

POLICY 4-1 – CODE OF CONDUCT

STATUS: **Council Policy** - *A strategic policy that sets governing principles and guides the direction of the organisation to align with community values and aspirations.*

Council policies are developed by the Policy Committee for approval by Council.

RESPONSIBLE DIRECTORATE: Office of the CEO

OBJECTIVE: To provide guidance to Elected Members and Staff in relation to:

- The duties and responsibilities that apply to each; and
- The minimum standard of conduct that the City expects from Elected Members and Staff.

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PART 1 - INTRODUCTION

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

The Local Government Act confers considerable powers on the Council. Because of this, Elected Members, Committee Members and Employees must seek actively to achieve and retain public trust if they are to deserve the responsibilities entrusted to them.

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

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

- The business of the Local Government will be conducted with efficiency, impartiality and integrity;
- Elected Members, Committee Members and Employees will obey the spirit and the letter of the law and, in particular, the provisions of all relevant statutes, ordinances, regulations and instruments; and
- Duty to the public will always be given absolute priority over the private interests of Elected Members, Committee Members and Employees.

A Code of Conduct is an important instrument of the Council, necessary due to the particular relationships and responsibilities that arise from being a public institution. To ensure the effective and efficient administration of the City of Joondalup, a set of standards is essential to clearly outline these responsibilities and the behaviours that need to be observed to retain the good faith and trust of all parties involved.

All Elected Members must adhere to the Code of Conduct and refrain from vilifying fellow Elected Members, employees and Members of the Public.

The Code of Conduct does not override or affect the legislation applicable to local government. It is not intended to be read as a set of rules where each word is scrutinised for its legal meaning. The Code of Conduct is intended to convey in plain words the obligations placed on, and the behaviour expected of all of the Council.

This Code of Conduct applies to every individual Elected Member, Committee Member and Employee of the City of Joondalup.

PART 2 - GUIDING PRINCIPLES

Guiding Principles of Elected Members, Committee Members and Council Employees

The City of Joondalup's Strategic Plan 2000-2005 outlines the Guiding Principles of Elected Members, Committee Members and Council Employees based on a commitment to:

Community Focused

- We will develop a sense of belonging/ownership.
- We will understand community diversity and harmony, meeting changing customer needs.

Sustainability

- We will promote an integrated environmental, social and economic approach to all our activities.
- We will focus on improving quality of life for current and future residents and ratepayers.

Best Value

- We will provide value for money with our quality services.
- We will use the most efficient and effective processes continuously improving our delivery.

Leadership through Partnerships and Networks

- We will develop partnerships and networks.
- We will gain support from key stakeholders.

Flexibility in Service Delivery

- We will be flexible in our planning to accommodate changing circumstances.
- We will be flexible in our delivery of a range of services and programs.

Interaction Between Elected Members, Committee Members and Council Employees

The role of Elected Members and Committee Members compared to the role of Council employees is quite different. In essence, the Council decides policy objectives and the results it wishes to achieve and, subject to any specific directions from the Council, the CEO (and employees) has responsibility to put those policy decisions into practical effect.

A prime responsibility of council employees and delegates is to assist Elected Members and Committee Members in their decision-making role. Employees should always provide frank and professional advice.

The Council or individual Elected Members or Committee Members may request or direct the provision of advice on any topic but shall not under any circumstance direct or request the advice to contain any predetermined content or recommendation.

The CEO is responsible to the Council for performance and direction of all employees and delegates in the day-to-day management of Council. It is appropriate that all requests by Elected Members or Committee Members for information be directed to the CEO, Directors or Business Unit Managers as appropriate.

Therefore, just as there are different obligations under the Local Government Act for Elected Members and Committee Members in comparison to Employees, there is a distinction between the way the Code of Conduct applies to those parties.

PART 3 – VALUES AND ETHICAL STANDARDS

A Code of Conduct is determined by the values and ethical standards on which it is based. The Council of the City of Joondalup believes that acting ethically is central to its public accountability, the successful achievement of its vision and performance of its role.

Values

The City of Joondalup's Code of Conduct is governed by five key values.

- **Living our values**

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

- **Customer Service Excellence**

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

- **Leadership**

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

- **Participation**

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

- **People**

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

Ethical Standards

The Code of Conduct is also governed by three ethical standards:

Respect for Persons

This standard requires that we treat other people as individuals with rights to be honoured and defended, and empower people to claim their rights if they are unable to do it for themselves. We encourage honest relationships by being truthful and sincere when dealing with others.

- It is our respect for the rights of others that qualifies us as members of a community, not simply as individuals with rights, but also with duties and responsibilities to others.

Justice

This standard requires that we treat people fairly, without discrimination, and with rules that apply equally to all. We ensure that opportunities and social benefits are shared equally among individuals, with equitable outcomes for disadvantaged people. We uphold the laws of the Council of the City of Joondalup and comply with relevant State and Federal legislation.

Beneficence

This standard requires that we do for others what we would like done for ourselves – that we do good, and not harm, to others. We must be aware that the strong have a duty of care to the weak, dependent and vulnerable and uphold the rights of those who are unable to do so. We shall contribute to the well-being of individuals and society by exercising due diligence and duty of care to others.

PART 4 – IMPLEMENTATION, REVIEW AND COMPLIANCE

Implementation and Review

The original Code of Conduct for the City of Joondalup was first adopted on 23 April 1997 with immediate effect.

There is a requirement to review the Code within 12 months of every ordinary election of Council Members for the City. The review is designed to address any problems experienced within the preceding 12 months in regard to its application or interpretation, and recommend any amendments that may be appropriate. Amendments to the Code must be subsequently communicated to Elected Members, Committee Members, Employees and the community.

Enforcement of the Code

Any Council employees, Elected Members or Committee Members having concerns with regard to an actual, perceived, potential, intended or unintended breach of either the specific provisions or the spirit of the Code of Conduct, or any provisions of the Local Government Act or such regulations or local laws created thereunder, should discuss those concerns with the **CEO where such matters relate to Elected Members or employees, or the Mayor in the case of matters involving the CEO.**

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

Any actions taken as a result of a breach will be made in accordance with the provisions of any applicable legislative requirement and the Council's responsibilities as an employer. ~~It should be noted that the Corruption and Crime Commission Act 2003, requires the reporting to the Commission of certain matters relating to alleged 'corrupt conduct', 'criminal conduct' and 'serious improper conduct'. Definitions of these terms are provided in the Act and appear as annexure 1 to this Code. Elected Member and Employees must be aware of the Corruption and Crime Commission Act 2003, which requires the Chief Executive Officer to notify the Commission of matters relating to reasonably suspected misconduct. Definitions of 'misconduct' and 'serious misconduct' are provided in the Act and appear as annexure 1 to this Code.~~

PART 5 - CONFLICT AND DISCLOSURE OF INTEREST

5.1 Conflict of Interest

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

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

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

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

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

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

The mere fact that a person has both a public or professional duty and a private or personal interest in relation to a particular matter does not mean that the two must be in conflict. A conflict of interest arises if it is likely that the person with the private or personal interest could be prejudicially influenced in the performance of his/her public or professional duties by that interest, or that a reasonable person would believe that the person could be so influenced.

5.2 Disclosure of Interest

- (a) Elected Members, Committee Members and Employees will adopt the principles of disclosure of interest as contained within the Local Government Act 1995 and the Financial Interests Manual as prepared by the Department of Local Government.
- (b) Whenever disclosure is required by (a) above, or otherwise seems appropriate, it will be made promptly, fully, and in writing to the CEO prior to the Meeting.
- (c) Elected Members, Committee Members or Employees 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.
- (d) The disclosing of an interest as detailed in (b) and (c) above is to be made immediately before the matter is discussed or at the time the advice is given, and shall be recorded in the minutes of the Meeting.
- (e) The disclosure of an interest in (c) above does not affect the ability of the Elected Member, Committee Member or Employee to discuss or vote on the matter.

PART 6 – CONDUCT OF ELECTED MEMBERS, COMMITTEE MEMBERS AND EMPLOYEES

Use of Confidential Information

Elected Members, Committee Members and Employees shall not use confidential information to gain improper advantage for themselves or another person or body in ways which are inconsistent with their obligation to act impartially in the public

interest; or to improperly cause harm, detriment or impairment to any person, body, or the Council.

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

Improper or Undue Influence

Elected Members, Committee Members and Employees shall not take advantage of their position to improperly influence any other person in order to gain undue or improper (direct or indirect) advantage or gain, pecuniary or otherwise, for themselves or for any other person or body.

Persons aggrieved by what they perceive as improper or under influence shall report such conduct, in confidence, to the CEO or Mayor. Notwithstanding this, aggrieved persons also have the right to report such conduct to the appropriate external authorities. In making reports of improper or undue influence, persons should not make unsubstantiated allegations and must present factual information, not based on rumour or suspicion, so as to avoid undue concern to others.

Gifts and Acts of Hospitality

In general, Elected Members, Committee Members and employees shall not seek or accept (either directly or indirectly) any immediate or future gift, reward, donation, hospitality or benefit (referred to generically as gifts in the following paragraphs) for themselves or for any other person or body as a result of their role with the City.

In particular, gifts should not be sought or accepted from a person or organisation undertaking, or likely to undertake, business with the City. Business includes:

- Obtaining an authorisation (such as a planning or building approval);
- Involving contractual arrangements (such as a company which has been awarded a contract following a successful tender or is a potential tenderer); or
- Providing any service to the local government (such as a lunch bar providing sandwiches for Council functions).

Notwithstanding the general presumption against seeking or accepting gifts or acts of hospitality, Elected Members, Committee Members and employees may accept gifts which are excluded from the Code's coverage and token gifts as identified with this Code.

For the purposes of this Code a gift excludes:

- Gifts from relatives;
- Gifts provided for electoral purposes (these are specifically dealt with elsewhere in legislation); or
- Educational or professional development benefits for employees from a government, body established by law or an incorporated association.

A token gift (which includes acts of hospitality) is a gift with an estimated value of less than \$250. Only token gifts may be accepted. Gifts valued at \$250 or more should be declined politely.

If you consider it inappropriate to reject a gift worth more than \$250, (such as in the case of a gift from a foreign dignitary) the gift should be received on behalf of the City and provided to the City's CEO at the first possible opportunity. Such gifts will be placed in an appropriate position within the City's buildings.

The value of a token gift can be estimated if you believe its value is low. However, if you believe its value approaches \$250, the precise value of the gift should be checked before accepting to ensure compliance with this Code.

It is also important to ensure that the full value of the gift is taken into account. This includes all hidden costs in association with acts of hospitality (for example, if you are invited to a box at a sporting event, the cost is not just the cost of an entry ticket but a proportion of the cost of the box and the hospitality provided). It would also include the cost of the attendance of a partner at an event, should the partner be invited to accompany the City's representative.

A token gift can include:

- A tangible item, such as a bottle of wine or a book;
- A contribution to travel or the provision of accommodation;
- An act of hospitality, such as payment for a meal or an invitation to a function or event; or
- Discounts on the provider's products.

A token gift can also include an intangible gift such as preferential treatment, privileged access, a personal service or the promise of a special favour.

These intangible gifts are often difficult to value. However, the receiver will need to place a valuation on the gift to determine whether it can be accepted.

When any gift, be it token or not, is offered to an Elected Member, Committee Member or employee (other than an excluded gift), the gift should be promptly recorded in the City's Gifts Register with two exceptions. The first are symbolic gifts which are small in value, such as ties, scarves, cuff-links, pens, etc which are inscribed in some way with details of the giver and which are given with, and in support of, an act of hospitality. The second are acts of hospitality valued at under \$25. This exemption would generally capture the provision of refreshments following a meeting, sandwiches at a lunchtime meeting, etc. Both these symbolic gifts and low value acts of hospitality can be accepted without being recorded in the Register.

An Elected Member, Committee Member or employee may be offered and accept up to two token gifts from a person or body within a financial year. However, a third gift from the same person or body should not be accepted within the financial year. Additionally, a second gift from the person or body should not be accepted if the value of the second gift, when added to the first, will create a value of \$250 or more.

In addition, an Elected Member, Committee Member or employee should not accept any payment or contribution to an inspection, evaluation or trial of any good or service which the City may acquire unless the City requires the payment of those expenses as a standard condition applicable to all parties with an interest in providing the required good or service to the City.

Nothing within this Code prevents token gifts valued at under \$250 from being received on behalf of the City rather than being accepted.

Council Members and particular employees defined in section 5.74 of the Act should also remember to disclose gifts received (accepted) and valued at over \$200 in the Annual Financial Interest Return.

Disclosure of election campaign contributions

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

- a) A “gift” includes a gift of money, a gift which is non-monetary but of value, a gift in kind or an inadequate financial consideration or the receipt of a discount (where the difference or the discount is more than \$200 worth), financial or other contribution to travel, the provision of a service for no consideration or for inadequate consideration, and a firm promise or agreement to give a gift at some future time.

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

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

Personal Behaviour

Elected Members, Committee Members and Employees shall:

- (a) act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code of Conduct in particular:

- (i) The Equal Opportunity Act 1984 (WA) and subsequent amendments made it unlawful to discriminate against people on the grounds of sex, marital status, pregnancy, race, racial harassment, religious status, family responsibility or age.

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

- (ii) All people have a right to work in an environment that is free from sexual harassment. Sexual harassment will not be tolerated in the City of Joondalup. Any Elected Member, Committee Member or Employee found to be committing sexual harassment will be subject to discipline and/or termination proceedings.
- (b) perform their duties impartially to the best of their ability and in the best interests of the community, uninfluenced by fear or favour;
- (c) deal with all sections of the community in an open, honest and forthright manner;
- (d) act in good faith (ie honestly, for the proper purpose and without exceeding their powers) in the interests of Council and the community; and shall be particularly mindful to avoid interference in commercial relationships between developers and objectors or between developers competing for the right to develop;
- (e) make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct in the performance of their official or professional duties, which may cause or is likely to cause any reasonable person unwarranted offence or embarrassment;
- (f) always act in accordance with their obligations of fidelity to the Council and not publicly reflect adversely upon any decision of the Council or the Executive Management Group; and
- (g) where practicable, be available for discussion with members of the public following Council and Committee meetings.

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

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

Civic Leadership

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

Respect for Title of Office

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

Honesty and Integrity

Elected Members, Committee Members and Employees shall:

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

Performance of Duties

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

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

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

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

Compliance with Lawful Orders

- (a) Employees shall obey any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the CEO;
- (b) Employees should give effect to and uphold the lawful policies of the Council, whether or not they agree with or approve of them.

Administrative and Management Practices

Elected Members, Committee Members and Employees shall ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

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

Elected Members, Committee Members and Employees shall at all times be mindful of their responsibility to maintain full and accurate records in the performance of their duties.

Relationships Between Elected Members, Committee Members and Employees

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

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

- Accept that their role is one of Council leadership, and not a management or administration role;
- Acknowledge that they have no capacity to individually direct employees to carry out particular functions;
- Refrain from publicly criticising employees in a way that casts aspersions on their professional competence and credibility;

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

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

Appointments to Committees (External)

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

- a) Clearly understand the basis of their appointment;
- b) Provide regular reports on the activities of the organisation in accordance with the confidentiality requirements of that organisation;
- c) Represent the Council's interests on all matters relating to that organisation, whilst maintaining the confidentiality requirements of the City of Joondalup.

Defamation

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

An Elected Member can only rely on the defence of qualified privilege whilst exercising the proper discharge of his or her duties, and doing so in the public interest;

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

PART 7 – DEALING WITH COUNCIL PROPERTY

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

Elected Members, Committee Members and Employees shall:

- (a) be scrupulously honest in the use of Council facilities, funds, employees, materials and equipment and shall not misuse them or permit their misuse, or the appearance of misuse by any other person or body;
- (b) use Council resources entrusted to them effectively, economically and lawfully in the course of their duties, and not otherwise;

- (c) not use Council resources (including the services of Council employees) for private purposes, (other than when supplied as part of the contract of employment) unless properly authorised to do so;
- (d) not make unauthorised use of information and other intellectual property produced or registered by employees or external contractors for the Council. The ownership to Intellectual Property that is produced as a result of employment in official duties shall be assigned to the City of Joondalup upon its creation; and
- (e) promote the concept of pride in public property, fostering an awareness of the community's ownership of the City's natural and built environment.

Travelling, Sustenance and Expenses

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

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

PART 8 – CORPORATE OBLIGATIONS

Communication with the Community

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

Communication and Public Relations

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

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

- (a) membership of the Council or its Committees, entails respect for the decision making processes of the Council, which are based on a decision of the majority of the Council or Committee;
- (b) information of a confidential nature must not be communicated until it is no longer treated by the City as confidential;

- (c) information relating to decisions of the Council must only be communicated in an official capacity by the Mayor or his/her representative, or a designated officer of the City of Joondalup;
- (d) information concerning adopted policies, procedures and decisions of the City of Joondalup must be conveyed accurately.

Health, Well Being and Safety

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

Entrepreneurial Activities

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

PART 9 – WHISTLEBLOWER PROTECTION

Protection of Employees Reporting Unacceptable or Illegal Behaviour

The CEO is to ensure that Employees who report unacceptable or illegal behaviour of Elected Members or Employees (that is, whistleblowers) are not in any way disadvantaged or victimised because of their actions.

Reporting of Unacceptable or Illegal Behaviour

Employees are encouraged to, in the first instance, report unacceptable or illegal behaviour to the relevant Supervisor or Manager. Behaviour of a serious nature must be reported directly to the CEO.

Public Interest Disclosure Act 2003

Elected Members and Employees must be aware of the Public Interest Disclosure Act 2003, which provides people who make disclosures of public interest information with certain immunities, protections and remedies and imposes certain responsibilities. A summary of these rights and responsibilities appear as annexure 2 to this Code.

Corruption and Crime Commission Act 2003

~~Elected Members and Employees must be aware of the Corruption and Crime Commission Act 2003 which provides for the voluntary reporting of possible corrupt conduct to the Commission. Penalties will prevail if a person who makes a complaint:-~~

- a) ~~Has his or her safety or career prejudiced, or threatened to be prejudiced;~~
- b) ~~Is intimidated or harassed; or~~
- e) ~~Has an act done to his or her detriment because of having assisted the Commission, or furnished information to the Commission.~~

Elected Members and Employees must be aware that matters of misconduct and/or corruption may be reported to the Corruption and Crime Commission and that protections are afforded to persons who make such reports. It is an offence to:

- (a) victimise any person who has given evidence to or helps the CCC;
- (b) dismiss or prejudice any person for having appeared before or having given evidence to the CCC;
- (c) cause injury or detriment to any person for having appeared before or having given evidence to the CCC.

ANNEXURE 1 – DEFINITIONS OF ‘MISCONDUCT’ AND ‘SERIOUS MISCONDUCT’

Section 4 Corruption and Crime Commission Act 2003

4. “Misconduct”, meaning of

Misconduct occurs if -

(a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment;

(b) a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person;

(c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years' imprisonment; or

(d) a public officer engages in conduct that -

(i) adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct;

(ii) constitutes or involves the performance of his or her functions in a manner that is not honest or impartial;

(iii) constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer; or

(iv) involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person,

and constitutes or could constitute -

(v) an offence against the *Statutory Corporations (Liability of Directors) Act 1996* or any other written law; or

(vi) a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the *Public Sector Management Act 1994* (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).

Section 3 Corruption and Crime Commission Act 2003

“serious misconduct” - means misconduct of a kind described in section 4(a), (b) or (c)

**ANNEXURE 2 – RIGHTS AND RESPONSIBILITIES UNDER THE PUBLIC
INTEREST DISCLOSURE ACT 2003**

RIGHTS AND RESPONSIBILITIES

A GUIDE FOR DISCLOSERS

The *Public Interest Disclosure Act 2003* (the Act) provides people who make disclosures of public interest information with certain immunities, protections and remedies, and imposes certain requirements. These are explained in more detail on the reverse side of this information sheet.

Your rights

Immunity

- ✓ Making a disclosure provides you with:
- immunity from civil or criminal liability
 - immunity from disciplinary and other action
 - immunity for any breach of duty of secrecy or confidentiality.

Protection

- ✓ If you make a disclosure under the Act, your identity will not be revealed, except in certain circumstances, and you will be protected from detrimental action or the threat of detrimental action.

Remedies

- ✓ There are remedies available if anyone takes or threatens to take detrimental action against you.

Notification

- ✓ You will be informed of the outcome of any investigation and the action taken with respect to your disclosure.

Your responsibilities

Honesty

- ⚠ You must believe on reasonable grounds that the information you have is or may be true. It is an offence to provide false or misleading information.

Maintain confidentiality

- ⚠ You must keep the information you have disclosed completely confidential, otherwise you may forfeit your protections under the Act.

Do not reveal identity

- ⚠ You must not disclose information that might identify or tend to identify the person about whom the disclosure has been made. It is an offence to reveal the identity of those making disclosures and those about whom a disclosure is made.

Assist the investigator

- ⚠ You must assist a person investigating the disclosure by supplying any information on request; otherwise you may lose your protection under the Act.

Public Interest Disclosure Act

Immunities

If you make a disclosure under the *Public Interest Disclosure Act 2003* (the Act) you will not incur any civil or criminal liability for doing so and will not be liable for any disciplinary action under a written law, or be dismissed, or have your services dispensed with or otherwise terminated or be liable for any breach of a duty of secrecy or confidentiality or any other restriction on disclosure (whether or not imposed by a written law) applicable to you. Making a disclosure under the Act does not affect your liability for any wrongdoing you have been involved in.

Protections

A person must not reveal information that might identify or tend to identify anyone as a person who has made a disclosure under the Act. There are certain exceptions including where:

- the person consents to the release of such information
- it is necessary to do so to enable the matter to be investigated effectively
- it is necessary having regard to the principles of natural justice.

If you make a disclosure under the Act and it is necessary to reveal your identity, the PID officer will take all reasonable steps to notify you in advance. Apart from the exceptions outlined above, it is an offence for anyone to reveal the identity of the discloser and the person about whom the disclosure has been made. Both carry a penalty of \$24,000 or imprisonment for 2 years.

Under the Act, it is the Chief Executive Officer of a public authority who must provide you with protection against detrimental action. Detrimental action includes action causing, comprising or involving injury, damage, or loss; intimidation or harassment; adverse discrimination, disadvantage, or adverse treatment in relation to a person's career, profession, employment, trade or business; or a reprisal.

Remedies

A person who takes or threatens to take detrimental action against another because or substantially because anyone has made, or intends to make, a disclosure of public interest information under the Act commits:

- an offence of reprisal which carries a penalty of \$24,000 or imprisonment for 2 years
- an act of victimisation which may be lodged with the Equal Opportunity Commission or dealt with as a tort.

If you believe you have suffered detrimental action or that someone is threatening detrimental action against you, advise the PID officer with whom you lodged your disclosure. The PID officer can provide you with information on how to take action.

Notification

The Act requires you be informed within 3 months of making your disclosure of the action taken or proposed to be taken in relation to the disclosure. You will also be notified of the outcome of an investigation [where one is undertaken] and any action that has been taken or is proposed to be taken as a result of the investigation and the reason for taking the action.

You must believe your information is or may be true

You must believe on reasonable grounds that the information you have is or may be true. The information you have must be more than a mere suspicion and tend to show that wrongdoing is, has or is about to occur.

It is an offence to make a false or misleading disclosure and the penalty for doing so is \$12,000 or imprisonment for one year.

You must keep the matter confidential

You can minimise the risk of anyone taking detrimental action against you by keeping your intentions to make a disclosure to yourself — be discreet.

Once you have made a public interest disclosure you must maintain confidentiality of the information. This means you cannot go to the media or any other person with information contained in your disclosure or you will risk losing your protection and you may incur a penalty.

You may speak with the PID officer or anyone conducting an investigation into the matter.

If you believe it is necessary to speak to another person about some aspects of your disclosure, contact the PID officer first and discuss the matter with them.

You must not disclose the identity of the person about whom your disclosure is made

In addition to protecting your identity, the Act protects the identity of the person about whom your disclosure is made.

You must not reveal any information about the person named in your disclosure to anyone other than the PID officer with whom you lodged your disclosure or anyone investigating the matter. If you do you may commit an offence which carries a penalty of \$24,000 or two years imprisonment.

You must assist the investigator

Where you are able to, you must assist a person investigating the matter to which your disclosure relates by supplying them with any information requested, whether orally or in writing and within such period as specified by them. It is not your role to investigate the matter and you must not obtain evidence illegally or in such a manner as to expose yourself to any risk.

This information sheet is a summary only. Potential disclosers are urged to speak to their PID officer or visit the PID website for further information.

CODE OF CONDUCT DECLARATION

Declaration:

I _____
have read and understand the conditions of the City of Joondalup Code
of Conduct and hereby agree to abide by the requirements of this
document.

DATE: _____

SIGNED: _____

*Note: Please sign and date the above declaration
and return to HR with your new starter forms.*

Amendments: CJ206-10/05, CJ153-09/06, CJ007-02/07

Related Documentation:

Issued: March 2007