

CP 11 Councillor Internal Resolution Policy

Responsible Officer:	General Manager Corporate
Document type:	Council Policy
Reference:	CP 11
Adopted by Council:	28 May 2025
Date of next review:	May 2029

Policy Objective

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

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

This Policy can be used when dealing with alleged breaches of the *Model Councillor Code of Conduct*.

Policy

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

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

In this Policy, any reference to the Mayor also encompasses the Deputy Mayor and a Councillor mutually selected by the involved parties in situations where the Mayor and/or Deputy Mayor are either directly involved in the dispute or otherwise unable to facilitate the conciliation process.

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

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

The following disputes are not covered by this Procedure:

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

Definitions

- **Complainant:** The Councillor/s who has reported an allegation of a breach of the *Model Councillor Code of Conduct*.
- **Respondent:** The Councillor who is the subject of allegation.
- **Conciliation:** The process through which the Mayor (or Deputy Mayor) identifies issues in dispute, develops options, considers alternatives, and endeavours to reach agreement between parties.
- **External Mediation:** A structured negotiation process in which an independent person, known as a mediator, assists the parties to identify and assess options and negotiate an agreement to resolve their dispute.

Procedure

A flowchart of the Councillor Internal Resolution Procedure is attached as **Appendix 1**.

First Stage of Councillor Internal Resolution – Discussion

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

Councillors are encouraged to recognise that:

- a. certain behaviors and communications may be perceived by others to be causing issues or offence that may not have been intended
- b. it can be useful to reflect on their own behaviour or motivation and possible contribution to the dispute, whether intended or not
- c. dealing with the dispute early is more likely to avoid the issue escalating and resolve it before it threatens the effective operation of Council.

It is useful to frame any issue from the councillor's perspective, for example, "I felt disrespected when you said / did ...", rather than accusing another person of holding a particular position or taking a negative action deliberately.

A councillor should let the other councillor know how they feel and ask for an explanation, rather than making accusations or assumptions.

Councillors must take personal responsibility and endeavour to resolve their differences in an informal, but at all times, courteous and respectful manner, recognising that they have been elected to represent the best interests of the community.

Second Stage of Councillor Internal Resolution – Conciliation

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

1. Initiating Conciliation

A Complainant initiating conciliation must notify the Mayor and the Respondent of the dispute by completing a Conciliation Application Form. The form (refer **Appendix 2**) must:

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

A completed *Conciliation Application Form* must be provided to the Mayor.

The Mayor, within five working days receipt of the *Conciliation Application Form*, will:

- a. Provide written acknowledgement of receipt of the *Conciliation Application Form* to the Complainant.
- b. Provide a copy of the *Conciliation Application Form* to the Respondent.
- c. Notify the Councillor Conduct Officer of the application.
- d. Gain consent from the Complainant and Respondent to engage in conciliation.
- e. Attempt to convene a meeting.

2. Participating in conciliation

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

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

3. Conduct of Conciliation

Conciliation is to be conducted by the Mayor except when the Mayor is a party to the dispute or otherwise unavailable to conduct conciliation. In that case the Deputy Mayor will assume the role of the Mayor in the Conciliation.

If both the Mayor and the Deputy Mayor are parties to the dispute or otherwise unavailable to conduct the Conciliation, the role of the Mayor must be performed by a councillor jointly chosen for the purpose by the parties.

4. Roles and responsibilities

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

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

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

The Councillor Conduct Officer is appointed by the Chief Executive Officer. The role of the Councillor Conduct Officer is to provide the Mayor with the administrative support necessary to arrange and conduct the Conciliation.

The Councillor Conduct Officer is currently the General Manager Corporate.

5. Support from Council

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

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

6. End or termination of Conciliation

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

- a. the parties cannot jointly choose a councillor to conduct the conciliation within one week of being asked to do so
- b. the Respondent notifies the Mayor that they do not wish to participate in conciliation, and the reasons for it, within one week of receiving the *Conciliation Application Form*
- c. Conciliation has not occurred within four weeks of the Complainant submitting the *Conciliation Application Form*
- d. Conciliation has occurred and the parties have been unable to resolve the dispute
- e. the dispute has been resolved.

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

7. Record of outcome

The Mayor must document any agreement that is reached between the Complainant and Respondent (refer **Appendix 3**).

The agreement must be signed by the Complainant, Respondent and Mayor.

Copies must be provided to the Complainant and Respondent, and the original must be retained by the Mayor.

Where one party does not comply with the agreement, the other party has recourse to external mediation.

If no agreement is reached the Mayor, preferably with the active support of the parties to the dispute may seek assistance from an external mediator.

External Mediation

If reconciliation of the dispute is not possible, it is the responsibility of the Mayor to seek assistance from an external mediator to resolve the dispute.

The Complainant and Respondent must be informed of the decision to engage an external mediator.

The request for external mediation must be submitted to the Councillor Conduct Officer (CCO).

The Council will cover the cost of the external mediation.

Participation in external mediation

The CCO is to ascertain (in writing) if the Complainant and Respondent are prepared to attend external mediation.

- If one party declines to participate in an external mediation, they are to provide their reasons in writing to the Councillor Conduct Officer.
- If the other party agrees to participate in an external mediation, the CCO is to advise the Complainant, Respondent, the Mayor and Chief Executive Officer of the outcome.
- If the Complainant and Respondent accept the CCO is to engage the services of an external mediator to conduct the mediation at the earliest practicable opportunity.

Record of outcome

The mediator is to document any agreement reached at the meeting.

Copies of the agreement are to be provided to both parties.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties.

Where one party does not comply with the agreement, the other party has recourse to the formal dispute resolution procedure where the matter relates to an alleged breach of the *Model Councillor Code of Conduct*.

Where the dispute remains unresolved, the Complainant has recourse to the formal dispute resolution procedure where the matter relates to an alleged breach of the *Model Councillor Code of Conduct*.

Formal Dispute Resolution Procedure

This Policy operates alongside the formal dispute resolution procedures outlined in the *Local Government Act 2020*.

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

Section 141 and 154 of the Act provides the process and procedure for internal arbitration process and Councillor Conduct Panels concerning a breach of the Standards of Conduct set out in the *Model Councillor Code of Conduct*.

An application under this section must be made within three months of the alleged misconduct occurring.

An internal arbitration process refers to the process provided for under section 141 of the *Local Government Act 2020* in which an arbiter is appointed to a council by the Principal Councillor Conduct Registrar (PCCR) to hear an allegation of misconduct by a councillor.

A Councillor Conduct Panel (CCP) hearing refers to the process provided for under section 154 of the *Local Government Act 2020* in which a CCP is formed by the Principal Councillor Conduct Registrar (PCCR) to hear an allegation of serious misconduct by a councillor.

Suspension of Councillor Internal Resolution Policy During Election Period

Applications made and resolution processes conducted under this policy must be suspended during the election period for a general election. If a conciliation application is made against or by a person who is a councillor before a general election and the person is not returned to the office of Councillor as a result of the general election the application lapses.

Review

This policy may be reviewed at any time by the Council to accommodate changes in legislation, regulations, policy gaps, new technology or systems, as well as remain consistent with industry best practice.

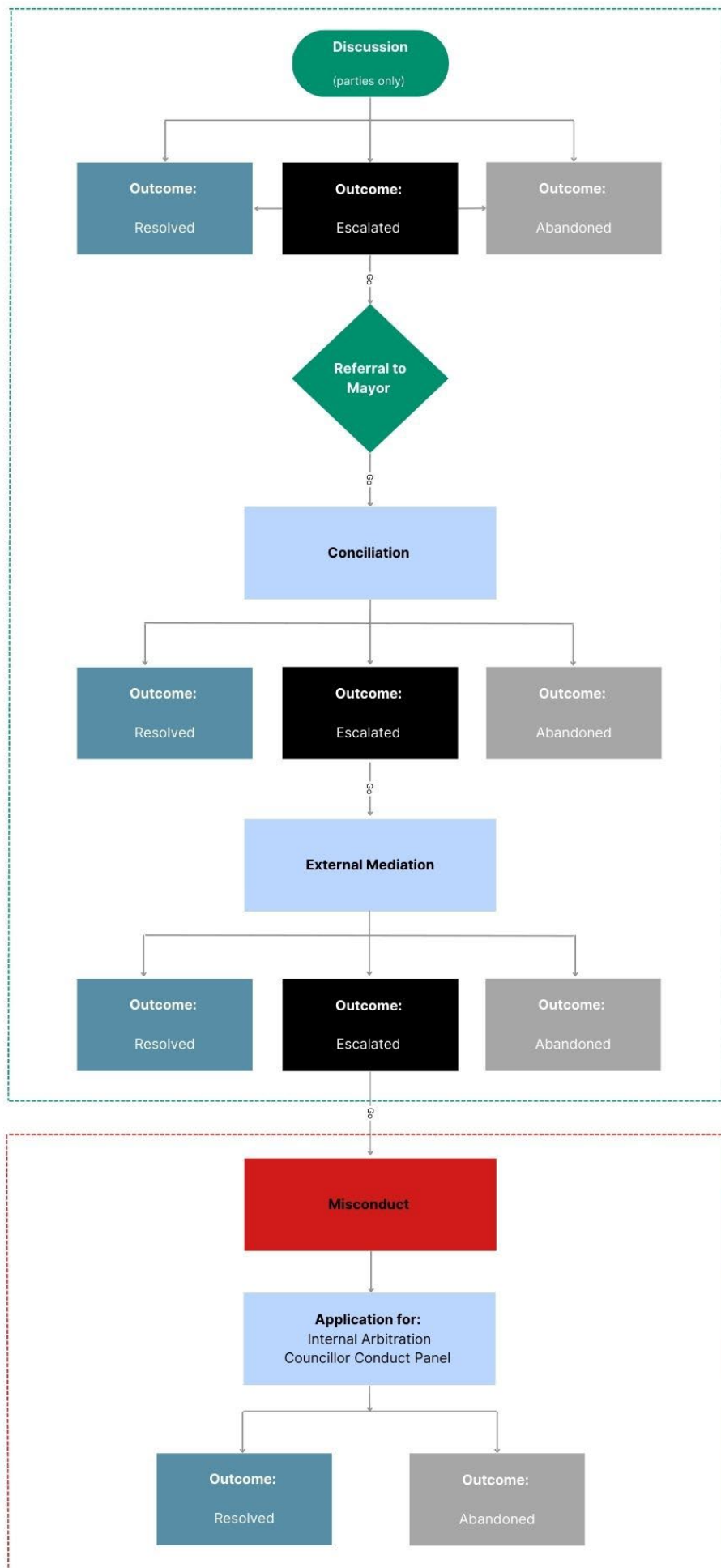
Related Policies

- *Model Councillor Code of Conduct*
- *Guidance on the Model Councillor Code of Conduct*
- *Local Government Victoria – Fact Sheet: Internal Arbitration Process*
- *Local Government Victoria - Fact Sheet: Councillor Conduct Panels*

Related Legislation

- *Local Government Act 2020*
- *Local Government (Governance and Integrity) Regulation 2020*

Councillor Internal Resolution Procedure Flowchart



Conciliation Application Form

Name of Complainant:	
Name of Respondent:	
Provision of Model Councillor Code of Conduct Breached:	
Action constituting breach:	
<i>Include dates, times and detailed descriptions of the action complained of.</i> Attach any further documents as necessary.	

This form must be dated and signed by the Complainant.

Signature of Complainant: _____ **Date:** _____

Provide completed form to the Mayor.

Form received by the Mayor on: _____

Conciliation Record Form

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

Conciliation Meeting Record

Meeting Date:	
Location	
In attendance:	
Complainant	
Respondent	

Notes:

Blank handwriting practice lines with a large, faint watermark reading "Khan" diagonally across the page.

Agreement:



Signed by Complainant:	Signed by Respondent:
Date:	Date:

A signed copy of the agreement must be provided to both parties.