

# HUME CITY COUNCIL **COUNCILLOR CODE OF CONDUCT**

Adopted by Council 22 February 2021

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<b>INTRODUCTION</b>	<b>4</b>
1. CODE OF CONDUCT	4
2. STANDARDS OF CONDUCT	5
3. APPLICATION OF THE CODE OF CONDUCT	6
<b>CHAPTER 1 - TREATMENT OF OTHERS</b>	<b>7</b>
STANDARD OF CONDUCT – TREATMENT OF OTHERS	7
1. GENERAL CONDUCT	7
2. RELATIONSHIPS BETWEEN COUNCILLORS	8
3. INTERACTION BETWEEN COUNCILLORS AND COUNCIL STAFF	8
4. INTERACTION WITH THE COMMUNITY	9
5. COMMUNICATIONS	9
6. REQUESTS FOR SERVICE/COMPLAINTS	10
7. HUMAN RIGHTS, EQUAL OPPORTUNITY, AND GENDER EQUALITY	10
8. PROMOTING WELLBEING IN THE WORKPLACE	11
9. HARASSMENT AND DISCRIMINATION	11
10. BULLYING	11
<b>CHAPTER 2 - PERFORMING THE ROLE OF A COUNCILLOR</b>	<b>13</b>
STANDARD OF CONDUCT – PERFORMING THE ROLE OF A COUNCILLOR	13
1. ROLE OF COUNCIL	13
2. OVERARCHING GOVERNANCE PRINCIPLES	13
3. ROLE OF COUNCILLOR	14
4. ROLE OF THE MAYOR	15
5. ROLE OF THE CEO	16
6. RESOURCES, FACILITIES AND SUPPORT FOR COUNCILLORS	17
6.1. USE OF COUNCIL RESOURCES	17
<b>CHAPTER 3 – COMPLIANCE WITH GOOD GOVERNANCE MEASURES</b>	<b>19</b>
STANDARD OF CONDUCT – COMPLIANCE WITH GOOD GOVERNANCE MEASURES	19
1. COMPLIANCE WITH COUNCIL POLICIES AND PROCEDURES	19
2. PERSONAL INTEREST RETURNS	19
2.1. INITIAL PERSONAL INTEREST RETURNS	19
2.2. BIENNIAL PERSONAL INTEREST RETURNS	19
2.3. PUBLIC ACCESS TO INFORMATION IN PERSONAL INTEREST RETURNS	19
2.4. PENALTIES REGARDING PERSONAL INTEREST RETURNS	20
3. GOVERNANCE RULES	20
4. COUNCIL DECISION MAKING	20
5. FAIRNESS AND EQUITY	21
6. FORMAL COMMUNITY FORUMS	21
7. LAND USE PLANNING, DEVELOPMENT ASSESSMENT AND OTHER REGULATORY FUNCTIONS	22
8. REPRESENTING COUNCIL ON COMMITTEES	22
9. PORTFOLIOS	22
<b>CHAPTER 4 – COUNCILLORS MUST NOT DISCREDIT OR MISLEAD COUNCIL OR THE PUBLIC</b>	<b>23</b>
STANDARD OF CONDUCT – COUNCILLORS MUST NOT DISCREDIT OR MISLEAD COUNCIL OR THE PUBLIC	23
1. MISUSE OF POSITION	23
2. DIRECTING A MEMBER OF COUNCIL STAFF	23
3. HANDLING AND USE OF CONFIDENTIAL INFORMATION	24
4. CONFLICT OF INTEREST PROCEDURES	25
5. GIFTS AND BRIBERY	26
6. FRAUD AND CORRUPTION	26
7. PERSONAL DEALINGS WITH COUNCIL	26

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8.	POLITICAL AFFILIATIONS	27
9.	ELECTIONS	27
10.	CHILD SAFE STANDARDS	27
11.	REPORTABLE CONDUCT SCHEME	28
<b>CHAPTER 5 – STANDARDS DO NOT LIMIT ROBUST POLITICAL DEBATE</b>		<b>29</b>
STANDARD OF CONDUCT – STANDARDS DO NOT LIMIT ROBUST POLITICAL DEBATE		29
1.	COUNCIL MEETINGS	29
2.	DEBATE MUST BE CONSTRUCTIVE AND RESPECTFUL	29
3.	CONDUCT AT COUNCIL MEETINGS	29
<b>CHAPTER 6 – MAINTAINING THE INTEGRITY OF THIS CODE</b>		<b>31</b>
1.	COMPLAINTS MADE FOR AN IMPROPER PURPOSE	31
2.	DETRIMENTAL ACTION	31
3.	DISPUTES BETWEEN COUNCILLORS	32
3.1.	FACILITATED RESOLUTION BETWEEN PARTIES	32
3.2.	MEDIATION/CONCILIATION	33
3.3.	DISPUTE BETWEEN MAYOR AND OTHER COUNCILLORS	33
4.	BREACH OF THE PRESCRIBED STANDARDS OF CONDUCT	34
4.1.	INTERNAL ARBITRATION PROCESS	34
4.2.	MAKING AN APPLICATION	34
4.3.	PRINCIPAL COUNCILLOR CONDUCT REGISTRAR MUST EXAMINE APPLICATION	35
4.4.	ARBITER MUST REFER CERTAIN APPLICATIONS	35
4.5.	HEARING BY THE ARBITER	35
4.6.	SANCTIONS THAT MAY BE IMPOSED BY AN ARBITER ON FINDING OF MISCONDUCT	36
4.7.	NEXT STEPS	36
5.	NO APPLICATIONS DURING ELECTION PERIOD	37
6.	BREACHES OF COUNCIL POLICY AND PROCEDURES	37
7.	OTHER COMPLAINTS ABOUT COUNCILLORS OR COUNCIL NOT DEALT WITH UNDER THIS CODE	37
7.1.	BREACHES OF THE LOCAL GOVERNMENT ACTS	37
7.2.	BREACHES OF OTHER LEGISLATION	38
7.3.	ADMINISTRATIVE ACTIONS OF COUNCILS	38
7.4.	CORRUPTION	38
7.5.	PRIVACY AND DATA PROTECTION	38
7.6.	HUMAN RIGHTS AND EQUAL OPPORTUNITY	38
7.7.	PROTECTION OF THE ENVIRONMENT	39
7.8.	COUNCIL ELECTIONS	39
<b>DEFINITIONS</b>		<b>40</b>
<b>LEGISLATION</b>		<b>41</b>
<b>POLICIES</b>		<b>41</b>

## **INTRODUCTION**

As custodians of the Hume City Council, Councillors hold a unique and important leadership role within Victoria.

As Councillors we commit to carrying out our role to the highest standards of conduct and behaviour. As part of this commitment all Councillors will adhere to the standards of conduct, principles and processes outlined in the Local Government Act 2020 (the Act) and this Councillor Code of Conduct.

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

### **1. CODE OF CONDUCT**

Section 139 of the Act states that a Council must develop a Councillor Code of Conduct.

The purpose of the Councillor Code of Conduct is to include the standards of conduct expected to be observed by Councillors in the course of performing their duties and functions as Councillors, including prohibiting discrimination, harassment (including sexual harassment) and vilification.

A Councillor Code of Conduct:

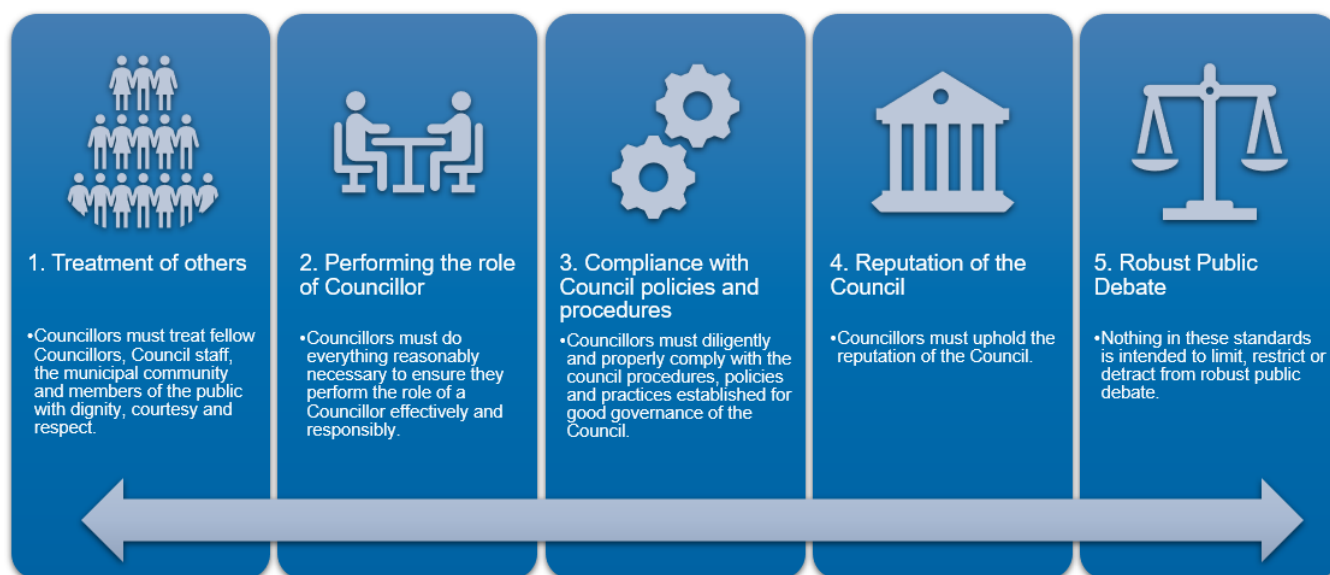
- a) must include the standards of conduct prescribed by the regulations expected to be observed by Councillors; and
- b) must include any provisions prescribed by the regulations for the purpose of this section; and
- c) must include provisions addressing any matters prescribed by the regulations for the purpose of this section; and
- d) may include any other matters which the Council considers appropriate, other than any other standards of conduct.

The Councillor Code of Conduct is required to be reviewed within four months of a general election. A Council must adopt the Councillor Code of Conduct by a formal resolution of the Council passed at a meeting by at least two-thirds of the total number of Councillors elected to the Council.

## 2. STANDARDS OF CONDUCT

The five standards of conduct are included in Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020 (the Regulations). These standards are:

1. Treatment of Others;
2. Performing the Role of Councillor;
3. Compliance with Good Governance Measures;
4. Councillor must not discredit or mislead Council or public
5. Nothing in the standards of conduct set out in the Regulations is intended to limit, restrict or detract from robust public debate in a democracy.



The standards of conduct are specified in full at the beginning of each of Chapters 1 to 5 of this Code. Each Chapter also includes a range of supporting information and supplementary expectations of behaviour that Councillors consider important for meeting the relevant standard of conduct. The supporting information and supplementary expectations are intended to operate in addition to the standards of conduct and are not intended to modify or derogate from the standards of conduct.

Failure to comply with the prescribed standards of conduct constitutes ‘misconduct’ for the purposes of the Act. If allegations of misconduct cannot be resolved between Councillors informally using the processes set out in this Code, they will be referred to the internal arbitration process, which may result in the imposition of sanctions.

Councillors acknowledge that interpersonal differences and disputes (as distinct from an alleged contravention of the prescribed standards of conduct) may arise from time to time. While Councillors may, and are encouraged to, have recourse to the processes set out in section 4 of Chapter 6 of this Code to resolve such disputes, only misconduct allegations can be the subject of an application for internal arbitration.

### **3. APPLICATION OF THE CODE OF CONDUCT**

As Councillors we must observe the Code of Conduct whenever we:

- a) Conduct the business of Council;
- b) Conduct the business of the office to which we have been elected or appointed;
- c) Act as a representative of Council, including at conferences and training; and
- d) Are in any dealings with the public, such as on social media.

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## **CHAPTER 1 - TREATMENT OF OTHERS**

### **STANDARD OF CONDUCT – TREATMENT OF OTHERS**

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor:

- a) takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the Equal Opportunity Act 2010 ; and
- b) supports the Council in fulfilling its obligation to achieve and promote gender equality; and
- c) does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and
- d) in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.

### **1. GENERAL CONDUCT**

In performing our role as Councillors, we must:

- a) Act with integrity;
- b) Impartially exercise our responsibilities in the interests of the municipal community;
- c) Not improperly seek to confer an advantage or disadvantage on any person;
- d) Avoid conflicts between our public duties as a Councillor and our personal interests and obligations;
- e) Act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- f) Treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;
- g) Exercise reasonable care and diligence and submit ourselves to the lawful scrutiny that is appropriate to our office;
- h) Endeavour to ensure that public resources are used prudently and solely in the public interest;
- i) Act lawfully and in accordance with the trust placed in us as an elected representative; and
- j) 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.

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## **2. RELATIONSHIPS BETWEEN COUNCILLORS**

Council is comprised of a group of individuals who bring to Council their own unique skills, talents, personalities, backgrounds and divergent views. All Councillors need to be understanding and accepting of the differences between Councillors and recognise that this diversity enriches Council and is reflected in the policies, strategies and decisions which are made in the best interests of the municipal community.

As Councillors we will work collaboratively together by:

- a) Respecting the right of each Councillor to speak and represent their views on the needs and rights of the municipal community;
- b) Always speaking well of each other and Council in public;
- c) Demonstrating total commitment to consult with other Councillors within the decision-making framework committing to a no surprises approach;
- d) Always being punctual to Council meetings and civic events;
- e) Committing to a consultative approach to solving problems, decision making and communicating outcomes that build teamwork and cooperation;
- f) Demonstrating leadership by focusing on issues and refraining from personalising matters' particularly in relation to making personal remarks regarding other Councillors; and
- g) Respecting each other's right to hold different views and debate strongly on matters of difference while being united in representing Council decisions.

## **3. INTERACTION BETWEEN COUNCILLORS AND COUNCIL STAFF**

As Councillors we will work as part of the Council team with the CEO and other members of staff. There must be mutual respect and understanding between Councillors and Council staff in relation to their respective roles, functions and responsibilities.

As Councillors will accept that our role is one of leadership, not a management or administrative role. The CEO is responsible for all staff matters. In the interests of maintaining a high level of teamwork and encouraging good morale, there will be no criticism of Council staff in public by Councillors. If Councillors wish to express any such criticism then the matter should be raised in a non-public forum.

As Councillors, we will be aware of the requirements of Section 124 of the Act and must not seek to improperly direct or influence members of Council staff in the exercise of their duties. (Please see section 3 in Chapter 4 below for more information).

As Councillors we must comply with the Councillor and Staff Interactions Policy adopted by the CEO under section 46 of the Act.



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#### **4. INTERACTION WITH THE COMMUNITY**

Accessibility of Councillors at the community level means that their actions and behaviour are closely monitored. In performing our role as Councillors, the community expects that we will comply with any laws, in particular the Act and its associated Regulations, and will be aware of our responsibility to comply with the standards of conduct.

As Councillors we will:

- a) Be mindful of our broader responsibility of serving the best interests of the entire municipality, whilst also representing our ward;
- b) work with other levels of government and organisations to achieve benefits for the community at both a local and regional level;
- c) keep the community informed about the Council's activities and plans and report to the community on these matters on a regular basis;
- d) act in a reasonable and fair way, and in a manner which is not discriminatory; and
- e) treat all members of the community honestly and fairly and in a way which does not cause offence or embarrassment to individuals or groups.

#### **5. COMMUNICATIONS**

As representatives of the municipal community, Councillors have a primary responsibility to be responsive to community views and to adequately communicate the position and decisions of Council. As Councillors we understand the importance of consistency and transparency in relation to our communications.

To assist Councillors in communicating with each other, Council staff and members of the public, Councillors are provided with Council resources including Council mobile phone numbers and email addresses that are visible to the public on Council's website. Councillor email addresses listed on Council's website reflect the standard form email accounts provided to all Councillors and members of Council staff. Councillors acknowledge the expectation on the part of Council staff and the community that communications will occur through formal channels, including Council email addresses.

We understand that we are expected to use Council provided mobile phone numbers and email addresses when communicating in our capacity as Councillors with other Councillors, Council staff and members of the public. Further, we understand that we are expected to use our Council provided mobile phone numbers and email addresses to receive communications from Council staff.

We understand that using Council resources when communicating in our capacity as Councillors ensures consistency and transparency for the municipal community and also ensures compliance with our legislative obligations, including those under the Privacy and Data Protection Act 2014 and the Freedom of Information Act 1982.

When communicating with Council as members of the community, we may use our personal email address and phone numbers.

As Councillors we will respect that the Mayor together with the CEO are the principal spokespersons for the Council.

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Individual Councillors are entitled to express their personal opinions through the media, including social media. As Councillors we will make it clear that such comment is a personal view and does not represent the position of Council. Councillors must ensure that any expression of their personal opinions is devoid of comments that are misleading; could reasonably be construed as being derogatory, offensive or insulting to any person; or that bring Council's reputation into disrepute.

Personal views transmitted or published using Council's systems must be clearly identified as personal views, and not those of Council.

When accessing and/or using Council's internet, email and electronic communications, and other Council resources, Councillors will need to comply with the Councillor Expenses Policy which includes guidelines on the use of social networking sites and general conditions of use of electronic communications.

## **6. REQUESTS FOR SERVICE/COMPLAINTS**

A Councillor request for service is a request made by a Councillor on their own behalf, or on behalf of a community member. All requests for service will be made in accordance with the Councillor and Staff Interactions Policy.

In accordance with the Victorian Ombudsman's good practice guide, to ensure transparency and fairness, complaints received by Councillors should be treated the same way as ones made to Council staff. A Councillor must not seek to direct or influence the complaint handling process.

## **7. HUMAN RIGHTS, EQUAL OPPORTUNITY, AND GENDER EQUALITY**

The human rights of all citizens of Hume City are protected under the Victorian Charter of Human Rights and Responsibilities Act 2006. In addition to the protections under the Act, Council's Social Justice Charter and Citizen's Bill of Rights recognise that every citizen is free and equal in dignity and in rights and is entitled to aspire to the quality of life that allows them to freely realise their potential.

Recognising the inalienable rights of our citizens, and our duty to act compatibly with human rights obligations in our decision making and service delivery, we undertake to exercise our duties as Councillors in a manner that is compatible with the rights set out in the Charter.

We acknowledge that this undertaking extends to our relationships with other Councillors, the CEO and Council staff, any member of the public with whom we have contact, and any decision making we participate in as a Councillor.

In performing our role as Councillors, we must take positive action to eliminate discrimination in accordance with the Equal Opportunity Act 2010, furthermore we must support Council to fulfil its obligation to achieve and promote gender equality, in accordance with the Gender Equality Act 2020<sup>1</sup>. We recognise that there is no place for unlawful discrimination, harassment (sexual or otherwise), racial and religious vilification, victimisation of any individual or conduct that causes or perpetuates gender inequality.

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<sup>1</sup> This Act has a commencement date of 31 March 2021.

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As Councillors we will:

- a) give proper consideration to human rights when making decisions,
- b) take all reasonable steps to eliminate all forms of discrimination at Council; and,
- c) support Council to fulfil its obligation to take positive action towards achieving gender equality.

## **8. PROMOTING WELLBEING IN THE WORKPLACE**

Councillors have the status of employees under the Occupational Health and Safety Act 2004 and should ensure that they contribute to a healthy and safe workplace. Councillors should be particularly mindful of this in their interactions with Council staff.

## **9. HARASSMENT AND DISCRIMINATION**

Councillors must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.

For the purposes of this code, “harassment” is any form of behaviour towards a person that:

- a) is not wanted by the person
- b) offends, humiliates or intimidates the person, and
- c) creates a hostile environment.

## **10. BULLYING**

Councillors must not engage in bullying.

In accordance with section 3 of the Act for the purposes of this Code, “bullying” by a Councillor means the Councillor repeatedly behaves unreasonably towards another Councillor or a member of Council staff and that behaviour creates a risk to the health and safety of that other Councillor or member of Council staff. Bullying may constitute ‘serious misconduct’ for the purposes of the Act, which may be the subject of an application to convene a Councillor Conduct Panel.

Bullying is also defined in section 789FD(1) of the Fair Work Act 2009 as follows:

Workplace bullying occurs when:

- a) an individual or group of individuals repeatedly behaves unreasonably towards a worker or a group of workers at work; and
- b) the behaviour creates a risk to health and safety.

Unreasonable behaviour includes victimising, humiliating, intimidating or threatening. Whether a behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

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Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:

- a) aggressive, threatening or intimidating conduct;
- b) belittling or humiliating comments;
- c) spreading malicious, rude and/or inaccurate rumours;
- d) teasing, practical jokes or 'initiation ceremonies';
- e) exclusion from work-related events;
- f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level;
- g) displaying offensive material;
- h) pressure to behave in an inappropriate manner;
- i) the making of vexatious allegations;
- j) conducting an investigation in a grossly unfair manner.

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## **CHAPTER 2 - PERFORMING THE ROLE OF A COUNCILLOR**

### **STANDARD OF CONDUCT – PERFORMING THE ROLE OF A COUNCILLOR**

A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor:

- a) undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and
- b) diligently uses Council processes to become informed about matters which are subject to Council decisions; and
- c) is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
- d) represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

### **1. ROLE OF COUNCIL**

Section 8 of the Act states that the role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.

A Council provides good governance if:

- a) It performs its role in accordance with the overarching governance and supporting principles; and
- b) The Councillors perform their role in accordance with the Act.

In performing its role, a Council may—

- a) perform any duties or functions or exercise any powers conferred on a Council by or under this Act or any other Act; and
- b) perform any other functions that the Council determines are necessary to enable the Council to perform its role.

If it is necessary to do so for the purpose of performing its role, a Council may perform a function outside its municipal district.

### **2. OVERARCHING GOVERNANCE PRINCIPLES**

Section 9 of the Act states that a Council must, in the performance of its role, give effect to the overarching governance principles:

- a) Council decisions are to be made and actions taken in accordance with the relevant law;

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

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.

### **3. ROLE OF COUNCILLOR**

Our primary role as Councillors is to set the vision and direction for the Hume City Council, to advocate on behalf of the municipal community, and to make a range of decisions on issues which affect the community.

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 in the best interests of the community and in accordance with the Act.

Section 28 of the Act states that the role of every Councillor is:

- a) to participate in the decision making of the Council;
- b) to represent the interests of the municipal community in that decision making;
- c) to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.

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In performing the role of a Councillor, a Councillor must:

- a) consider the diversity of interests and needs of the municipal community;
- b) support the role of the Council;
- c) acknowledge and support the role of the Mayor;
- d) act lawfully and in accordance with the oath or affirmation of office;
- e) act in accordance with the standards of conduct;
- f) comply with Council procedures required for good governance.

The role of a Councillor does not include the performance of any responsibilities or functions of the CEO.

#### **4. ROLE OF THE MAYOR**

Section 18 of the Act states that the role of the Mayor is to:

- a) chair Council meetings;
- b) be the principal spokesperson for the Council;
- c) lead engagement with the municipal community on the development of the Council Plan;
- d) report to the municipal community, at least once each year, on the implementation of the Council Plan;
- e) promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct;
- f) assist Councillors to understand their role;
- g) take a leadership role in ensuring the regular review of the performance of the CEO;
- h) provide advice to the CEO when the CEO is setting the agenda for Council meetings; and
- i) perform civic and ceremonial duties on behalf of the Council.

Section 19 of the Act states that the Mayor also has the following specific powers:

- a) to appoint a Councillor to be the chair of a delegated committee;
- b) to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business;
- c) to require the CEO to report to the Council on the implementation of a Council decision.

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## 5. ROLE OF THE CEO

Council's administration is accountable to Council through the Chief Executive Officer (CEO), who is responsible for the management and administration of the organisation. The organisation is responsible for implementing Council policy and decisions, operational policy and procedures, service delivery and providing professional advice to Council.

The CEO will provide professional, relevant and timely information to the Council, and maintain a close working relationship that supports the Mayor.

Section 94A of the Local Government Act 1989 states that a CEO is responsible for:

- a) establishing and maintaining an appropriate organisational structure for the Council;
- b) ensuring that the decisions of the Council are implemented without undue delay;
- c) day to day management of the Council's operations in accordance with the Council Plan;
- d) developing, adopting and disseminating a code of conduct for Council staff;
- e) providing timely advice to the Council;
- f) ensuring that the Council receives timely and reliable advice about its legal obligations under this Act and any other Act;
- g) supporting the Mayor in the performance of the Mayor's role as Mayor;
- h) carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the Accident Compensation Act 1985 or the Workplace Injury Rehabilitation and Compensation Act 2013;
- i) appointing, directing, managing and dismissing Council staff and for all other issues that relate to Council staff;
- j) managing interactions between Council staff and Councillors including by ensuring that appropriate policies, practices and protocols are in place defining appropriate arrangements for interaction between Council staff and Councillors;
- k) performing any other function or duty of the CEO specified in this Act or any other Act.

The CEO may appoint as many members of Council staff as are required to enable the functions of the Council under this Act or any other Act to be carried out and to enable the CEO to carry out her or his functions.

Councillors acknowledge that, from 1 July 2020, section 94A of the Local Government Act 1989 will be replaced by section 46 of the Act. The CEO's functions will then include:

- a) supporting the Mayor and the Councillors in the performance of their roles;
- b) ensuring the effective and efficient management of the day to day operations of the Council;



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- c) ensuring that the decisions of Council are implemented without undue delay;
  - d) ensuring that Council receives timely and reliable advice about its legal obligations;
  - e) supporting the Mayor in the performance of the Mayor's role;
  - f) setting the agenda for Council meetings after consulting the Mayor;
  - g) when requested by the Mayor, reporting to Council in respect of the implementation of a Council decision;
  - h) carrying out Council's obligations as an employer with respect to Councillors as deemed employees under the workplace health and safety legislation;
  - i) establishing and maintaining an organisational structure for Council;
  - j) being responsible for all staffing matters, including appointing, directing, managing and dismissing members of Council staff; and
  - k) managing interactions between members of Council staff and Councillors and ensuring that policies, practices and protocols that support arrangements for interaction between Council staff and Councillors.

## **6. RESOURCES, FACILITIES AND SUPPORT FOR COUNCILLORS**

It is a function of the CEO to support the Mayor and Councillors in the performance of their roles. The Council Expenses Policy details the resources, facilities and support available to Councillors in the performance of their roles.

Section 42 of the Act states that a Council must make available to the Mayor and the Councillors the resources and facilities reasonably necessary to enable them to effectively perform their role.

Without limiting the generality of the above a Council must:

- a) consider the support that may be required by a Mayor, Deputy Mayor or Councillor because of a disability; and
- b) have particular regard to the support that may be required by a Councillor who is a carer in a care relationship within the meaning of section 4 of the Carers Recognition Act 2012 .

### **6.1. USE OF COUNCIL RESOURCES**

As Councillors we commit to using Council resources effectively and economically.  
We will:

- a) maintain adequate security over Council property, facilities and resources provided to us to assist in performing our role and will comply with any Council policies applying to their use;
- b) ensure any expense claims that we submit are in compliance with the relevant legislative provisions and Council policy;

- c) ensure that Council resources, including services of Council staff, are always used effectively and economically and for the purposes for which they are provided;
- d) not use Council resources, including services of Council staff, equipment and intellectual property for electoral purposes;
- e) not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate; and
- f) not use public funds or resources in a manner that is improper or unauthorised.

Any use of Council Resources will be in accordance with the Councillor and Staff Interactions Policy and the Council Expenses Policy.

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## **CHAPTER 3 – COMPLIANCE WITH GOOD GOVERNANCE MEASURES**

### **STANDARD OF CONDUCT – COMPLIANCE WITH GOOD GOVERNANCE MEASURES**

A Councillor, in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following:

- a) any policy, practice or protocol developed and implemented by the CEO in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;
- b) the Council expenses policy adopted and maintained by the Council under section 41 of the Act;
- c) the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act;
- d) any directions of the Minister issued under section 175 of the Act.

#### **1. COMPLIANCE WITH COUNCIL POLICIES AND PROCEDURES**

As Councillors we must comply with all Council policies and procedures that apply to Council and / or Councillors.

#### **2. PERSONAL INTEREST RETURNS**

Personal Interests Returns are a new requirement under Division 3 of Part 6 (sections 132-136) of the Act. In addition, the Regulations set out the detail that needs to be provided for each interest return.

##### **2.1. INITIAL PERSONAL INTEREST RETURNS**

In accordance with section 133 of the Act, Councillors need to provide an initial Personal Interests Return within 30 days of taking the oath or affirmation of office.

##### **2.2. BIENNIAL PERSONAL INTEREST RETURNS**

Between 1 March and 31 March, and between 1 September and 30 September each year, a Councillor must lodge a Biennial Personal Interest Return. This should provide updates to any information provided in the last submitted return.

##### **2.3. PUBLIC ACCESS TO INFORMATION IN PERSONAL INTEREST RETURNS**

Sections 135 and 136 of the Act and the Regulations set out the level of information that can be accessed or disclosed publicly from information submitted in the Personal Interest Returns. Councillors acknowledge the public access to this information upholds the Public Transparency Principles of the Act and is conducted in accordance with Council's Public Transparency Policy.

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## **2.4. PENALTIES REGARDING PERSONAL INTEREST RETURNS**

Failure to submit an initial Personal Interests Return or subsequent Biannual Personal Interest Returns by the due dates can attract a penalty of up to 60 penalty units. There are also penalties for intentionally or recklessly providing false or incomplete information.

## **3. GOVERNANCE RULES**

Section 60 of the Act states that a Council must develop, adopt and keep in force Governance Rules for or with respect to the following:

- a) the conduct of Council meetings;
- b) the conduct of meetings of delegated committees;
- c) the form and availability of meeting records;
- d) the election of the Mayor and the Deputy Mayor;
- e) the appointment of an Acting Mayor;
- f) an election period policy;
- g) the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee;
- h) the procedure for the disclosure of a conflict of interest by a Councillor;
- i) the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of section;
- j) any other matters prescribed by the regulations.

Section 60(6) of the Act requires that Council must comply with its Governance Rules.

## **4. COUNCIL DECISION MAKING**

We are committed to making all decisions impartially and in the best interests of the whole municipal community and acknowledge that effective decision-making is vital to the democratic process and an essential component of good governance. As Councillors we will act fairly and without bias when making decisions that affect the rights and interests of others, and in accordance with natural justice.

We will listen to each other as matters are discussed in Council Meetings, and not pre-determine any decisions proposed to be made prior to consideration at a Council Meeting. As part of this consideration, we will take into account the outcomes of consultation or feedback from the community on a matter.

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Accordingly:

- a) We will actively and openly participate in the decision-making process, striving to be informed to achieve the best outcome for the municipal community;
- b) We will respect the views of the individual in the debate. However, we also accept that decisions are based on a majority vote; and
- c) We accept that no councillor can direct another Councillor on how to vote on any decision.

We acknowledge that in addition to the conflict of interest provisions of the Act we must observe the common law rules of bringing an impartial and open mind to the task of making decisions that affect the rights and interests of others. The rules are not concerned with decisions that affect members of the municipality generally such as setting the rates and charges for the year but about decisions that affect an individual or a small group of individuals.

Examples of these may be:

- a) A decision to grant or refuse a planning permit for a specific project;
- b) A decision to make an alteration to an application of the Hume Planning Scheme to a particular area of land owned by an individual or corporation;
- c) A decision to exempt a person from complying with a provision of a local law;
- d) A decision to grant a lease or licence;
- e) A decision to accept or reject a tender.

The common law rules allow us as Councillors to express our own views, as long as we are prepared to reconsider our position in light of all the evidence and alternative views expressed during debate. We will normally have a position on matters that are coming before Council for a decision. However, our position must be open to change if there is compelling evidence provided that warrants a different position.

## **5. FAIRNESS AND EQUITY**

As Councillors we must consider issues impartially and fairly by taking into consideration all relevant facts known to us or that we should be reasonably aware of. Councillors must have regard to the specific merits of each case and must not take irrelevant matters or circumstances into consideration when making decisions.

We must consider issues consistently, promptly and fairly; and must deal with matters in accordance with established procedures, in a non-discriminatory manner.

## **6. FORMAL COMMUNITY FORUMS**

Forums are convened from time to time to enable community members to express their views in relation to a specific matter. Councillors invited or appointed to hear from the community may ask questions to clarify issues raised. However, Councillors will not behave or comment in a way that may be perceived as pre-determining their own, or Council's, position in relation to a matter, or direct Council staff's responses.

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Formal community forums include, but are not limited to:

- a) Hearing of Submissions meetings – convened to hear from people in support of written submissions in relation to matters such as proposals to adopt a Budget, Council Plan or Local Law, or in relation to selling Council property;
- b) Single issue consultation forums – coordinated by the department responsible for a proposal or response to a community issue, single issue forums will be arranged as required.

While these forums are all formal in nature and may involve some or all of the Councillors, these forums are not meetings of the Council and Councillors will not make decisions at these forums or commit Council to a course of action.

## **7. LAND USE PLANNING, DEVELOPMENT ASSESSMENT AND OTHER REGULATORY FUNCTIONS**

As Councillors we recognise the separation of our roles and responsibilities from those of the CEO and Council staff and as such will abstain from involvement in functions such as the issuing of permits, the consideration of fines, prosecutions and other similar regulatory functions of the City.

As Councillors we will observe due regard to procedural fairness and natural justice, the absence of bias in decision-making and will conform with relevant legislation and policies in the consideration of planning matters, including conflict of interest provisions, and the Councillor and Staff Interactions Policy.

It is recognised that from time to time Councillors may interact with community members affected by planning proposals during the course of their day. On such occasions Councillors should refrain from discussing the planning proposal in a manner that could introduce bias into their decision making.

## **8. REPRESENTING COUNCIL ON COMMITTEES**

Councillors may undertake representation of the Council through appointment to government boards or sector committees, or they may join the bodies as a community representative on a particular group. It is important that Councillors clearly understand the basis of their appointment, maintain a positive image of the Council, and represent the Council policy position where appointed to the position by Council.

Councillors who are formally appointed to Committees through the Councillor Delegates and Representatives process are required to provide regular reports to the Council on the activities of the organisation (unless required to do otherwise by virtue of their terms of appointment).

## **9. PORTFOLIOS**

The allocation of portfolios allows Councillors to focus on particular areas of Council's operations that are of particular interest to them or their constituency. The portfolio Councillors also share their knowledge and experience of the portfolio with other Councillors.

Councillors must comply with the Councillor Portfolio Guidelines Policy. The Policy outlines the objectives and role expected of the portfolio holders.

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## **CHAPTER 4 – COUNCILLORS MUST NOT DISCREDIT OR MISLEAD COUNCIL OR THE PUBLIC**

### **STANDARD OF CONDUCT – COUNCILLORS MUST NOT DISCREDIT OR MISLEAD COUNCIL OR THE PUBLIC**

1. In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.
2. In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.

#### **1. MISUSE OF POSITION**

Section 123 of the Act states that a person who is, or has been, a Councillor or member of a delegated committee must not intentionally misuse their position:

- a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
- b) to cause, or attempt to cause, detriment to the Council or another person.

Circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a delegated committee include:

- a) making improper use of information acquired as a result of the position the person held or holds; or
- b) disclosing information that is confidential information; or
- c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or
- d) exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorized to exercise or perform; or
- e) using public funds or resources in a manner that is improper or unauthorised; or
- f) participating in a decision on a matter in which the person has a conflict of interest.

The penalty for breach of Section 123 is 600 penalty units or 5 years imprisonment, and an offence is an indictable offence.

#### **2. DIRECTING A MEMBER OF COUNCIL STAFF**

Section 124 of the Act states that a Councillor must not intentionally direct, or seek to direct, a member of Council staff:

- a) in the exercise of a delegated power, or the performance of a delegated duty or function, of the Council; or

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- b) in the exercise of a power or the performance of a duty or function exercised or performed by the member as an authorised officer under this Act or any other Act; or
  - c) in the exercise of a power or the performance of a duty or function the member exercises or performs in an office or position the member holds under this Act or any other Act; or
  - d) in relation to advice provided to the Council or a delegated committee, including advice in a report to the Council or delegated committee.

The penalty for breach of Section 124 is 120 penalty units.

### **3. HANDLING AND USE OF CONFIDENTIAL INFORMATION**

Section 125(1) of the Act states a Councillor must not intentionally or recklessly disclose information that the Councillor knows, or should reasonably know, is confidential information.

The penalty for breach of section 125 of the Act is 120 penalty units.

Section 125(1) does not apply if the information that is disclosed is information that the Council has determined should be publicly available.

Information is confidential as defined by section 3(1) of the Act:

- a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;
- b) Security information, being information that if released is likely to endanger the security of Council property or the safety of any person;
- c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values;
- d) law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;
- e) legal privileged information, being information to which legal professional privilege or client legal privilege applies;
- f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
- g) private commercial information, being information provided by a business, commercial or financial undertaking that—
  - i. relates to trade secrets; or
  - ii. if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;
- h) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a);



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- i) internal arbitration information, being information specified in section 145;
  - j) Councillor Conduct Panel confidential information, being information specified in section 169;
  - k) information prescribed by the regulations to be confidential information for the purposes of this definition;
  - l) information that was confidential information for the purposes of section 77 of the Local Government Act 1989.

Councillors will be provided with relevant information from the organisation to help them make informed decisions and fulfil their duties. This information may be publicly available, or in some instances confidential.

Councillors will observe the confidentiality of the information they receive in the course of performing their Councillor duties and responsibilities, and will not convey (electronically, verbally, or in writing) information they know, or should reasonably know, is confidential.

Section 125(3) of the Act states that a Councillor may disclose information that the Councillor knows, or should reasonably know, is confidential information in the following circumstances:

- a) for the purposes of any legal proceedings arising out of this Act;
- b) to a court or tribunal in the course of legal proceedings;
- c) pursuant to an order of a court or tribunal;
- d) in the course of an internal arbitration and for the purposes of the internal arbitration process;
- e) in the course of a Councillor Conduct Panel hearing and for the purposes of the hearing;
- f) to a Municipal Monitor to the extent reasonably required by the Municipal Monitor;
- g) to the Chief Municipal Inspector to the extent reasonably required by the Chief Municipal Inspector;
- h) to a Commission of Inquiry to the extent reasonably required by the Commission of Inquiry;
- i) to the extent reasonably required by a law enforcement agency.

#### **4. CONFLICT OF INTEREST PROCEDURES**

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

In addition to the requirements of the Act and the Governance Rules:

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- a) Councillors will give early consideration to each matter to be considered by Council, or any committee of which the Councillor is a member, to ascertain if he or she has a conflict of interest. This can be done by ensuring that the agenda of any meeting is read well ahead of time before the meeting is held.
  - b) Councillors recognise that while they may seek advice about a possible conflict of interest, the legal onus rests entirely with each Councillor. If a Councillor cannot confidently say that he or she does not have a conflict of interest, the Councillor will err on the side of caution and declare a conflict of interest and comply with the relevant requirements as if they had a conflict of interest.

## **5. GIFTS AND BRIBERY**

As Councillors we will scrupulously avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to gain favourable treatment from an individual Councillor or from the Council.

We will take all reasonable steps to ensure that our family members do not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.

We will not accept gifts either in our role as Councillor or where it could be perceived to influence us in our role as a Councillor except:

- a) Where the gift would generally be regarded as only having a token value and could not be perceived to influence our actions as a Councillor.
- b) Where refusal may cause offence or embarrassment, in which case we will accept the gift on behalf of the Council

As Councillors we must comply with the Councillor Gift Policy adopted in accordance with section 138 of the Act

## **6. FRAUD AND CORRUPTION**

As Councillors we will establish and maintain an environment in which fraud is not tolerated, and stakeholders, including Council staff, contractors and volunteers are encouraged to actively protect Council's assets, reputation and ethical standing.

As Councillors we will conduct ourselves in accordance with Council's Fraud Control Policy.

## **7. PERSONAL DEALINGS WITH COUNCIL**

Councillors may have reason to deal with Council in a personal capacity (for example, as a ratepayer, recipient of a Council service or applicant for a development consent granted by Council).

When we deal with our Council in our private capacity (e.g. as a ratepayer, recipient of a Council service or applicant for a permit) we do not expect nor will we request preferential treatment in relation to any such private matter. We will avoid any action that could lead Council staff or members of the public to believe that we are seeking preferential treatment.

As Councillors we must undertake any personal dealings we have with the Council in a manner that is consistent with the way other members of the community deal with the Council. Councillors must also ensure that they disclose and appropriately manage any conflict of

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interest they may have in any matter in accordance with the requirements of the Act and the Governance Rules.

## **8. POLITICAL AFFILIATIONS**

Councillors will maintain a clear and primary duty to the municipal community, rather than a political body or other jurisdiction. Councillors will avoid conflicts of interest, or the appearance of conflicts of interest, that affiliation with a political party may create.

Councillors, as individual citizens, may support a particular political body, and may demonstrate this support during a Federal or State election, including by handing out pamphlets or donating to a political party or candidate.

If Councillors wish to run in a Federal or State election they will take a leave of absence from Council during this period. If successfully elected to another level of government, a Councillor will resign as a Councillor of Hume City Council.

## **9. ELECTIONS**

Councillors are committed to fair and democratic Council elections and therefore adopt and endorse the practices and legislative requirements set out in Council's Election Period Policy incorporated in the Governance Rules.

The Election Period Policy is developed to ensure that the general elections of Hume City Council are conducted in a manner that is ethical, fair and equitable to all candidates and is publicly perceived as such.

Prior to an election period the CEO will ensure that all Councillors and all members of Council staff are aware of the application of the Election Period Policy.

## **10. CHILD SAFE STANDARDS**

Hume City Council is a child safe organisation with zero tolerance for child abuse. Council adheres to the Victorian Child Safe Standards and related legislation.

As Councillors we are responsible for promoting the safety and wellbeing of children and young people who engage with Council by:

- a) Adhering to all relevant Australian and Victorian legislation and Council policies;
- b) Raising concerns with the CEO if risks to child safety are identified in any of the activities, facilities, structures, procedures or staffing practices at Council;
- c) Taking all reasonable steps to protect children from abuse;
- d) Treating children with respect and being a positive role model in our conduct with them;
- e) Communicating with children in an age appropriate and realistic manner;
- f) Listening to and valuing children and young people's ideas and opinions;
- g) Setting clear boundaries about appropriate behaviour between ourselves and children;
- h) Observing professional boundaries with children at all times.

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As Councillors we must not:

- a) Condone or participate in behaviour with children that is illegal, unsafe or abusive;
- b) Ignore or disregard any concerns, suspicions or disclosures of child abuse;
- c) Communicate with a child in ways that are likely to humiliate, frighten or distress the child;
- d) Use hurtful, discriminatory or offensive behaviour or language with children;
- e) Subject a child to any form of corporal punishment, social isolation, immobilisation, sexual suggestion, offence or misconduct;
- f) Direct a child to perform in a sexually provocative or unsafe manner;
- g) Develop any 'special' relationships with children that could be seen as grooming/favouritism such as the offering of gifts or special treatment;
- h) Have unauthorised contact with children and young people online, on social media or phone.

## **11. REPORTABLE CONDUCT SCHEME**

The Reportable Conduct Scheme seeks to improve organisations' responses to allegations of child abuse and neglect by their workers and volunteers. The scheme is established by the Child Wellbeing and Safety Act 2005.

It has been designed to ensure that the Commission for Children and Young People (CCYP) will be aware of every allegation of certain types of employee misconduct involving children in relevant organisations that identified in the schedules below.

The Commission will also share information where appropriate, including with the Working with Children Check Unit relevant regulators and Victoria Police, to prevent and protect children from abuse.

There are five types of reportable conduct listed in the Child Wellbeing and Safety Act 2005:

1. A sexual offence committed against, with, or in the presence of a child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded.
2. Sexual misconduct committed against, with, or in the presence of a child.
3. Physical violence committed against, with, or in the presence of a child.
4. Any behaviour that causes significant emotional or psychological harm to a child.
5. Significant neglect of a child.

As Councillors we support the reporting of any disclosures of abuse or harm and commit to reporting any reportable conduct to the CEO via email immediately, acknowledging that Councillors are not mandated reporters under the Reportable Conduct Scheme.

We will endeavour to always comply with Council's Child Safe Policy and Child Safe Reporting Process.

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## **CHAPTER 5 – STANDARDS DO NOT LIMIT ROBUST POLITICAL DEBATE**

### **STANDARD OF CONDUCT – STANDARDS DO NOT LIMIT ROBUST POLITICAL DEBATE**

Nothing in these standards is intended to limit, restrict or detract from robust public debate in a democracy.

#### **1. COUNCIL MEETINGS**

Council Meetings must focus on the business of Council and provide an environment for transparent and healthy debate on matters requiring decision making. Councillors must comply with the Governance Rules as adopted or amended by Council to govern the conduct of meetings of Council and special committees.

The Mayor must chair meetings of the Council at which he or she is present and in doing so will:

- a) retain control of the meeting at all times;
- b) be impartial;
- c) preserve order; and
- d) ensure that the business is conducted in a proper manner.

As Councillors we are committed to paying respect to the Chair at all times.

The Chair should be conscious of the needs of each Councillor and will facilitate their entry into discussions and allow fair debate and participation.

#### **2. DEBATE MUST BE CONSTRUCTIVE AND RESPECTFUL**

Councillors need to be mindful that having and expressing differing and sometimes opposing viewpoints is a normal function of the process of democratic government and is just as much a part of local government as it is of the other levels of Australian government. Sharing and expressing these different views leads to informed and well considered debate. All Councillors have the right to influence, through this debate, the decisions made by Council.

Therefore, having differing views, politics or attitudes from other Councillors is not considered a conflict or a dispute and does not require resolution. Conflict does emerge when the differences become personal or the behaviour of Councillors towards each other is of a nature that threatens the effective operation of Council's decision-making processes.

#### **3. CONDUCT AT COUNCIL MEETINGS**

The Governance Rules govern the conduct of Council Meetings. The Chair plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all Councillors have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed, and statutory requirements are met.

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As Councillors we will comply with the Governance Rules and this Code when participating in Council meetings. We will act respectfully towards the Chair, our fellow Councillors, Council staff, guests and any community members or media attending the meeting or viewing the livestream of the meeting.

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## **CHAPTER 6 – MAINTAINING THE INTEGRITY OF THIS CODE**

### **1. COMPLAINTS MADE FOR AN IMPROPER PURPOSE**

As Councillors we must not make, or threaten to make, a complaint or cause a complaint to be made alleging a breach of this Code for an improper purpose.

A complaint is made for an improper purpose where it:

- a) is trivial, frivolous, vexatious or not made in good faith; or
- b) otherwise lacks merit; or
- c) has been made substantially for one or more of the following purposes:
  - i. to bully, intimidate or harass another person;
  - ii. to damage another person's reputation;
  - iii. to obtain a political advantage;
  - iv. to influence a person in the exercise of their official functions or to prevent or disrupt the exercise of those functions;
  - v. to influence the Council in the exercise of its functions or to prevent or disrupt the exercise of those functions;
  - vi. to avoid action being taken under this Code;
  - vii. to take reprisal action against a person for making a complaint alleging a breach of this Code;
  - viii. to take reprisal action against a person for exercising a function prescribed under this Code;
  - ix. to prevent or disrupt the effective administration of this Code.

### **2. DETRIMENTAL ACTION**

Councillors must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this Code.

Councillors must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under the Code.

A detrimental action is an action causing, comprising or involving any of the following:

- a) injury, damage or loss;
- b) intimidation or harassment;
- c) discrimination, disadvantage or adverse treatment in relation to employment;
- d) dismissal from, or prejudice in, employment;
- e) disciplinary proceedings.

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### **3. DISPUTES BETWEEN COUNCILLORS**

Before commencing any formal dispute resolution process, the Councillors who are parties to a dispute or allegation of a contravention of the standards of conduct undertake to use their best endeavours to resolve the matter in a courteous and respectful manner between themselves. Where, after these endeavours have been exhausted, the matter still remains unresolved, the parties may resort to any or all of Council's three phase dispute resolution process.

Council's three phase dispute resolution process involves:

- a) facilitated resolution between the parties to the allegation with the Mayor in attendance to provide guidance;
- b) mediation/conciliation facilitated by an independent mediator engaged by the CEO; and
- c) internal arbitration involving an independent arbiter, subject to approval of the Principal Councillor Conduct Registrar.

The two initial phases are not mandatory and are intended to provide an informal means of resolving interpersonal disputes between Councillors and allegations of contraventions of this Code. A Councillor may decline to participate in either of the two initial phases without consequence.

#### **3.1. FACILITATED RESOLUTION BETWEEN PARTIES**

A dispute may arise between two individual Councillors, between one Councillor and a group of Councillors, or between two or more different groups of Councillors. The following Councillors dispute resolution procedure will apply regardless of the dynamics and numbers involved.

Before commencing any formal dispute resolution process, the Councillors who are party 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 municipal community.

If, however, there is a dispute resulting from an interpersonal conflict between Councillors that cannot be resolved and it is unduly affecting the operation of Council, the Mayor will attempt to facilitate a resolution between the parties.

Either party involved in the dispute, or some other Councillor, may refer the dispute to the Mayor. The Mayor will investigate whether a dispute exists and requires resolution. The Mayor may call the parties involved to meet to resolve the dispute. These initial meetings may include the participation of other mutually agreed person/s.

The role of the Mayor at the meeting is to provide guidance to Councillors about what is expected of a Councillor including in relation to their role as a Councillor and compliance with this Code, the Act, the Governance Rules and any other policies which apply to Councillors.

If both or one of the parties to the dispute believes that the dispute has not been resolved following initial discussions to attempt to resolve the dispute, the parties



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may jointly ask the Mayor to request the CEO to engage a professional mediator or conciliator.

At any stage in this process, if one party to the dispute does not acknowledge there is a dispute and is not willing to cooperate in discussions to resolve the alleged dispute, the dispute resolution process cannot be continued. The Councillors will consider whether any of the conduct giving rise to the dispute constitutes a contravention of the standards of conduct. If they consider that it does, they may escalate the issue and pursue it as a breach of the standards of conduct in accordance with section 0 of Chapter 6 of this Code.

The Mayor may call upon the CEO for advice and guidance at any point in this process but Councillors acknowledge that the CEO does not have any formal role in the process.

### **3.2. MEDIATION/CONCILIATION**

The CEO will arrange for a qualified mediator/conciliator to be engaged.

If a mediator/conciliator is engaged, all Councillors will cooperate with the dispute resolution process and provide reasonable assistance to the mediator/conciliator when requested.

Following mediation/conciliation a report is to be prepared for the CEO and Mayor by the mediator/conciliator which is to include the recommendations and actions to be taken as a consequence of the mediation/conciliation, noting that the CEO will provide reasonable assistance in implementing reasonable recommendations and actions but it is not the role of the CEO to enforce them. Copies of the report are to be provided to both parties.

Where one party does not comply with the agreement, the other party has recourse to the internal arbitration process below where the matter relates to a breach of the standards of conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, the applicant has recourse to the arbitration process below where the matter relates to a breach of the standards of conduct.

### **3.3. DISPUTE BETWEEN MAYOR AND OTHER COUNCILLORS**

Where the Mayor is a party to the dispute, the request is to be made to the Deputy Mayor and the Deputy Mayor will carry out the role of the Mayor in this Dispute Resolution Process.

If the dispute is between the Mayor and the Deputy Mayor and another Councillor/s, two other Councillors may, after consultation with the CEO recommend to Council that an external mediator / conciliator be engaged. All other aspects of the dispute resolution procedure apply.

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## **4. BREACH OF THE PRESCRIBED STANDARDS OF CONDUCT**

### **4.1. INTERNAL ARBITRATION PROCESS**

Section 141 of the Act states that the internal arbitration process applies to any breach of the standard of conduct.

The following applies to an internal arbitration process:

- a) any processes prescribed by the Regulations, including any application process;
- b) the arbiter must ensure that parties involved in internal arbitration process are given an opportunity to be heard by the arbiter;
- c) the arbiter must ensure that a Councillor who is a party to an internal arbitration process does not have a right to representation unless the arbiter considers that representation is necessary to ensure that the process is conducted fairly;
- d) any requirements prescribed by the regulations.

### **4.2. MAKING AN APPLICATION**

Section 143 of the Act states that an application for an internal arbitration process to make a finding of misconduct against a Councillor may be made by:

- a) the Council following a resolution of the Council; or
- b) a Councillor or a group of Councillors.

An application must be made within 3 months of the alleged misconduct occurring.

It is the responsibility of a Councillor or the Councillors submitting an application to prepare the application, including by identifying and collating the evidence which supports it. While members of Council staff may provide some administrative support, that support will not extend to assisting Councillors with the preparation of the substance of an application.

An application for internal arbitration will be given to the Principal Councillor Conduct Registrar, subject to any guidelines published under section 149(1)(c) of the Act.

The application must include:

- a) the name of the Councillor alleged to have breached the standards of conduct;
- b) the clause of the standards of conduct that the Councillor is alleged to have breached; and
- c) the misconduct that the Councillor is alleged to have engaged in that resulted in the breach.

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After receiving an application under section 143 of the Act from the Principal Councillor Conduct Registrar, the Councillor Conduct Officer provides the application to the Councillor who is the subject of the application.

#### **4.3. PRINCIPAL COUNCILLOR CONDUCT REGISTRAR MUST EXAMINE APPLICATION**

The Principal Councillor Conduct Registrar, after examining an application under section 143, must appoint an arbiter to the Council to hear the matter if the Principal Councillor Conduct Registrar is satisfied that:

- a) the application is not frivolous, vexatious, misconceived or lacking in substance; and
- b) there is sufficient evidence to support an allegation of a breach of the Councillor Code of Conduct as specified in the application.

The Principal Councillor Conduct Registrar must reject an application if the Principal Councillor Conduct Registrar is not satisfied under subsection (a) or (b) above.

The rejection of an application by the Principal Councillor Conduct Registrar under this section does not prevent a further application being made in respect of the same conduct by a Councillor that was the subject of the rejected application.

#### **4.4. ARBITER MUST REFER CERTAIN APPLICATIONS**

If, at any time before, during or after the hearing of an application for an internal arbitration process, the arbiter believes that the conduct that is the subject of the application for an internal arbitration process appears to involve serious misconduct and would more appropriately be dealt with as an application under section 154 of the Act, the arbiter must refer the matter in writing to the Principal Councillor Conduct Registrar.

If the Principal Councillor Conduct Registrar receives a referral under subsection (1), the Principal Councillor Conduct Registrar must notify the parties to the application for an internal arbitration process that the matter has been referred by the arbiter.

#### **4.5. HEARING BY THE ARBITER**

An arbiter appointed to hear a matter subject to an application must:

- a) conduct the hearing with as little formality and technicality as the proper consideration of the matter permits; and
- b) ensure that the hearing is not open to the public.

An arbiter:

- a) may hear each party to the matter in person or solely by written or electronic means of communication; and

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- b) is not bound by the rules of evidence and may be informed in any manner the arbiter sees fit; and
  - c) may at any time discontinue the hearing if the arbiter considers that
    - i. the application is vexatious, misconceived, frivolous or lacking in substance; or
    - ii. the applicant has not responded, or has responded inadequately, to a request for further information.

Information provided to an arbiter or produced by an arbiter for the purpose of an internal arbitration process, other than the findings and the reasons, is confidential information.

#### **4.6. SANCTIONS THAT MAY BE IMPOSED BY AN ARBITER ON FINDING OF MISCONDUCT**

If after completing the internal arbitration process, the arbiter determines that a Councillor has failed to comply with the standards of conduct, the arbiter may make a finding of misconduct against the Councillor.

If an arbiter has made a finding of misconduct against a Councillor, the arbiter may do any one or more of the following:

- a) direct the Councillor to make an apology in a form or manner specified by the arbiter;
- b) suspend the Councillor from the office of Councillor for a period specified by the arbiter not exceeding one month;
- c) direct that the Councillor be removed from any position where the Councillor represents the Council for the period determined by the arbiter;
- d) direct that the Councillor is removed from being the chair of a delegated committee for the period determined by the arbiter;
- e) direct a Councillor to attend or undergo training or counselling specified by the arbiter.

#### **4.7. NEXT STEPS**

The arbiter must provide a written copy of the arbiter's decision and statement of reasons to:

- a) the Council;
- b) the applicant or applicants;
- c) the respondent; and
- d) the Principal Councillor Conduct Registrar.

A copy of the arbiter's decision and statement of reasons must be tabled at the next Council meeting after the Council received the copy of the arbiter's decision and statement of reasons and recorded in the minutes of the meeting.

If the arbiter's decision and statement of reasons contains any confidential information, the confidential information must be redacted before being tabled at a Council meeting.

## **5. NO APPLICATIONS DURING ELECTION PERIOD**

An application cannot be made for any dispute resolution process or internal resolution procedure during the election period for a general election. Any dispute resolution process or 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 a dispute resolution process or 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:

- a) the application was made by the Council and the Council so resolves; or
- b) the application was 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
- c) the applicant (individual Councillor) is returned to office and wishes to proceed with the application.

## **6. BREACHES OF COUNCIL POLICY AND PROCEDURES**

Breaches of Council Policy and Procedures will be dealt with in accordance with this Code. If the breach amounts to a contravention of the standards of conduct, it may be dealt with accordingly.

## **7. OTHER COMPLAINTS ABOUT COUNCILLORS OR COUNCIL NOT DEALT WITH UNDER THIS CODE**

Division 6 of Part 6 and Part 7 of the Act contain information on Council integrity and Ministerial oversight of Councils. These Sections of the Code relate to matters such as Councillor Conduct Panels, the Principal Councillor Conduct Registrar, gross misconduct, Municipal Monitors, the Chief Municipal Inspector and Commissions of Inquiry.

There are several integrity agencies in Victoria which aim to protect the integrity of the Victorian public sector. The complaints that these agencies deal with are detailed below.

### **7.1. BREACHES OF THE LOCAL GOVERNMENT ACTS**

Complaints about potential breaches of the Act are generally dealt with by the Victorian Local Government Inspectorate.

The Inspectorate accepts complaints about Council operations and potential breaches of the Act, including:

- a) misuse of position

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- b) conflict of interest
  - c) disclosure of confidential information
  - d) electoral offences.

The Inspectorate generally does not investigate complaints relating to Council decisions or democratic processes unless there is an allegation of a breach of the Act.

## **7.2. BREACHES OF OTHER LEGISLATION**

For breaches of other Victorian legislation, certain complaints may be able to be taken to the Victorian Civil and Administrative Tribunal (VCAT).

## **7.3. ADMINISTRATIVE ACTIONS OF COUNCILS**

Complaints about the administrative actions of a Council are dealt with by the Victorian Ombudsman.

## **7.4. CORRUPTION**

Complaints about corruption, are dealt with by the Independent Broad-based Anti-Corruption Commission (IBAC).

IBAC accepts complaints about suspected corruption and misconduct of Council including:

- a) taking or offering bribes
- b) using a position of influence dishonestly
- c) committing fraud or theft
- d) misusing information from the work place.

## **7.5. PRIVACY AND DATA PROTECTION**

Complaints about privacy and data protection are dealt with by the Office of the Victorian Information Commissioner (OVIC).

The Commissioner accepts complaints about anything a Council does that may interfere with the privacy of individuals.

## **7.6. HUMAN RIGHTS AND EQUAL OPPORTUNITY**

Complaints in relation to breaches of human rights are dealt with by the Victorian Human Rights and Equal Opportunity Commission.

You can also raise human rights complaints to other relevant complaint-handling bodies like the Disability Services Commissioner, the Health Complaints Commissioner or the Public Transport Ombudsman.

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Complaints made under federal laws such as the Racial Discrimination Act 1975, the Sex Discrimination Act 1984 and the Disability Discrimination Act 2006 must be lodged with the Australian Human Rights Commission.

#### **7.7. PROTECTION OF THE ENVIRONMENT**

The Environmental Protection Authority Victoria (EPA) deals with complaints related to protection of the environment, such as:

- a) Land, water, atmosphere or noise pollution
- b) Climate
- c) Odours
- d) Tastes and aesthetics.

#### **7.8. COUNCIL ELECTIONS**

Complaints or queries about how your local Council elections are run, are dealt with by the Victorian Electoral Commission (VEC).

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## Definitions

<b>Act</b>	means the Local Government Act 2020
<b>CEO</b>	means the Chief Executive Officer and includes an Acting Chief Executive Officer
<b>Confidential Information</b>	has the same meaning as in section 3 of the Act
<b>Council</b>	means Hume City Council
<b>Councillor</b>	has the same meaning as in section 3 of the Act: Councillor means a person who holds the office of member of a Council.
<b>Governance Rules</b>	means the governance rules adopted by Council under section 60 of the Act, as amended from time to time
<b>Family Member</b>	has the same meaning as in section 126 of the Act: <ul style="list-style-type: none"><li>a) A spouse or domestic partner of the Councillor;</li><li>b) A parent, grandparent, sibling, child, grandchild, step-parent, step-sibling or step-child of the Councillor;</li><li>c) Any other relative that regularly resides with the Councillor.</li></ul>
<b>Misconduct</b>	has the same meaning as in Section 3 of the Act: Misconduct by a Councillor means any breach by a Councillor of the prescribed standards of conduct included in the Councillor Code of Conduct.
<b>Municipal Community</b>	has the same meaning as in section 3 of the Act: Municipal Community includes: <ul style="list-style-type: none"><li>a) People who live in the municipal district of the Council;</li><li>b) People and bodies who are ratepayers of the Council;</li><li>c) Traditional owners of land in the municipal district of the Council.</li></ul>
<b>Serious misconduct</b>	has the same meaning as in Section 3 of the Act: Serious misconduct by a Councillor means any of the following: <ul style="list-style-type: none"><li>a) The failure of a Councillor to comply with the Council's internal arbitration process;</li><li>b) the failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147;</li><li>c) the failure of a Councillor to attend a Councillor Conduct Panel hearing in respect of that Councillor;</li><li>d) the failure of a Councillor to comply with a direction of a Councillor Conduct Panel;</li><li>e) continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by an arbiter or by a Councillor Conduct Panel under section 167(1)(b);</li><li>f) bullying by a Councillor of another Councillor or a member of Council staff;</li><li>g) conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or a member of Council staff;</li><li>h) the disclosure by a Councillor of information the Councillor knows, or should reasonably know, is confidential information;</li><li>i) conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff;</li><li>j) the failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision-making process when required to do so in accordance with this Act.</li></ul>



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## Legislation

- Charter of Human Rights and Responsibilities Act 2006
- Child Wellbeing and Safety Act 2005
- Equal Opportunity Act 2010
- Gender Equality Act 2020
- Freedom of Information Act 1982
- Interpretation of Legislation Act 1984
- Local Government Act 1989
- Local Government Act 2020
- Occupational Health and Safety Act 2004
- Privacy and Data Protection Act 2014

## Policies

- Child Safe Policy and Child Safe Reporting Process
- Community Engagement Policy
- Councillor and Staff Interactions Policy
- Councillor Expenses Policy
- Councillor Gift Policy
- Councillor Portfolio Guidelines Policy
- Councillor Training and Conference Policy
- Fraud Control Policy
- Governance Rules, including the Election Period Policy
- Information Privacy and Health Records Policy
- Media Communications Policy
- Procurement Policy
- Public Transparency Policy
- Risk Management Policy
- Social Justice Charter

## Hume City Council

1079 Pascoe Vale Road, Broadmeadows  
PO Box 119, Dallas, Victoria 3047  
Telephone 9205 2200 Facsimile 9309 0109

### Customer Service Centres

Open Monday to Friday  
8am–5pm

**Broadmeadows**  
1079 Pascoe Vale Road

**Craigieburn**  
75-95 Central Park Avenue

**Sunbury**  
40 Macedon Street

[contactus@hume.vic.gov.au](mailto:contactus@hume.vic.gov.au)  
[www.hume.vic.gov.au](http://www.hume.vic.gov.au)

## HumeLink

Hume City Council's  
multilingual telephone information service.  
**General enquiries: Telephone 9205 2200**

للمعلومات باللغة العربية	9679 9815
بيخلفه حلفه نى نى	9679 9809
Za informacije na bosanskom	9679 9816
Za informacije na hrvatskom	9679 9817
Για πληροφορίες στα ελληνικά	9679 9818
Per avere informazioni in italiano	9679 9819
За информације на српском	9679 9820
Para información en español	9679 9821
Türkçe bilgi için	9679 9822
Muốn biết thông tin tiếng Việt	9679 9823
For other languages...	9679 9824

