

**IN THE MATTER OF AN APPLICATION FOR AN INTERNAL ARBITRATION PROCESS**

**CITY OF PORT PHILLIP**

**IAP 2025-11**

**HEARING PURSUANT TO DIVISION 5 OF PART 6 OF THE *LOCAL GOVERNMENT ACT 2020***

**Applicant:** Councillor Beti Jay  
**Respondent:** Councillor Louise Crawford  
**Date of hearing:** Tuesday, 1 July 2025  
**Place of hearing:** St Kilda Meeting Room, St Kilda Town Hall, 99A Carlisle Street, St Kilda  
**Arbiter:** Simon Heath

**DETERMINATION:**

Councillor Jay has made Application for an Internal Arbitration Process seeking a finding of misconduct against Councillor Crawford.

The Arbiter determines that Councillor Crawford has not failed to comply with the 'Model Councillor Code of Conduct' and, as such, makes no finding of misconduct.

The Application is therefore dismissed.

**STATEMENT OF REASONS**

**The Application**

1. The 'Application for an Internal Arbitration Process' is dated 19 May 2025 (**Application**).
2. In the Application, the Applicant seeks a finding of misconduct against the Respondent in relation to alleged breaches of the 'Model Councillor Code of Conduct' (**Code**).
3. A public meeting of the City of Port Phillip (**Council**) was held on 19 February 2025 (**meeting**) wherein a Notice of Motion to investigate '*Changes to Local Law*', brought by another Councillor, was carried unanimously (**Motion**).
4. The alleged breaches of the Code are said to be as a result of the following comment on the Motion, which was contained in a 'Mayoral Statement' posted by the Respondent on the Council's Facebook Page on 20 February 2025 (**post**):

*"Essentially, it involves Council officers investigating suggested changes to our local laws relating to people experiencing homelessness living on our public spaces, from streets to parks..." (statement).*

5. The Applicant alleges that in making the statement, the Respondent breached the standards of conduct included in the Code relating to *Performing the role of a Councillor, Behaviours, and Integrity*. Details of these standards are set out below.

#### **Arbiter's jurisdiction**

6. The Arbiter was appointed pursuant to sections 144 and 149 of the *Local Government Act 2020 (Act)*.
7. Section 143 of the Act provides that an Arbiter may hear an application that alleges misconduct by a Councillor.
8. Section 143(3) of the Act provides that an Application "must be made within 3 months of the alleged misconduct occurring". The alleged misconduct occurred on 20 February 2025 so this requirement is satisfied.
9. Pursuant to section 147 of the Act, an Arbiter may determine whether or not a Councillor has engaged in misconduct.
10. "Misconduct" is defined in Section 3 of the Act as follows:  
"...any breach by a Councillor of the Model Councillor Code of Conduct".
11. Section 139(3)(b) of the Act specifies that the standards of conduct expected to be observed by Councillors in the course of performing their duties and functions are to be included in the Code. The Code is set out in Schedule 1 to the *Local Government (Governance and Integrity) Regulations 2020*.
12. As required by section 139(4) of the Act, the Code is published on the Council's website, and a copy thereof is attached as Annexure A.

#### **Hearings**

13. The internal arbitration process comprised directions made on 5 June 2025, a video-conference directions hearing on 10 June 2025, further directions made on 10 June 2025, and an in-person hearing on 1 July 2025.

#### **Applicant's evidence**

14. The Applicant's evidence comprised the Application, which was detailed and contained links to supporting materials. The Applicant also provided additional information by way of a statement entitled 'Part II' dated 12 June 2025, and gave oral evidence at the hearing.

#### **Respondent's evidence**

15. The Respondent's evidence comprised a detailed written response to the Application and oral evidence at the hearing.

### Arbiter's findings

16. The Application is dismissed on the basis that neither the statement or the post constituted a breach any of the standards in the Code.

### Arbiter's reasons

17. The Motion was widely reported in the media as 'fining the homeless' and resulted in considerable public discussion. While the Applicant provided examples of that coverage and discussion, the Application was limited to an allegation that the Respondent had breached the Code by reason of the statement in the post.
18. The Applicant's position was that the Respondent breached the Code because the statement referred to 'homelessness' rather than to 'encampment'. The Applicant was seeking to have the statement rectified.
19. The Arbiter notes that neither the statement nor the post mention 'fining'.
20. The Arbiter also notes that the 'Local Law' the Motion was seeking to review does refer to 'homeless'. In this regard, section 42(2) of the *City of Port Phillip Local Law* provides that a person who establishes that they are 'homeless or in need of secure accommodation' is not guilty of an offence. That *Local Law* does not contain any reference to 'encampment'.
21. When asked, the Applicant conceded that no one who spoke to her about the 'fining the homeless' issue made any mention of the statement or indeed the post. The Arbiter does not accept the Applicant's assertions that stakeholders were 'echoing' the Respondent's statement because, as mentioned, the post does not include any reference to fines.
22. Importantly, the Respondent's post also included the following:

*"It's fair to say there were diverse views, for and against, among some Councillors and members of the public about this proposal. I want to stress that what we agreed to is a review only - and this investigation will be aligned to the upcoming broader roundtable we have convened on community safety. We will be hearing ideas and feedback from local experts ranging from Victoria Police to health and housing outreach services and legal centres as community safety is complex and requires everyone to work together..."*
23. The Arbiter finds that the post reflects the issues discussed at the meeting, that there were diverse views, and that an investigation would be undertaken as opposed to any decision on the issue being made.
24. The Applicant says the Respondent's indication that the investigation would inform the 'roundtable' was misleading. Paragraph 2 of the Motion however indicated that a report was required by May 2025 'or aligned to the timing of the feedback of the Roundtable discussions (whichever is sooner)'.

25. While the Arbiter finds that neither the statement nor the post breach any of the standards of conduct in the Code as alleged by the Applicant, it is appropriate to address each alleged breach separately.
26. Clause 1 of the Code relates to *'Performing the Role of a Councillor'* and the Applicant alleges that the Respondent breached sub-clauses 1(a), (c) and (e) thereof.
27. Sub-clause 1(a) of the Code requires a Councillor to be *'responsive to the diversity of interests and needs of the municipal community'*. Neither the statement nor the post constitutes a breach of this standard.
28. Sub-clause 1 (c) of the Code requires a Councillor to *'diligently use Council processes to become informed about matters which are subject to Council decisions'*. Neither the statement nor the post constitutes a breach this standard.
29. Sub-clause 1(e) of the Code requires Councillors to acknowledge and support the Mayor in the performance of their role. Given that the Respondent is the Mayor, the Applicant's allegation that the Respondent breached this standard is misguided.
30. Clause 2 of the Code relates to *'Behaviours'* and the Applicant alleges that the Respondent breached sub-clauses 2(1)(a) and (b), and 2(2) thereof.
31. Sub-clause 2(1)(a) of the Code was not breached because neither the statement nor the post involves any *'abusive, obscene or threatening behaviour'*
32. Sub-clause 2(1)(b) of the Code requires that Councillors do not engage in behaviour which *'intentionally causes or perpetuates stigma, stereotyping prejudice or aggression against a person or class of persons'*. The Arbiter finds that neither the statement nor the post constitutes such behaviour.
33. Sub-clause 2(2) of the Code relates to *'health and safety'* requirements' of Councillors. The Applicant's allegation that the post constitutes a breach of this standard is also misguided.
34. Clause 4 of the Code relates to *'Integrity'*. The Applicant alleges that the Respondent breached sub-clause 4(1) thereof, asserting that the statement and post brought *'discredit upon the Council'* by *'deliberately misleading... the public'*.
35. As mentioned, the Arbiter finds that the statement and the post reflected the issues discussed at the meeting and was therefore not misleading. As such, no rectification was required. Any discredit upon the Council in relation to theMtion did not arise by reason of the post.
36. In any event, it is important to note that in a further 'Mayoral Statement' posted on 7 March 2025, the Respondent clarified the post as follows:  
  
*"Can I be very clear that Port Phillip Councillors have not voted to fine homeless people, nor have they voted to criminalise homelessness. The passing of the motion merely*

*signified an agreement to investigate the impact that changes to the Local Law might have on encampments. Once that investigation has taken place, the matter may or may not be considered further.'*

37. The later post appropriately addressed any confusion that may have arisen in relation to media reporting of the Motion and the meeting.

38. In conclusion, the Arbiter does not accept the Applicant's contentions that the Respondent was 'reckless', acted 'unlawfully', 'presented her own view', 'misled the public', or 'misused her position' or that the post impacted the Applicant's 'reputation and standing'.

**Simon Heath**

Arbiter

Dated: 9 July 2025

# Model Councillor Code of Conduct

Schedule 1 of the Local Government (Governance and Integrity) Amendment Regulations 2024

## 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.