be provided within one week of the Respondent being notified by the Mayor that an application for conciliation has been received.

**End or Termination of Conciliation:**

- 5.12 Conciliation will end or be terminated if any of the following occur:
- 5.12.1 the parties cannot jointly choose a person to conduct the conciliation within one week of being asked to do so;
  - 5.12.2 the Respondent notifies the Mayor that they do not wish to participate in conciliation, and the reasons for it, within one week of being notified by the Mayor that an application for conciliation has been received;
  - 5.12.3 the Respondent does not respond at all within two weeks of being notified by the Mayor that an application for conciliation has been received;
  - 5.12.4 conciliation has not occurred within four weeks of the Complainant submitting the Conciliation Application Form;
  - 5.12.5 conciliation has occurred and the parties have been unable to resolve the dispute; or
  - 5.12.6 the dispute has been resolved.
- 5.13 The time for conciliation may be extended by agreement between the parties to the dispute.

**Record of Outcome:**

- 5.14 The Mayor must document any agreement, resolution or outcome 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, and CEO.

**Confidentiality:**

- 5.13 All participants to the conciliation process should discuss and agree to confidentiality expectations prior to commencing the process.

**6. Formal Dispute Resolution Procedure**

- 6.1 This Procedure operates alongside, and does not replace, the formal dispute resolution procedures outlined in the Act.
- 6.2 The formal dispute resolution procedure applies to misconduct, serious misconduct and gross misconduct.
- 6.3 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.
- 6.4 The Councillor Conduct Officer, as appointed by the CEO, will provide support in formal dispute resolution by performing the functions described in section 151 of the *Local Government Act 2020*.

**References**

*Local Government Act 2020*

*Local Government (Governance and Integrity) Regulations 2020*

**Document History**

Version	Document History	Approved by – Date
1	<i>Adopted</i>	<b>TBC</b>

## Appendix 1 - Conciliation Application Form

<b>Complainant:</b>	
<b>Respondent:</b>	
<b>Provisions of Model Councillor Code of Conduct breached:</b>	
<b>Action constituting breach:</b>  (Include dates, times and detailed descriptions of the action complained of. Attach further documents as necessary.)	
<b>Outcome sought:</b>  (Describe what action the Complainant is seeking from the Respondent to resolve the matter.)	

Signed by ..... )  
 on ..... )

## Appendix 2 – Internal Dispute Resolution Flowchart

