**APPLICATION FOR AN INTERNAL ARBITRATION PROCESS**

*under section 143 Local Government Act 2020*

**To: Principal Councillor Conduct Registrar**

The Applicant makes application under section 143 of the *Local Government Act 2020* (the Act) for an internal arbitration process to make a finding of misconduct against the Respondent Councillor in relation to the matters set out in this application.

**Section A - Council information**

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| **Name of Council** |  |

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| **Contact details of Councillor Conduct Officer for the Council** | | | |
| Name |  | Telephone number |  |
| Email |  | | |

**Section B – Parties**

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| **Applicant details** | |
| Name(s)  *(Council, councillor, or councillors)* |  |
| Appointed representative  *(if application is made by a Council or group of councillors)* |  |
| Email |  |
| Telephone number |  |

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| **Respondent details** | |
| Name |  |
| Email |  |
| Telephone number |  |

**Section C - Details of Misconduct alleged**

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| Note: The prescribed requirements for an application for an internal arbitration process are set out in regulation 11 of the [Local Government (Governance and Integrity) Regulations 2020](https://www.legislation.vic.gov.au/in-force/statutory-rules/local-government-governance-and-integrity-regulations-2020/) (the Regulations).  The Model Councillor Code of Conduct is set out in Schedule 1 to the Regulations and is included in the instructions at the end of this form. | |
| 1. Clause(s) of the Model Councillor Code of Conduct alleged to have been breached   *(regulation 11(1)(b))* | Please confirm that you have read the relevant instructions for section C.1 at the end of this form |
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| 1. Date of the alleged misconduct   *(section 143(3) of the Act requires an application to be made within 3 months of alleged misconduct occurring)* | Please confirm that you have read the relevant instructions for section C.2 at the end of this form |
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| 1. Circumstances, actions or inactions alleged as constituting misconduct   *(regulation 11(1)(c))* |  |
| 1. Particulars of any evidence of the circumstances, actions or inactions alleged as constituting the misconduct   *(regulation 11(1)(d))*  *Note: Further information may be attached to this form* |  |

**Section D - Details of steps taken by Council to resolve the matter**

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| Note: Under section 144 of the Act the Principal Councillor Conduct Registrar must be satisfied that the Council has taken sufficient or appropriate steps to resolve the matter and the matter remains unresolved, or the Council has not taken any steps to resolve the matter but the reasons for that is adequate. | |
| 1. Specify any steps taken by Council to resolve the matter and the reason why the matter was not resolved by the taking of those steps   *(regulation 11(1)(e)(i))* |  |
| **OR** | |
| 1. If the Council did not take any steps to resolve the matter, the reason why the Council did not take any steps to resolve the matter   *(regulation 11(1)(e)(ii))* |  |

**Section E - Declaration**

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| **Privacy collection statement** |
| The Principal Councillor Conduct Registrar is an officer of the Department of Government Services. The Department is committed to protecting personal information provided by you in accordance with the principles of the Victorian privacy laws.  The information you provide in this application will be used for the purposes of and in accordance with the provisions of the *Local Government Act 2020* (the Act) relating to the internal arbitration process and related processes, especially Part 6 of that Act. These purposes include (but are not limited to):   * Assessing whether your application meets the criteria set out in section 144 of the Act for the appointment of an arbiter to hear the application. If an arbiter is appointed, the information in the application will be provided to the arbiter for the purposes of hearing the matter. * In the conduct of an internal arbitration process, copies of the material may be provided to other individuals and organisations who are concerned in the matter. * If an internal arbitration process proceeds to a final determination, the arbiter’s decision and statement of reasons will be tabled at the next Council meeting, and these may include information that you have provided. * Use by Department of Government Services officers and Local Government Inspectorate officers for related purposes under the Act. * The exercise of the powers and functions of the Minister for Local Government, such as the establishment of a Commission of Inquiry or the standing down of a councillor.   The information may also be used or disclosed as otherwise required by law, such as pursuant to a court order or under another law that requires the disclosure of the information.  Do you wish this application to be otherwise treated as confidential? Yes / No |

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| **E.1 - Declaration where application is made by a single councillor** | |
| I declare that the above information is true and correct to the best of my knowledge.  I have read and understand the privacy collection statement above.  I agree that the information I have given in this form and any attached documents may be disclosed to the Respondent Councillor.  I acknowledge that the information I have given in this form and any attached documents may be used and disclosed as outlined in the privacy collection statement above, including (but not limited to) the Council’s Councillor Conduct Officer, Department of Government Services officers and Local Government Inspectorate officers, where disclosure is reasonably necessary for purposes under the Act. | |
| Signature of applicant |  |
| Date |  |

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| **E.2 - Declaration where application is made by the Council** | |
| I declare that the above information is true and correct to the best of my knowledge.  I attach a certified copy of the relevant minute of the Council’s resolution to make this application and appointing me as the appointed representative.  I have read and understand the privacy collection statement above.  I agree that the information I have given in this form and any attached documents may be disclosed to the Respondent Councillor.  I acknowledge that the information I have given in this form and any attached documents may be used and disclosed as outlined in the privacy collection statement above, including (but not limited to) the Council’s Councillor Conduct Officer, Department of Government Services officers and Local Government Inspectorate officers, where disclosure is reasonably necessary for purposes under the Act. | |
| Signature of appointed representative |  |
| Date |  |

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| **E.3 - Declaration where application is made by a group of councillors** | |
| I declare that the above information is true and correct to the best of my knowledge.  I have accepted appointment as the appointed representative for the purposes of this application by the group of councillors listed below.  I have read and understand the privacy collection statement above.  I agree that the information I have given in this form and any attached documents may be disclosed to the Respondent Councillor.  I acknowledge that the information I have given in this form and any attached documents may be used and disclosed as outlined in the privacy collection statement above, including (but not limited to) the Council’s Councillor Conduct Officer, Department of Government Services officers and Local Government Inspectorate officers, where disclosure is reasonably necessary for purposes under the Act. | |
| Signature of appointed representative |  |
| Date |  |

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| I / we declare that the above information is true and correct to the best of my / our knowledge.  I / we confirm that I / we have appointed the councillor identified in Section A to be the appointed representative for the purposes of this application.  I / we have read and understand the privacy collection statement above.  I /we acknowledge that the information I have given in this form and any attached documents may be disclosed to the Respondent Councillor.  I /we agree that the information I / we have given in this form and any attached documents may be used and disclosed as outlined in the privacy collection statement above, including (but not limited to) Council’s Councillor Conduct Officer, Department of Government Services officers and Local Government Inspectorate officers, where disclosure is reasonably necessary for purposes under the Act. | | |
| Name of councillor | Signature of councillor | Date |
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| **Instructions for completing Form 3** |
| **Section C.1 - Clause(s) of the Model Councillor Code of Conduct alleged to have been breached**  The information provided at Section C.1 of the form must specify the clause or clauses of the Model Councillor Code of Conduct that the respondent is alleged to have breached.  The Model Councillor Code of Conduct in Schedule 1 to the Local Government (Governance and Integrity) Regulations 2020 is set out below.  **Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020**  **Definitions**  In this Schedule—  ***discrimination*** means unfair or unfavourable treatment of a person on the grounds of an attribute specified in section 6 of the *Equal Opportunity Act 2010*.  **Standards of Conduct**   1. **Performing the role of a Councillor**   A Councillor must do everything reasonably necessary to ensure that they perform the role of a Councillor effectively and responsibly, including by—  (a) representing the interests of the municipal community by considering and being responsive to the diversity of interests and needs of the municipal community; and  (b) being fit to perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and  (c) diligently using Council processes to become informed about matters which are subject to Council decisions; and  (d) not performing or purporting to perform any responsibilities or functions of the Chief Executive Officer; and  (e) acknowledging and supporting the Mayor in the performance of the role of the Mayor, including by—  (i) respecting and complying with a ruling of the Mayor as the chair of Council meetings (unless dissenting from the ruling in accordance with the Council's Governance Rules); and  (ii) refraining from making public comment, including to the media, that could reasonably be perceived to be an official comment on behalf of the Council where the Councillor has not been authorised by the Mayor to make such a comment.  **2. Behaviours**  (1) A Councillor must treat others, including other Councillors, members of Council staff and members of the public, with dignity, fairness, objectivity, courtesy and respect, including by—  (a) not engaging in demeaning, abusive, obscene or threatening behaviour, including where the behaviour is of a sexual nature; and  (b) not engaging in behaviour that intentionally causes or perpetuates stigma, stereotyping, prejudice or aggression against a person or class of persons; and  (c) not engaging in discrimination or vilification; and  (d) supporting the Council, when applying the Council's community engagement policy, to develop respectful relationships and partnerships with Traditional Owners, Aboriginal community controlled organisations and the Aboriginal community; and  (e) supporting the Council in fulfilling its obligation under the Act or any other Act (including the **Gender Equality Act 2020**)to achieve and promote gender equality; and  (f) ensuring their behaviours and interactions with children are in line with the Council's policies and procedures as a child safe organisation and obligations under the **Child Wellbeing and Safety Act 2005** to the extent that they apply to Councillors.  (2) A Councillor, as an individual at the workplace, must take reasonable care for their own health and safety and take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons by—  (a) adhering to applicable systems and policies put in place by the Chief Executive Officer to manage risks to health and safety in the workplace; and  (b) complying, so far as the Councillor is reasonably able, with any reasonable instruction that is given by the Chief Executive Officer to manage risks to health and safety.  (3) A Councillor must act in accordance with any policies, practices and protocols developed and implemented under section 46 of the Act that support arrangements for interactions between members of Council staff and Councillors.  **3. Good governance**  A Councillor must comply with the following Council policies and procedures required for delivering good governance for the benefit and wellbeing of the municipal community—  (a) the Council's expenses policy adopted and maintained under section 41 of the Act;  (b) the Council's Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act, including in relation to—  (i) conduct in Council meetings or meetings of delegated committees; and  (ii) requesting and approval of attendance at Council meetings and meetings of delegated committees by electronic means of communication; and  (iii) the Council's election period policy included in the Council's Governance Rules under section 69 of the Act, including in ensuring that Council resources are not used in a way that is intended to influence, or is likely to influence, voting at a general election or by-election;  (c) the Council's Councillor gift policy adopted under section 138 of the Act;  (d) any direction of the Minister given under section 175 of the Act.  **4. Integrity**  (1) A Councillor must act with integrity, exercise reasonable care and diligence and take reasonable steps to avoid any action which may diminish the public's trust and confidence in the integrity of local government, including by—  (a) ensuring that their behaviour does not bring discredit upon the Council; and  (b) not deliberately misleading the Council or the public about any matter related to the performance of their public duties; and  (c) not making Council information publicly available where public availability of the information would be contrary to the public interest.  Note: See the public transparency principles set out in section 58 of the Act.  (2) A Councillor must not, in their personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant), expressly or impliedly request preferential treatment for themselves or a related person or entity.  **5. The Model Councillor Code of Conduct does not limit robust public debate**  Nothing in the Model Councillor Code of Conduct is intended to limit, restrict or detract from robust public debate of issues in a democracy |
| **Section C.2 - Date of the alleged misconduct**  An application under section 143 of the Act for an internal arbitration process must be made within 3 months of the alleged misconduct occurring. An application is made when it is received by the Principal Councillor Conduct Registrar.  The information provided at Section C.2 of the form must specify the date the alleged misconduct occurred. If more than one allegation of misconduct is made the application must specify the date of each allegation.  An application must not allege misconduct that occurred more than 3 months from the date the application is made. |
| **Section E.2 Declaration where application is made by the Council**  If the application is made by the Council, a certified copy of the relevant minute of the Council’s resolution to make the application and appoint the appointed representative must be provided with the application.  If a certified copy of the relevant minute is not provided, the form will be returned as incomplete. |
| **Lodgement of application**  This form has been provided to assist a Council or Councillor(s) with making an application under section 143 of the Act for an internal arbitration process.  The use of this form is not mandatory. If an applicant chooses not to use this form, an application should be made in writing and address the prescribed requirements for an application for an internal arbitration process set out in regulation 11 of the Regulations.  An application for an internal arbitration process must be made to the Principal Councillor Conduct Registrar. Applications can be lodged with the Principal Councillor Conduct Registrar either:   |  |  | | --- | --- | | by email to: | [pcc.registrar@ecodev.vic.gov.au](mailto:pcc.registrar@ecodev.vic.gov.au) | | by post to: | Principal Councillor Conduct Registrar Level 8, 1 Spring Street Melbourne, VIC 3000 |   This document has been provided as a Microsoft Word document for ease of use. Final applications (including any supporting materials) are requested to be lodged as a single PDF document to assist the Principal Councillor Conduct Registrar with processing applications.  Any queries about lodging an application should be directed to the Council’s Councillor Conduct Officer in the first instance. |