



SHIRE OF MENZIES

1.1.2 - EMPLOYEE CODE OF CONDUCT (Interim) 2021

Adopted 29 November 2012

Adopted 25 June 2015

Adopted 30 August 2018

Adopted 30 April 2020

Draft Policy 1.1.2 (Extracted from former SoM Policy 1.1 Code of Conduct for Elected Members, Committee Members and Employees – due to February 2021 Reforms (Awaiting a template Policy from WALGA))



POLICY – 1.1.2 – Employee Code of Conduct (Interim)

Relevant Delegation

N/A

The Local Government Act 1995 (LG Act) requires all local governments to prepare or adopt a code of conduct to be observed by employees. Codes of Conduct communicate expected standards of conduct and integrity to all those in an organisation. Effective codes that are well communicated throughout the workplace contribute to building and sustaining a culture of integrity and create a robust and transparent framework in which to operate, both of which are fundamental to good organisation performance and public confidence.

The Employee Code of Conduct provides employees of the Shire of Menzies 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 Code is complementary to the principles adopted in the *Local Government Act 1995* 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 employees. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective responsibilities may be based.

OBLIGATIONS TO OBSERVE

Employees

The obligation for employees to observe a Code of Conduct arises from:

- the *Local Government Act 1995* s.5.103.
- the *Local Government (Administration) Regulations 1996* (Regs 34B and 34C), and
- the terms and conditions of their employment with the Shire.

The observance of Council policies and this Code is a key responsibility of any employee and any breach of those responsibilities could incur disciplinary action, including termination, via the management framework established in accordance with the CEO's responsibilities under Section 541(g) of the *Local Government Act 1995*.

Breach of Certain Provisions

Where a requirement in the Code of Conduct is prescribed in an Act or Regulations, any alleged breach may be investigated by another statutory body, including but not limited to:

- Department of Local Government and Communities; and
- Corruption and Crime Commission.

1. MATTERS OF CONDUCT

1.1 Role of Employees

The role of employees is determined by the functions of the Chief Executive Officer as set out in S 5.41 of the *Local Government Act 1995*: -

“The Chief Executive Officer’s functions are to:

- advise the council in relation to the functions of a local government under this Act and other written laws;*
- ensure that advice and information is available to the council so that informed decisions can be made;*
- cause council decisions to be implemented;*
- manage the day to day operations of the local government;*
- liaise with the mayor or president on the local government’s affairs and the performance of the local government’s functions;*
- speak on behalf of the local government if the mayor or president agrees;*
- be responsible for the employment, management supervision, direction and dismissal of other employees (subject to S 5.37(2) in relation to senior employees);*
- ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- 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 Chief Executive Officer.”*

1.2 Role of Council.

Refer to Policy 1.1.1 - Mandatory Code of Conduct – Elected Members, Committee Members and Candidates Relationships between Council Members and Employees

To achieve an effective Council, it is imperative that the Chief Executive Officer and other members of staff work together as part of the Council Team. Teamwork will only occur if Council Members and staff have a mutual respect and co-operate with each other to achieve the Council’s corporate goals and implement the Council’s strategies.

2. GENERAL – Applicable to Employees

2.1 Lawful Actions

It is the responsibility of all employees to act in a manner that is lawful and in accordance with the Acts, Regulations, codes and other policies and procedures that are relevant to their particular position.

Any omission of a specific requirement from this Code of Conduct does not negate a person’s

2.2 Compliance with orders and policies

- (a) Employees will comply with any lawful and reasonable order given by any person having authority to make or give such an order.

Any doubts as to the propriety of any such order shall be taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the Chief Executive Officer.

- (b) Employees will give effect to the lawful policies of the local government and/or have due regard for the lawful policies of the local government in decision making, whether or not they agree with or approve of them.

3. CONFLICT AND DISCLOSURE OF INTEREST

An important consideration for any employee is to ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their statutory or contracted civic or professional duties:

3.1 Conflict of Interest

- (a) Any employee intending to undertake a dealing in land within the local government area that involves an application for planning consent or subdivision approval, or which may otherwise be in conflict with the Shire's functions, shall provide written notice of this intention to the Chief Executive Officer. The notice shall be provided as soon as practicable in all circumstances, but where an application is to be lodged with the local government or another statutory body for approval, then within 7 days of the lodgement of that application. This requirement does not extend to the purchase of the principal place of residence.
- (b) Where a relative (refer definition in section 4.4 of this code) of an employee with that person's knowledge is intending to undertake a dealing in land within the local government area that involves an application for planning consent or subdivision approval, or which may otherwise be in conflict with the Shire's functions, written notice shall also be provided.
- (c) Where it is the Chief Executive Officer or a relative of the Chief Executive Officer intending to undertake a dealing in land in accordance with this section, the written notification required is to be provided to the President
- (d) When an application is made by an employee or a relative of any of those persons, the employee has no greater or lesser rights than those of any other member of the public in relation to access to information and access to Shire officers. Employees shall observe the requirements of seeking information through the usual local government process for a member of the public and booking appointments in their own time to meet with officers of the Shire.
- (e) In receiving a written notice on a matter where a local government decision is required, the Chief Executive Officer or the President as the case may be, shall consult with the most senior officer having responsibility for planning matters who is not otherwise the dealing in land as to the requirement or otherwise of an assessment of the application by a suitably qualified independent person and as to the appropriateness of determining the application under delegation or referring it to Council for a decision.
- (f) 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.
- (g) 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.

3.2 Financial Interest

Employees are to adopt the principles of disclosure of financial interest as contained within the *Local Government Act 1995*.

3.3 Disclosure of Interest

Definitions:

In this clause, and in accordance with Regulation 34C 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 person who is an employee and who has an interest in any matter to be discussed at a council or committee meeting attended by the person is required to disclose the nature of the interest –
 - (i) in a written notice given to the Chief Executive Officer before the meeting; or
 - (ii) at the meeting immediately before the matter is discussed.
- (b) A person who is an employee and 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 is required to disclose the nature of any interest the person has in the matter -
 - (i) in a written notice given to the Chief Executive Officer 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 person is excused from a requirement made under items (a) or (b) to disclose the nature of an interest if -
 - (i) the person's failure to disclose occurs because the person did not know he or she had an interest in the matter; or
 - (ii) the person's failure to disclose occurs because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person 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 person who is an employee makes a disclosure in a written notice given to the Chief Executive Officer before a meeting to comply with requirements of items (a) or (b), then -
 - (i) before the meeting the Chief Executive Officer 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 person'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
 - (iii) to comply with a requirement made under item (e)(ii), a notice disclosing the nature of a person'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.

Nothing in this section negates or replaces the disclosure requirements of any person in accordance with:

- Division 6 of the *Local Government Act 1995* Disclosure of Financial Interests;
- Regulation 11 of the *Local Government (Administration) Regulations 1996* Disclosure of Interest; or
- Any other disclosure requirements in this code.

It is not the intention of this requirement to disadvantage any person due to their employment. The requirement is to ensure there is minimum potential for perceptions of or actual undue influence, advantage or disadvantage for an employee.

4. PERSONAL BENEFIT

4.1 Use of Confidential Information

Employees will not use confidential information to gain improper advantage for themselves or for any other 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 or organisation.

4.2 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.

4.3 Improper or Undue Influence

Employees will not take advantage of their position to improperly influence other Council Members or staff 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.

4.4 Gifts*

*This section does not relate to the Chief Executive Officer, who is bound by separate gift provision under the *Local Government Act 1995*. In this section the Chief Executive Officer has determined a threshold for the provisions of *Local Government (Administration) Regulations 19AF* as being \$300.00.

Definitions

In this clause, and in accordance with Regulation 34B 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 5.82(4) except that 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;*

“notifiable gift”, in relation to a person who is an 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 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 an employee, means –

(a) *a gift worth \$300 or more; or*

(b) *a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth \$300 or more.*

Gift Acceptance/Non-Acceptance Notification

(a) A person who is an employee is to refrain from accepting a prohibited gift from a person who:

- is undertaking or seeking to undertake an activity involving a local government discretion; or
- it is reasonable to believe is intending to undertake an activity involving a local government discretion, notify the Chief Executive Officer, in accordance with item (c) and within 10 days of accepting the gift, of the acceptance.

(b) The notification of the acceptance of a notifiable gift must be in writing to the Chief Executive Officer within 10 days of accepting the gift and include–

- the name of the person who gave the gift; and
- the date on which the gift was accepted; and
- a description, and the estimated value, of the gift; and
- the nature of the relationship between the person who is an employee and the person who gave the gift;
- is undertaking or seeking to undertake an activity involving a local government discretion; or
- it is reasonable to believe is intending to undertake an activity involving a local government discretion; and

- 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.

- (c) The Chief Executive Officer 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).
- (d) 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).
- (e) 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 circumstances where the gift is presented in whole to the Chief Executive Officer, entered into the Register of Notifiable Gifts and used or retained exclusively for the benefit of the local government.
- (f) The CEO is to record details of the gifts received on the Shire’s website.

5. CONDUCT OF EMPLOYEES

5.1 Honesty and Integrity

Employees are to:

- (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 on the part of any other employee; and
- (c) be courteous and honest in their official dealing with each other.

5.2 Performance of Duties

While on duty, 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 favourably both on them and on the Local Government.

5.3 Administrative and Management Practices

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

5.4 Corporate Obligations

Dress Standard

Employees dress standards are to be neat and responsible at all times.

Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual employees.

5.5 Communication and Public Relations

All aspects of communication by employees (including verbal, written or personal) involving Local Government's activities should reflect the status and objectives of that Local Government. Communications should be accurate, polite and professional.

6.0 LOCAL GOVERNMENT RESOURCE USAGE

An employee shall make proper use of Shire's resources:

- (a) and shall not use them for personal or private purposes, unless the use is otherwise provided for in a contract of employment, or authorised by the CEO by some other means.
- (b) It is acknowledged that minor incidental (not primary and not majority) use of certain resources will be provided for in operational requirements. As an example, this would be to conduct an internet search or check a personal email account on a Shire computer during a designated break. This type of minor incidental use is provided for in the Shire's email and internet practice, whereby it is stated these facilities are for almost exclusive business use.
- (c) 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;
- (d) use the Local Government resources entrusted to them effectively and economically in the course of their duties; and

6.1 Travelling and Sustenance Expenses

Employees are only to 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 1995*.

6.2 Access to Information

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.

– End of Schedule

COMMENTS

A copy of this Code of Conduct is to be placed on the local government's official website, pursuant to Section 5.51(3) of the *Local Government Act 1995*.

Formerly	February 2021 regulations required the adoption of a separate Code of Conduct for Council Members, Members and Candidates (provided by DLGC)	Formerly: 1.1 - Code of Conduct – Council Members and Shire Employees
Last Reviewed	New Policy now 1.1.2 29 April 2021	
Next Review Date	April 2022	
Amended		
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Version	1	