

ATTACHMENT 1



Code of Conduct
for
Employees,
Elected Members
and
Committee Members

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Introduction

In accordance with section 5.103 of the *Local Government Act 1995* every Western Australian local government is to prepare and adopt a code of conduct to be observed by Elected Members, committee members and employees.

The *City of Joondalup Code of Conduct* (the Code) has been adopted for this purpose and ensures the roles and responsibilities of Elected Members, committee members and employees are understood and respected. This enables professional relationships to be established and maintained in the interests of providing good governance, overall integrity and good government for the community.

The Code sets out principles and standards of behaviour Elected Members, committee members and employees must observe when performing their duties and is intended to promote accountable and ethical decision-making. However the Code does not establish a rule for every situation an Elected Member, committee member or employee may face while performing their role and undertaking their duties on a daily basis.

The Code must be read in conjunction with the *Local Government Act 1995*, the *Local Government (Rules of Conduct) Regulations 2007* and other legislation that affect Elected Members, committee members and employees while performing their role and duties and the Code does not override or affect those provisions or requirements. To aid understanding, relevant legislation has been referenced in the Code and provided by way of text boxes. These provisions do not form part of the Code and will be updated from time to time as legislation changes.

The Code must contain certain matters for employees as listed in Part 9 of the *Local Government (Administration) Regulations 1996*. It contains the primary and distinguishing values detailed in the City's *Strategic Community Plan – Joondalup 2022* as well as standards around personal behaviour, which if breached, may lead to reporting and action being taken under the Code. In view of this, the Code details explanatory matters around key areas of:

- professional conduct
- communication and official information
- use of City resources and information
- conflicts of interests and gifts and benefits
- reporting suspected breaches of the Code.

Employees of the City of Joondalup (the City) are subject to the provisions of the Code upon their acceptance of employment and while they remain employed by the City.

Values, principles and behaviour

Values

The City's *10 Year Strategic Community Plan* (Joondalup 2022) articulates the City's vision as being '*A global City: bold creative and prosperous*'.

In alignment with this vision, the City believes the following primary values should be inherent within any well-functioning and community-driven organisation:

- Transparent.
- Accountable.
- Honest.
- Ethical.
- Respectful.
- Sustainable.
- Professional.

Joondalup 2022 has identified the following distinguishing values to guide the direction and operations of the City into the future:

- **Bold** - We will make courageous decisions for the benefit of the community and future generations.
- **Ambitious** - We will lead with strength and conviction to achieve our vision for the City.
- **Innovative** - We will learn and adapt to changing circumstances to ensure we are always one step ahead.
- **Enterprising** - We will undertake ventures that forge new directions for business and the local economy.
- **Prosperous** - We will ensure our City benefits from a thriving economy built on local commercial success.
- **Compassionate** - We will act with empathy and understanding of our community's needs and ambitions.

Elected Members, committee members and employees are to observe these values to enable the City to achieve its strategic objectives and organisational goals.

Behavioural principles

For the purposes of the Code, the following principles, as set out in the *Local Government (Rules of Conduct) Regulations 2007*, are to guide the behaviours of Elected Members, committee members and employees while performing their role at the City:

- Act with reasonable care and diligence.
- Act with honesty and integrity.
- Act lawfully.
- Avoid damage to the reputation of the City.
- Be open and accountable to the public.
- Base decisions on relevant and factually correct information.
- Treat others with respect and fairness.
- Not be impaired by mind affecting substances.

Personal behaviour

Elected Members, committee members and employees must:

- (a) act, and be seen to act, properly and in accordance with the requirements of the law and the Code
- (b) perform their duties impartially and in the best interests of the City uninfluenced by fear or favour
- (c) act in good faith in the interests of the City and the community
- (d) make no allegations which are improper or derogatory and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any person unwarranted offence or embarrassment
- (e) always act in accordance with their obligations to the City and in line with any relevant policies, protocols and procedures.

A breach or a suspected breach of the personal behaviours stated above may lead in action being taken under the provisions of this Code (see “Reporting breaches and suspected breaches of the Code”).

Professional conduct

As Elected Members, committee members and employees, high standards of professional conduct ensure that a positive image of the City is conveyed when the City interacts with its stakeholders and the community. The conduct displayed should encourage fair, equitable and lawful operation of the City.

Fraudulent and corrupt conduct

Fraud is a dishonest activity that causes actual or potential financial loss to any person or the City and corrupt conduct is behaviour that lacks virtue or integrity, including when an Elected Member, committee member or employee uses or attempts to use their position for personal advantage. The Criminal Code makes it illegal for a public officer (including an employee, Elected Member or committee member) to engage in fraud and/or corruption.

Performance of duties

Elected Members, committee members and employees have a legal duty of fidelity to act in the best interests of the City.

While on duty, employees must give their time and attention to the City's business and ensure that their work is carried out efficiently and effectively, so that their standard of work reflects favourably both on them and on the City.

Elected Members, committee members and employees must exercise reasonable care and diligence in the performance of their duties, being consistent in their decision-making and treating all matters on individual merits. Elected Members and committee members will be as informed as possible to enable them to perform their role and will treat all members of the community honestly and fairly.

Relationships between Elected Members, committee members and employees

Elected Members, committee members and employees must have mutual respect for the role that each party plays to achieve the City's corporate goals and implement the City's strategies. All parties need to understand each other's role as specified in the *Local Government Act 1995* and other legislation.

To achieve this, Elected Members and committee members must:

- (a) accept that their role is one of leadership, and not a management or administrative role
- (b) acknowledge that they have no capacity to individually direct employees to carry out particular functions
- (c) refrain from publicly criticising employees in a way that casts aspersions on their professional competence or credibility
- (d) ensure that no restriction or undue influence is placed on the ability of employees to give professional advice to Council.

Employees ought to recognise that an Elected Member's and a committee member's views and opinions often reflect valid community viewpoints that should be considered in conjunction with professional opinion. Employees are to 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 may arise in the performance of that role.

Regulations 9 and 10 of the *Local Government (Rules of Conduct) Regulations 2007* apply to Elected Members in respect of involvement in the City's administration and relationships with employees:

9. Prohibition against involvement in administration

- (1) A person who is a council member must not undertake a task that contributes to the administration of the local government unless authorised by the council or by the CEO to undertake that task.
- (2) Subregulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

10. Relations with local government employees

- (1) A person who is a council member must not —
 - (a) direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee; or
 - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a person who is a local government employee in the person's capacity as a local government employee.
- (2) Subregulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.
- (3) If a person, in his or her capacity as a council member, is attending a council meeting, committee meeting or other organised event and members of the public are present, the person must not, either orally, in writing or by any other means -
 - (a) make a statement that a local government employee is incompetent or dishonest; or
 - (b) use offensive or objectionable expressions in reference to a local government employee.
- (4) Subregulation (3)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.

Compliance with lawful orders

Elected Members, committee members and employees shall obey any lawful order given by any person having authority to make or give such an order.

Compliance with local laws and policies

Employees must give effect to the adopted local laws and policies of the City. Elected Members and committee members are to consider the policies of the City to guide them in their decision-making responsibilities.

Elected Members and committee members must comply with the *City of Joondalup Meeting Procedures Local Law 2013* as a contravention may lead to disciplinary action being taken under the *Local Government Act 1995*.

Compliance with management protocols and procedures

Employees must comply with the City's management protocols, procedures and administrative practices.

Appointments to external boards, committees and working groups

Elected Members and employees representing the City on external organisations, boards, committees and working groups 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 City's interests on all matters relating to that organisation, while maintaining the confidentiality requirements of the City.

Communication and official information

Communication and public relations

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

As a representative of the community, Elected Members need to be not only responsive to community views, but communicate decisions of Council or a committee adequately, with good faith and not adversely reflect on those decisions externally.

Elected Members, committee members and employees must:

- (a) respect the decision-making processes within a local government which are based on a decision of the majority of the Council or a committee
- (b) not communicate information of a confidential nature until it is no longer treated as confidential (see "Use of information" in this Code)
- (c) comply with the *Local Government Act 1995* whereby information relating to decisions of Council are to be communicated in an official capacity only by:
 - (i) the Mayor (or his/her representative)
 - or
 - (ii) with the agreement of the Mayor, by the CEO (or the CEO's representative)
- (d) convey information concerning adopted policies, procedures and decisions of the City accurately.

Section 2.8(1)(d) of the *Local Government Act 1995* states the Mayor is to speak on behalf of the local government.

Section 5.41(f) of the *Local Government Act 1995* states the CEO can speak on behalf of the local government if the Mayor agrees.

Use of City resources

Use of resources

Elected Members, committee members and employees must:

- (a) be honest in their use of the City's resources and must not misuse them or permit their misuse by any other person or body
- (b) use the City's resources entrusted to them effectively and efficiently in the course of their duties
- (c) ensure the City's resources are to be utilised only for authorised activities.

Regulation 8 of the *Local Government (Rules of Conduct) Regulations 2007* states the following in respect of Elected Members using City resources:

8. Misuse of local government resources

A person who is a council member must not either directly or indirectly use the resources of a local government —

- (a) for the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*; or
- (b) for any other purpose,

unless authorised under the Act, or authorised by the council or the CEO, to use the resources for that purpose.

Reimbursement of expenses

Elected Members and employees may claim reimbursement of expenses only in accordance with the relevant legislative provision, policy or management protocol.

Section 5.98(2) of the *Local Government Act 1995* states an Elected Member who incurs an expense of a kind prescribed as being an expense –

- (a) to be reimbursed by all local governments
- or
- (b) which may be approved by any local government for reimbursement and which has been approved by the local government for reimbursement,

is entitled to be reimbursed for the expense in accordance with section 5.98(3) of the *Local Government Act 1995*.

Use of information

Improper use of information

Elected Members, committee members and employees must not make improper use of any information acquired by the person in the performance of his or her functions under the *Local Government Act 1995* or any other written law.

Due discretion must be exercised by all those who have access to confidential or sensitive information. This applies not only to the proper disclosure of that information, but also to the appropriate measures to be taken to ensure that the security of the information is not compromised.

Section 5.93 of the *Local Government Act 1995* prohibits an Elected Member, committee member or employee from making improper use of any information acquired in the performance by the person of his or her functions under the *Local Government Act 1995* or any other written law:

- (a) to gain directly or indirectly an advantage for themselves or for any other person
or
- (b) to cause detriment to the City or any other person.

The penalty, on conviction, is a fine of \$10,000 or imprisonment for 2 years.

Confidential information

Elected Members, committee members and employees must not disclose to another person, written or oral information that is provided to them, or obtained by them, in confidence, or derived from a confidential document, or acquired at a closed Council meeting or committee meeting which is not open to the public.

A confidential document means a document marked by the CEO to clearly show that the information in the document is confidential and is not to be disclosed.

A closed meeting means a council meeting or committee meeting that is closed to members of the public under section 5.23(2) of the *Local Government Act 1995*.

A committee member or employee is not prevented from disclosing information:

- (a) to an officer of the Department of Local Government and Communities
- (b) to the Minister for Local Government
- (c) to a legal practitioner for the purpose of obtaining legal advice
or
- (d) if the disclosure is required or permitted by law.

Regulation 6 of the *Local Government (Rules of Conduct) Regulations 2007* prohibits an Elected Member from disclosing confidential information, or information acquired at a closed meeting:

6. Use of information

- (1) In this regulation —

closed meeting means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;

confidential document means a document marked by the CEO to clearly show that the information in the document is not to be disclosed;

non-confidential document means a document that is not a confidential document.

- (2) A person who is a council member must not disclose —

- (a) information that the council member derived from a confidential document; or
- (b) information that the council member acquired at a closed meeting other than information derived from a non-confidential document.

- (3) Subregulation (2) does not prevent a person who is a council member from disclosing information —

- (a) at a closed meeting; or
- (b) to the extent specified by the council and subject to such other conditions as the council determines; or
- (c) that is already in the public domain; or
- (d) to an officer of the Department; or
- (e) to the Minister; or
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

The *City of Joondalup Meeting Procedures Local Law 2013* provides how confidential documents and information at meetings are to be marked.

Conflicts of interests

Guiding principles

The nature of the City's business is conducive to conflicts of interests arising between an Elected Member, committee member and employee's personal interests and the performance of their public or professional duties. Genuine or perceived conflicts of interests may arise from a number of sources, including friends, relatives, close associates, financial investments, past employment and the like.

Although there is no right way to identify conflicts of interest, a good starting point is to consider the following principles:

- Public duty versus private interests

Do I have personal or private interests that may conflict, or be perceived to conflict with my public duty?

- Potentialities

Should there be benefits for me now, or in the future, that could cast doubt on my objectivity?

- Perception

How will my involvement in the decision/action be viewed by others? Are there risks associated for me/my organisation?

- Proportionality

Does my involvement in the decision appear fair and reasonable in all the circumstances?

- Presence of mind

What are the consequences if I ignore a conflict of interest? What if my involvement was questioned publicly?

- Promises

Have I made any promises or commitments in relation to the matter? Do I stand to gain or lose from the proposed action/decision?

Conflict of interests

Elected Members, committee members and employees must ensure there is no actual or perceived conflict of interest between their personal interests and the impartial fulfilment of their public duties and functions.

In applying this requirement:

- (a) employees must lodge written notice with the CEO describing an intention to undertake a dealing in land within the district or which may otherwise be in conflict with the City's functions (other than purchasing or leasing their principal place of residence)
- (b) employees who exercise a recruitment or other discretionary function must make written disclosure to the CEO before dealing with relatives or close friends, and will disqualify themselves from dealing with those persons during the recruitment or other matter requiring a discretionary function
- (c) employees are encouraged to refrain from partisan political activities which could cast doubt on their neutrality and impartiality in carrying out their public duties and functions.

Private work of employees

Additional employment outside of the City may place employees at risk of being conflicted or impeded in the ability to carry out their public duties. Employees must avoid any conflict of interest whether real or perceived between their primary employment with the City and any other potential employment.

The definition of outside employment includes paid employment with another organisation, running a business, maintaining a professional practice or consultancy and being a director of an organisation. It may include voluntary activities if those activities have the potential to affect employment with the City.

Employees who are considering engaging in employment outside the City (including employment during leave breaks) must seek written approval of the CEO before doing so.

Financial interests

Elected Members, committee members and employees must comply with the laws governing financial interests, including the disclosure of financial interests, set out in the *Local Government Act 1995*.

Sections 5.59-5.90 of the *Local Government Act 1995* establish the requirements for disclosure by Elected Members, committee members or employees of financial interests (including proximity interests).

The onus is on Elected Members, committee members and employees to identify possible financial interests (including proximity interests and non-financial interests), to determine whether an interest exists, and whether any statutory exemption applies.

Impartiality interests

For the purposes of the Code, an ***impartiality interest*** means:

“an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association” (see regulation 34(C)(1) of the *Local Government (Administration) Regulations 1996* and regulation 11(1) of the *Local Government (Rules of Conduct) Regulations 2007*).

An ‘impartiality interest’ does not include a ‘financial interest’ that is subject to the requirements of the *Local Government Act 1995*.

An employee who has an impartiality interest in any matter to be discussed at a Council or committee meeting attended by that person must disclose the nature of the impartiality interest:

- (a) in a written notice given to the CEO before the meeting
or
- (b) at the meeting immediately before the matter is discussed.

In addition, an employee who has given, or will give, advice in respect of any matter to be discussed at a Council or committee meeting not attended by the employee must disclose the nature of any impartiality interest he or she has in the matter:

- (a) in a written notice given to the CEO before the meeting
or
- (b) at the time the advice is given.

An employee is excused from the requirement to disclose an impartiality interest if the failure to disclose occurs because the person:

- (a) did not know he or she had an impartiality interest in the matter
or
- (b) did not know the matter in which he or she had an impartiality interest would be discussed at the meeting and the person discloses the nature of the impartiality interest as soon as possible after becoming aware of the discussion of that matter.

The *City of Joondalup Meeting Procedures Local Law 2013* provides for how committee members are to disclose interests that may affect impartiality at meetings.

Notice and recording

Where an impartiality interest is disclosed in a written notice given to the CEO before a meeting, then:

- (a) before the meeting the CEO is to ensure that the notice is given to the person who is to preside at the meeting
- (b) at the meeting, the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matter to which the disclosure relates is discussed.

Where an impartiality interest is disclosed or brought to the attention of the persons present at a meeting, the nature of the impartiality interest must be recorded in the minutes of the meeting.

Regulation 11 of the *Local Government (Rules of Conduct) Regulations 2007* contain the provisions relating to Elected Members disclosing impartiality interests:

11. Disclosure of interest

- (1) In this regulation -
interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.
- (2) A person who is a council member and who has an interest in any matter to be discussed at a council or committee meeting attended by the member must disclose the nature of the interest -
 - (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.
- (3) Subregulation (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subregulation (2) does not apply if —
 - (a) a person who is a council member fails to disclose an interest because the person did not know he or she had an interest in the matter; or
 - (b) a person who is a council member fails to disclose an interest because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person disclosed the interest as soon as possible after the discussion began.
- (5) If, under subregulation (2)(a), a person who is a council member discloses an interest in a written notice given to the CEO before a meeting then -
 - (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before

a matter to which the disclosure relates is discussed.

(6) If -

(a) under subregulation (2)(b) or (4)(b) a person's interest in a matter is disclosed at a meeting; or

(b) under subregulation (5)(b) notice of a person's interest in a matter is brought to the attention of the persons present at a meeting,

the nature of the interest is to be recorded in the minutes of the meeting.

Disclosure of information in returns

Elected Members and 'designated employees' must provide primary and annual returns in accordance with the requirements of Division 6 of Part 5 of the *Local Government Act 1995*.

For these purposes, a **designated employee** is defined in section 5.74 of the *Local Government Act 1995* to mean:

- (a) the CEO
- (b) an employee, other than the CEO, to whom any power or duty has been delegated under Division 4 of the *Local Government Act 1995*
- (c) an employee who is a member of a committee comprising Elected Members and employees
- (d) an employee nominated by the City to be a designated employee.

Gifts and benefits

General provisions

In general, Elected Members, committee members and employees must not seek or accept (either directly or indirectly) any immediate or future gift (including any financial benefit, reward, donation or hospitality) for themselves, or for any other person or body, as a result of their role with the City. In particular, employees, other than the CEO or Directors, must not accept any act of hospitality without prior approval of the CEO or a Director, as appropriate.

Despite the general presumption against seeking or accepting gifts or acts of hospitality, Elected Members, committee members and employees may accept some types of gifts which are excluded from this Code's coverage.

For the purposes of this Code, a **gift** has the extended meaning set out in section 5.82(4) of the *Local Government Act 1995* and includes:

“any disposition of property, or the conferral of any other financial benefit, made by one person in favour of another otherwise than by will (whether with or without an instrument in writing), without consideration in money or money's worth passing from the person in whose favour it is made to the other, or with such consideration so passing if the consideration is not fully adequate, but does not include any financial or other contribution to travel.”

However, a **gift** does not include:

- (a) a gift from a relative as defined in section 5.74(1) of the *Local Government Act 1995*
- (b) a gift that must be disclosed under regulation 30B of the *Local Government (Elections) Regulations 1997*
- or
- (c) a gift from a statutory authority, government instrumentality or non-profit association for professional training.

Section 5.74(1) of the *Local Government Act 1995* states the following:

relative, in relation to a relevant person, means any of the following —

- (a) a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant of the relevant person or of the relevant person's spouse or de facto partner;
- (b) the relevant person's spouse or de facto partner or the spouse or de facto partner of any relative specified in paragraph (a),

whether or not the relationship is traced through, or to, a person whose parents were not actually married to each other at the time of the person's birth or subsequently, and whether the relationship is a natural relationship or a relationship established by a written law;

Examples of gifts are:

- (a) a tangible item, such as a bottle of wine or a book
- (b) a contribution towards the provision of accommodation
- (c) an act of hospitality, such as payment for a meal or an invitation or tickets to a function or event
or
- (d) discounts on a provider's products.

Nothing in this Code prevents a gift from being received:

- (a) on behalf of the City, where it is retained by the City
or
- (b) by an Elected Member, committee member or employee under and in accordance with the terms of a sponsorship or other commercial arrangement with the City.

For example, a ticket to attend a VIP event that is given to an Elected Member or employee will not be a 'gift' (and, therefore, will not be subject to the gift provisions of this Code) if it is given because of a contractual obligation to give it under a sponsorship agreement with the City. However, a ticket that is given voluntarily, over and above any contractual obligation will be a gift (if it otherwise satisfies the definition of 'gift' referred to earlier) and, if so, will be subject to the gift provisions of this Code.

Prohibited gifts

A committee member or employee must not accept a prohibited gift from a person who:

- (a) is undertaking or seeking to undertake an activity involving a local government discretion
or
- (b) it is reasonable to believe is intending to undertake an activity involving a local government discretion.

For these purposes:

- (a) a ***prohibited gift*** means:
 - (i) a gift worth \$300 or more
or
 - (ii) a gift that is one of 2 or more gifts given to the member or employee by the same person within a period of 6 months that are in total worth \$300 or more

- (b) **activity involving a local government discretion** is an activity:
- (i) that cannot be undertaken without an authorisation from the City
 - or
 - (ii) by way of a commercial dealing with the City.

Any gift valued at \$300 or more should be declined politely. If it is considered inappropriate to reject a gift worth \$300 or more (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 CEO at the first possible opportunity. At the CEO's discretion, these gifts will be placed in an appropriate position within the City and/or registered in the City's memorabilia collection.

The value of a gift can be estimated if the Elected Member, committee member or employee believes its value is low. However, if it is believed its value approaches \$300, the precise value of the gift should be ascertained 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 including all hidden costs in association with acts of hospitality. (For example, if 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.

Regulation 12 of the *Local Government (Rules of Conduct) Regulations 2007* prohibits an Elected Member from accepting a prohibited gift (see below).

Notifiable gifts

A committee member or employee may accept a 'notifiable gift'. However, if he or she accepts a notifiable gift from a person who:

- (a) is undertaking or seeking to undertake an activity involving a local government discretion
- or
- (b) it is reasonable to believe is intended to undertake an activity involving a local government discretion,

he or she must notify the CEO within 10 days of accepting the gift.

For these purposes:

- (a) a **notifiable gift** means:
 - (i) a gift worth between \$50 and \$300
 - or

- (ii) a gift that is one of two or more gifts given to an Elected Member, committee member or employee by the same person within a period of six months that are in total worth between \$50 and \$300
- (b) **activity involving a local government discretion** is an activity:
 - (i) that cannot be undertaken without an authorisation from the City
or
 - (ii) by way of a commercial dealing with the City.

The notification to the CEO of the acceptance of a notifiable gift must be in writing and must include:

- (a) the name of the person who gave the gift
- (b) the date on which the gift was accepted
- (c) a description, and the estimated value, of the gift
- (d) the nature of the relationship between the person who is a member or employee and the person who gave the gift
- (e) if the gift is a notifiable gift under (ii) of the definition of a notifiable gift (whether or not it is also a notifiable gift under (i) of that definition):
 - (i) a description
 - (ii) the estimated value
 - (iii) the date of acceptance,
 of each other gift accepted within the six month period.

Regulation 12 of the *Local Government (Rules of Conduct) Regulations 2007* contains similar requirements relating to the acceptance and notification of a 'notifiable gift' by an Elected Member (see below).

Register of notifiable gifts

The CEO must maintain a register of notifiable gifts and record any details of notifications given to comply with the requirement of the Code.

Regulation 12 of the *Local Government (Rules of Conduct) Regulations 2007* contain the requirements relating to the acceptance and notification of gifts by an Elected Member:

12. Gifts

- (1) In this regulation —
 - activity involving a local government discretion** means an activity —
 - (a) that cannot be undertaken without an authorisation from the local government; or
 - (b) by way of a commercial dealing with the local government;

gift has the meaning given to that term in section 5.82(4) of the Act except that it does not include —

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

notifiable gift, in relation to a person who is a council member, means —

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

prohibited gift, in relation to a person who is a council member, means —

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

- (2) A person who is a council member must not accept a prohibited gift from a person —

- (a) who is undertaking or seeking to undertake; or
- (b) who it is reasonable to believe is intending to undertake,

an activity involving a local government discretion.

- (3) A person who is a council member and who accepts a notifiable gift from a person —

- (a) who is undertaking or seeking to undertake; or
- (b) who it is reasonable to believe is intending to undertake,

an activity involving a local government discretion must, within 10 days of accepting the gift, notify the CEO of the acceptance in accordance with subregulation (4).

- (4) Notification of the acceptance of a notifiable gift is to be in writing and is to include —

- (a) the name of the person who gave the gift; and
- (b) the date on which the gift was accepted; and
- (c) a description, and the estimated value, of the gift; and
- (d) the nature of the relationship between the person who is a council member and the person who gave the gift; and
- (e) if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift” (whether or not it is also a notifiable gift under paragraph (a) of that definition) —
 - (i) a description; and
 - (ii) the estimated value; and
 - (iii) the date of acceptance,of each other gift accepted within the 6 month period.

- | |
|---|
| <p>(5) The CEO must maintain a register of gifts in which details of notices received under subregulation (4) are recorded.</p> |
|---|

Disclosure of gifts in annual returns

Elected Members and 'designated employees', as defined in section 5.74 of the *Local Government Act 1995*, should also remember to disclose gifts, in an annual return, received and valued at over \$200, that are not covered by the *Local Government (Rules of Conduct) Regulations 2007* (for Elected Members) or this Code (for employees).

Disclosure of election campaign contributions

All electoral candidates must comply with the *Local Government Act 1995* and the *Local Government (Elections) Regulations 1997* in disclosing electoral donations or 'gifts'. A candidate must disclose to the CEO information about any electoral or related gift with a value of \$200 or more that is promised or received within six months before the relevant election day.

Requirements relating to the disclosure of electoral gifts are set out in the *Local Government (Elections) Regulations 1997*, particularly Part 5A.

Reporting breaches and suspected breaches of the Code

Breaches of the Code by employees

Any person who has reason to believe that the personal behaviour of an employee breaches the standards of conduct set out in the Code, may refer the matter to the CEO or the Manager Human Resources, who will consider the matter and deal with it in accordance with the management protocols, procedures or practices of the City and any applicable law concerning employees.

Any person who has reason to believe that the personal behaviour of the CEO breaches the standards of conduct set out in the Code, may refer the matter to the Director Governance and Strategy, who will consider the matter and deal with it in accordance with the management protocols, procedures or practices of the City and any applicable law.

Each report of a breach is to be dealt with quickly and fairly in accordance with the principles of procedural fairness.

Breaches of the Code by Elected Members and committee members

A breach by an Elected Member of the *Local Government (Rules of Conduct) Regulations 2007* may be reported to the City's Complaints Officer (the CEO) in accordance with the prescribed Complaints Form as determined from time to time. Such complaints will be dealt with under Division 9 of Part 5 of the *Local Government Act 1995*.

Any person who has reason to believe that the personal behaviour of an Elected Member breaches the standards of conduct set out in the Code, other than those matters set out in the *Local Government (Rules of Conduct) Regulations 2007*, may refer the matter to the CEO, who will consider the matter and deal with it as he or she sees fit.

Any person who has reason to believe that the personal behaviour of a committee member breaches the standards of conduct set out in the Code, may refer the matter to the CEO, who will consider the matter and deal with it as he or she sees fit.

Reporting misconduct to the Corruption and Crime Commission

The CEO, being a 'principal officer of a notifying authority' (for the purposes of the *Corruption and Crime Commission Act 2003*) has a statutory obligation to report to the Corruption and Crime Commission:

- (a) any allegation of misconduct
- or
- (b) any situation that otherwise comes to his or her attention involving misconduct, where the CEO suspects on reasonable grounds concerns or may concern misconduct and is of relevance or concern to the CEO in his or her official capacity.

Notwithstanding, any Elected Member, committee member, employee or any other person may report directly to the Corruption and Crime Commission any matter which that person suspects on reasonable grounds concerns or may concern misconduct that:

- (a) has or may have occurred
 - (b) is or may be occurring
 - (c) is or may be about to occur
- or
- (d) is likely to occur.

Section 4 of the *Corruption and Crime Commission Act 2003* defines the instances when 'misconduct' occurs:

4. Term used: misconduct

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 of the *Corruption and Crime Commission Act 2003* defines 'serious misconduct' as misconduct of a kind described in section 4(a), (b) or (c) of the *Corruption and Crime Commission Act 2003*.

Public Interest Disclosure Act 2003

The *Public Interest Disclosure Act 2003* facilitates the reporting of public interest information and provides protection for those who report this information under that Act.

The City:

- (a) does not tolerate corrupt or other improper conduct, including mismanagement of public resources, in the exercise of the public functions of the City, by its members, employees or contractors
- (b) is committed to the aims and objectives of the *Public Interest Disclosure Act 2003*
- (c) strongly supports disclosures being made by Elected Members, committee members or employees as to corrupt or other improper conduct
- (d) will take all reasonable steps to provide protection to Elected Members, committee members and employees who make disclosures from any detrimental action in reprisal for the making of a public interest disclosure
- (e) does not tolerate any of its Elected Members, committee members, employees or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures.

Elected Members, committee members and employees are encouraged to contact the City's nominated Public Interest Disclosure Officer to seek guidance on their disclosure and to lodge completed Public Interest Disclosure forms.

A person who makes an appropriate disclosure of public interest information to the City's nominated Public Interest Disclosure Officer under section 5 of the *Public Interest Disclosure Act 2003*:

- (a) incurs no civil or criminal liability for doing so
- (b) is not, for doing so, liable:
 - (i) to any disciplinary action under a written law
 - (ii) to be dismissed
 - (iii) to have his or her services dispensed with or otherwise terminatedor
- (iv) for any breach of duty of secrecy or confidentiality or any other restriction on disclosure (whether or not imposed by a written law) applicable to the person (section 13).



CODE OF CONDUCT

STATUS:	<p>Council Policy - <i>A strategic policy that sets governing principles and guides the direction of the organisation to align with community values and aspirations.</i></p> <p><i>Council policies are developed by the Policy Committee for approval by Council.</i></p>
RESPONSIBLE DIRECTORATE:	Office of the CEO
OBJECTIVE:	<p>To provide guidance to council members, committee members and employees in relation to:</p> <ul style="list-style-type: none"> ➤ The duties and responsibilities that apply to each; and ➤ The minimum standard of conduct that the City expects from council members, committee members and employees.

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1.0 INTRODUCTION

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 the City of Joondalup activities. The Code of Conduct does not establish a rule for every situation, but provides guidance and a basis of expectation for good public administration by council members, committee members and employees of the City of Joondalup.

The Code of Conduct does not override or affect legislation applicable to the operations of the City of Joondalup, in particular the Local Government Act 1995, and the Local Government (Rules of Conduct) Regulations 2007.

This Code of Conduct applies to every individual council member, committee member and employee of the City of Joondalup.

2.0 GENERAL PRINCIPLES AND ETHICAL STANDARDS

The local community and the public in general are entitled to expect that the following general principles should be used to guide council members, committee members and employees of the City of Joondalup in their behaviours:

- a) act with reasonable care and diligence; and
- b) act with honesty and integrity; and
- c) act lawfully; and
- d) avoid damage to the reputation of the City of Joondalup; and
- e) be open and accountable to the public; and
- f) base decisions on relevant and factually correct information; and
- g) treat others with respect and fairness; and
- h) not be impaired by mind affecting substances.

The general principles referred to above are for guidance of those governed by the Code of Conduct. Here, it should be noted that it is not a rule of conduct that the principles be observed.

3.0 CONDUCT OF COUNCIL MEMBERS, COMMITTEE MEMBERS AND EMPLOYEES

3.1 Relationships and Roles

The role of council members and committee members is different to the role of employees of the City of Joondalup.

In essence, the Council decides policy objectives and the results it desires to achieve and, subject to any specific directions from the Council, the CEO (and employees) has responsibility to put these policy decisions into practical effect.

A prime responsibility of employees of the City of Joondalup is to assist (through the CEO) council and committee members in their decision-making role. Employees should always provide frank and professional advice without fear or favour.

Employees will recognise that council members and committee members' views and opinions reflect viewpoints that should be considered in conjunction with professional opinion. Employees will therefore make every effort to assist Council members and committee members in the performance of their role, and to achieve the satisfactory resolution of issues that members may raise in the performance of their official role.

3.2 Use of Confidential Information

Council 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. Every matter dealt with by, or brought before, a meeting sitting behind closed doors, shall be treated as strictly confidential, and shall not without the authority of the Council be disclosed to any person other than the council members and/or employees of the City (and in the case of employees only so far as may be necessary for the performance of their duties) prior to the discussion of the matter at a meeting of the Council held with open doors.

All documents of the City of Joondalup that are marked 'CONFIDENTIAL' or 'NOT FOR PUBLICATION' or marked with a clear message that the document is intended for the recipient only, are confidential to the City of Joondalup and shall not be published, copied, reproduced or the contents released to another person, in whole or in part, in any manner whatsoever without the express permission of the Council or the CEO.

Nothing in this section prevents a council member from disclosing confidential information:

- To a legal practitioner for the purpose of obtaining legal advice; or
- If the disclosure is permitted by law.

3.3 Improper or Undue Influence

Council 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. Similarly, council members, committee members and employees shall not take advantage of their positions to improperly disadvantage or cause detriment to the local government or any other person.

3.4 Personal Behaviour

Council 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;

- (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) 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.
- (g) 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
- (h) where practicable, be available for discussion with members of the public following Council and Committee meetings.

In addition, Council members are expected to:

- (i) prepare for, attend and actively participate in strategy and briefing sessions as well as Council meetings;
- (j) attend electors meetings; and
- (k) be a member of at least one Council committee consisting of Council members only and prepare for, attend and actively participate in its meetings.

Committee members 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 when involved in committee matters;
- (b) 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 committee duties, which may cause or is likely to cause any reasonable person unwarranted offence or embarrassment;

- (c) 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;
- (d) always act with fidelity to the committee and not publicly reflect adversely upon any decision of the committee, the Council in terms of its consideration of committee agenda items or those officers who support the committee in their role as committee support members; and
- (e) not be absent from three (3) consecutive ordinary meetings of a committee of which they are a member, except while on approved leave of absence.

Council members should represent and promote the interest of the 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, council 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 relevant council members of such matters.

4.0 CONFLICT AND DISCLOSURE OF INTERESTS

Council members, committee members and employees will comply with the requirements for the disclosure of interest as described in the Local Government Act 1995.

4.1 Conflict of Interests

Employees of the City of Joondalup should ensure that there is no actual or perceived conflict or incompatibility between the important fulfilment of their public or professional duties and either their personal interests, or those persons closely associated to them.

- (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.

4.2 Disclosure of Interest (Affecting Impartiality)

Employees of the City of Joondalup are required to disclose any interest, where the interest could, or could reasonably be perceived to, adversely affect the impartiality of the employee having the interest and includes an interest arising from kinship, friendship or membership of an association.

- 1 Where an employee has an interest in a matter that may affect impartiality, and that matter is to be discussed at a council or committee meeting attended by the employee, the employee shall disclose the nature of the interest:
 - a) in writing to the CEO before the meeting; or
 - b) at the meeting immediately before the matter is discussed.
- 2 Where an employee who has given advice, or will give advice in respect to any matter to be discussed at a council or committee meeting but not attended by the employee, the employee shall disclose the nature of any interest the employee has in the matter:
 - a) in a written notice given to the CEO before the meeting; or
 - b) at the time the advice is given.
- 3 The employee is exempt from the requirement to disclose an interest in 1 or 2 above if:-
 - a) the employee's failure to disclose occurs because the employee did not know he or she had an interest in the matter; or
 - b) the employee's failure to disclose occurs because the employee did not know the matter in which he or she had an interest would be discussed at the meeting and the employee discloses the nature of the interest as soon as possible after becoming aware of the discussion of the matter.
- 4 Where an employee has made a written disclosure as required by 1 or 2 above to the CEO, then:
 - a) The CEO is to provide the written notice to the presiding person of the meeting; and

- b) immediately before the matter is discussed at the meeting, the presiding person is to advise the meeting of the disclosures and its nature.

5.0 GIFTS AND ACTS OF HOSPITALITY

In general, 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 for the following paragraphs) for themselves or for any other person or body as a result of their employment with, or appointment to a committee of, the City of Joondalup.

For the purposes of this section of the Code of Conduct, the following applies:-

‘actively involving a City of Joondalup discretion’ means:

- that cannot be undertaken without an authorisation from the City of Joondalup; or
- by way of commercial dealing with the City of Joondalup.

‘gift’ – does not include:

- a gift from a relative;
- an electoral gift under regulation 30B of the Local Government (Elections) Regulations 1997.
- a gift from a statutory authority, government instrumentality or not for profit association for professional training.

‘notifiable gift’ means:

- a gift worth between \$50 and \$300; or
- a gift that is one of two or more gifts given to the employee by the same person within a period of 6 months that are in total worth between \$50 and \$300.

‘prohibited gift’ means:

- a gift worth \$300 or more; or
- a gift is one of two or more gifts given to the employee by the same person within a period of six months that are in total worth \$300 or more.

An employee or committee member should refrain from accepting a prohibited gift from a person who:

- is undertaking or seeking to undertake an activity involving the City of Joondalup’s discretion; or
- it is reasonable to believe is intending to undertake an activity involving the City of Joondalup’s discretion.

Where an employee or committee member accepts a notifiable gift from a person who:

- is undertaking or seeking to undertake an activity involving the City of Joondalup's discretion; or
- it is reasonable to believe is intending to undertake an activity involving the City of Joondalup's discretion,

the employee or committee member must notify the CEO within 10 days of receiving the gift.

The notification made by council members, committee members and employees is to include the following details, and shall be entered into the register as follows:

- name of person who gave the gift; and
- the date on which the gift was accepted or refused; and
- a description, and estimated value of the gift; and
- the nature of the relationship between the person who is the employee or committee member and the person who gave the gift; and
- where the gift is a notifiable gift, but is two or more gifts in a six month period from the same person:
 - a description
 - estimate value; and
 - the date of acceptance/refusal

The CEO shall maintain a register of notifiable gifts offered and accepted or rejected and prohibited gifts offered and rejected by council members, committee members and employees of the City.

When estimating the value of the gift it is important that the full value is taken into consideration, this includes all hidden costs. The cost should also include that of a partner, if the partner has been invited to accompany the employee, council member or committee member.

Nothing within the Code prevents gifts from being received by an employee, council member or committee member that exceed \$300, provided they remain the property of the City.

6.0 PERFORMANCE OF DUTIES AND COMPLIANCE WITH LAWFUL ORDERS

While on duty, employees shall give their time and attention to City business and ensure that their work is carried out efficiently, economically and effectively in accordance with their directions, duties, Council and City 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, Council members or committee members. Such issues shall include matters before the Council, matters impacting on the Council or the City itself, 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.

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.

Employees should give effect to and uphold the lawful policies of the Council, whether or not they agree with or approve of them.

7.0 WHISTLEBLOWER PROTECTION

Protection of Employees Reporting Unacceptable or Illegal Behaviour

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

7.1 Public Interest Disclosure Act 2003

Council 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 1 to this Code.

7.2 Corruption and Crime Commission Act 2003

Council members and employees must be aware that matters of misconduct and/or corruption may be reported to the Corruption and Crime Commission (CCC) and those 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.

8.0 ENFORCEMENT OF THE CODE

Any person who has reason to believe that a council member, committee member or an employee of the City of Joondalup has committed a breach of the Code of Conduct may complain about the breach to the City's designated complaints officer as determined in accordance with the Local Government (Rules of Conduct) Regulations 2007.

If the designated complaints officer is the CEO, and the complaint under this code is against the CEO, the complaint is to be directed to the Director, Governance and Strategy. If the designated complaints officer is a senior employee other than the CEO, the complaint against the complaints officer is to be directed to the CEO.

The complaint is to be made in writing on the form that appears as Annexure 3 to this Code, giving details of:

- a) who is making the complaint;
- b) who is alleged to have committed the breach;
- c) the contravention that is alleged to have resulted in the breach; and
- d) any other relevant information

Within 14 days of receiving the complaint, the complaints officer must:

- a) give the person making the complaint a written acknowledgement that the complaint has been received; and
- b) give the person whom the complaint is being made a copy of the complaint.

As soon as practicable from acknowledging the complaint, the complaints officer is to carry out a thorough investigation, having regard to procedural fairness and natural justice. While undertaking the thorough investigation, the complaints officer may engage the services of appropriate persons.

At the completion of the investigation, the complaints officer shall advise the outcomes of the investigation to:

- a) CEO, if the investigating officer is not the CEO; and
- b) person subject of the complaint, and
- c) person who made the complaint.

If the complaint is about a council member, the report is to be presented to the Council.

Any actions taken as a result of a proven breach of the Code of Conduct will be made in accordance with the provisions of any applicable legislation or common law provisions that governs the operations of the City, its council members, committee members and its employees.

The Corruption and Crime Commission Act 2003, requires the CEO 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 2 to this Code of Conduct.

ANNEXURE 2 – 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).

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

COMPLAINANT DETAILS FORM

CODE OF CONDUCT

NOTE TO PERSON MAKING THE COMPLAINT: This form should be completed, dated and signed by the person making a complaint of a breach of the City's Code of Conduct and should be submitted with the complaint when it is given to the Complaints Officer of the City of Joondalup.

NOTE TO COMPLAINTS OFFICER: The person complained about is not entitled to, and must not, be sent or provided with, a copy of the form (or any address or contact details in it) submitted by a person making a complaint.

DETAILS OF PERSON WHO IS MAKING THE COMPLAINT	
Name: _____	
_____	_____
Given Name(s)	Family Name
Address: _____	
_____	Postcode: _____
Telephone No.(s) _____(Hm) _____(Wk) _____(Mob)	
Email address: _____	

NAME OF PERSON ALLEGED TO HAVE COMMITTED BREACH	
DATE OF INCIDENT	
WITNESS DETAILS: If there is/are any person(s) who witnessed the alleged breach, and who <u>is/are willing to provide information</u> , state the name and contact details of each such person	
Name: _____ <u>Given Name(s)</u> Family Name	
Address: _____ _____ Postcode: _____	
Telephone No.(s) _____(Hm) _____(Wk) _____(Mob)	
Email address: Name: _____ <u>Given Name(s)</u> Family Name	
Address: _____ _____ Postcode: _____	
Telephone No.(s) _____(Hm) _____(Wk) _____(Mob)	
Email address:	

SIGNED:
Complainant

DETAILS OF THE ALLEGED BREACH OF THE CITY'S CODE OF CONDUCT
(attach any additional information where necessary)

Amendments: CJ206-10/05, CJ153-09/06, CJ007-02/07, CJ105-06/07,
CJ052-04/08

Related Documentation: -

Issued: April 2008

Comparison Matrix between the *Code of Conduct Policy* and the new *Code of Conduct*

New Code of Conduct	Existing Code of Conduct Policy	Comments
Introduction	Introduction	<p>The new Code indicates that it has been prepared to meet the requirements of section 5.103 of the <i>Local Government Act 1995</i>. The Code ensures the roles and responsibilities of Elected Members, committee members and employees are easily understood and respected. This establishes professional working relationships, supports good governance and delivers good government for the community.</p> <p>The introduction states the Code addresses key conduct areas of:</p> <ul style="list-style-type: none"> • professional conduct • communication and official information • use of City resources and information • conflicts of interests and gifts and benefits • reporting suspected breaches of the Code. <p>It also reflects that employees of the City are subject to the provisions of the Code upon their employment at the City.</p>
Values, principles and behaviour	General Principles and Ethical Standards	<p>The new Code includes the primary values and distinguishing values as stated in the City's <i>Strategic Community Plan</i> (Joondalup 2022) and that Elected Members, committee members and employees are to observe these values to enable the City to achieve its strategic goals.</p> <p>The current behavioural principles as stated in the current Code continue to exist and which are aligned to the <i>Local Government (Rules of Conduct) Regulations 2007</i>.</p> <p>Personal behaviour principles have been inserted a breach of which may lead to action being taken under the provisions of the Code.</p>

New Code of Conduct	Existing Code of Conduct Policy	Comments
Professional conduct	Conduct of Council Members, Committee Members and Employees	<p>This section of the new Code has consolidated all matters around professional conduct. It details heading and information around:</p> <ul style="list-style-type: none"> • fraudulent and corrupt behaviour (new section) • performance of duties (current section 6 in the existing Code with amendments) • relationships between Elected Members, committee member and employees (section 3.1 in the existing Code with amendments) • compliance with lawful orders (current section 6 in the existing Code with amendments) • compliance with local laws and policies (current section 6 in the existing Code with amendments) • compliance with management protocols and procedures (new section) • appointments to external boards, committees and working groups (new section and previously detailed in the former <i>City of Joondalup Standing Orders Local Law 2005</i>). <p>The new Code does not include various general statements that are within the existing Code and has simplified overly complicated wording. It has also removed some matters that are considered inappropriate to be placed within a Code which if breached would constitute a breach of the Code such as referring to official titles (see 3.4(f) of the existing Code); availability after meetings where practicable (see 3.4(h) of the existing Code); adequate preparation for meetings and attendance (see 3.4(i) – (k) of the existing Code); preparation of file notes (see 6, para. 2 of the existing Code), the development of networks (see 6, para. 4 of the existing Code), absenteeism from meetings (see 3.4(e) of the existing Code).</p> <p>Such matters are detailed in other existing documents such as the City's <i>Meeting Procedures Local Law 2013</i> (see clauses 7.2 and 4.4), <i>Governance Framework</i> (see section 9 on decision-making), <i>Recordkeeping Plan</i> or internal management protocols (such as <i>Conduct of City Officers when Addressing Elected Members or Attending Meetings with Elected Members Protocol</i>).</p>
Communication and official information	-	<p>This is a new section of the Code details how Elected Members, committee members and employees should communicate to the community. It reflects the need for respect of the City's decision-making processes and the need to maintain confidentiality until such time that confidentiality does not apply. The provisions of the <i>Local Government Act 1995</i> are also stated in that the Mayor (or the CEO if the</p>

New Code of Conduct	Existing Code of Conduct Policy	Comments
		Mayor agrees) is to speak on behalf of the City.
Use of City Resources	-	<p>This is a new section of the Code that states Elected Members, committee members and employees must use the City's resources appropriately and which are entrusted in them and are not to be used for un-authorised activities. It also references the provisions within the <i>Local Government (Rules of Conduct) Regulations 2007</i> in respect of Elected Members use of resources (regulation 8).</p> <p>This section of the new Code also details provisions around the reimbursement of expenses and that such claims can only be made in accordance with the relevant legislative provision, policy or management protocol.</p>
Use of Information	Use of Confidential information	This section in the new Code also now details the various legislative provisions in respect to the improper use of information, the use of information at closed meetings and the use of confidential information.
Conflicts of interests	Conflicts of Interest	<p>The new Code includes a range of guiding principles to assist Elected Members, committee members and employees to adequately declare interest that may arise in the performance of their duties (be that actual, future or perceived). It also satisfies the requirements under the <i>Local Government (Administration) Regulations 1996</i> in respect of employees' interests as well as the provisions of the <i>Local Government Act 1995</i> for financial interests.</p> <p>A separate section has been included in the new Code around private work of employees and the need to seek the CEOs approval where an employee is considering engaging in employment outside the City.</p> <p>The new Code also details the legislative provisions for Elected Members and 'designated employees' to disclose certain interests in Primary Returns and Annual Returns.</p>
Gifts and benefits	Gifts and Acts of Hospitality	The new Code includes the requirements under the <i>Local Government (Administration) Regulations 1996</i> for a code to include provisions around the acceptance of gifts by employees, be it a notifiable gift or prohibited gifts. It also reflects the gift provisions under the <i>Local Government (Rules of Conduct) Regulations 2007</i> in respect of Elected Members. To assist with interpretation some

New Code of Conduct	Existing Code of Conduct Policy	Comments
		<p>examples of gifts have been included such as tangible items, acts of hospitality and tickets to events. It also clarifies that where a ticket to attend a VIP event is given as part of a contractual obligation with the City, it is not considered a gift for the purposes of the Code.</p> <p>The new Code also now details legislative provisions for Elected Members and ‘designated employees’ to disclose gifts in Annual Returns as well as the provisions under the <i>Local Government Act 1995</i> and the <i>Local Government (Elections) Regulations 1997</i> in respect of electoral contributions.</p>
Reporting breaches and suspected breaches of the Code	Enforcement of the Code / Whistleblower Protection	<p>Provisions around the enforcement of the Code need to be considered in the context of the legislative framework in which local governments operate. Provisions within the Code in regard to breaches of the Code must firstly reflect any legislative provisions and then establish reporting procedures for all other matters not covered by legislation.</p> <p>Breaches by Elected Members of the <i>Local Government (Rules of Conduct) Regulations 2007</i> are to be conducted within the framework and procedures established under Division 9 of Part 5 of the <i>Local Government Act 1995</i>. This framework includes the establishment of a complaints officer (being the CEO) and a Standards Panel that is established by the Minister for Local Government. All local governments must follow the procedures set down in the <i>Local Government Act 1995</i> in respect of breaches or suspected breaches by Elected Members of the <i>Local Government (Rules of Conduct) Regulations 2007</i>. This has been reflected in the new Code accordingly.</p> <p>For other matters within the Code that do not fall within the scope of the <i>Local Government (Rules of Conduct) Regulations 2007</i>, the Code sets down a basic reporting and investigation mechanism. In this respect the new Code sets out where an Elected Member, committee member or employee breaches the Code (or where a breach is suspected to have occurred), it is to be referred to the CEO (or alternatively the Manager Human Resources for employees), who will in turn investigate the matter in accordance with the management protocols, procedures or practices of the City and any applicable law. Breaches or suspected breaches of the Code by the CEO are to be reported to the Director of Governance and Strategy. All conduct matters will be dealt with in the manner in view of any management protocols, procedures or practices of the City and any written law.</p>

New Code of Conduct	Existing Code of Conduct Policy	Comments
		<p>The Code also sets out the CEO's obligation to report misconduct to the Corruption and Crime Commission under and as defined by the <i>Corruption and Crime Commission Act 2003</i>. The Code also reflects the provisions under the <i>Public Interests Disclosures Act 2003</i> in respect to reporting matters and the protection that is offered to such people (often termed 'whistleblower protection').</p>