



# **GOVERNANCE FRAMEWORK**

**2005**

**DRAFT**

## **FOREWORD FROM THE CHIEF EXECUTIVE OFFICER**

Congratulations on being elected by your community as a member of Council. The role is both rewarding and challenging.

In order to assist you in your roles and responsibilities including community leadership, representing the community, and decision-making, I am pleased to present the 2005 *Governance Framework for the City of Joondalup*.

For an organisation to demonstrate good governance, there needs to be a clear understanding about responsibility and accountability. This Governance Framework has been produced to set out the roles of elected members and staff, and their relationships, along with financial, legal and ethical considerations.

This Governance Framework has been developed as a tool for use in the implementation of good governance at the City of Joondalup. The Framework clearly outlines or defines the respective roles, responsibilities and authorities of the elected members, both individually and collectively, and the management in setting the direction, management and control of the organisation.

There are a range of benefits that can be derived from the development and implementation of an effective governance framework. These include:

- Providing clear guidelines for the roles of the Council and the CEO, ensuring that all responsibilities are properly allocated and performance expectations are well understood;
- Enshrining best practice in relation to board processes;
- Assisting the Council and the CEO in delivering good governance;
- Ensuring legal and ethical compliance;
- Influencing processes throughout the organisation by setting guidelines for strategic planning at all levels;
- Acting as a point of reference for disputes; and
- Assisting as an induction tool for newly elected members.

**Effective relationships are crucial to good governance.**

Elected members are elected by the community to work collectively in the best interests of the whole community. Good decisions and outcomes depend on building working relationships that are constructive, and where all points of view are heard with courtesy and respect.

I trust that this Framework will assist you in your role as a democratically elected civic leader. The Framework has been developed to complement the Elected Member Induction and Training and Development Programs, and I look forward to working with you, and providing you with ongoing support.

**Garry Hunt**  
**CEO**

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## INTRODUCTION

### THE GOVERNANCE CONCEPT

Governance is becoming an increasingly important concept and impacts all sectors of the community including industry and government. The practice of good governance is increasingly seen as critical for ensuring that:

- The governance of organisations has a legal and ethical basis,
- Decisions are taken in the interests of stakeholders, and
- The organisation behaves as a good corporate citizen should.

In order to act on behalf of the whole community and provide leadership and direction that affects the whole community that has elected them, democratic governments must meet specific governance demands.

This Guide has been framed with reference to documents previously produced regarding the concept and practice of good governance. The following documents have been used in the development of the Governance Framework for the City of Joondalup:

- *Murdoch University Senate, Statement of Governance Principles;*
- *Governance Framework and Statement – City of South Perth;*
- *On Board Leadership – John Carver;*
- *Reinventing Your Board, A Step by Step Guide to Implementing Policy Governance – John Carver and Miriam Mayhew Carver;*
- *Good Governance Guide 2004 – The Principles of Good Governance within Local Government - Municipal Association of Victoria;*
- *Excellence in Governance for Local Government – CPA Australia;*
- *WALGA – Training and Development Program for Elected Members;*
- *Corporate Governance Charter - WA Local Government Association December 2004;*
- *Lessons for Local Government - City of Belmont published by the Department of Local Government and Regional Development April 2003;*
- *Lessons for Local Government - City of South Perth published by the Department of Local Government and Regional Development;*
- *Elected Members Welcome Pack - City of Joondalup - May 2003;*
- *Elected Member Induction - Local Government Operational Guidelines Number 4 published by the Department of Local Government and Regional Development - Updated March 2005;*
- *City of Wollongong Governance Manual 2004;*
- *Council Forums - Local Government Operational Guidelines Number 5 published by the Department of Local Government and Regional Development - January 2005;*
- *Managing Public Question Time - Local Government Operational Guidelines Number 3 published by the Department of Local Government and Regional Development - August 2002;*
- *The Business of Local Government (a training course for elected members)- a joint WALGA and Australian Institute of Company Directors Course;*
- *WALGA State Council performance assessment questionnaire*
- *Local Government Act 1995;*
- *City of Joondalup Governance Review Report May 2004.*
- *Sustainability Reporting Guidelines – Global Reporting Initiative*
- *ASX Corporate Governance Council – Principles of Good Corporate Governance and Best Practice Recommendations*

## GLOSSARY

Term	Meaning
Local government	The institution consisting of the Mayor, elected members, CEO and employees of a Council
Act	Local Government Act 1995
Administration	The employed staff of the Local Government, headed by the Chief Executive Officer
Chief Executive Officer (CEO)	The most senior officer in the administration. He or she is directly accountable to the Council.
Community	The entire population of the City of Joondalup. It could be extended to those who work in, or visit the area for recreational or similar reasons.
Stakeholders	Individuals and organisations that have an impact on the strategic direction and decision-making processes of the City of Joondalup.
Council	The Elected Members sitting formally as a Council under the Local Government Act 1995
Council Committee	A formal committee of the Council established under the legislation
Council Meeting	The elected members meeting formally in accordance with legislation.
Strategic Plan	An overarching plan that provides direction for all activities and guides the development and provision of all the City's services and programs.
Strategic Financial Plan	Long-term financial plan summarising the financial impacts of the objectives and strategies in the Strategic Plan
Councillor	An individual elected representative of a local government.
Directors	The senior positions in the organisation directly responsible to the Chief Executive Officer. They are classified as senior employees under the Local Government Act 1995.
Elected Member	An elected representative of the Local Government.
Employee	An employee of the Council including casual or contract employees.
FOI	Freedom of information.
Local Government Act 1995	The Local Government Act 1995 and amendments or regulations.
Mayor	A person elected by the community to hold the position as the elected leader of the local government for a term as specified by the Local Government Act 1995.

## LOCAL GOVERNMENT DEFINED

Local government in Western Australia is established under the *Local Government Act 1995* and is the third sphere of government in Australia. Local government has legislative responsibility for many functions and activities that are relevant to a local community. As the level of government often seen as “closest” to the population, local government activities relate to matters that are fundamental to people’s lives and impact strongly on their quality of life.

Local government includes a Council consisting of Elected Members, and the Administration that includes the CEO and employees.

The Mayor and Elected Members form the Council.

- Elected Members are able to exercise authority as the Council after they are formally sworn in and when they meet formally as the Council.
- All lawful decisions are made at the Council meetings or through delegations (to CEO or the Council committees) that are formally made by the Council.

The CEO and employees are formally accountable to the Council through the CEO, whose role is to:

- Advise the Council,
- Implement the Council decisions, and
- Manage the services that the local government provides for its community.

## ROLE OF LOCAL GOVERNMENT

In order to consider the issues of good governance in local government, it is also necessary to consider the role and functions of local government. Local Government has a number of fundamental roles:

### ➤ **Planning and monitoring achievement**

Planning for the development and wellbeing of the community is a critical role for Council. The Local Government Act 1995 requires Councils to develop and adopt a ‘plan for the future’. Local government sets overall directions for the CEO through long-term planning. Examples include the Strategic Plan, and Strategic Financial Plan. The strategic planning framework provides the direction for the ongoing management of Council’s activities.

### ➤ **Lawmaking/enforcement**

Local government makes decisions in areas over which it has legislative authority but cannot duplicate or contradict Federal or State law. Laws made by local government are called local laws and cover such issues as the activities permitted on public land, animal management, and use of infrastructure. Local government is also responsible for enforcing local laws and other legislation over which it has authority.

➤ **Policy Development**

One of the most important roles of Elected Members is to participate in making policy decisions on behalf of the community. An essential element of policy making is identifying community needs, setting objectives to meet those needs, establishing priorities between competing needs, and allocating appropriate resources. A Policy is a decision of the Council and sets out agreed views and decisions concerning a particular area of responsibility.

➤ **Representation**

Individual elected members or the Council represent their constituents on matters of concern to those constituents. Elected members are to represent the interests of electors, ratepayers and residents of the district. Elected Members need to listen to and be interested in the wider community (not just the people in the ward who elected them).

➤ **Advocacy**

Local government has a role advocating on behalf of their constituencies to other levels of government, statutory authorities and other relevant parties who have responsibility for the matter.

➤ **Service delivery**

Council must ensure that services are delivered in the most efficient and effective manner. The Local Government Act 1995 provides autonomy to Councils to determine policies, with their communities, about the nature and level of services provided. The Council must ensure the delivery of quality services for which they have responsibility.

## **COMMUNITY DEFINED**

An appreciation of the term community is integral to an understanding of what constitutes good governance at a local government level. When discussed in connection with good governance the term is often used as though it is a homogenous entity and presupposes that there is a single community interest, community demand or community need.

The population of the City of Joondalup consists of a large number of communities, for example, the business community, and the resident community. These can be further broken down into subsets, for instance, the retail community, the developer community and the tenant community. Additionally, local communities can be defined by geographical area.

Often such diverse communities do not share the same aspirations, goals and interests. One of the challenges for all levels of government but particularly local government which defines itself as being closest to “the community” is how to govern so that different, and often competing, interests are recognised, addressed and managed.

When referred to in this document the term ‘community’ means the many groups, individuals and interests represented in the City of Joondalup.

## **GOVERNANCE IN LOCAL GOVERNMENT**

### **DEFINITION OF GOVERNANCE**

Governance is the process by which decisions are taken and implemented, the process by which organisations go about achieving their goals and producing their outputs and the process by which organisations are directed, controlled and held to account.

It encompasses:

- Authority
- Accountability
- Stewardship
- Leadership
- Ethics and Values
- Culture

Democratic governance exists when a government governs for and on behalf of its community. Good democratic governance occurs when governments govern as a result of being elected. This provides the democratic basis, which is essential to an understanding of good governance in the local government sector.

Good governance involves a focus on:

- Clarity of roles and responsibilities
- Robust systems which support both internal and external accountability, and
- Public access to decision-making and information

*(Definition from Excellence in Governance for Local Government – CPA Australia)*

### **GOOD GOVERNANCE IN LOCAL GOVERNMENT**

Good governance in local government combines the characteristics of good governance and the definitions and roles of local government. Good governance in local government requires:

- Councils being elected by, representative of, and accountable to the community;
- Elected members making decisions in the best interests of the residents of the City as a whole;
- Policies and programs reflecting the mandate Councils have been given by their electors;
- Policy enactment arising from the Strategic Plan with appropriate performance management to assess the Council's progress;
- Community participation in governance;
- Mayor and elected members providing leadership to the community and reflecting the community's collective aspirations;
- A management structure which implements the Council's goals in accordance with Council's priorities and approved budget;



- Provision of services which meet the community's needs (sometimes in partnership with other levels of government, business or community organisations);
- Local government being well placed to facilitate coordination and integration at a local level; and
- Cooperation between local governments.

## **GOOD GOVERNANCE IN PRACTICE**

Good governance needs to be practised both within local government, and between local government and the community. Key Issues include:

### **Internal**

- Relationships are a key factor;
- Sound advice is crucial to good governance;
- Advice is provided through Council reports, Council Briefings and other means of communication;
- Good processes contribute to good decisions. Decisions also need to be accountable and transparent;
- Elected members need information in order to perform their duties. Processes need to be developed to meet the legitimate information requirements of elected members.

### **External**

- To ensure that a Council and its community share a sense of direction and purpose, strategic planning is vital. This is particularly the case in local government and must be done in a way that all stakeholders feel they have ownership;
- Performance management enables local government to be accountable to its community. It assesses whether a local government has done what it said it would do with the resources with which it has been provided, and within the defined time frames;
- Balancing “community-wide” and sectional interests is central to democratic governance;
- Accountability of a local government to its community is a key factor in good democratic governance;
- Good governance means a community feels engaged, knows what is going on, is included in decision making, and feels part of the governing process;
- Informed decisions are based on well-researched information, and some of the best information comes from the opinions of those who are affected by a decision or interested in an issue. Good consultation methods are needed to elicit these opinions;
- Another important aspect of good governance is community leadership. Sometimes local governments need to lead or influence communities on particular issues;
- Communities expect good services and systems. This is fundamental to good governance.

## **DECISION MAKING FORUMS**

### **COUNCIL MEETINGS**

An Elected Member's most important function as part of the governing body of Council is to attend and participate in the decision-making processes of Council.

The decisions made by Elected Members at formal Council meetings provide the direction and authority for the ongoing operation of the Council. The decisions of the Council give direction to the Chief Executive Officer to act.

The Council is a corporate body and as such it can only make decisions by resolution, that is a motion has to be put to a properly convened meeting and passed by the required majority.

Council operates a 'rolling' three weekly meeting cycle, (except in January when Council is in recess) as follows:

#### **Week 1 - Strategy Sessions**

Strategy Sessions provide a forum for two-way communication between elected members and staff on strategic or complex issues. The workshops are open to all elected members, the CEO and other staff as required. Strategy Sessions are not open to members of the public.

#### **Week 2 - Briefing Sessions**

The Briefing Sessions are used to inform the elected members on the agenda items to be presented at the forthcoming Council meeting. No decisions are made at Briefing Sessions. Briefing Sessions are open to the members of the public, and question time is permitted. Questions must relate to an item on the current agenda. Where a member of the public has an application before Council, they may request to present a deputation to the elected members. Deputation sessions are held on the same evening as the Briefing Session, at the commencement of the meeting.

#### **Week 3 - Council Meetings**

Council Meetings are formal meetings of Council as defined under the Local Government Act and are required to be open to the public although under certain conditions, Council meetings can be closed under provisions of the Act. In order to promote transparency and accountability required for good governance these provisions should be applied as infrequently as possible.

Good decision making at a Council Meeting is enhanced when the meeting is well run. This requires a clear and informative agenda paper, good chairing and facilitation, adherence to meeting procedures and adherence to statutory requirements. There should also be a strong commitment to the principle of Council meetings being open to the public so that they are fully informed and, where appropriate, involved in the decisions and affairs of the Council.

Elected members, the Chief Executive Officer and Directors attend all Council meetings.

## **COMMITTEE MEETINGS**

The work of Committees is significant in Local Government due to the wide range of activities and functions of the Council. Committees report to the Council and are subject to the requirements of the Local Government Act 1995.

When a Council establishes a Committee it must determine the reporting and other accountability requirements that are to apply in relation to that committee.

The role and tasks of Committees are varied. Councils establish Committees to:

- Inquire into matters and to provide and make recommendations to the Council on matters within the Council's responsibilities;
- Carry out a specific project or task on behalf of the Council; and/or
- Exercise, perform or discharge delegated powers, functions or duties.

Committees are able to make recommendations to the Council as part of the decision making process. Prior to these recommendations being submitted to Council, as part of the CEO's role in advising the Council, the CEO will ensure officers of the City provide professional advice and subsequently alter the recommendations of the Advisory Committee if required.

The list below details the current internal Committees of Council:

- Audit Committee
- Performance Review Committee – Chief Executive Officer
- Policy Committee
- Strategic Financial Management Committee

## **ADVISORY COMMITTEES**

Council has established a number of Advisory Committees to provide a vehicle for facilitating and improving community input and participation in the City's decision-making processes. The role of the Advisory Committees facilitates greater community consultation in accordance with the Local Government Act 1995. Advisory Committees comprise community representatives and are resourced by the City.

Advisory Committees provide Council with the opportunity to obtain the views of community representatives and enable elected members to network with a wide range of community representatives on issues of common interest. The opportunity to obtain such view serves to assist elected members to address strategic issues and priorities.

In effect, the Advisory Committees act as advisory bodies to Council by enabling the community to have a clearly defined mechanism for communication with Council.

Advisory Committees are able to make recommendations to the Council as part of the decision making process. Prior to these recommendations being submitted to the Council, as part of the CEO's role in advising the Council, the CEO will ensure officers of the City provide professional advice and may present alternative recommendations to those submitted by the Committees in the report to Council.

The list below details the current Advisory Committees of Council:

- CBD Enhancement Project Steering Committee
- Conservation Advisory Committee
- Joondalup Youth Advisory Committee
- Seniors Interest Advisory Committee
- Sustainability Advisory Committee
- Youth Affairs Advisory Committee

## **AGENDAS AND MINUTES**

Agendas are made available to Elected Members and the public before the Briefing Sessions and Council meetings.

Agendas are comprised of reports prepared by staff. Reports are structured to include information on the background, details, summary and funding of the proposal under consideration. All reports are the professional advice of staff and contain recommendations from the Chief Executive Officer. The decision to adopt, amend or reject a recommendation rests with the Council.

Unconfirmed Council and committee minutes will be made available to the public. The minutes of a meeting comprise all items considered at the meeting and include attendances, all motions, their movers and seconders, the results of the motions and a précis of the discussion.

## **FINANCIAL INTERESTS**

It is the fundamental statutory obligation and duty of an Elected Member of the Council to vote on every item of business discussed at meetings of the Council. However, an Elected Member may be prohibited from presiding and voting in the meeting if that Elected Member, or a closely associated person, has a direct or indirect pecuniary interest in the subject under discussion.

Elected Members' attention is drawn to Division 6 - Disclosure of Financial Interests, Local Government Act 1995 which details disclosure of financial interests in matters affecting local government decisions. This division defines financial interests, closely associated persons, and interests that need not be disclosed by Elected Members.

An Elected Member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by that Elected Member 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.*  
(Section 5.65 (1) Local Government Act 1995)

*An Elected Member who makes a disclosure under Section 5.65 must not:*

- a) *preside at the part of the meeting relating to the matter; or*
- b) *participate in, or be present during, any discussion or decision making procedure relating to the matter, unless, and to the extent that, the disclosing Elected Member is allowed to do so under Section 5.68 or Section 5.69.*

(Section 5.67 Local Government Act 1995)

*Sections 5.68 and 5.69 of the Act detail the circumstances in which Council, Committees and the Minister may allow Elected Members disclosing interests to participate in meetings.*

Failure to comply with certain sections of Division 6 of the Act can result in a penalty of \$10,000 or imprisonment for two years.

There are additional obligations set out in the Standing Orders Local Law.

The Publication 'Financial Interest Handbook' published by the Department of Local Government provides a comprehensive guide to identifying and declaring financial interests and steps to take in safeguarding liability.

It is an Elected Member's responsibility to decide whether or not to declare an interest.

### **INTEREST THAT MAY AFFECT IMPARTIALITY**

Elected Members are required to disclose any 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 interest will be in attendance and/or has given, or will give, advice.

The disclosing of an interest that may affect impartiality 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.

The disclosure of an interest that may affect impartiality does not affect the ability of the Elected Member to discuss or vote on the matter.

**Note:** The Local Government Act 1995 and the City's Code of Conduct require all interests to be declared at the meeting at which the matter is to be discussed, and are to be declared immediately prior to the matter being raised.

### **APOLOGIES AND LEAVE OF ABSENCE**

Elected Members who are going to be absent from a meeting of the Council should submit an apology. For extended periods of absence, Elected Members should apply to the Council for a Leave of Absence. The Council may, by resolution, grant leave of absence to an Elected Member (*Section 2.25 Local Government Act 1995*).

Leave is not to be granted to an Elected Member in respect of more than six consecutive ordinary meetings of the Council without the approval of the Minister of Local Government (*Section 2.25 (2) Local Government Act 1995*).

An Elected Member who is absent, without first obtaining leave of the Council, throughout three consecutive ordinary meetings of the Council is disqualified from continuing his or her membership of the Council (*Section 2.25 (3) Local Government Act 1995*).

## **STANDING ORDERS LOCAL LAW**

The Standing Orders Local Law provides a set of enforceable procedures to assist in the good conduct of meetings to achieve better decision making and a greater community understanding of the business of the Council.

It is recommended that Elected Members familiarise themselves with the provision of Council's Standing Orders. Breaches of the Standing Orders Local Law may be liable for a penalty upon conviction (*Note: Special information sessions on Standing Orders Local Law will be conducted for all Elected Members*).

## **PETITIONS**

A petition received by an Elected Member is to be presented to a Council meeting.

A petition must contain the following items to be treated as such:

- The word 'petition' must appear at the top of the presented document
- Must contain more than two signatures
- Must contain legible names, addresses and signatures of all petitioners
- The nature of the petition must be clearly stated on the document.

## **NO ADVERSE REFLECTION ON COUNCIL DECISION**

An Elected Member is not to reflect adversely upon a decision of the Council except on a motion that the decision be revoked or changed.

## ROLES, RESPONSIBILITIES AND RELATIONSHIPS

Understanding the diversity and individual roles, relationships and responsibilities is the key aspect of achieving successful internal governance. The importance of each person having a sophisticated understanding of the role differences cannot be over emphasised; as is an understanding that only the Council (a majority of elected members sitting in a formal meeting) has the power to make decisions. No individual Elected Member has the power to direct the functions or operations of the CEO or other employees.

The Mayor and Elected Members have many different roles and the manner in which they play out their role and carry out their responsibilities will impact on the relationship they have with the organisation's management and the community as a whole.

The Local Government Act 1995 sets out a framework for the way in which local governments in general are to operate. It specifies the roles and responsibilities that are to be undertaken within each local government.

Specific roles are given to the Council, the Mayor, Councillors and the CEO.

### THE ROLE OF COUNCIL

Under the Act the City of Joondalup is a body corporate and is charged with the following responsibilities:

- (a) *Directs and controls the City of Joondalup's affairs;*
- (b) *Is responsible for the performance of the City of Joondalup's functions*
- (c) *Oversees the allocation of the City of Joondalup's finances and resources;*  
*and*
- (d) *Determines the City of Joondalup's policies.*

The following guidance is provided on the range of scope of these responsibilities:

- Directs and controls the City of Joondalup's affairs

This role encompasses strategic planning mechanisms to ensure the continued sustainability of the organisation, the setting of strategic goals for the organisation and the monitoring of the City's performance against these strategic goals.

- Is responsible for the performance of the City of Joondalup's functions.

This role determines that Council has ultimate responsibility for the performance of the City's functions. Council can exercise this responsibility through the development of appropriate governance frameworks including delegations of authority, the determination of an appropriate organisational structure, the provision of services and facilities, and regular reporting against objectives.



- Oversees the allocation of the City of Joondalup's finances and resources

The Council exercises this role by overseeing and adopting the City's Strategic Financial Plan and Annual Budget. Council is advised by officers of the City who are responsible for the professional development of appropriate financial controls and strategic documents.

- Determines the City of Joondalup's policies

The role of Council in setting policy is most effective when it is linked with a professional organisation that implements these policies through the development of appropriate management practices and work processes. The policies of the Council provide the direction for the ongoing management of Council activities.

The general function of local government is 'to provide for the good government of persons in its district. This general function is the basis of the City of Joondalup's powers.

The role of Council can be further categorised into three key areas:

### **Legislative**

The Council is responsible for adopting a set of local laws that reflect current community standards and provide for the good governance of the City.

The Local Government Act outlines the process by which the City may adopt local laws. This legislative role allows the City to adopt a regulatory regime that may be enforced through the courts, by the issue of infringement notices or by performing other executive functions to enforce the local laws. When adopting local laws the Council must be aware that they operate with the force of legislation and ***the City has a duty to enforce all of its local laws.***

The process for adopting local laws provides the community with the opportunity to comment on proposed local laws. After the purpose and effect of a local law is read out at a Council meeting there is a six-week advertising and submission period. The local law is then presented once more to Council and any public submissions are considered. Upon final adoption the local laws are gazetted and considered by the Western Australian Parliamentary Committee on Delegated Legislation. Local laws must also comply with the National Competition Policy principles adopted by agreement between local, state and federal governments.

The City maintains local laws relating to:

- Animal Local Law 1999
- Bushfire Prevention & Control Local Law 1998
- Extractive Industries Local Law 1998
- Health Local Law 1999
- Local Government and Public Property Local Laws 1999
- Local Law S5: Standing Orders
- Parking Local Law 1998
- Private Property Local Law 1998
- Signs Local Law 1999
- Trading in Public Local Law 1999

## **Executive**

The Council is responsible for overseeing the executive functions of the City. The executive functions of the local government are to provide services and facilities. Section 3.18 of the Local Government Act states:

- (1) A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act;
- (2) In performing its executive functions, a local government may provide services and facilities.

Local government can, therefore, administer local laws and provide services and facilities in order to provide for 'the good government of the district'.

A local government must satisfy itself that the services and facilities it provides:

- a. Integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- b. Do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and
- c. Are managed efficiently and effectively.

## **Quasi Judicial**

The Council is responsible for applying factual situations to the legislative regime in a quasi-judicial manner under aspects of the Local Government Act, Town Planning and Development Act and other relevant legislation.

## **Planning and Development Functions**

The Council of a local government has particular responsibilities under the Town Planning Legislation. Council has a quasi-judicial role in deciding on development applications in certain instances.

The controls and procedures for assessment of development applications are set in place by a statutory framework and Council's are responsible for undertaking this role in accordance with the Town Planning Legislation and relevant Regulations.

Councils are required to decide on planning matters in an unbiased manner that satisfies the principles of administrative law and natural justice / procedural fairness. Whilst it is recognised that lay members of the community constitute Councils, they must exercise their discretion over planning matters in a way that is mindful of this quasi-judicial role.

The City employs specialist-planning officers to draft reports and provide Council with all the information on the facts of a particular planning matter and the relevant law that is applicable.

There may be some occasions when Elected Members feel that they do not have enough information to make a decision. The best time to get information is prior to the meeting by contacting the CEO.

Council, in deciding on planning matters must take care to ensure that the following principles are adhered to:

- (a) Elected members must read the officer's report on the matter before voting at a Council meeting. An elected member who has not read the officer's report who participates in the decision making process without a full understanding of the issues at hand may jeopardise the validity of the decision making process.
- (b) Elected members must ensure when they debate a planning matter under consideration that they restrict themselves to the relevant matters of fact and law. These relevant matters will be contained and addressed in the officer's report. Where Council conducts a debate on a matter that is based on irrelevant considerations, or fails to take into account relevant considerations, this may jeopardise the decision making process.
- (c) Council must be careful when making a resolution that is different to the officer recommendation. *In resolving differently from the recommendation the Council is required to include reasons for the variation from the recommendation. These reasons must take into account the relevant considerations of fact and law and must not be based on irrelevant considerations.*
- (d) If a development has the potential to impact on neighbours and/or the locality, and where a statutory obligation exists, Council has a duty to ensure that consultation occurs in relation to that development. The officer report will include details of any neighbour notification or consultation that has occurred. Council must ensure that neighbours that may be adversely affected by a proposed development have had an adequate opportunity to put their case, and that any relevant matters that they raise have been considered in the decision making process. An opportunity to make a written submission is generally sufficient, though an opportunity to make a submission in person to a relevant meeting may be appropriate where a person with a sufficient interest requests it.

Any submission must be made on the basis of town planning principles. Council has the role of testing submissions, whether made by the applicant or another party, and the applicant must be accorded a right of reply.

Generally, Council as a body, and each Elected Member individually, must be certain that they have a clear understanding of the relevant facts and law before making a decision. This decision must be based on the relevant considerations and should not take into account irrelevant considerations.

## **Town Planning Schemes**

Local Government is required under the Town Planning and Development Act to have in place a Town Planning Scheme for the district. A Local Government Town Planning Scheme is required to be consistent with the Metropolitan Region Scheme, which is administered by the State Government. The Local Government Town Planning Scheme must also take into consideration State Government Town Planning Strategies, Plans and Policies.

A Town Planning Scheme provides a legal framework for a range of functions including:

- Providing land use and development controls;
- Supporting housing choice, variety and amenity;
- Providing the mechanism for the development of convenient and attractive retail centres;
- Assisting economic development through facilitation of commercial, industrial and business development to maximise job opportunities;
- Establishing high quality open space areas and protecting areas of environmental significance;
- Assisting in the provision of a transport network, which serves the needs of the community by providing a range of alternative networks catering for different transport modes, which are closely integrated with land use considerations.

The provisions of a Town Planning Scheme are formulated through a collaborative and consultative process involving the State Government, Local Government and the community. The State Government, through the Minister for Planning and Infrastructure provides final approval to the contents of a Town Planning Scheme and once gazetted a Scheme comes into operation and has the force of law. The authority to operate its Planning Scheme is delegated to the City of Joondalup by the State Government.

A Town Planning Scheme requires review every five years. This is to ensure that the Scheme continues to meet changing community needs and expectations. This review process is facilitated by the Local Government and involves community input.

At the present time the City operates under District Planning Scheme No 2 (often referred to as DPS2), which was gazetted in November 2000.

Amendments can be made to an operative Town Planning Scheme to vary the Scheme provisions. An amendment to a Scheme again involves a range of stakeholders including the Local Government, the State Government and the community. The Minister for Planning and Infrastructure provides the final decision in relation to a Scheme Amendment.

Local planning policies are also used to support and guide the implementation of the Scheme. These planning policies include the City's Home Business and Child Care policies. Planning policies can be developed to also provide guidance, detail and consistency of treatment with respect to amenity and other relevant planning issues.

Importantly, Local Government Town Planning Schemes incorporate by reference the Residential Design Codes (R-Codes), which is the planning policy

of the State Government providing detailed development control for residential development. The State Government revises the R-Codes from time to time.

The role of a Council in administering a Town Planning Scheme includes:

- Consideration of development applications
- Consideration of subdivision proposals
- Consideration of Town Planning Scheme Amendment proposals (whether suggested by the City or by a customer)
- Enforcement of Town Planning Scheme provisions
- Development of planning policies
- Review of existing Town Planning Scheme
- Formulation of new Town Planning Scheme

Council is provided with the professional advice from specialist planning officers in exercising its role in relation to each of these matters. This advice will provide Elected Members with detailed information relating to the particular Town Planning issue requiring Council consideration. In certain circumstances applicants have rights of appeal to challenge a planning related decision of the Council. It is therefore important for Elected Members to gain a full understanding of the issues and follow proper process before reaching a decision.

The State Administrative Tribunal (SAT) reviews decisions made by Local Government regarding a range of matters including town and regional planning. Individuals, organizations and Government agencies can apply to the SAT to make decisions, settle disputes and review decisions under a range of enabling laws.

The District Planning Scheme No. 2 permits Council to delegate its decision-making powers to certain qualified persons or Committees, subject to certain conditions. This is important in terms of allowing those applications that meet certain criteria to be determined by staff. The criteria used for determining the types of development that can be decided by staff is set out in a Notice of Delegation, which is reviewed bi-annually. The Notice of Delegation can be reviewed earlier as determined by Council or at the request of staff.

All decisions made under delegated authority are binding and represent a 'Council decision'. The following positions of Council have varying degrees of decision-making powers under the Notice of Delegation:

- Director Planning and Community Development;
- Manager Approvals Planning and Environmental Services;
- Coordinator Planning Approvals; and
- Senior Planning Officers.

The delegation is necessary in order to permit:

- Council to focus on strategic matters and major developments that are beyond the Notice of Delegation; and
- The large volume of development applications received by the City to be dealt with in an efficient and effective manner.

## ROLE AND RESPONSIBILITIES OF MAYOR

Whilst there are a number of provisions within the Act outlining the role and functions of the position of Mayor it should be understood that he/she is a key public official. In the pursuit of good governance, from an internal and external perspective, the Mayor performs an important function. The Mayor is elected to represent the views and directions of the Council in the performance of the role.

The Act in section 2.8(1) defines the role of the Mayor as follows:

*The mayor –*

- (a) presides at meetings in accordance with this Act;*
- (b) provides leadership and guidance to the community in the district;*
- (c) carries out civic and ceremonial duties on behalf of the Local Government;*
- (d) speaks on behalf of the Local Government;*
- (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and*
- (f) liaises with the CEO on the Local Government's affairs and the performance of its functions.*

The Mayor even though elected by the community has the following additional responsibilities, which are similar to councillors and outlined in section 2.10 of the Act:

- (a) represents the interests of electors, ratepayers and residents of the district;*
- (b) provides leadership and guidance to the community in the district;*
- (c) facilitates communication between the community and the council;*
- (d) participates in the Local Government's decision-making processes at council and committee meetings; and*
- (e) performs such other functions as are given to an elected member by this Act or any other written law.*

The roles and duties of the Mayor can be categorised as:

- Governance
- Chair of Council
- External relations
- Media management
- Supporting the community
- Civic and Ceremonial.

The 'Governance' and 'Presiding Member of Council' functions of the Mayor are critical to good governance as they cover leadership of the City and the community, and ensure that the decision-making processes are fair, equitable and inclusive.

The Mayor will be seen to support good governance by modeling good behaviour and ethics in fulfilling the leadership roles. The Mayor has a pivotal role in both the pursuit and demonstration of good governance.

A very specific role that the Mayor has is in representing and advocating the decisions of the Council. Section 2.8(1)(d) of the Act provides that the Mayor speaks on behalf of the City.

The position of Mayor is pre-eminent and when he/she speaks they are considered by the community to be articulating the Council's views. The Mayor must put aside his/her individual views and clearly outline the views of the Council decision in an all-inclusive way.

Where the Mayor desires to speak contrary to the position of the Council he/she must preface the comments that they are expressing as an individual opinion.

## **ROLE AND RESPONSIBILITIES OF THE DEPUTY MAYOR**

The Deputy Mayor may perform the functions of the Mayor if:

- a) the office of Mayor is vacant; or
- b) the Mayor is not available or is unable or unwilling to perform the functions of the Mayor.

*(Section 5.34 Local Government Act 1995)*

## **ROLES AND RESPONSIBILITIES OF THE ELECTED MEMBERS**

At the outset it is necessary to understand the legislative framework within which the Elected Members operate and from where they derive specific details of their roles and responsibilities.

It is important to note that an individual Elected Member, unless delegated, as a part of a Committee arrangement has no authority to participate in the day-to-day management or operations of the Council, including making any form of representation on behalf of the Council.

It is important to note that Elected Members have no direct authority over employees with respect to the way in which they perform their duties.

Within the Act, Section 2.10 outlines the role of Councillors/elected members as follows:

*A councillor —*

- (a) represents the interests of electors, ratepayers and residents of the district;*
- (b) provides leadership and guidance to the community in the district;*
- (c) facilitates communication between the community and the council;*
- (d) participates in the Local Government's decision-making processes at council and committee meetings; and*
- (e) performs such other functions as are given to a councillor by this Act or any other written law.*

The Council and Elected Members have a number of roles to undertake and they must do this with the support of the CEO. One of the challenges for good governance from an elected member viewpoint is to be provided with the opportunity to raise specific issues so as to get a fair hearing. Many of these issues may have been the platform on which the Elected Member was elected. The Mayor and CEO all have an important role to play in this process as well as the fellow Elected Members.

## ROLE AND RESPONSIBILITIES OF THE CHIEF EXECUTIVE OFFICER

The functions of the CEO are outlined in Section 5.41 of the Act. Earlier reference was made to liaising with the Mayor.

The full range of defined functions are-

- a) *advise the council in relation to the functions of a Local Government under this Act and other written laws;*
- b) *ensure that the advice and information is available to the council so that informed decisions can be made;*
- c) *cause council decisions to be implemented;*
- d) *manage 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 section 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.*

The CEO has a statutory responsibility to manage the organisation through the implementation of goals and strategies that have previously been approved by the Council.

The most important role the CEO plays in promoting good governance is through the development of a culture that sees the elected members and the Council as the peak decision making body and that management exists to support the Council in the delivery of good governance.

A key accountability of the CEO is financial management. While Council has overall accountability, the administration and its key management staff have critical responsibilities for managing the organisation soundly from a financial perspective and reporting the results to the Council.

The Act enables the Council to delegate in writing to the Chief Executive Officer, the capacity to exercise any of its powers or duties, with the following exceptions: -

- (a) actions in which a decision of an absolute majority or a 75% majority of the Council is required;
- (b) acceptance of a tender, which exceeds an amount as determined by the Council;
- (c) appointment of an auditor;
- (d) acquisition or disposal of any property valued at an amount exceeding an amount determined by the Council for the purposes of this paragraph;
- (e) any of the Council's powers under Sections 5.98, 5.99 or 5.100 (*determining fees, allowances and expenses of members and Committee members*);
- (f) borrowing money on behalf of the City;
- (g) hearing or determining an objection of a kind referred to in Section 9.5;
- (h) carrying out any power or duty that requires the approval of the Minister or the Governor; or
- (i) such other powers or duties as may be prescribed.



Delegations of authority are required in order to provide officers of the City with the power to exercise duties and make determinations. It is essential that the City's delegations be performed in a manner that is in accordance with the adopted governance framework and is compliant with the relevant legislation. The City is required to keep records on the exercise of its delegations.

Under the Local Government Act both the Council and the Chief Executive Officer are given certain functions and duties to be discharged. Council may delegate authority to perform some of its functions and duties to the Chief Executive Officer.

The Chief Executive Officer may delegate to any other officer the authority to perform functions and duties that are exercisable by the Chief Executive Officer under the Act or that have been delegated to the Chief Executive Officer by the Council (with the exception of the power to delegate).

This accords with a governance framework whereby staff are responsible to the Chief Executive Officer and the Chief Executive Officer is responsible to Council. Similarly, the implementation of Council decisions and instructions are conducted by the Chief Executive Officer, who may delegate some of this responsibility to other officers of the City.

All delegations by the Council are reviewed on at least an annual basis.

The use of delegated authority means that routine matters can be acted on promptly and this facilitates efficient service delivery to the community. Delegated authority also allows Council to concentrate on policy development, representation, strategic planning, and community leadership.

In summary the CEO is responsible for:

- Putting in place appropriate systems to achieve accountability and integrity;
- Implementing and maintaining a management structure which can achieve Council's vision and Strategic plan;
- Managing relationships between the various elements in the Local Government;
- Ensuring that the organisation is staffed by suitably qualified and motivated staff and that policies are in place which promote this; and
- Ensuring that staff are aware that the administration is working for a democratically elected Council and that Council decisions form the basis for the administration's activities.

The table below depicts the separation of roles between the Council (directing and controlling the affairs of the local government) and the CEO (managing day-to-day operations)

COUNCIL	CEO
Sets direction	Provides professional and technical advice to the Council
Responsible for the performance of the City of Joondalup's functions	Implements the decisions of Council
Decide on matters of policy	Liaise with the Mayor
Ensure that services and facilities are integrated with and do not unnecessarily duplicate other public services	Manages the day-to-day operations
Oversee the allocation of the City of Joondalup's finances and resources	Responsible for the employment and management of staff
Monitor performance through the CEO to ensure efficiency and effectiveness in service provision	
Mayor to liaise with the CEO and preside at Council Meetings	

The following quotation exemplifies the distinction between the governance role of the Council and the management role of the CEO:

*There is a world of difference between governance and management. Governance involves the responsibility for approving the mission and goals of the institution; the oversight of its resources; the approval of its policies; ...and an informed understanding of its programs and activities. Management, in contrast, involves the responsibility for the effective operation of the institution and the achievement of its goals within the policies ...set by the board; the effective use of its resources;...the responsibility of a board is to govern but not to manage. 'Noses in, fingers out' remains sound and tested advice to board members.*

*Glion Declaration II: The Governance of Universities*

## **WORKING RELATIONSHIPS**

Elected members are members of a team, elected by their communities to work collectively in the interest of the whole community. The achievement of good outcomes for the local area is dependent on a mature and constructive working relationship between Elected Members.

Elected members should behave in a manner that generates community trust and confidence in them as individual Council members and enhances the role and image of both the Council and the Local Government generally. Elected Members are expected to:

- Conduct their ongoing relationship with other Elected Members, Council employees and the community with respect and courtesy;
- Act within the law at all times
- Act in good faith and not for improper or ulterior motives
- Act in a reasonable, just and non discriminatory manner;]
- Undertake their role with reasonable care and diligence

The Local Government Act requires Council's to prepare and adopt a Code of Conduct to be observed by the Members of the Council. The Code of Conduct is a public declaration of the principles of good conduct and standards of behaviour that the Council agrees individual Council Members should conform to when carrying out their role. It also provides guidance to Council Members about carrying out their duties and responsibilities.

### **WORKING RELATIONSHIP BETWEEN MAYOR AND ELECTED MEMBERS**

The relationship between a Mayor and Elected Members is critical to good governance. Elected Members are part of a team elected by the community to work collectively in the best interest of the whole community.

The Act provides that the Mayor has responsibility for presiding at meetings as well as providing leadership and guidance to the community.

The Mayor as the Presiding Member of the Council needs to play an integral and influential role both within the meetings and outside of the formal process by facilitating and encouraging all points of view to be expressed and respected. This will enable Elected Members who may not have their point of view supported by the majority, satisfied that they have been given a fair hearing and the process is transparent.

Through this facilitation role, the Mayor can manage conflict and differing opinions in a constructive manner. The complexity and diversity of opinion in the community, and therefore of elected members, can be made to work in the broader interest of the local government as a whole, rather than be a source of division.

The Mayor is also a first point of contact for elected members who wish to achieve a particular goal. This is especially true for newly elected members. Amongst other things, local government involves the need to bring many diverse and sometimes-conflicting goals together. By advising, supporting and facilitating negotiations, the

Mayor can assist this process considerably, and in so doing; assist Elected Members to meet their accountabilities to their communities.

This advisory and support role of the Mayor is possibly the single most important contribution to good governance a Mayor can make. It requires great skill and experience and as such, is critical to the overall operation of Council.

The Mayor's role of presiding at all meetings of the Council is an onerous one in order to achieve a balance of opinion and an outcome that demonstrates leadership by the Council in the community. The most important aspect of the role is a good understanding of meeting procedures and a detailed knowledge of the City's Standing Orders. This will enable the Mayor to provide impartial interpretations and to ensure the smooth flow of the meeting. Training programs are available and the Administration encourages Elected Members to participate in such programs on an ongoing basis in order to assist with an understanding and knowledge of the processes of local government.

As a community leader the Mayor will be called upon to represent the Council at many civic and ceremonial functions including the need to conduct the role as "host" of many Council activities. The Mayor should be familiar with etiquette and protocol arrangements and familiarise themselves with the expectations of greeting guests in a formal manner. Any speeches made on these occasions should not be used to present a point of view contrary to a decision of Council.

In summary the important aspects of the Mayor/Elected Member relationship are the following:

- The Mayor is the Presiding Member of the Council and this role should be respected by all Elected Members;
- The Mayor should facilitate an inclusive approach to decision-making and involvement in Council activities in general;
- The Mayor should assist elected members to get their issues considered by the Council
- The Mayor should take some responsibility for Elected Members training and development and should work with the CEO to ensure that Elected Members receive necessary training opportunities; and
- The Mayor is a source of assistance for Elected Members and also has the responsibility for facilitating resolution of any disputes between Elected Members in accordance with the process outlined in the Code of Conduct.

## WORKING RELATIONSHIP BETWEEN MAYOR AND CEO

The functions of the CEO are outlined in Section 5.41 of the Act. Two of these functions specifically relate to the CEO relationship with the Mayor:

*(e) Liaise with the mayor or president on the Local Government's affairs and the performance of the Local Government's functions; and*

*(f) Speak on behalf of the Local Government if the mayor or president agrees;*

It should be noted from the above extracts of the Act that both the Mayor and the CEO have a role to liaise with each other on the local government's affairs and the performance of the local government's functions. They also have a cross over of responsibilities in relationship to speaking on behalf of the City. Whilst this right rests with the Mayor there are occasions when it is considered prudent for this function to be undertaken by the CEO.

Both of these matters involve the development of a clear relationship and an understanding of the limits of each other's authority.

The Act does not spell out how the liaison is to occur and as such the Mayor and the CEO of the day of the City of Joondalup will adopt an approach that suits their circumstances. The overall essential principles that must be followed are the ability to effectively communicate and to have a large degree of trust in each other as well as respecting each others opinion and role in delivering good governance to the people of the City of Joondalup.

The essential principles for an effective Mayor/CEO relationship are:

### *Communication*

- Both parties are in a position to brief and inform the other about information each is privy to and which would assist the other in doing their job. Deciding on what information is important and what should be passed on to each other must be negotiated and understood;*
- Regular meetings – over and above those scheduled to discuss specific issues or problems – are necessary to enhance planning and communication; and*
- The “no surprises” principle should apply. The Mayor and CEO should brief one another so that neither is caught off guard within other forums.*

### *Role clarity*

- The Mayor and the CEO need to understand and respect one another's role. A clear understanding of their different roles is absolutely crucial and should be a subject of ongoing discussion;*
- There is a power of differential, which should be acknowledged. While the Mayor has status and leadership capacity, the position has no direct authority in its own right. On the other hand, the CEO has direct authority through the Act. It can be frustrating for the Mayor and elected members that they can't just “fix” problems that come to their attention, while the CEO has this capacity.*

Features of a good and effective relationship between the Mayor and the CEO are:

- The need to work closely together and put energy into achieving a good working relationship;
- A relationship characterised by consistency, openness and good communication. Each has the responsibility to keep the other informed about important and relevant issues. Open communication ensures that an understanding develops about what is important and relevant;
- An understanding that each has different roles and authorities. While the Mayor is the leader of the local government, this position has no specific authority while the CEO has particular authorities under the various sections of the Act.
- The need for the relationship between the Mayor and the CEO should aim to facilitate involvement and inclusion amongst the elected representatives and the administration. It does not seek to concentrate power in the relationship; and
- Consistent communication and regular fixed meetings.

#### **WORKING RELATIONSHIP AMONGST ELECTED MEMBERS**

All Elected Members have issues of particular concern and interest to them. Given the open nature of the local government system and the absence of structures, which exist at the State, and Federal levels of government, Elected Members need to work together to achieve satisfactory outcomes.

Given this interdependency, Elected Member relationships should be characterised by mutual respect and an acknowledgement that, while they may not agree on all issues, they are all doing important, and often difficult work.

When thinking of a Parliament, people often envisage an adversarial environment in which political groupings try to beat their opponents through debate and often abuse. In contrast, the “small group” nature of the Council ideally features an environment where good relationships, respect and an appreciation of constructive diversity lead to good decision making and an opportunity for each Elected Member to deliver on their individual platforms.

At times, the very nature of local government will lead to conflict. How this conflict is addressed has implications for good governance. The role of the Mayor has been discussed, and this role, together with an appreciation of the particular dynamics at play, will assist in facilitating good governance.

With regard to behaviour in the Council Chamber, Elected Members should model good constructive relationships and show personal respect for one another. There is not the requirement to agree with every Council Member's opinion, but there is the need to respect those opinions and allow other members to be free to express their opinions.

Elected members need each other to achieve their individual and collective goals. Effective relationships between elected members assist in achieving a successful Council, a pleasant working environment and a Council with public credibility.

Features of an effective relationship are:

- While they may have different views, Elected Members should treat each other with respect and courtesy;
- Disagreements, if they must be aired, should be expressed in ways that are not personal attacks, and do not cause detriment to individual elected members or the Council as a whole;
- Elected members should not undermine each other, either within the Local Government or in public, and
- Elected members must have effective working relationships in order to succeed individually and collectively;

### **WORKING RELATIONSHIP BETWEEN ELECTED MEMBERS, THE CEO AND EMPLOYEES**

One of the most complex issues in local government that is critical to good governance is the relationship between the Elected Members and the CEO and employees.

Elected Members need support to manage pressures in such a way that their constituents feel their issues or concerns are being heard, but appreciate that their demands cannot always be met. Advice and support on consultation and engagement, good systems that refer complaints and queries to the relevant area for addressing, and responsive services and processes will all assist in furthering good governance.

A clear understanding by the Elected Members that the role of the CEO and employees is to implement Council's goals, strategies and services and to advise and support the Council, is important in fully understanding the process by which local government operates.

The CEO and Elected Members are likely to be in regular contact about issues, problems and information. As with the Mayor/CEO relationship, a level of trust needs to be fostered which in turn, is based on good communication and understanding of each other's roles and functions.

A number of factors contribute to a good relationship between elected members and the CEO and employees. These include:

- Goodwill,
- A clear understanding of each other's roles,
- Good communication,
- Agreed structures and protocols,
- An appreciation of legislative requirements; and
- Clear delegations.

While the elected body and the CEO and employees have different roles, this is not to say that each doesn't have a legitimate interest in the others role. It is crucial that appropriate channels for information, discussion and consultation be developed to allow for the legitimate interest the elected body has in the role in the CEO and the employees, and the legitimate interest of the CEO and employees in the role of the elected members.

## **RELATIONSHIP AND CONTACT BETWEEN ELECTED MEMBER AND EMPLOYEES**

The City of Joondalup, like most Councils, grapple with the issue of direct contact between individual Elected Members and employees versus contact through the CEO and Directors.

Individual Elected Members should not seek to foster special relationships with employees for the sole purpose of seeking information that may not otherwise be available to all Elected Members. Elected members and employees are entitled to privacy and protection from inappropriate behaviour. This includes unauthorised access to the Council administration area.

Some issues to consider are:

- Elected Members need to understand that accountable advice needs to go through an organisational process. Advice must be sought through the CEO or Directors. Elected Members should not seek advice from other employees as the employee may have a particular interest in promoting the issue, but may not be in command of the full facts of the issue.
- Employees are accountable, through the CEO, to the whole Council. They are not accountable to individual Elected Members and are not required to take direction from them.



## **ELECTED MEMBER ACCESS TO INFORMATION**

One of the areas that cause many issues is the access by Elected Members to information that enables them to undertake their role as an elected member. Section 5.92 of the Act provides that an Elected Member can have access to any information held by the local government that is relevant to the performance of their functions. Additionally Section 5.96 of the Act provides that if a person can inspect information then they may request a copy.

In response to the requirements of the Act the City of Joondalup has developed a policy relating to access to information by elected members.

### **SUMMARY**

The comment on the role of the Elected Members in this section is to provide an insight into the role that they need to play in their relationships with their fellow elected members, Mayor, CEO and employees.

The fundamental role differences between the Council and the CEO and employees underpin the relationship. The focus of the Council and Elected Members should be on strategy, policy and outcomes. That is, who is to benefit from the local government's activities and in what way. The CEO and employees role is to focus on advice, implementation and operations.

*Taking into account these role differences, the features of an effective relationship between the Elected Members and the CEO and employees are:*

- *A mutual understanding, acceptance and respect for each others' roles;*
- *A preparedness to identify, discuss and resolve issues and problems if they arise; and*
- *On the part of the administration, a respect for and commitment to democratic governance and the primacy of Council in the local government structure.*

## GOVERNANCE PRINCIPLES

The following principles are contained in the *‘Excellence in Governance in Local Government’ Guide developed by CPA*. The principles provide the foundation for good governance and a means for assessing the extent to which good governance is occurring at the City of Joondalup. The principles are the ‘what’.

### ➤ **Culture and Vision**

There is a positive culture that promotes openness and honesty, in which constructive and respectful questioning is encouraged and accountability is clear.

There is a clear vision and strategic plan that is produced through a comprehensive and inclusive process, which is owned by all sectors of the local government.

### ➤ **Roles and Relationships**

There is clarity about the roles of local government and there exists a sophisticated approach to defining and implementing these.

There are effective working relationships that are promoted and supported within and between the Mayor, Councillors, CEO and administration.

### ➤ **Decision-making and Management**

There are effective decision-making processes in place that reflect the transparency and accountability which underpin excellence in local government.

There should be robust and transparent financial management established and maintained to meet the City’s accountability to its stakeholders, particularly in terms of stewardship of community assets, both now and into the future.

An effective approach to the identification, assessment, monitoring and management of risks should be established and maintained.

Effective delegations should be implemented and maintained.

### ➤ **Accountability**

The City must account for its activities and have systems that support accountability

The City should have an active performance management system in place that enables elected members and management to be openly accountable for their performance.

The City should establish internal structures that provide for independent review of processes and decision-making to assist the Council to meet its accountability to stakeholders.

Consultation should be undertaken that is appropriate to the scope and potential impact of the matter. It should respect the position and opinion of all stakeholders. The outcomes of the consultation should be taken into account when the decision is made and feedback should be provided to those who participated.

## **GOVERNANCE CHARTER**

For each of the Governance Principles a set of elements is outlined in the Governance Charter. This Charter commits the Council Members and the Management to a set of practices in order to turn the principles into a reality. The Charter is the 'how'.

### **CULTURE AND VISION**

#### **Support for frankness, honesty and questioning**

Council Members will debate issues openly and honestly. Staff members will provide frank and timely advice to the CEO and senior management, and the CEO and senior management will provide sound and frank advice to Council and Council Members.

#### **Innovation**

The City will consider new and better ways of going about its business in the achievement of its goals. Innovation will, though, be assessed critically by using appropriate risk management and other analysis.

#### **Effective management structures and practices**

The organisation will develop a management structure that meets its goals and needs and the structure will be characterised by efficient and effective use of human resources and clear accountability.

Management practices will reinforce accountability and outcomes and incorporate the nurturing of people's capacities to do their jobs.

#### **Communication**

The City will have effective communications policies and practices, internally and externally and will be open to, and encourage, feedback from all stakeholders.

#### **Learning and Feedback**

The City will invest in training both for Elected Members and officers and the learning will be focused on what is required to achieve organisational goals.

Training for Elected Members is important and training will be offered to elected members to assist in the development of skills required to fulfil their roles properly.

#### **Ethical behavior**

Good governance is characterised by honesty and integrity. Council Members will behave in a way that generates community trust and confidence in them as individual Council Members and enhances the role and image of both the Council and Local Government generally.

## **GOVERNANCE CHARTER**

Council Members and staff are expected to own and adhere to the City's core values of:

- Vibrancy,
- Innovation,
- Responsiveness,
- Respect,
- Trust,
- Safety, and
- The Code of Conduct.

The City will review the values and Code of Conduct following each election to include Council Members in their development.

### **Induction**

The City's positive culture will be communicated to Elected Members and staff through effective induction programs.

Induction and Training for Elected Members will assist them to understand local government, governance in local government and how to operate effectively to produce good outcomes for their community. The Induction Program will focus on:

- The differing but complementary roles of Elected Members and officers;
- Working relationships;
- Decision making processes;
- Responsibility, accountability and delegations;
- Code of Conduct;
- Organisational values and culture

### **Vision**

The City will have in place a strategic/corporate planning process that includes a Strategic Plan, Strategic Financial Plan, Annual Plan, and Business Plans. All stakeholders will have the opportunity to participate in the development of the Strategic Plan and the Strategic Financial Plan, and these documents will form the basis for the Annual Plan, business Plans and budget and will underpin policy development and service delivery.

Everyone at the City will be expected to have a good understanding of the Strategic Plan and the Strategic Financial Plan and the direction in which Council is going.

## **ROLES AND RELATIONSHIPS**

### **Roles**

An understanding and acceptance of the different roles, and cooperation between all parties underpins good governance at the City. The relationships between Council Members, and Council Members and the CEO will respect the diversity of opinion and the rights of all points of view to be heard with courtesy and respect.

## **GOVERNANCE CHARTER**

The City recognises that the Mayor has a general leadership role. The Local Government Act recognises the role of the Mayor, as the spokesperson for the City, to carry out civic and ceremonial functions of the mayoral office, and to chair the Council. The City places great importance of the role of the Mayor as chair of the Council as well-chaired meetings facilitate good decision-making.

The City recognises that the Mayor's leadership role is very important when it comes to good governance. The Mayor will seek to ensure that all councilors are a part of the decision-making process, and will help councillors to balance their accountabilities to their constituents and their accountability to the Council as a whole and therefore to the whole community.

The Mayor will also facilitate good relationships between the Councillors and the administration and help to create an environment where good communication, systems and processes can thrive.

Councillors will focus on outcomes, policy and strategy and in so doing will be expected to:

- Represent and advocate on behalf of their constituents at the Council level;
- Facilitate communication between council and the community;
- Debate the issues in an open, honest and informed manner to assist the decision making process;
- Keep the entire community in mind when considering and addressing issues and focus on the 'big picture';
- Educate and involve the community in all local government activities and processes;
- Work together, cooperate and respect diversity, and
- Provide model leadership and good governance.

Council recognises the CEO's role in managing the organisation to achieve the goals and strategies endorsed by Council, and the CEO will be expected to fulfil these duties in a way that promotes an organisational culture of openness, accountability, fairness and good communication.

### **Working Relationships**

An effective relationship between the mayor and councilors will help to promote the successful delivery of the Strategic Plan and the credibility of the City. The relationship will be based on mutual respect and understanding of the different roles and will be based on:

- The mayor has a leadership role and this role should be respected by all councilors
- The mayor will facilitate an inclusive approach to decision making and involvement in Council activities in general
- The mayor will assist other councilors to get their issues considered by council
- The mayor will take some responsibility for councillor's training and development and will work with the CEO to ensure that Councillors receive necessary training opportunities
- Councillors will treat each other with respect and courtesy;

## **GOVERNANCE CHARTER**

The Mayor and CEO will work closely together and the relationship will be characterised by openness and good communication, and each will keep the other informed about important and relevant issues.

## **DECISION-MAKING AND MANAGEMENT**

Decision-making is the most important activity undertaken by Council. Effective decision making processes will increase the likelihood that the decisions themselves will be in the best interests of the entire community.

The City will have an effective and efficient strategic planning process in place, and processes to ensure that Council Plans are properly implemented.

The CEO will ensure that Council receives quality and timely reports with all the necessary information, options and clear recommendations, including financial impacts and any associated risks.

### **Financial Management**

The Council is ultimately responsible for the financial management of the City of Joondalup. Good financial governance requires both council and the administration to play their roles.

Council will develop a long-term financial plan (Strategic Financial Plan) that is consistent with the Strategic Plan, and all risks will be identified with mechanisms put in place to minimise such risks. Community input will be sought at an early stage so that such input can help to shape the plan.

Council will ensure that it receives sufficient reports and other information to adequately monitor its performance, resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery.

### **Risk Management**

Council will support and be committed to a risk management program at a policy and strategy level, and the CEO and senior management will ensure processes are in place for identifying and managing risk and responding to and minimising such risks.

### **Delegations**

Delegations are a part of the City's decision-making approach. They represent the policy of the council to entrust certain types of decisions to the CEO or Committees. All delegations should be in the context of Council policy that provide guidance to the delegate to make decisions that are consistent with the council's desire policy outcomes.

Delegations of authority will be established, maintained and documented by the council to empower the actions of delegates so that Council can retain oversight of and accountability for the decisions made by delegates. Decisions made under delegation will be reported to the council on a regular basis, and records of delegations will be retained in accordance with legal requirements for document retention and record keeping.

Council will review delegations at least once every term.

## **GOVERNANCE CHARTER**

### **ACCOUNTABILITY**

The City will have accountability systems that provide disclosure and review of decision-making and processes. These systems will record and support the City's accountability to its stakeholders and its legal accountability to the State Government.

#### **Performance Management**

The Council is accountable for monitoring performance in the achievement of its strategic direction, goals and financial outcomes which are set through the Strategic Plan, Strategic Financial Plan, Annual Plan and Annual Budget.

The City will have a reporting system in place to provide the Council with the necessary information to enable it to assess performance against the plans. The reporting system will be a systematic and regular process that will allow the Council to take action to rectify any issues that arise and be accountable to the community.

The Council is accountable for managing the CEO's performance. The Council is responsible for setting the CEO's performance plan and subsequently monitoring his performance. Council will communicate its expectations to the CEO, and will consider seeking independent professional advice when undertaking the performance evaluation of the CEO.

#### **Audit Committee**

Council will establish an audit committee to oversee and advise the council on matters of accountability and internal control.

#### **Consultation**

Council recognises that Consultation is a two way interactive process that provides opportunities for the Council and community to clarify information, raise issues and discuss ideas and options. Consultation is an important dimension that informs and enhances Council's decision-making process.

As a community leader, Council will define the City's directions and priorities for a sustainable future by:

- Promoting discussion and debate within the community and with other stakeholders about the priorities and needs of the City.
- Using research to develop and inform Council policies and decision-making.
- Actively canvassing, and faithfully considering, the needs and opinions of the community when making decisions.
- Translating the community's aspirations for a sustainable future through appropriate partnerships, initiatives, programs and services.



# GOVERNANCE FRAMEWORK

## GOVERNANCE STRUCTURE

- Minister for Local Government
- Community Groups
- Ratepayers
- Residents
- Business

- Legislative Framework**  
(Includes but not limited to)
- Local Government Act and Regulations
  - Town Planning and Development Act
  - Occupational Safety and Health Act

**STAKEHOLDERS**

**COUNCIL**

**CHIEF EXECUTIVE OFFICER**  
**EXECUTIVE MANAGEMENT TEAM**

**GOVERNANCE PRINCIPLES**

**CULTURE AND VISION**

**ROLES & RELATIONSHIPS**

**DECISION MAKING & MANAGEMENT**

**ACCOUNTABILITY**

POSITIVE CULTURE	CLARITY OF ROLES	EFFECTIVE DECISION MAKING PROCESSES	ACCOUNTABILITY FOR ACTIVITIES
CLEAR VISION AND STRATEGIC PLAN	UNDERSTANDING AND AGREEMENT ON ROLES	TRANSPARENCY	PERFORMANCE MANAGEMENT
		FINANCIAL MANAGEMENT	INDEPENDENT REVIEW
		RISK MANAGEMENT	CONSULTATION
		DELEGATIONS	

**GOVERNANCE CHARTER**

## **COUNCIL AND ELECTED MEMBER SELF-ASSESSMENT**

### **COUNCIL SELF-ASSESSMENT AND EVALUATION**

In order to assess whether the Governance Principles and Charter are being enacted a self-assessment tool has been included in the Governance Framework. The questionnaire was originally developed by WALGA for use by the WALGA Council. Permission has been granted for the City to use the self-assessment tool to assess the Council's and individual elected members performance against the Governance Principles and Charter. It is intended that the results be used to develop action plans to improve governance performance.

The self-assessment aims to:

- Assess what level of performance has been achieved in the period under review;
- Assist in the development of a better understanding of individual elected member performance and the Council's objectives;
- Focus on strategic goals;
- Assist in the developing of a better understanding of performance orientated relationships;
- Develop an action plan for improvement; and
- Encourage a program of ongoing personal and professional development for elected members.

The Self Assessment Tool has two components:

- 1 The Council Self-Assessment
- 2 Elected Member Self Assessment

Council as a group will complete the Council Self Assessment and the results will be used to assess the Council's performance as a whole against the governance principles and charter, and will assist the Council in developing an action plan to improve performance (Including the ongoing training and development programme for Council).

The Elected Member Self Assessment is to be completed by individual Elected Members and will provide an assessment of that individual's contribution to good governance, and will assist in the development of an individualised training and development program.

## COUNCIL PERFORMANCE ASSESSMENT QUESTIONNAIRE

**Please provide your responses as per the following scale:**

1. Strongly Disagree      2. Disagree      3. Unsure      4. Agree      5. Strongly

Question		Rating				
1.	The Council has been effective in setting the overall direction of the City to achieve the objects and purpose of the City	1	2	3	4	5
2.	The Council is effective in considering and determining all major policy issues	1	2	3	4	5
3.	The Council monitors appropriate financial and non-financial performance indicators	1	2	3	4	5
4.	The Council has a clear understanding of business risk	1	2	3	4	5
5.	The Council does not become excessively drawn into operational management matters	1	2	3	4	5
6.	Roles of the Mayor, elected members and the CEO are clearly defined and understood	1	2	3	4	5
7.	The Council understands the City's vision, mission, values, philosophy and plans	1	2	3	4	5
8.	The Council regularly inputs into strategy development and review	1	2	3	4	5
9.	The CEO and employees have commitment, capacity and enthusiasm	1	2	3	4	5
10.	The City has relevant and reliable internal reporting and compliance systems	1	2	3	4	5
11.	Elected members are aware of the City's responsibilities to regulators and external stakeholders	1	2	3	4	5
12.	The Council communicates effectively with its community	1	2	3	4	5
13.	Elected members bring valuable experience and skills to the Council	1	2	3	4	5
14.	The Council has legitimacy and retains confidence in the eyes of the community	1	2	3	4	5
15.	The Mayor ensures that meetings are chaired and matters are discussed / debated in a structured and effective way	1	2	3	4	5
16.	The Mayor makes sure that the Council addresses all of the appropriate strategic issues	1	2	3	4	5
17.	The Mayor makes sure there is sufficient time to discuss the important issues on the agenda	1	2	3	4	5
18.	The Mayor encourages contribution by elected members to get the best out of them	1	2	3	4	5
19.	The Mayor liaises effectively with the CEO	1	2	3	4	5
20.	The CEO is receptive to the Council's input	1	2	3	4	5
21.	The CEO assists elected members in meeting their governance obligations	1	2	3	4	5
22.	The Council is effective in monitoring and evaluating the performance of the CEO	1	2	3	4	5
23.	The Council papers, including agenda, minutes and briefing notes are timely, accurate and informative	1	2	3	4	5

24.	The Council meetings address the key issues facing the community	1	2	3	4	5
25.	The duration of meetings of the Council are appropriate	1	2	3	4	5
26.	Elected members come to meetings well prepared and participate effectively in debate and discussions	1	2	3	4	5
27.	The Council adheres to effective governance practices	1	2	3	4	5
28.	Appropriate records from Council meetings are documented in Minutes	1	2	3	4	5
29.	The relationship between the Mayor and elected members is effective in enabling the Council to fulfil its duties and responsibilities	1	2	3	4	5
30.	The relationship between the Council and the CEO is effective in enabling Council to fulfil its duties and responsibilities	1	2	3	4	5

**Additional comments on the performance of the Council?**

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***Thank you for completing this questionnaire.***

***The information will be collated and provided to you in a combined document that will not identify your individual response. The information will be used to assist Council to develop an action plan for improvement and to identify the priorities for training and ongoing development.***

***Individual questionnaires will be treated in the strictest of confidence and will be destroyed once the information has been aggregated.***

## ELECTED MEMBER PERFORMANCE ASSESSMENT QUESTIONNAIRE

**Please provide your responses as per the following scale:**

1. Strongly Disagree    2. Disagree    3. Unsure    4. Agree    5. Strongly

Question		Rating				
1.	I understand my roles, duties and responsibilities as an elected member of the City of Joondalup	1	2	3	4	5
2.	I come to the Council meetings fully prepared	1	2	3	4	5
3.	I understand the mission, vision, values, philosophy and strategy of the City	1	2	3	4	5
4.	I participate in and enhance discussion and debate at the Council meetings	1	2	3	4	5
5.	I have made a significant personal contribution to the Council achieving the objects for the City	1	2	3	4	5
6.	I encourage openness and candour and ensure that others have a reasonable opportunity to put forward their views	1	2	3	4	5
7.	I challenge those who sidetrack discussions or dwell on minutiae	1	2	3	4	5
8.	I am a team player	1	2	3	4	5
9.	I listen to and consider other people's views on issues	1	2	3	4	5
10.	I am open and willing to change my views	1	2	3	4	5
11.	I accept challenge from others without being defensive	1	2	3	4	5
12.	I have the courage to say what is on my mind	1	2	3	4	5
13.	I keep myself free from conflicts of interest	1	2	3	4	5
14.	I exercise independent judgement when considering or voting on any matter	1	2	3	4	5
15.	I understand the difference between direction and managing and consistently practice the NIFO principle in discharging my role as an elected member (i.e. "nose in, fingers out")	1	2	3	4	5
16.	I am responsive to requests from the Presiding Member that aim to ensure the orderly and good-spirited conduct of meetings	1	2	3	4	5
17.	I understand and focus on the key issues of the City's business	1	2	3	4	5
18.	I consider the viewpoints of all stakeholders in forming a position on an issue	1	2	3	4	5
19.	I carry a fair workload when compared with my fellow elected members	1	2	3	4	5
20.	I regularly liaise with the Mayor and other elected members of the Council outside of Council meetings	1	2	3	4	5
21.	I regularly liaise with the CEO and senior staff outside Council meetings	1	2	3	4	5
22.	I have adhered to all of the behavioural and ethical requirements of the Council Code of Conduct	1	2	3	4	5
23.	Outside the Council meeting and when acting in my capacity as an elected member, I support the letter and spirit of all Council decisions	1	2	3	4	5

Are you satisfied with the level of support you are provided in undertaking your role as an elected member of the City of Joondalup? Are there any areas that can be improved?

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Are there any specific areas in which you would like professional development to enhance your effectiveness as an elected member of the City of Joondalup?

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Are you satisfied with process of evaluating performance as an elected member of the City of Joondalup?

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***Thank you for completing this questionnaire.***

***The information will be collated and provided to you in a combined document that will not identify your individual response. The information will be used to assist Council to develop an action plan for improvement.***

***Your individual responses can also be used to assist in the development of a customised training and development program to suit your specific needs and priorities.***

***Individual questionnaires will be treated in the strictest of confidence and will be destroyed once the information has been aggregated.***