

A photograph of several wooden human-shaped figures arranged in a circle on a dark blue surface. One figure is painted red, and another is painted green. The entire scene is framed by a large, hand-painted orange circle. An orange semi-transparent banner is overlaid across the middle of the image.

Internal Resolution Procedure



Yarriambiack
SHIRE COUNCIL

Internal Resolution Procedure

Yarriambiack Shire Council encourages a working environment which promotes gender equality and models non-violent and respectful relationships.

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1. Objective

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

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

2. Responsibility

Councillors are required to adhere to the procedure and the Councillor Conduct Officer (Chief People and Culture Officer) is responsible for implementing the procedure.

3. Background – Internal Resolution Procedure

Disputes between Councillors may arise in a variety of circumstances. This Procedure is to apply to those disputes in which one Councillor (**the Complainant**) alleges that another Councillor (**the Respondent**) has breached the Model Councillor Code of Conduct.

This Procedure provides both parties to a dispute with support and encouragement to resolve the dispute in a manner that enables the Councillors to move forward and maintain effective working relationships.

This Procedure is designed to minimise cost and disruption of disputes to Council and individual Councillors and, where possible, avoid disputes escalating and becoming the subject of an internal arbitration.

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

An overview of the Procedure is annexed, in the form of a flowchart.

4. First Stage of Internal Resolution Procedure – Discussion

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

Councillors are encouraged to recognise that:

certain behaviours and communications may be perceived by others to be causing issues or offence that may not have been intended;

it can provide useful insight to reflect on their own behaviour or motivation and possible contribution to the dispute, whether intended or not; and

dealing with the dispute early is more likely to avoid the issue escalating and resolve it before it threatens the effective operation of Council.

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

5. Second Stage of Internal Resolution Procedure – Conciliation

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

5.1 Initiating Conciliation

A Complainant initiating conciliation must notify the Mayor and the Respondent of the dispute by completing a **Conciliation Application Form**. That form (see Attachment 1 to this Procedure) must:

- (a) specify the names of the Complainant and Respondent;
- (b) specify the provision (or provisions) of the Model Councillor Code of Conduct alleged to have been breached;
- (c) detail what was said or done by the Respondent to constitute a breach of the Model Councillor Code of Conduct;
- (d) attach any supporting information to provide examples of the behaviour complained of (e.g. screenshots or emails); and
- (e) be dated and signed by the Complainant.

5.2 Participating in Conciliation

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

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

5.3 Conduct of Conciliation

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

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

- (f) the Deputy Mayor; and
- (g) a Councillor jointly chosen for the purpose by the parties,

when the Mayor and/or the Deputy Mayor are parties to the dispute or otherwise unavailable to conduct a conciliation.

5.4 Roles and Responsibilities

The role of the Mayor is to provide guidance to the parties to the dispute about the Standards of Conduct in the Model Councillor Code of Conduct, and actively explore whether the dispute can be resolved by agreement between them.

The role of the Complainant and Respondent is to explain their respective positions and, in a show of goodwill, actively explore the possibility of resolving the dispute by agreement.

All Councillors are responsible for conducting themselves in a courteous and respectful manner at all times during the conciliation.

The role of the Councillor Conduct Officer is to provide the Mayor with the administrative support necessary to arrange and conduct the conciliation.

5.5 Support from Council

Council, through the Councillor Conduct Officer, will provide administrative assistance to the Mayor when arranging a time and place for conciliation, including any technical assistance that may be required. Council will make a venue available to the Councillors within Council's offices that is private and suited to the conciliation process.

Council will not provide any substantive guidance or advice about the subject matter of the dispute, or pay the costs of legal advice or representation for any Councillor in connection with this Procedure. Parties to a dispute may seek their own legal or other advice at their own cost, if they choose to do so.

5.6 End or Termination of Conciliation

Conciliation will end or be terminated if any of the following occurs:

- (h) the parties cannot jointly choose a Councillor to conduct the conciliation within one week of being asked to do so;
- (i) the Respondent notifies the Mayor that they do not wish to participate in conciliation, and the reasons for it, within one week of receiving the Conciliation Application Form;
- (j) the Respondent does not respond to the Conciliation Application Form at all within two weeks of receiving it;
- (k) conciliation has not occurred within four weeks of the Complainant submitting the Conciliation Application Form;
- (l) conciliation has occurred and the parties have been unable to resolve the dispute; or
- (m) the dispute has been resolved.

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

5.7 Confidentiality

Parties and other participants are expected to maintain confidentiality concerning the dispute and the operation of this Procedure.

5.8 Record of Outcome

The nominated Councillor must document any agreement that is reached between the Complainant and Respondent. The agreement must be signed by the Complainant, Respondent and Mayor. Copies must be provided to the Complainant and Respondent, and the original must be retained by the nominated Councillor. Again, parties and the nominated Councillor are expected to maintain the confidentiality of the agreement reached.

6. Internal Resolution Procedure does not Apply in these Circumstances

The following disputes are not covered by this Procedure:

- (a) differences between Councillors in relation to policy or decision making, which are appropriately resolved through discussion and voting in Council meetings;
- (b) complaints made against a Councillor or Councillors by a member or members of Council staff, or by any other external person;
- (c) allegations of sexual harassment;
- (d) disclosures made about a Councillor under the *Public Interest Disclosures Act 2012*, which can only be made to the Independent Broad-based Anti-corruption Commission; and
- (e) allegations of criminal misconduct, which should be immediately referred to Victoria Police or the relevant integrity authority.

7. Formal Dispute Resolution Procedure

This Procedure operates alongside, and does not replace, the formal dispute resolution procedures outlined in the Act.

The formal dispute resolution procedure applies to misconduct, serious misconduct and gross misconduct.

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

8. Related Policy Documents and References

- Model Councillor Code of Conduct
- Complaints Handling Policy
- Occupational Health and Safety Policy and Manual
- Information Privacy Policy
- *Local Government Act 2020*
- Local Government (Governance and Integrity) Regulations 2020

9. Definitions

The Act	<i>Local Government Act 2020</i> Victoria
Breach	An act of breaking or failing to observe a law, agreement, or code of conduct
Councillor	All references to 'Councillor' include the Mayor, Deputy Mayor and elected members of Yarriambiack Shire Council.
Dispute	To argue, debate, or quarrel about (something)
Complainant	The party who makes the complaint in a legal action or proceeding.
Conciliation	A form of dispute resolution and provides an opportunity for parties involved in a dispute to reach an agreement without the uncertainty, cost and time proceedings
Councillor Conduct Officer	Chief People and Culture Officer
Respondent	The person the complaint is made against in a legal action or proceeding and who is asked to answer a request for information
Confidential Information	Has the meaning in Section 3 of the <i>Local Government Act 2020</i> .
Consultation	The process of seeking input on a matter.
Code of Conduct	A set of rules and guidelines that outline acceptable behaviour within an organisation. It serves as a guide for individuals and groups, defining what is expected of them in terms of conduct, ethics, and responsibilities.
Gross misconduct	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.
Serious Misconduct	Serious misconduct by a Councillor means; <ul style="list-style-type: none"> • the failure of a Councillor to attend a Councillor Conduct Panel hearing formed to make a finding in respect of that Councillor,

	<ul style="list-style-type: none"> the failure of a Councillor to give a Councillor Conduct Panel any information the Councillor Conduct Panel has requested the Councillor to give, the failure of a Councillor to comply with a direction of a Councillor Conduct Panel, 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, bullying of another Councillor or member of Council staff by a Councillor, improper direction or influence by a Councillor in respect of a member of Council staff, the release of confidential information by a Councillor.
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10. Consistency with Governance Principles Local Government Act 2020

Governance Principle	Section of policy where covered
a) Council decisions are to be made and actions taken in accordance with the relevant law;	Section 1 and Section 7
b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;	Section 2
c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;	Section 2
d) the municipal community is to be engaged in strategic planning and strategic decision making;	Section 1 and Section 2
e) innovation and continuous improvement is to be pursued;	Section 2
f) collaboration with other Councils and Governments and statutory bodies is to be sought;	Section 1, Section 2 and Section 7
g) the ongoing financial viability of the Council is to be ensured;	Section 1 and Section 2
h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making;	Section 1, Section 2 and Section 7
i) the transparency of Council decisions, actions and information is to be ensured.	Section 1 and Section 2

In giving effect to the overarching governance principles, a Council must take into account the following supporting principles—

- (a) the community engagement principles;
- (b) the public transparency principles;
- (c) the strategic planning principles;
- (d) the financial management principles;
- (e) the service performance principles.

11. Legislative Context

This procedure has been developed to meet the requirements of the *Local Government Act 2020*.

12. Procedure Review Cycle

This procedure will be reviewed in conjunction with its associated policies every three years.

From time to time, circumstances may require minor administrative changes to be made to this Policy. Where an update does not materially alter this Policy, such a change may be made administratively and need not be considered and adopted by Council.

Where any change or update may materially change the intent of this policy, or the legal responsibilities of any member of the community, it must be considered and adopted by Council, or by the Chief Executive Officer in reliance on delegated authority.

Council Approved Procedure

Policy Adopted:	Ordinary Meeting [date]	Minute Page [number]
Policy Reviewed:		

ATTACHMENT 1: Conciliation Application Form

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

Signed by)

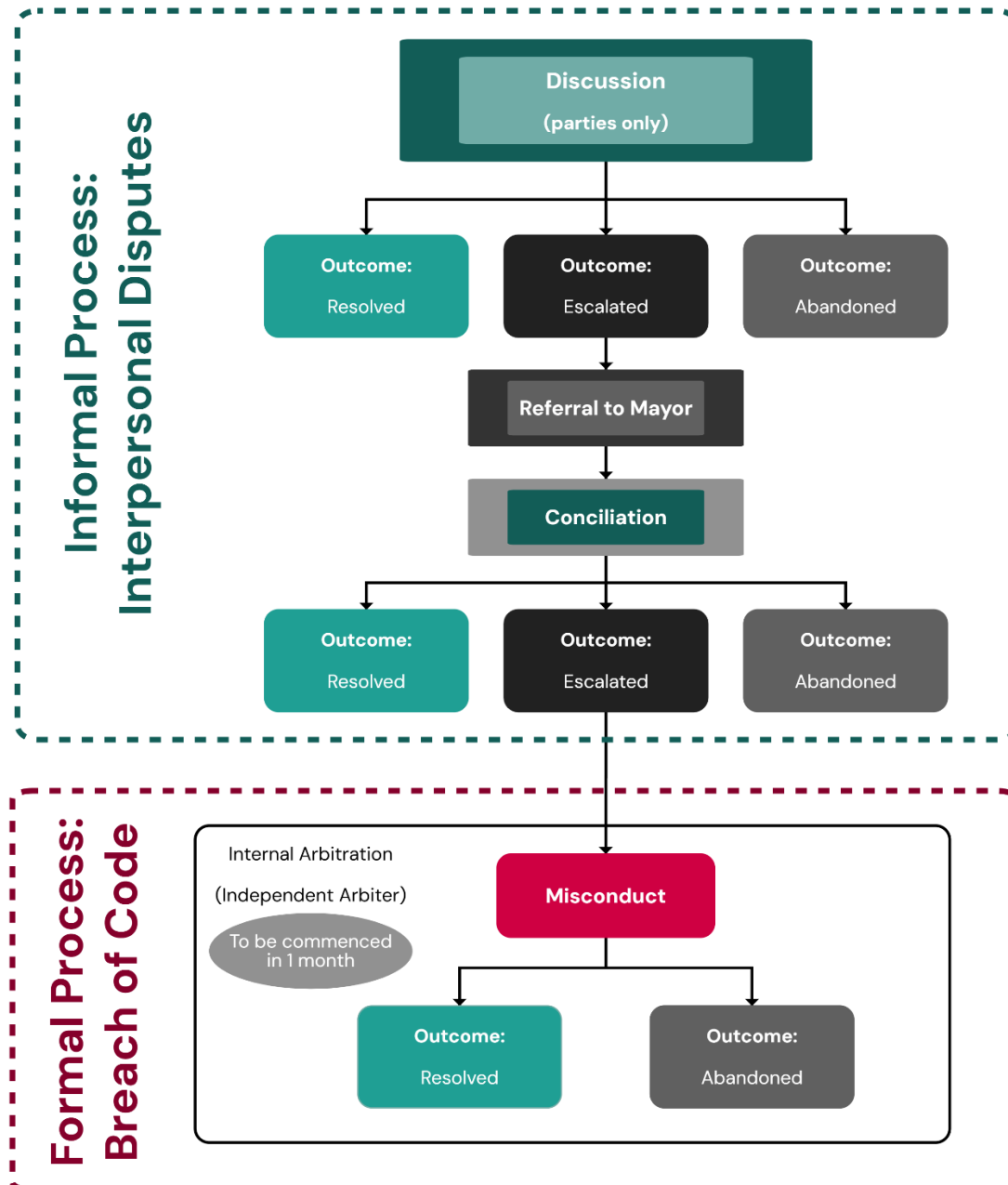
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Annexure

INTERNAL RESOLUTION PROCEDURE FLOWCHART





YARRIAMBIACK SHIRE COUNCIL

34 Lyle Street, Warracknabeal Vic 3393

T: (03) 5398 0100

F: (03) 5398 2502

PO Box 243, Warracknabeal VIC 3393

E: info@yarriambiack.vic.gov.au

W: www.yarriambiack.vic.gov.au

www.facebook.com/yarriambiack