

INTERNAL RESOLUTION PROCEDURE

1.0 Purpose

The purpose of this Internal Resolution Procedure is to provide a conciliation process that Councillors may follow to deal with and resolve conflict, dispute, disagreement or alleged breaches of the Model Councillor Code of Conduct (collectively referred to as 'disputes'). This procedure is adopted in accordance with section 54A of the *Local Government Act 2020* (the 'Act').

2.0 Scope

This procedure applies to any disputes between Councillors of the City of Ballarat.

It does not apply to disputes between Councillors and staff or between Councillors and members of the public. Disputes between Councillors and staff will be managed by the Chief Executive Officer in accordance with their responsibilities under section 46 of the Act and in consultation with the Mayor. Disputes between Councillors and members of the public will be considered or referred to the relevant body in accordance with City of Ballarat's Complaints Management Policy.

3.0 Policy Statement

3.1 Internal resolution process

Throughout the Council term, it is natural and expected that disputes will arise from time to time. Where possible, Councillors commit to attempting to resolve these disputes internally by engaging in the internal resolution process provided in this procedure.

Some disputes may not be appropriate for internal resolution, for example where the health or safety of any person involved in the internal resolution process would be threatened by engaging in the process. In these circumstances, Councillors should discuss whether internal resolution is an appropriate process with the Mayor or Deputy Mayor or, if the Mayor and Deputy Mayor are parties to the dispute, with the Councillor Conduct Officer.

The following internal resolution steps will be undertaken by Councillors to resolve disputes:

- a. Informal discussion between involved parties to the dispute.
- b. If (a) is unsuccessful, application to the Councillor Conduct Officer for a conciliation discussion between the involved parties, to be facilitated by the Mayor or other Councillor in accordance with section 3.3 of this procedure.
- c. If (a) and (b) are unsuccessful, application to the Councillor Conduct Officer for a mediation between the involved Councillors, conducted by an external qualified mediator.

3.2 Requesting internal resolution assistance

Pursuant to sections 3.3 and 3.4 of this procedure, an application to the Councillor Conduct Officer for internal resolution assistance must be in writing and contain:

- a. The names of all involved Councillors.
- b. A brief summary of the dispute; and
- c. A summary of steps previously taken to resolve the dispute.

Councillors may apply to commence the internal resolution process in respect of disputes to which they are a party only and may not make an application on behalf of other parties.

The Mayor may commence an internal resolution process in accordance with section 3.1 of this procedure in relation to any dispute which they become aware of, and are not required to be a party to that dispute.

3.3 Facilitated conciliation discussion

The facilitator of the discussion will be determined as follows:

- a. The Mayor will facilitate the conciliation discussion.
- b. If the Mayor is an involved party to the dispute or is unable to perform the role, functions and duties of the facilitator, the discussion will be facilitated by the Deputy Mayor.
- c. If both the Mayor and Deputy Mayor are involved parties in the dispute, the most recent past Mayor who is not a party to the dispute will facilitate the discussion.

On receipt of an application for a conciliation discussion, in accordance with section 3.2 of this procedure, the Councillor Conduct Officer will:

- a. Provide a copy of the application to:
 - a. The facilitator of the discussion, as determined above.
 - b. The Chief Executive Officer, for information only; and
 - c. The other party or parties to the dispute.
- b. Seek confirmation from the other party or parties to the dispute that they will participate in the conciliation discussion. If no response is received from the other party or parties within 5 business days, this will be taken as a refusal to participate in the conciliation discussion; and
- c. If the other party or parties consent to participate in the conciliation discussion, with the cooperation of all parties, arrange a time, date and appropriate facilities for the holding of the discussion.

Following a conciliation discussion, the facilitator of the discussion will provide the Councillor Conduct Officer with a written summary of the outcome of the conciliation discussion.

The Councillor Conduct Officer will provide a copy of the written summary to:

- a. The Chief Executive Officer, for information only; and
- b. The parties to the discussion.

The application and written summary of the outcome will not be provided by the Councillor Conduct Officer, Mayor or Chief Executive Officer to any person, including other Councillors, who is not a party to the dispute.

If any party considers that the conciliation discussion did not resolve the dispute or if any party declined to participate in the conciliation discussion, a party may apply to the Councillor Conduct Officer to commence an external mediation in accordance with section 3.4 of this procedure.

3.4 External mediation

On receipt of an application for external mediation in accordance with section 3.2 of this procedure, the Councillor Conduct Officer will:

- a. Confirm that a resolution discussion has been conducted or attempted in relation to the dispute;
- b. Provide a copy of the application to:
 - a. The Mayor and the Chief Executive Officer, for information only; and
 - b. The other party or parties to the dispute.

- c. Seek confirmation from the other party or parties to the dispute that they will participate in the external mediation. If no response is received from the other party or parties within 5 business days, this will be taken as a refusal to participate in the external mediation.
- d. If the other party or parties consents to participate in the external mediation, select and engage the services of a mediator and, with the cooperation of all parties, arrange a time, date and appropriate facilities for the holding of the mediation.

The mediator selected for the purposes of the external mediation must not be a Councillor or member of Council staff and will be selected at the sole discretion of the Councillor Conduct Officer.

Following the mediation, the mediator will provide a written summary of the outcome of the mediation to the Councillor Conduct Officer. The Councillor Conduct Officer will provide a copy of the written summary to:

- a. The Mayor and the Chief Executive Officer, for information only; and
- b. The parties to the dispute.

The application and written summary of the outcome will not be provided by the Councillor Conduct Officer, Mayor, mediator or Chief Executive Officer to any person, including other Councillors, who is not a party to the dispute.

If any party considers that the external mediation did not resolve the dispute or if any party declined to participate in the external mediation, the matter will be considered closed and the parties will strive to maintain a professional working relationship and comply with the standards of conduct and values as contained in this Code of Conduct.

3.5 Breaches of the Model Code of Conduct

Where a Councillor or Councillors believe that the behaviour of another Councillor constitutes a breach of the Model Code of Conduct, they may make an application for a finding of misconduct or serious misconduct to the Principal Councillor Conduct Registrar.

It is strongly encouraged that, where possible, the Councillor or Councillors seek to informally resolve the matter by following the process described in section 3.2 prior to making such an application.

3.6 Roles and responsibilities of parties

Councillors who are parties to a dispute are expected to:

- a. Participate in the dispute resolution process, to the extent possible.
- b. Act genuinely and in good faith in attempting to resolve the dispute.
- c. Focus on the issue or topic of the dispute and refrain from using inappropriate language or intimidating behaviour.
- d. Respect the principles of natural justice, by raising relevant matters within the dispute and allowing the other party or parties to respond.
- e. Protect the confidentiality of the internal dispute resolution process and any documents created in connection with the process.

Facilitators and mediators who participate in the internal resolution process are expected to:

- a. Apply the principles of natural justice, by ensuring:
 - a. Each party has an opportunity to be heard and respond to claims or allegations against them; and
 - b. Each party is treated fairly and without bias.

- b. Act impartially by not taking or appearing to take sides.
- c. Help the parties discuss and develop options that may assist to discuss or resolve the dispute. It is not, however, the role of the facilitator or mediator to decide who is right or wrong or impose an outcome or sanction on any party.
- d. Help the parties to communicate and keep discussion relevant and respectful.
- e. Document the outcome of any discussion or mediation and provide a copy to the relevant parties, in accordance with section 3.3 or 3.4 as relevant.

The Councillor Conduct Officer is expected to:

- a. Receive applications for internal dispute resolution assistance in accordance with section 3.2 of this procedure.
- b. Liaise with parties to arrange the time, date and facilities for conciliation discussions or mediations, in accordance with sections 3.3 and 3.4 of this procedure respectively.
- c. Provide support and assistance to parties to disputes to understand and navigate the internal resolution process. It is not the role of the Councillor Conduct Officer to write, review or provide advice on documents created in connection with the internal resolution process (such as applications or discussion outcomes), or on the merits of the dispute.

Each party to a dispute may choose to have one support person present at a discussion or mediation. The support person is present to provide emotional support to the individual. This may be through taking notes, suggesting breaks if required, assisting the individual to understand questions or processes. The support person is not present to act as an advocate or representative, or to speak on behalf of, the individual.

4.0 Supporting documents and references

4.1 Legislation

- *Local Government Act 2020*
- *Local Government (Governance and Integrity) Regulations 2020*
- *Gender Equality Act 2020*

4.2 Associated Documents

- *Model Councillor Code of Conduct*

4.3 Definitions

<i>Council</i>	Means the group of Councillors who are democratically elected to represent the Ballarat municipality in accordance with the <i>Local Government Act 2020</i> .
<i>City of Ballarat</i>	Means the body corporate constituted in accordance with the <i>Local Government Act 2020</i> .
<i>Councillor Conduct Officer</i>	Has the meaning provided by the <i>Local Government Act 2020</i> .

5.0 Administrative Updates

From time to time, circumstances may change leading to the need for minor administrative changes to this policy. Where an update does not materially alter this policy, such a change may be made administratively. Examples of minor administrative changes include changes to names of Council departments or positions, change to names of Federal or State Government departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this policy, it must be considered by Council.

6.0 Policy owner

Executive Manager Governance and Risk

7.0 Authorisation

Adopted by Ballarat City Council on 26 February 2025 (R21/25).