

Governance Local Law No.2

2022



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1 Part 1 | PRELIMINARIES

1.1 Title

This Local Law is known as the Governance Local Law No. 2 (2022).

1.2 Objectives

The objectives of this Local Law are to:

- 1) regulate the use of the Common Seal;
- 2) prohibit unauthorised use of the Common Seal or any device resembling the Common Seal;
- 3) regulate conduct at *Council Meetings*; and
- 4) revoke *Council's* Governance Local Law No. 2 (2015).

1.3 Authorising Provision

This Local Law is a Local Law made under Section 71 of the *Local Government Act 2020*.

1.4 Commencement

This Local Law commences operation on 11 April 2022

1.5 Cessation Date

This Local Law ceases to operate on 11 April 2032 unless revoked sooner.

1.6 Revocation of Previous Local Law

On commencement of this Local Law, *Council's* Governance Local Law No. 2 (2015) is revoked.

1.7 Definitions

Words	Meaning
<i>Act</i>	means the <i>Local Government Act 2020</i> , as amended from time to time.
<i>Authorised Officer</i>	means any <i>person</i> appointed to be an <i>Authorised Officer</i> pursuant to Section 224 of the <i>Local Government Act 1989</i> .
<i>Chairperson</i>	means the <i>Councillor</i> chairing a <i>Council Meeting</i> or other meeting that is open to the public.
<i>Chief Executive Officer</i>	has the same meaning as in the <i>Act</i> .
<i>Council</i>	means Banyule City Council.
<i>Council Meeting</i>	has the same meaning as in the <i>Act</i> .
<i>Councillor</i>	has the same meaning as in the <i>Act</i> .
<i>Director</i>	means a person appointed to or acting in the position of Director or such other position reporting directly to the <i>Chief Executive Officer</i> .
<i>Penalty Unit</i>	has the same meaning as in Section 110 of the <i>Sentencing Act 1991</i> .

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<i>Person</i>	has the same meaning as in the <i>Interpretation of Legislation Act 1984</i> .
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2 Part 2 | COMMON SEAL

2.1 Common Seal

- 1) The Common Seal of Council may only be used with the authority of Council or of the Chief Executive Officer in accordance with the Instrument of Delegation issued to the Chief Executive Officer.
- 2) The Chief Executive Officer must keep the Common Seal in safe custody.
- 3) Every document to which the Common Seal is affixed must be signed by:
 - a) a *Councillor* and the *Chief Executive Officer*; or
 - b) in the case of a document concerning the *Chief Executive Officer* or in which the *Chief Executive Officer* has an interest, a *Councillor* and a *Director*; or
 - c) in the case of a document on which the Common Seal is used with the authority of the *Chief Executive Officer* in accordance with the Instrument of Delegation issued to the *Chief Executive Officer*, by the *Chief Executive Officer* and a witness.
- 4) A *Person* must not use the Common Seal or any device resembling the Common Seal without the authority of *Council*.
- 5) Where the Common Seal is affixed to a document on the authority of *Council*, the sealing clause must contain the following words:

THE COMMON SEAL of BANYULE

CITY COUNCIL is affixed

in the presence of:

.....COUNCILLOR

.....CHIEF EXECUTIVE OFFICER / DIRECTOR

- 6) Where the Common Seal is affixed to a document on the authority of the Chief Executive Officer in accordance with the Instrument of Delegation issued to the Chief Executive Officer, the sealing clause must contain the following words:

THE COMMON SEAL of BANYULE

City Council is affixed on behalf of

Council by authority of the Chief

Executive Officer in the presence of:

.....WITNESS

.....CHIEF EXECUTIVE OFFICER

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3 Part 3 | ENFORCEMENT

3.1 Offences

- 1) Under this Local Law it is an offence for:
 - a) a *Councillor* to not withdraw an expression which is considered by the *Chairperson* to be defamatory, indecent, abusive, offensive, disorderly or objectionable and to not satisfactorily apologise when called upon twice by the *Chairperson* to do so;
 - b) any *Person*, not being a *Councillor*, who is guilty of any improper or disorderly conduct to not leave the *Council Meeting* or other meeting being held in a place that is open to the public when requested by the *Chairperson* to do so;
 - c) any *Person* to fail to obey a direction of the *Chairperson* relating to the conduct of *the Council Meeting* or other meeting being held in a place that is open to the public and the maintenance of order;
 - d) a *Councillor* to refuse to leave the room on suspension;
 - e) a *Person* to use the Common Seal or a device resembling the Common Seal without the authority of *Council* or the *Chief Executive Officer* in accordance with the Instrument of Delegation issued to the *Chief Executive Officer*; and
 - f) any *Person* to fraudulently sign a petition or joint letter which is presented to *Council*.
- 2) Any decision to prosecute a Councillor for committing an offence against sub-clause 1) or 1)c) shall be by resolution of *Council*.

3.2 Infringement Notices

As an alternative to a prosecution, an *Authorised Officer* may serve an infringement notice on any *Person* who is committing or has committed an offence against this Local Law.

The infringement notice penalty in respect of an offence against this Local Law is set out in Schedule 1.

3.3 General Penalty at Magistrates Court

Any *Person* who is guilty of an offence against this Local Law is liable to:

- 1) a penalty of not more than 20 *Penalty Units*; and
- 2) for a continuing offence, a penalty of not more than 2 *Penalty Units* for each day after the finding of guilt or conviction during which the contravention continues.

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4 SCHEDULE 1

Table 1 | Penalties

Clause	Description	Penalty Units
1)	<i>Councillor</i> fails to withdraw an expression or apologise when directed by the Chairperson.	5
1)a)	<i>Person</i> , not being a <i>Councillor</i> , fails to leave the meeting when requested by the Chairperson.	5
1)b)	<i>Person</i> fails to obey a direction of the Chairperson.	5
1)c)	<i>Councillor</i> fails to leave the room on suspension.	5
1)d)	<i>Person</i> uses the common seal or device resembling the common seal without authority of <i>Council</i> .	5
1)e)	<i>Person</i> fraudulently signs a petition or joint letter which is presented to <i>Council</i> .	5