



## **CODE OF CONDUCT – LOCAL GOVERNMENT EMPLOYEES**

<b>DIVISION</b>	<b>BUSINESS UNIT</b>	<b>RESPONSIBILITY AREA</b>
Executive Services	Organisational Practices	Human Resources -Perform

### **PREAMBLE**

The Model Code of Conduct provides Local Government Employees with consistent guidelines for an acceptable standard of professional conduct. The Code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability in individual Local Governments.

The Model Code is complementary to the principles adopted in the Local Government Act and regulations which incorporates four fundamental aims to result in:

- a) better decision-making by local governments;
- b) greater community participation in the decisions and affairs of local governments;
- c) greater accountability of local governments to their communities; and
- d) more efficient and effective local government.

The Code provides a guide and a basis of expectations for Local Government Employees. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

### **STATUTORY ENVIRONMENT**

The Code of Conduct observes statutory requirements of the Local Government Act 1995 (S 5.51A) and Local Government (Administration) Regulations 1996 (Regs 19AA).

#### **1.1 LOCAL GOVERNMENT EMPLOYEES**

The role of Local Government Employees is determined by the functions of the CEO as set out in S 5.41 of the Local Government Act 1995:

*'The CEO's functions are to:*

- a) *advise the council in relation to the functions of a local government under this Act and other written laws;*
- b) *ensure that advice and information is available to the council so that informed decisions can be made;*
- c) *cause council decisions to be implemented;*
- d) *manage the day to day operations of the local government;*
- e) *liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;*
- f) *speak on behalf of the local government if the mayor or president agrees;*

- g) *be responsible for the employment, management supervision, direction and dismissal of other employees (subject to S 5.37(2) in relation to senior employees);*
- h) *ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- i) *perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.'*

## 1.2 Role of Council

The Role of the Council is in accordance with S 2.7 of the Local Government Act 1995:

- '1) *The council —*
  - a) *governs the local government's affairs; and*
  - b) *is responsible for the performance of the local government's functions.*
- 2) *Without limiting subsection (1), the council is to —*
  - a) *oversee the allocation of the local government's finances and resources; and*
  - b) *determine the local government's policies.'*

## 1.3 Principles affecting the employment of Local Government Employees by the Shire

The following principles, set out in section 5.40 of the Act, apply to the employment of the Shire's Local Government Employees:

- (a) Local Government Employees are to be selected and promoted in accordance with the principles of merit and equity; and
- (b) no power with regard to matters affecting Local Government Employees is to be exercised on the basis of nepotism or patronage; and
- (c) Local Government Employees are to be treated fairly and consistently; and
- (d) there is to be no unlawful discrimination against Local Government Employees or persons seeking employment by the Shire on a ground referred to in the Equal Opportunity Act 1984 or on any other ground; and
- (e) Local Government Employees are to be provided with safe and healthy working conditions in accordance with the Occupational Safety and Health Act 1984; and
- (f) such other principles, not inconsistent with this Division, as may be prescribed.

## 2. CONFLICT AND DISCLOSURE OF INTEREST

### 2.1 Conflict of Interest

- a) Local Government Employees will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- b) Local Government Employees will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Local Government, without first making disclosure to the Chief Executive Officer. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
- c) Local Government Employees will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the local government district or which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).
- d) Local Government Employees who exercise a recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- e) Local Government Employees will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity. An individual's rights to maintain their own political convictions are not impinged upon

by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti- discriminatory legislation.

## 2.2 Financial Interest

Local Government Employees will adopt the principles of disclosure of financial interest as contained within the Local Government Act.

## 2.3 Disclosure of Interest

### *Definition:*

*In this clause, and in accordance with Regulation 19AA of the Local Government (Administration) Regulations 1996 -*

*'interest' means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.*

- a) A Local Government Employee who has an interest in any matter to be discussed at a council or committee meeting attended by the Local Government Employee is required to disclose the nature of the interest -
    - (i) in a written notice given to the CEO before the meeting; or
    - (ii) at the meeting immediately before the matter is discussed.
  - b) A Local Government 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 Local Government Employee is required to disclose the nature of any interest the Local Government Employee has in the matter -
    - (i) in a written notice given to the CEO before the meeting; or
    - (ii) at the time the advice is given.
  - c) A requirement described under items (a) and (b) exclude an interest referred to in S 5.60 of the Local Government Act 1995.
  - d) A Local Government Employee is excused from a requirement made under items (a) or (b) to disclose the nature of an interest if -
    - (i) the Local Government Employee's disclosure occurs because they did not know and could not be expected to know that they had an interest in the matter; or
    - (ii) the Local Government Employee's failure to disclose occurs because the Local Government Employee did not know the matter in which they had an interest would be discussed at the meeting and the Local Government Employee discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.
  - e) If a Local Government Employee makes a disclosure in a written notice given to the CEO before a meeting to comply with requirements of items (a) or (b), then
    - (i) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
    - (ii) immediately before a matter to which the disclosure relates is discussed at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present.
  - f) If -
    - (i) to comply with a requirement made under item (a), the nature of a Local Government Employee's interest in a matter is disclosed at a meeting; or
    - (ii) a disclosure is made as described in item (d)(ii) at a meeting; or
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- (iii) to comply with a requirement made under item (e)(ii), a notice disclosing the nature of a Local Government Employee's interest in a matter is brought to the attention of the persons present at a meeting, the nature of the interest is to be recorded in the minutes of the meeting.

### 3. PERSONAL BENEFIT

#### 3.1 Use of Confidential Information

Local Government Employees will not use confidential information to gain improper advantage for themselves or for another person or body in ways which are inconsistent with their obligation to act impartially and in good faith, or to improperly cause harm or detriment to any person, body or the Council.

Due discretion shall be exercised by all those who have access to confidential or sensitive information. Every matter dealt with by, or brought before, a meeting sitting behind closed doors, shall be treated as strictly confidential, and shall not without the authority of the Council be disclosed to any person other than the Council members and/or Local Government Employees of the Shire (and in the case of Local Government Employees only so far as may be necessary for the performance of their duties) prior to the discussion of the matter at a meeting of the Council held with open doors.

Nothing in this section prevents a Local Government Employee from disclosing confidential information:

- a) to a legal practitioner for the purpose of obtaining legal advice; or
- b) if the disclosure is permitted by law.

#### 3.2 Intellectual Property

The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the Local Government upon its creation unless otherwise agreed by separate contract.

#### 3.3 Improper or Undue Influence

Local Government Employees will not take advantage of their position to improperly influence other Council Members or Local Government Employees in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

Local Government Employees shall not take advantage of their position to improperly influence any other person 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, Local Government Employees shall not take advantage of their positions to improperly disadvantage or cause detriment to the local government or any other person.

#### 3.4 Gifts - Local Government Employee

##### *Definitions :*

*In this clause, and in accordance with Regulation 19AA of the Local Government (Administration) Regulations 1996 -*

*'activity involving a local government discretion' means an activity -*

- a) that cannot be undertaken without an authorisation from the local government; or*
- b) by way of a commercial dealing with the local government;*

*'gift' has the meaning given to that term in S 5.57 but it does not include -*

- a) a gift from a relative as defined in S 5.74(1); or*
- b) a gift that must be disclosed under Regulation 30B of the Local Government (Elections) Regulations 1997; or*
- c) a gift from a statutory authority, government instrumentality or non-profit association for professional training;*
- d) a gift from WALGA, the Australian Local Government Association Limited,*

*the Local Government Professionals Australia WA or the LG Professionals Australia;*

*'notifiable gift', in relation to a person who is a Local Government Employee, means -*

- a) a gift worth between \$50 and \$300; or*
- b) a gift that is one of 2 or more gifts given to the Local Government Employee by the same person within a period of 6 months that are in total worth between \$50 and \$300;*

*'prohibited gift', in relation to a person who is a Local Government Employee, means -*

- a) a gift worth the threshold amount or more; or*
- b) a gift that is one of 2 or more gifts given to the Local Government Employee by the same person within a period of 1 year that are in total worth the threshold amount or more.*

*'threshold amount' for a prohibited gift means \$300 or a lesser amount determined by the CEO.*

- a) A person who is a Local Government Employee is to refrain from accepting a prohibited gift from a person who -
    - (i) is undertaking or seeking to undertake an activity involving a local government discretion; or
    - (ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion.
  - b) A person who is a Local Government Employee and who accepts a notifiable gift from a person who -
    - (i) is undertaking or seeking to undertake an activity involving a local government discretion; or
    - (ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion, notify the CEO, in accordance with item (c) and within 10 days of accepting the gift, of the acceptance.
  - c) The notification of the acceptance of a notifiable gift must be in writing and include -
    - (i) the name of the person who gave the gift; and
    - (ii) the date on which the gift was accepted; and
    - (iii) a description, and the estimated value, of the gift; and
    - (iv) the nature of the relationship between the person who is a Local Government Employee and the person who gave the gift; and
    - (v) if the gift is a notifiable gift under paragraph (b) of the definition of 'notifiable gift' (whether or not it is also a notifiable gift under paragraph (a) of that definition) –
      - (1) a description; and
      - (2) the estimated value; and
      - (3) the date of acceptance,of each other gift accepted within the 6 month period.
  - d) The CEO is to maintain a register of notifiable gifts and record in it details of notifications given to comply with a requirement made under item (c).
  - e) This clause does not apply to gifts received from a relative (as defined in S 5.74(1) of the Local Government Act) or an electoral gift (to which other disclosure provisions apply).
  - f) This clause does not prevent the acceptance of a gift on behalf of the local government in the course of performing professional or ceremonial duties in
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circumstances where the gift is presented in whole to the CEO, entered into the Register of Notifiable Gifts and used or retained exclusively for the benefit of the local government.

#### 4. CONDUCT OF LOCAL GOVERNMENT EMPLOYEES

##### 4.1 Personal Behaviour

###### a) Local Government Employees will:

- (i) act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
- (ii) perform their duties impartially and in the best interests of the Local Government uninfluenced by fear or favour;
- (iii) act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the Local Government and the community;
- (iv) make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment;
- (v) always act in accordance with their obligation of fidelity to the Local Government; and
- (vi) report to the workplace 'fit for work' which includes not being under the influence of alcohol or other drugs while at the workplace.

##### 4.2 Honesty and Integrity

Local Government Employees will:

- a) observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- b) bring to the notice of the Chief Executive Officer any dishonesty or possible dishonesty by a Local Government Employee.
- c) be frank and honest in their official dealing with each other.

##### 4.3 Performance of Duties

- a) While on duty, Local Government Employees will give their whole time and attention to the Local Government's business and ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favorably both on them and on the Local Government.

##### 4.4 Compliance with Lawful Orders

- a) Local Government Employees will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the Chief Executive Officer.
- b) Local Government Employees will give effect to the lawful policies of the Local Government, whether or not they agree with or approve of them.

##### 4.5 Administrative and Management Practices

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Local Government Employees will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

#### 4.6 Corporate Obligations

##### a) Standard of Dress

Local Government Employees are expected to comply with neat and responsible dress standards at all times. Accordingly:

- (i) Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual Local Government Employees.

#### 4.7 Personal Communications and Social Media

- a) Personal communications and statements made privately in conversation, written, recorded, emailed or posted in personal social media, have the potential to be made public, whether it was intended to be made public or not.

Therefore, on the basis that personal or private communications may be shared or become public at some point in the future, Local Government Employees will ensure that their personal and private communications do not breach the requirements of this Code of Conduct.

- b) Local Government Employees will not, unless specifically authorised to do so, disclose information, make comments or engage in communication activities about or on behalf of the Local Government, its Council Members, Local Government Employees or contractors, which breach this Code of Conduct.
- c) Local Government Employee comments which become public and breach the Code of Conduct, or any other operational policy or procedure, may constitute a disciplinary matter any may also be determined as misconduct and be reported under the Public Sector Management Act 1992.

### 5. DEALING WITH COUNCIL PROPERTY

#### 5.1 Use of Local Government Resources

Local Government Employees will:

- a) be scrupulously honest in their use of the Local Government's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- b) use the Local Government resources entrusted to them effectively and economically in the course of their duties; and
- c) not use the Local Government's resources (including the services of Local Government Employees) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer).

#### 5.2 Travelling and Sustenance Expenses

Local Government Employees will 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 Local Government in accordance with Local Government policy and the provisions of the Local Government Act.

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### 5.3 Access to Information

- a) Local Government Employees will ensure that Council Members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities.

**ENDORSED BY CEO: 24 FEBRUARY 2021**

**LAST REVIEWED: 24 FEBRUARY 2021**

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