



**DRAFT CODE
OF
CONDUCT**

PART 1 - INTRODUCTION

The Council of the City of Joondalup is the elected body responsible for the administration of the City in the best interests of its residents. The Council is committed to providing open, responsive and accountable government. It must do that in accordance with the applicable legislation.

The Code of Conduct therefore provides a framework for behaviour that must be observed in the wide range of interactions and scenarios experienced in the conduct of Council activities. The Code does not establish a rule for every situation, but provides guidance and a basis of expectations for good public administration by elected members, committee members and employees of the City.

The local community and the public in general are entitled to expect that:

- *The business of the local government will be conducted with efficiency, impartiality and integrity;*
- *Elected members, committee members and employees will obey the spirit, intent and the letter of the law and, in particular, the provisions of all relevant statutes, ordinaries, regulations and instruments; and*
- *Duty to the public will always be given absolute priority over the private interests of elected members, committee members and employees.*

A Code of Conduct is a significant guide to the Council, necessary due to the particular relationship and responsibilities that arise from being a public institution. In order to contrive the effective and efficient administration of the City of Joondalup, a set of standards is important to clearly outline these responsibilities and the behaviours that need to be observed to retain the good faith and trust of all parties involved.

The Code does not override or affect the legislation applicable to local government.

Council believes that acting ethically is central to its public accountability and the successful achievement of its vision and performance of its role. Therefore, the common bond for elected members and employees is the Code of Conduct, which will guide their decision-making and behaviour.

The roles of the Mayor and Councillors on one hand and employees on the other hand are quite different. In essence, the elected members as an elected Council decides policy objectives and the results it desires to achieve and, subject to any specific directions from the Council, the Chief Executive Officer (CEO) and employees have the responsibility to put those decisions into practical effect. Therefore, just as there are different obligations under the Local Government Act 1995 for the Mayor and Councillors in comparison to employees, there is a distinction between the way that this Code applies to those parties.

PART 2 - VALUES AND ETHICAL PRINCIPLES

A Code of Conduct is determined by the values and ethical principles on which it is based.

2.1 Values

This Code of Conduct is governed by five key values.

2.1.1 Living our Values

As a progressive local government which is intent on 'creating the future', we have a special responsibility to the people of Joondalup. We show this by practising our values in the work we do.

2.1.2 Excellent Customer Service

We take pride in delivering excellent customer service in a professional, timely and courteous manner.

2.1.3 Leadership

We encourage leadership and innovative thinking at all levels of the organisation.

2.1.4 Participation

Throughout the ongoing process of change, we encourage participation and good communication. We encourage an active local democracy.

2.1.5 People

We value our people by recognising their creativity, experience, commitment and potential. We welcome and encourage new ideas.

2.2 Ethics

This Code of Conduct is governed by three ethical principles.

2.2.1 Respect for Persons

A responsibility to –

- *Respect the rights of individuals and groups allowing them their opinion and their right to be different;*
- *Treat other people as an individual with rights that should be honoured and defended, and should empower them to claim their rights if they are unable to do so themselves;*

- *Encourage honest working relationships by being truthful and sincere when dealing with others – respecting the rights of others that qualifies us as members of a community, not simply as individuals with rights but also with duties and responsibilities to other persons.*

2.2.2 Justice

A responsibility to –

- *Treat everybody fairly, without discrimination and with rules that apply equally to all;*
- *Ensure opportunities and sound social benefits are shared equally among individuals and with equitable outcomes for disadvantaged groups;*
- *Uphold the laws of the Council of the City of Joondalup and comply with relevant State and Federal legislation.*

2.2.3 Beneficence

A responsibility to –

- *Do for others what we would like done for ourselves;*
- *Contribute to the well being of individuals and society by exercising due diligence and duty of care to others;*
- *Uphold the rights of those who are unable to do so, advocating for others where required.*

PART 3 - IMPLEMENTATION AND ENFORCEMENT

3.1 Implementation and Review

This Code of Conduct was originally adopted on 23 April 1997 with immediate effect.

The Code is to be reviewed within 12 months of every ordinary election for the City. The review will address any problems experienced within the preceding 12 months in regard to its application or interpretation, and recommends any amendments that may be appropriate. Amendments to the Code are subsequently communicated to elected members, employees, committee members and the community.

3.2 Enforcement of the Code

Any Council employees, elected members or committee members having concerns with regard to an actual, perceived, potential, intended or unintended breach of either the specific provisions or the spirit of the Code of Conduct, or any provisions of the Local

Government Act or such regulations or local laws created thereunder, should discuss those concerns with the Mayor or Chief Executive Officer (for employees)

Matters the subject of such reports shall be treated in the strictest confidence until such time as an appropriate investigation has been undertaken.

Any actions taken as a result of a breach will be made in accordance with the provisions of any applicable legislative requirements and the Council's responsibilities as an employer. It should be noted that the Anti-Corruption Commission Act 1988 as amended, requires the reporting to the Commission of certain matters relating to alleged 'corrupt conduct', 'criminal conduct' and 'serious improper conduct'. Definitions of these terms are provided in the Act and appear as annexure 1 to this Code.

PART 4 - CONFLICT AND DISCLOSURE OF INTEREST

4.1 Conflict of Interest

Elected Members, committee members and employees should ensure that there is no actual or perceived conflict or incompatibility between the impartial fulfillment of their public or professional duties and either their personal interests, or those of their immediate family members, business partners or close associates. Specifically;

- (a) All employees have a duty of fidelity and good faith towards the City.

An employee must make written disclosure and receive written permission from the Chief Executive Officer before acting in or taking up an interest (direct or indirect) in any capacity in any trade, business or occupation whatsoever, other than the business of the City, that may interfere with or compromise the employee's performance.

Employees shall comply with the Local Government (Functions and General) Regulations 1996, in any instance where they are involved in any manner with tendering for a Council contract.

In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of public duties must be scrupulously avoided.

- (b) Employees must notify the Chief Executive Officer in writing prior to undertaking a dealing in land in the area of the Council (other than purchasing the principal place of residence, or site for such purpose).
- (c) Employees who exercise a regulatory, inspectorial or other discretionary function must make disclosure before dealing with relatives or close friends and, whenever possible, or in doubt, should disqualify themselves from dealing with those persons. This disclosure must be made to their Director.

4.2 Disclosure of Interest

- (a) Elected members, committee members and employees will adopt the principles of disclosure of interest including that relating to Annual and Primary Returns, as contained within the Local Government Act 1995 and the Financial Interests Manual as prepared by the Department of Local Government.
- (b) Whenever disclosure is required by (a) above, or otherwise seems appropriate, it will be made promptly, fully, and in writing to the Chief Executive Officer prior to the meeting.
- (c) Elected members, committee members or employees are required to disclose any non-financial interest, where they believe that the public may have a perception that their impartiality may come into question. The disclosure must occur when the matter is to be discussed at a Council or committee meeting where the person who has the non-financial interest will be in attendance and/or has given, or will give, advice.
- (d) The disclosing of an interest as detailed in (b) and (c) above is to be made immediately before the matter is discussed or at the time the advice is given, and shall be recorded in the minutes of the meeting.
- (e) The disclosure of an interest in (c) above does not affect the ability of the Councillor, committee member or employee to discuss or vote on the matter.

PART 5 – CONDUCT OF ELECTED MEMBERS AND EMPLOYEES

5.1 Use of Confidential Information

Elected members, committee members and employees shall not use confidential information to gain improper advantage for themselves or another person or body in ways which are inconsistent with their obligation to act impartially in the public interest; or to improperly cause harm detriment or impairment to any person, body, or the Council.

Due discretion shall be exercised by all those who have access to confidential or sensitive information.

5.2 Improper or Undue Influence

Councillor, committee members and 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.

Persons aggrieved by what they perceive as improper or under influence shall report such conduct, in confidence, to the Chief Executive Officer or Mayor. Notwithstanding this, aggrieved persons also have the right to report such conduct to the appropriate external authorities. In making reports of improper or undue influence, persons should

not make unsubstantiated allegations and must present factual information, not based on rumour or suspicion, so as to avoid undue concern to others.

5.3 Gifts and Acts of Hospitality

Elected members, committee members and employees shall not seek or accept (directly or indirectly) from any person or body, any immediate or future gift, reward, donation, inducement or benefit for themselves or for any other person or body, relating to their status with the Council, or their performance of any duties or work which touches or concerns the Council.

The Mayor and/or CEO may accept acts of hospitality for local community related events. Where neither can attend, they may designate an appropriate person to attend in their place. The offering of these acts of hospitality must be promptly recorded in the relevant register kept by the Council, whether accepted or not.

Notwithstanding the preceding paragraph, elected members, committee members and employees may accept token gifts and/or moderate acts of hospitality. The offering of all token gifts or acts of hospitality, must be promptly recorded in the relevant register kept by the City, whether accepted or not.

In determining the acceptance of token gifts and/or moderate acts of hospitality, the following guidelines must be adhered to (token gift or moderate act of hospitality is defined as where its estimation is less than \$200):

- The offering of any token gift and/or moderate act of hospitality must be promptly recorded in the relevant register, including the name and address of the offeror, description of the token gift/act of hospitality, its estimated value, the date of the receipt of the token gift, and whether it was accepted or declined.
- Where a partner is invited to attend a function that is related to the City of Joondalup with the elected member, committee member or employee, the partner may accept token gifts or moderate acts of hospitality;
- The acceptance of token gifts and/or moderate acts of hospitality by a particular elected member, committee member or employee from a person(s) or organisation on a frequent basis shall not be permitted.

No company or individual with a proprietary or beneficial interest may pay or contribute to any expenses associated with the inspection, evaluation or trial of any goods or services which the Council may or may not wish to acquire, provided however that the Council may require the payment of those expenses as a standard condition applicable to all parties with an interest in providing the required goods or services to the Council.

In determining the acceptance of token gifts/benefits and moderate acts of hospitality, the following guidelines must be adhered to at all times by Elected members, committee members or employees.

All gifts not of a token kind and all offers of immoderate acts of hospitality must be:

- (a) promptly returned (except in the case of acceptances by the Mayor or Chief Executive Officer referred to above) or, at the Chief Executive Officer's or designated appropriate person's discretion, donated to charity and in either case, a letter of explanation must be sent to the donor; and
- (b) promptly recorded in the relevant register kept by Council. Elected members, committee members and the Chief Executive Officer (or employees to whom any power or duty has been delegated under Part 5, Division 4 of the Local Government Act) must disclose in a primary or annual return:
 - (i) the description of any gift received by them at any time during the return period;
 - (ii) the name and address of the person who made each gift to which paragraph (a) applies unless the amount of the gift does not exceed \$500.00 or was received from a relative.

The following notations are made in relation to accepting gifts (token or non-token) or acts of hospitality:

- gifts may be accepted where they become the property of the City of Joondalup;
- the register of disclosure shall be made available for access to the public at all times with the register being retained within the office of the CEO.
- the amount of a gift comprising property, other than money, or the conferral of a financial benefit is to be treated as an amount equal to the value of the property or the financial benefit at the time the gift was made.
- variations to these conditions are permitted where prior written approval is granted by the Chairman or Chief Executive Officer and recorded in the register of delegations.

5.4 Disclosure of election campaign contributions

In the interests of uncompromised decision making, the City of Joondalup requires all electoral candidates to comply with the Local Government Act 1995 and its associated regulations in disclosing electoral donations. A candidate is to disclose information about any electoral related gift with a value of \$200 or more that may be received within the six (6) month period prior to the relevant election day.

- 1 A "gift" includes a gift of money, a gift which is non-monetary but of value, a gift in kind or an inadequate financial consideration or the receipt of a discount (where the difference or the discount is more than \$200 worth), financial or other contribution to travel, the provision of a service for no consideration or for

inadequate consideration, and a firm promise or agreement to give a gift at some future time.

A gift does not include a gift by will; a gift by a relative; a gift that the candidate would have received notwithstanding his or her candidature; or the provision of volunteer labour.

- 2 The disclosure of a gift is to be made to the Chief Executive Officer of the local government in the manner prescribed and in doing so identify specified information (see 3).
- 3 Details about each gift are to be disclosed on the prescribed form and submitted within three days of receiving the gift. Information to be supplied includes the name of the candidate, the name and address of the donor, the date the gift was promised or received, the value of the gift and a description of the gift.
- 4 The disclosure period commences six months prior to the relevant election and finishes three days after the election day for unsuccessful candidates and on the start day for financial interest returns for successful candidates.
- 5 The Chief Executive Officer is to establish and maintain an electoral gift register. Disclosure forms are to be placed in the electoral gift register upon receipt by the Chief Executive Officer in a manner that clearly identifies and distinguishes the candidates. The electoral gift register is to be kept available for public inspection.
- 6 In accordance with the Local Government (Elections) Regulations, 1999, a maximum penalty of \$5,000 may be imposed on a candidate who fails to comply with the disclosure requirements.

5.5 Personal Behaviour

Elected members, committee members and employees shall:

- (a) act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this code, in particular:
 - (i) The Equal Opportunity Act 1984 (WA) and subsequent amendments made it unlawful to discriminate against people on the grounds of: sex, marital status, pregnancy, race, racial harassment, religious status, family responsibility or age;

The City will ensure compliance with the principles and provisions of the Equal Opportunity Act 1984 (WA), this commitment extends to ensuring that recruitment and selection, promotion and advancement will be solely on the basis of equity and fairness and that appointment will be based on merit;

- (ii) All people have a right to work in an environment which is free from sexual harassment. Sexual harassment will not be tolerated in the City of Joondalup. Any elected member, committee member or employee found to be committing sexual harassment will be subject to discipline and/or termination proceedings.
- (b) perform their duties impartially to the best of their ability and in the best interests of the community, uninfluenced by fear or favour;
- (c) deal with all sections of the community in an open, honest and forthright manner;
- (d) act in good faith (i.e. honestly, for the proper purpose and without exceeding their powers) in the interests of Council and the community; and shall be particularly mindful to avoid interference in commercial relationships between developers and objectors or between developers competing for the right to develop.
- (e) 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 or is likely to cause any reasonable person unwarranted offence or embarrassment.
- (f) always act in accordance with their obligations of fidelity to the Council and not publicly reflect adversely upon any decision of the Council or the Executive Management Group; and
- (g) where practicable, be available to discuss with members of the public following Council and Committee meetings.

Elected members should represent and promote the interest of their community as a whole, while recognising their particular duty to their own constituents, in accordance with their role as defined by the Local Government Act 1995.

At the same time, Elected members and employees should be mindful of the interests of ward members when dealing with issues relevant to a specific ward, and should use their best endeavours to inform elected members of such matters.

5.6 Civic Leadership

As the appointed leader of the community of Joondalup, the Mayor shall demonstrate the highest level of civic conscience, impartiality and personal conduct.

5.7 Respect for Title of Office

Elected members, committee members and employees shall respect the title of elected office, referring to the Mayor and Councillors by their formal title whilst in the public arena, and thereafter as circumstances dictate. The Mayor is to be addressed as either Mr/Madam Mayor or His/Her Worship the Mayor.

5.8 Honesty and Integrity

Elected members, committee members and employees shall:

- (a) observe the highest standards of honesty and integrity;
- (b) be frank and honest in their official dealings with each other; and
- (c) bring to the notice of the Mayor or Chief Executive Officer, any dishonesty on the part of any other Councillor, committee member or employee;
- (d) endeavour to resolve serious conflict through initial discussion facilitated by either the Mayor, or the Chief Executive Officer.

5.9 Performance of Duties

While on duty, employees shall give their whole time and attention to the Council business and ensure that their work is carried out efficiently, economically and effectively in accordance with their directions, duties, Council policies and corporate objectives.

In particular, employees shall ensure that file notes are drafted and placed on record immediately following discussions on issues of substance with persons other than employees or elected members. Such issues shall include matters before the Council, matters impacting on the Council or the organisation of the City of Joondalup, and matters affecting the public interest.

Employees shall at all times ensure that their standard of work and manner reflects favourably both on them and the Council, and is in accordance with the intent of the Council's Customer Service Charter.

In the conduct of their duties, employees are encouraged to develop networks within the local government industry, to encourage and assist their peers, and promote goodwill between local governments.

5.10 Compliance with Lawful Orders

- (a) Employees shall obey 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) Employees should give effect to and uphold the lawful policies of the Council, whether or not they agree with or approve of them.

5.11 Administrative and Management Practices

Elected members, committee members and employees shall ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

Unless confidentiality is essential, administrative and management practices shall be open and accessible.

Elected members, committee members and employees shall at all times be mindful of their responsibility to maintain full and accurate records in the performance of their duties.

5.12 Professional Advice

Elected members, shall ensure that no restrictions or undue influence is placed on the ability of employees to give professional advice to the Council.

At the same time, employees should recognise that elected members' views and opinions often reflect valid community viewpoints that should be considered in conjunction with professional opinion. Officers should therefore make every effort to assist elected members in the performance of their role, and to achieve the satisfactory resolution of issues they may raise in performing their official role.

5.13 Relationships Between Members and Employees

An effective Member will work as part of the City of Joondalup team with the CEO and other Members and employees. That teamwork will only occur if Members and employees have a mutual respect and co-operate with each other to achieve the City's corporate goals and implement the City's strategies. To achieve that position all parties need to understand each others roles as specified in the Act and any relevant agreements.

To achieve this effectiveness in teamwork, all Members will: -

5.13.1 Accept that their role is one of Council leadership, and not a management or administration role;

5.13.2 Acknowledge that they have no capacity to individually direct employees to carry out particular functions;

5.13.3 Refrain from publicly criticising employees in a way that casts aspersions on their professional competence and credibility;

5.13.4 Ensure that no restrictions or undue influence is placed on the ability of employees to give professional advice to the Council.

At the same time, employees will recognise that Members' views and opinions often reflect valid community viewpoints that should be considered in conjunction with professional opinion. Employees will therefore make every effort to assist Members in the performance of their role, and to achieve the satisfactory resolution of issues that may arise in the performance of their official role.

5.14 Appoints to Committees (External)

Elected Members representing the Council on external organisations are to ensure that they: -

5.14.1 Clearly understand the basis of their appointment;

5.14.2 Provide regular reports on the activities of the organisation in accordance with the confidentiality requirements of that organisation;

5.14.3 Represent the Council's interests on all matters relating to that organisation, whilst maintaining the confidentiality requirements of the City of Joondalup.

5.15 Defamation

5.15.1 Comments by Members at meetings of the Council and/or Committees of the Council are covered only by qualified privilege against defamation and this qualified privilege may not extend to comments by employees.

5.15.2 A member can only rely on the defence of qualified privilege whilst exercising the proper discharge of this or her duties, and doing so in the public interest.

5.15.3 In order to maintain the qualified privilege, a Member should ensure that comments made are pertinent to the business of local government, they are not made maliciously, or without due regard to whether they represent the truth.

PART 6 - DEALING WITH COUNCIL PROPERTY

6.1 Use of Council Facilities, Funds, Employees, Equipment and Intellectual Property

Elected members, committee members and employees shall:

- (a) be scrupulously honest in the use of Council facilities, funds, employees, materials and equipment and shall not misuse them or permit their misuse, or the appearance of misuse by any other person or body;
- (b) use Council resources entrusted to them effectively, economically and lawfully in the course of their duties, and not otherwise;
- (c) not use Council resources (including the services of Council employees) for private purposes, (other than when supplied as part of the contract of employment) unless properly authorised to do so;
- (d) not make unauthorised use of information and other intellectual property¹, produced or registered by employees or external contractors for the Council. (The ownership to Intellectual Property that is produced as a result of employment in official duties shall be assigned to the City of Joondalup upon its creation); and
- (e) promote the concept of pride in public property, fostering an awareness of the community's ownership of the City's natural and built environment.

6.2 Travelling, Sustenance and Members' Expenses

Elected members, Council representatives and delegates, and employees shall only claim or accept travelling and sustenance expenses arising out of travel related to matters which have a direct bearing on the conduct of their duties, services or business of the Council.

Elected members shall be diligent in ensuring that those other expenses claimed in accordance with Council policy relate strictly to their function as an elected member and are appropriately acquitted.

PART 7 - CORPORATE OBLIGATIONS

7.1 Communication with the Community

Elected members, committee members and employees should ensure that the Council effectively communicates with, and promotes participation by, all sections of their communities, in order to achieve proper accountability. At all times, elected members, committee members and employees shall focus on the customer of the City's services as being of paramount importance.

7.1.1 Communication and Public Relations

7.1.1.2 All aspects of communication by employees (including verbal, written, electronic or personal), involving the City of Joondalup's activities must be accurate, polite and professional, and in accordance with the City of Joondalup's communication guidelines and standards.

7.1.1.3 As a representative of the community, Members need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so Members must acknowledge that: -

- (a) As a Member of the Council or its Committees there must be respect for the decision making processes of the Council which are based on a decision of the majority of the Council or Committee;*
- (b) Information of a confidential nature must not be communicated until it is no longer treated by the City as confidential;*
- (c) Information relating to decisions of the Council must only be communicated in an official capacity by the Mayor or his/her representative, or a designated officer of the City of Joondalup;*
- (d) Information concerning adopted policies, procedures and decisions of the City of Joondalup must be conveyed accurately.*

7.2 Health, Well Being and Safety

Elected members, committee members and employees should ensure that the Council's premises and places of work (including vehicles) are adequate to ensure the health, safety and well being of employees and members of the public. Potential risks or hazards to employees or public are to be reported according to existing procedures.

7.3 Entrepreneurial Activities

Elected members, committee members and employees shall ensure that the Council impartially and properly assesses its own proposals for entrepreneurial activities, consistent with the scope and standard of the normal assessment applied to outside parties requiring Council approval (including subdivisions, development, buildings and tenders).

- 1 Intellectual Property, in this context, refers to the rights of a person creating a document to retain sole ownership of that document unless and until otherwise assigned.

PART 8 – WHISTLEBLOWER PROTECTION

- 8.1 *The CEO is to ensure that employees who report unacceptable or illegal behaviour of Members or employees (that is, whistleblowers) are not in any way disadvantaged nor victimised because of their actions.*

- 8.2 *Employees are encouraged to, in the first instance, report unacceptable or illegal behaviour to the relevant Supervisor or Manager. Behaviour of a serious nature must be reported directly to the CEO.*
- 8.3 *Members and employees must be aware of the Anti-Corruption Commission Act 1988 which provides for the voluntary reporting of possible corrupt conduct to the Commission. Penalties will prevail if a person who makes a complaint: -*
- 8.3.1 *Has his or her safety or career prejudiced, or threatened to be prejudiced;*
- 8.3.2 *Is intimidated or harassed; or*
- 8.3.3 *Has an act done to his or her detriment because of having assisted the Commission, or furnished information to the Commission.*