



**POLICY NO. CP 5.4.10 CODE OF CONDUCT – COUNCILLORS AND EMPLOYEES**

**PURPOSE** To provide a guide that identifies minimum standards of ethical and professional behaviour for Councillors and Employees.

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**POLICY STATEMENT**

**1. APPLICATION OF THIS CODE**

The Code of Conduct applies to Councillors and employees.

**2. CONDUCT REQUIRED**

**2.1 General Requirements**

The following behaviours are to be adopted by Councillors and Employees in their conduct:

- (i) act with reasonable care and diligence;
- (ii) act with honesty and integrity;
- (iii) act lawfully and in accordance with this Code, City policies and any applicable delegation;
- (iv) act in the interests of the City and the community;
- (v) avoid damage to the reputation of the local government;
- (vi) be open and accountable to the public;
- (vii) base decisions on relevant and factually correct information and avoid bias;
- (viii) be polite and treat others with respect and fairness avoiding behaviour which may harass or intimidate;
- (ix) not be impaired by mind affecting substances while conducting City business;
- (x) make no allegations which are improper or derogatory;
- (xi) avoid causing any reasonable person unwarranted offence of embarrassment;
- (xii) respect decisions made;
- (xiii) refrain from publically criticising either a Councillor, Committee Member or an Employee in a way that casts aspersions on competence or credibility;
- (xiv) be mindful of their behaviour in public, particularly where it is easy to ascertain the person is associated with the City of Gosnells;
- (xv) maintain the confidentiality of documents / information assigned with this status;
- (xvi) report any suspected misconduct or breaches of this Code in accordance with the requirements in Section 8;
- (xvii) be innovative and take risks where the consequences of those risks are understood and accepted at an appropriate level; and



- (xviii) challenge the status quo and traditional approaches in a considerate and respectful manner.

These principles mirror, and expand upon, those contained in the Local Government (Rules of Conduct) Regulations which apply to Councillors.

## **2.2 Councillor and Committee Member Obligations**

Legislation obligates Councillors to act in certain ways. Key legislative obligations include, but are not limited to the following:

- (i) representing the interests of the community as a whole and not just special interest groups;
- (ii) participating in local government decision making and voting; and
- (iii) acting in a quasi-judicial manner when considering planning applications and other requests for approvals and licences.

To ensure Councillors are acting in the interests of the City, and basing decisions on relevant and factually correct information, Councillors must:

- (i) read agendas to be adequately informed;
- (ii) treat matters on their individual merits; and
- (iii) act impartially.

## **2.3 Quasi-judicial Decisions**

When making quasi-judicial decisions, Council is acting like a judge and Councillors must base their decisions on:

- (i) the law and Council policies as they exist; and
- (ii) the facts and merits of the case.

Councillors must not:

- (i) act with bias or a conflict of interest; and
- (ii) initiate site visits directly with the applicant or affected person. If a site visit is desired, a request should be made to the relevant Director. The relevant Director will coordinate a site visit, if appropriate and if circumstances permit. This will enable all Councillors to attend and have the same information when making decisions.

If contacted by an applicant or an affected person, Councillors will:

- (i) endeavour to understand the reason for the applicant or affected person making contact;
- (ii) advise the applicant or affected person of the role and principles of a Councillor in the role of quasi-judicial decision maker;
- (iii) encourage the applicant or affected person to make their views known through the relevant processes, such as through a Council Meeting Statement, Question Time, a Deputation or the public submission period if relevant; and
- (iv) ensure that they do not commit their vote, or give an impression that they have committed their vote, on the matter.



Councillors may offer support or otherwise, but are obliged to consider all relevant facts and have regard to the debate at the meeting, prior to making their quasi-judicial decision.

If an applicant or affected person provides information to a Councillor which is substantive to the decision making process, the Councillor must communicate that information to all other Councillors and the Chief Executive Officer prior to the meeting where a decision is proposed on the matter.

## **2.4 Attendance at Meetings**

Councillors make a commitment to attend meetings when elected to, or appointed to, bodies. If a Councillor or Committee Member is unable to attend a meeting:

- (i) an apology should be given; or
- (ii) a leave of absence should be sought.

If a Councillor has a deputy delegate for the relevant body, the Councillor who is unable to attend the meeting should inform the deputy delegate to enable that person's attendance if possible.

## **2.5 Record Keeping Responsibilities**

Councillors and Employees shall comply with the *State Records Act 2000* and the City's policy on Information and Record Management to ensure adequate records are kept to evidence the performance of their duties.

## **2.6 Use of Information**

Councillors and Employees shall not use information, whether assigned confidential status or not:

- (i) to gain improper advantage for themselves or for any other person or body;
- (ii) in ways which are inconsistent with the requirement to treat others with respect and fairness and the obligation to act impartially; and
- (iv) to avoid improperly causing harm or detriment to any person, organisation or the City.

## **2.7 Employee Obligations**

While on duty, Employees will give their time and attention to City business and ensure that their work is carried out efficiently and effectively in accordance with Council policies, procedures and direction, and that their standard of work reflects favourably on themselves and on the City.

Employees will ensure all Councillors get equal access to relevant information. Employees will deal with customers:

- (i) courteously;
- (ii) objectively; and
- (iii) impartially.



## **2.8 Relationships between Councillors and Employees**

The roles of Councillors and Employees are prescribed in the *Local Government Act 1995*. In summary:

- (i) Councillors, through their membership of Council, are responsible for the strategic leadership of the City;
- (ii) the Chief Executive Officer is responsible for implementing the decisions of Council and managing Employees.

Consequently, Councillors shall not direct or instruct Employees and are specifically prohibited from involvement in City administration by the Local Government (Rules of Conduct) Regulations, unless authorised by the Council or the Chief Executive Officer.

Councillors shall undertake their day-to-day communications with the City directly through the Chief Executive Officer or relevant Directors, unless the Chief Executive Officer has established protocol for communications on particular matters to occur directly with specified Employees.

Councillors must seek approval from the Chief Executive Officer or the relevant Director, through their Personal Assistant, before engaging in operational discussions with Employees.

Employees may only undertake direct communications with Councillors where they are acting within the functions and responsibilities of their position or are acting under the direction of the Chief Executive Officer or Director.

Councillors and Employees will ensure that in their dealings with each other, they:

- (i) work together as part of the City's corporate team;
- (ii) maintain an environment of mutual respect and cooperation; and
- (iii) are respectful, frank and honest in their communications.

The Mayor and the Chief Executive Officer will ensure that, in their dealings with each other, they:

- (i) maintain open and frank communications;
- (ii) maintain regular contact;
- (iii) exchange information in a timely manner;
- (iv) have regard for their individual leadership responsibilities; and
- (v) understand each other's views and opinions.

Councillors and Employees will endeavour to fairly and quickly resolve any serious conflict that arises between themselves and either another Councillor or employee, promptly and directly with that party in the first instance.



## **2.9 Use of City Resources**

Councillors and Employees shall:

- (a) Be honest in their use of City facilities, funds, materials and equipment and shall not misuse them or permit their misuse (or the appearance of misuse) by any person or body;
- (b) Use City resources entrusted to them effectively, economically and lawfully in the course of their duties;
- (c) Not use City resources (including the services of City employees during normal working hours) for private purposes;
- (d) Not make unauthorised use of information and other intellectual property, produced or registered by employees or external contractors for the City. The title to Intellectual Property in all official duties shall be assigned to the City upon its creation.

## **2.10 Travelling and Sustenance Expenses**

Councillors and Employees shall only claim or accept travelling and sustenance expenses arising out of travel related matters which have a direct bearing on the services, policies or business of the City in accordance with Council policy, the provisions of the Local Government Act 1995 and relevant industrial awards.

## **2.11 Standards of Attire**

The appearance and dress of Councillors and Employees, whilst conducting City business, should be in accordance with the standards appropriate to the duties being carried out and the people with whom they are dealing.

Councillors and Employees are required to behave in a way that upholds the good reputation of the City, and as such they are required to dress professionally, reflecting pride in the City and respect for those that they deal with, particularly the public.

In some circumstances, Councillors and Employees may be required to adopt a particular dress standard, which may include wearing a uniform, safety clothing or formal attire. Where such standards are required, they must be complied with.

Employees must comply with the dress and appearance standards contained in the Human Resource Manual.

## **3 INTERESTS WHICH MAY AFFECT JUDGEMENT**

Councillors and Employees must, at all times, be mindful of the financial interest and impartiality interest provisions which are contained in local government legislation and comply with these.

In particular, an Employee who has an impartiality interest in any matter to be discussed at a Council or Committee meeting attended by the person must disclose the nature of the interest:



- (a) in a written notice given to the Chief Executive Officer before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

An Employee who has given, or will give, advice in respect of any matter to be discussed at a Council or Committee meeting not attended by the person should disclose the nature of any impartiality interest the person has in the matter:

- (a) in a written notice given to the Chief Executive Officer before the meeting; or
- (b) at the time the advice is given.

These disclosures, and associated actions in relation to the disclosures, should be in accordance with Regulation 34C of the Local Government (Administration) Regulations.

#### **4 PRIVATE WORK**

- (a) Employees, other than Employees employed on a casual basis, shall, in writing, seek approval from the Chief Executive Officer prior to engaging in paid work outside their employment with the City.
- (b) Where an employee employed on a casual basis wishes to engage in paid work outside their employment with the City, approval is not required from the Chief Executive Officer unless the private work proposed to be undertaken by the employee involves:
  - (i) the provision of goods or services to the City;
  - (ii) work that may require a statutory approval by the City (for example preparing an application for a person in relation to property located in the City);
  - (iii) the delivery of services already provided by the City (for example personal training, private building certification);
  - (iv) work that may result in an actual or perceived conflict of interest between the employee's obligations to the City and the private work.
- (c) The Chief Executive Officer retains the right to refuse or grant approval to engage in paid work outside employment with the City and to impose conditions where appropriate.
- (d) Employees who are approved to undertake private work shall under no circumstances use City equipment, premises, time, resources or consumables to conduct or undertake activities associated with their private work.
- (e) Councillors and employees shall not undertake private work to assist external agencies in the development or lodgement of funding submissions that may compete with similar submissions by the City.

#### **5 DEALINGS WITH LAND**

Councillors and Employees shall notify the Chief Executive Officer (or the Mayor in the case of the Chief Executive Officer) in writing, prior to either themselves or a closely associated person (as defined within the *Local Government Act 1995*) undertaking a dealing in land within the City (other than purchasing the principal place of residence).



## **6 PERSONAL ASSOCIATIONS**

- (a) Employees who exercise a regulatory, recruitment or management function shall make disclosure to the Chief Executive Officer before dealing with relatives or close friends and whenever possible, disqualify themselves from dealing with those persons. Disclosures made will be maintained in a register kept in Human Resources.
- (b) Employees will refrain from partisan political activities which could cast doubt on their neutrality and ability to act in a professional capacity.

## **7 PERSONAL BENEFIT**

### **7.1 Improper or Undue Influence**

Councillors and Employees shall not take advantage of their office or position to improperly influence other members or employees in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain, pecuniary or otherwise, for themselves or for any other person or body. Similarly, Councillors and Employees shall not take advantage of their office or position to improperly disadvantage or cause detriment to the City or any other person.

### **7.2 Gifts and Benefits**

Councillors and Employees must be mindful of the legislative requirements to disclose gifts and contributions to travel and comply with these. This includes completing the relevant forms prepared by the City.

In particular, Councillors and Employees should not accept a gift of \$300 or more and must notify the Chief Executive Officer of gifts accepted with a value of between \$50 and \$299 in circumstances where the gift is received from a person who:

- (a) is undertaking or seeking to undertake an activity involving a local government discretion; or
- (b) it is reasonable to believe is intending to undertake an activity involving a local government discretion.

The timelines for notification and the content of the notification are to accord with the provisions of Regulation 12 of the *Local Government (Rules of Conduct) Regulations 2007* for Councillors and Regulation 34B of the *Local Government (Administration) Regulations 1996* for Employees.

The Chief Executive Officer will maintain registers for gift notifications in accordance with the Act's requirements.

Gifts and benefits with a commercial value of less than \$50 received from a person or business undertaking, or who may, in the future, seek to undertake an activity which involves a local government discretion are not required to be declared by law. However, Councillors and Employees are encouraged to submit a gift declaration form voluntarily in these circumstances.





In addition, Councillors and Employees should:

- (i) Refuse all offers of money, gift vouchers or items easily converted to money such as shares which are made as a result of their position with the City; and
- (ii) Refuse bribes and report bribery attempts to the Chief Executive Officer and to the West Australian Police and/or the Corruption and Crime Commission.

If a person covered by this Code is unsure about how to respond to an offer of a gift, benefit or hospitality, seek advice from the relevant Director or the Chief Executive Officer.

### **7.3 City Sponsored Competitions**

Councillors and Employees and their spouse or partner are not eligible to benefit from City sponsored competitions, except where authorised by the Chief Executive Officer.

## **8 BREACHES AND MISCONDUCT**

Breaches of this Code will be treated seriously.

### **8.2 Employees**

A complaint alleging that an Employee has breached this Code shall be made in writing. Complaints regarding:

- an Employee will be made to the Employee's relevant Director;
- a Director will be made to the Chief Executive Officer; or
- the Chief Executive Officer will be made to the Mayor.

The complaint will be investigated in a manner that is in accordance with the City's Complaint Handling Procedure, Disciplinary Policy, Public Interest Disclosure Procedures and the principles of procedural fairness and natural justice.

### **8.3 Councillors**

Complaints will be managed in accordance with the *Local Government (Rules of Conduct) Regulations 2007* if they relate to a breach of a Rule of Conduct. A Councillor who is suspected of breaching Rules of Conduct may be reported to the City's Complaints Officer as per the City's Elected Member Official Conduct - Complaint Handling Procedure. Investigations will be conducted in accordance with Part 5, Division 9 of the *Local Government Act 1995*.

Complaints will be managed in accordance with natural justice and procedural fairness if the complaint relates to a breach of this Code but the breach is not, at the same time, a breach of the Rules of Conduct (note: as this Code is not a law, no penalty can apply in such circumstances).

### **8.4 Misconduct**

For the purposes of this Code, misconduct is defined in accordance with section 4 of the *Corruption, Crime and Misconduct Act 2003*.



The Chief Executive Officer has a statutory obligation to report reasonable suspicion of serious misconduct to the Corruption and Crime Commission and reasonable suspicion of minor misconduct to the Public Sector Commission.

As public officers, Councillors and Employees are required to immediately report to the Chief Executive Officer any instance where there is a reasonable suspicion that misconduct has occurred.

## **8.5 Public Interest Disclosure**

The City has a public interest disclosure procedure that provides confidential mechanisms for reporting and investigating misconduct allegations or improper conduct in accordance with the *Public Interest Disclosure Act 2003*.



**GOVERNANCE REFERENCES**

<b>Statutory Compliance</b>	Local Government Act 1995 Part 5, Division 6, Division 7 and Division 9 Local Government (Administration) Regulations 1996 Local Government (Rules of Conduct) Regulations 2007 Corruption, Crime and Misconduct Act 2003 Public Interest Disclosure Act 2003
<b>Industry Compliance</b>	Department of Local Government: Sport and Cultural Industries Guideline No. 12 Elected Member Relationships with Developers WA Local Government Association – Model Code of Conduct Australian Standard 8002-2003 - Code of Conduct NSW Independent Commission Against Corruption - Managing Gifts and Benefits in the Public Sector Toolkit
<b>Organisational Compliance</b>	Gift Declaration Form Disclosure of Gifts and Travel Contribution Form
<b>Process Links</b>	Corporate Procedure B.052 - Declaration and Management of: Conflicts of Interest, Dealings with Land, Receipt of Gifts and Private Works Corporate Procedure B.046 - Financial Interest Returns - Primary and Annual

**POLICY ADMINISTRATION**

Directorate		Officer Title		Contact:	
Business Services		Director Business Services		9397 3010	
<b>Risk Rating</b>	High	<b>Review Cycle</b>	Annual	<b>Next Due:</b>	2019
Version	Decision Reference	Synopsis			
1.	FCS 452/12/1990	New policy proposed			
2.	OCM 246/12/1990	New policy adopted			
3.	FCS 236/9/1996	Amendment proposed			
4.	OCM 713/11/11/97	Reviewed No amendments			
5.	OCM 1804/9/98	Policy amended			
6.	OCM 2131/12/98	Policy amended			
7.	OCM 762/8/99	Policy amended			
8.	OCM 711/27/08/2002	Policy amended			
9.	OCM 369/23/08/2005	Policy amended - Ausinfo No. 192532			
10.	OCM 426/11/09/2007	Policy amended			
11.	OCM 412/26/08/2008	Policy reviewed			
12.	OCM 660/16/12/2008	Policy amended to align with Local Government (Rules of Conduct) Regulations 2007 and incorporate Quasi Judicial and gift declaration amendments.			
13.	OCM 409/25/08/2009	Amended to give clarification to clauses 5.3 and 7.1 and to remove application to volunteers.			
14.	OCM 386/24/08/2010	Reviewed and amended.			
15.	OCM 375/23/08/2011	Reviewed and amended.			
16.	OCM 415/28/08/2012	Reviewed and amended reporting period for gift declarations, clause 6.2 and clause 8.			
17.	OCM 415/24/09/2013	Reviewed and amended to clarify clauses 1 and 5.			
18.	OCM 382/23/09/2014	Reviewed and amended clause 6.2(b) regarding an Officer's disclosure of interest and deleted clause 7.2.7 regarding gifts won through a game of chance.			
19.	OCM 372/22/09/2015	Reviewed and amended to amend clause 4.6 for Councillors record keeping and clause 8.3 update name of Act.			
20.	OCM 385&386/25/10/2016	Revoked and replaced with an updated version.			
21.	OCM 320/26/09/2017	Reviewed and amended clause 2.1 with two additional subclauses added			
22.	Exec. Team Meeting 02/10/2017	Administrative changes - names of documents, titles, Acts and Gov't department.			
23.	OCM 305/11/09/2018	Reviewed with no amendments			