



### **1.2.1      Code of Conduct for Council Members, Committee Members and Employees**

<b>Type:</b>	Office of the CEO – Human Resources
<b>Legislation:</b>	LGA 1995 s5.103 Codes of Conduct Local Government (Administration) Regs 1996 Reg 34B & C
<b>Delegation:</b>	N/A
<b>Other Related Document:</b>	Local Government (Rules of Conduct) Regulations 2007

#### **Objective**

This policy provides Council Members, Committee Members and employees of the Town of East Fremantle with consistent guidelines for an acceptable standard of professional conduct. The Code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability in local government

The Code is complementary to the principles adopted in the *Local Government Act 1995 (Act)* and regulations which incorporate four fundamental aims to result in:-

- (a) better decision-making by local governments;
- (b) greater community participation in the decisions and affairs of local governments;
- (c) greater accountability of local governments to their communities; and
- (d) more efficient and effective local government.

The Code provides a guide and a basis of expectations for Council Members, Committee Members and employees. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

#### **Policy Scope**

This policy affects elected members, employees and other members of a Council committee.

#### **Policy**

##### **1. Roles**

###### *1.1 Role of Council Member*

The primary role of a Council Member is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the Town will be the focus of the Council Member's public life.

The Role of Council Members is set out in s2.10 of the Act as follows: "A Councillor —

- (a) *Represents the interests of electors, ratepayers and residents of the district;*
- (b) *provides leadership and guidance to the community in the district;*
- (c) *facilitates communication between the community and the council;*
- (d) *participates in the local government's decision-making processes at council and committee meetings; and*

- (e) performs such other functions as are given to a Councillor by this Act or any other written law."

A Council Member is part of the team in which the community has placed its trust to make decisions on its behalf and the community is therefore entitled to expect high standards of conduct from its elected representatives. In fulfilling the various roles, Council Members' activities will focus on:

- achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- achieving sound financial management and accountability in relation to the Town's finances;
- ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;
- working with other governments and organisations to achieve benefits for the community at both a local and regional level;
- having an awareness of the statutory obligations imposed on Council Members and on Local Governments.

In carrying out its functions the Town is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

### 1.2 *Role of Employees*

The role of employees is determined by the functions of the CEO as set out in s5.41 of the Act:

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*"The CEO's functions are to —*

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;
- (b) ensure that advice and information is available to the council so that informed decisions can be made;
- (c) cause council decisions to be implemented;
- (d) manage the day to day operations of the local government;
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;
- (f) speak on behalf of the local government if the mayor or president agrees;
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to S 5.37(2) in relation to senior employees);
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO."

### 1.3 *Role of Council*

The role of the Council is in accordance with s2.7 of the Act:

*"(1) The council —*

- (a) directs and controls the local government's affairs; and
- (b) is responsible for the performance of the local government's functions.

*(2) Without limiting subsection (1), the council is to —*

- (a) oversee the allocation of the local government's finances and resources; and*
- (b) determine the local government's policies."*

#### **1.4 Relationships between Council Members and Employees**

An effective Council Member works as part of the Council team with the Chief Executive Officer and other members of staff. That teamwork only occurs if Council Members and employees have a mutual respect and co-operate with each other to achieve the Council's corporate goals and implement the Council's strategies. To achieve that position, Council Members need to observe their statutory obligations which include, but are not limited to, the following:

- accept that their role is a leadership, not a management or administrative one;
- acknowledge that they have no capacity to individually direct members of employees to carry out particular functions;
- refrain from publicly criticising employees in a way that casts aspersions on their professional competence and credibility.

### **2. Conflict and Disclosure of Interest**

#### **2.1 Conflict of Interest**

- (a) Council Members, Committee Members and employees are required to ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- (b) Employees may not engage in private work with or for any person or body with an interest in a proposed or current contract with the Town, without first making disclosure to the Chief Executive Officer. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
- (c) Council Members, Committee Members and employees are to lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the Town area or which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).
- (d) Council Members, Committee Members and employees who exercise a recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and are required to disqualify themselves from dealing with those persons.
- (e) Employees will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity. An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti-discriminatory legislation.

#### **2.2 Financial Interest**

Council Members, Committee Members and employees will adopt the principles of disclosure of financial interest as contained within the Act.

### 2.3 Disclosure of Interest

#### *Definition:*

*In this clause, and in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996 -*

*"interest" means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.*

- (a) A person who is a Council Member, Committee Member or employee and who has an interest in any matter to be discussed at a council or committee meeting attended by the person is required to disclose the nature of the interest -
  - (i) in a written notice given to the CEO before the meeting; or
  - (ii) at the meeting immediately before the matter is discussed.
- (b) A person who is an employee and who has given, or will give, advice in respect of any matter to be discussed at a council or committee meeting not attended by the person is required to disclose the nature of any interest the person has in the matter -
  - (i) in a written notice given to the CEO before the meeting; or
  - (ii) at the time the advice is given.
- (c) A requirement described under items (a) and (b) exclude an interest referred to in S 5.60 of the t Act.
- (d) A person is excused from a requirement made under items (a) or (b) to disclose the nature of an interest if-
  - (i) the person's failure to disclose occurs because the person did not know he or she had an interest in the matter; or
  - (ii) the person's failure to disclose occurs because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.
- (e) If a person who is a Council Member, Committee Member or employee makes a disclosure in a written notice given to the CEO before a meeting to comply with requirements of items (a) or (b), then
  - (i) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
  - (ii) immediately before a matter to which the disclosure relates is discussed at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present.
- (f) If -
  - (i) to comply with a requirement made under item (a), the nature of a person's interest in a matter is disclosed at a meeting; or
  - (ii) a disclosure is made as described in item (d)(ii) at a meeting; or
  - (iii) to comply with a requirement made under item (e)(ii), a notice disclosing the nature of a person's interest in a matter is brought to the attention of the persons present at a meeting, the nature of the interest is to be recorded in the minutes of the meeting.

### **3. Personal Benefit**

#### **3.1 Use of Confidential Information**

Council Members, Committee Members and employee will not use confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially and in good faith, or to improperly cause harm or detriment to any person or organisation.

#### **3.2 Intellectual Property**

The title to Intellectual Property in all duties relating to contracts of employment is assigned to the Town upon its creation unless otherwise agreed by separate contract.

#### **3.3 Improper or Undue Influence**

Council Members and employees will not take advantage of their position to improperly influence other Council Members or employees in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

#### **3.4 Disclosure of Gifts (Elected Members and CEO)**

In accordance with sections 5.87A and 5.87B of the Act, Council Members are required to disclose gifts that are received in their capacity as a Council Member and are:

- valued over \$300; or
- of a cumulative value that exceeds \$300 where the gifts are received from the same donor in a 12 month period.

Additionally, a gift given by two or more related bodies corporate (as defined in the *Corporations Act 2001*) is considered to have been given by a single corporation (donor).

The decision on whether a gift is received in the capacity of a Council Member must be made by the recipient of the gift. The question is whether the gift would have been given (or a gift of that value given) if the recipient were not a member of the Council (or CEO). If the answer is no, it must be disclosed if the value of the gift (or aggregated value) is over \$300. The onus is on the recipient to prove that it was not received in that capacity (and that the value of the gift(s) is not greater than \$300).

For the purposes of this Code, a '**gift**' has the extended meaning set out in section 5.57 of the *Local Government Act 1995* and means:

- (a) a conferral of a financial benefit (including a disposition of property) made by one person in favour of another person unless adequate consideration in money or money's worth passes from the person in whose favour the conferral is made to the person who makes the conferral; or
- (b) a travel contribution.

5.87A of the Act refers to Council Member gift disclosures

5.87B of the Act refers to CEO gift disclosures

5.87C of the Act refers to Provisions about disclosure

5.89A of the Act refers to a Register of gifts

### *3.5 Conflicts of Interest – Interests relating to a gift (Elected Members and CEO)*

Receipt of a gift – any gift, whether or not in a person’s capacity as Council Member or CEO – will create a relationship of a closely associated person and therefore an interest (s5.60 and 5.62 of the Act)

The following situations are specifically excluded from the interest provisions:

- Where the gift (or gifts over a 12 month period from the one donor) do not exceed \$300 in value;
- Where the gift is a ticket to, or otherwise relates to attendance at an event and the Town approved the person’s attendance in accordance with their Attendance at Events Policy (see below); or
- Where the gift is received from one of the following organisations:
  - WALGA (but not LGIS)
  - Local Government Professionals Australia (WA)
  - Australian Local Government Association
  - A department of the public service
  - A government department or another State, a Territory or the Commonwealth
  - A local government or regional local government.

This interest creates a perceived or actual conflict which prevents the Council Member from participating in the meeting or the CEO from providing advice or a report on the matter to be discussed (s5.67 and 5.71A), unless approval has otherwise been given.

If the amount of the gift(s) is less than \$1,000, under s5.68 the Council may allow the disclosing Council Member to participate if:

- the Council Member discloses the extent of the interest they have; and
- Council decides that the interest is so trivial or insignificant as to be unlikely to influence the disclosing person’s conduct in relation to the matter; or
- the interest is common to a significant number of other electors or ratepayers.

The interest, the Council’s decision and the reasons for that decision must be recorded in the minutes.

If an interest valued at over \$1,000 is disclosed, under s5.69 the Council or CEO may apply to the Minister to allow the disclosing member to participate in meetings or parts of meetings relating to that matter. In this case, the Minister must consider that it is in the best interests of the electors or ratepayers for this to happen, or that approval is necessary to provide a quorum. The Minister’s decision and the reasons for that decision must be recorded in the minutes of the meeting where the matter is discussed.

Similar provisions are contained in s5.71A and 5.71B in relation to the CEO providing advice or a report, directly or indirectly, to the Council or a Committee.

### *3.6 Notifiable gifts in relation to a person who is an employee*

An employee may accept a ‘notifiable gift’.

An employee must notify the CEO within 10 days of accepting a notifiable gift if it is accepted from a person who:

Is undertaking or seeking to undertake an activity involving a local government discretion; or

It is reasonable to believe is intending to undertake an activity involving a local government discretion.

The notification of the acceptance of a notifiable gift be in writing and 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 an employee and the person who gave the gift; and
- (e) if the gift is a notifiable gift under paragraph (bA) of the definition of notifiable gift in subregulation (1) (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 six month period.

The CEO is required to –

- (a) keep a register of notifiable gifts; and
- (b) record in the register details of notifications given to comply with a requirement made under subregulation (3); and
- (c) publish an up-to-date version of the register on the local government's official website.

For the purposes of this clause:

- a '**notifiable gift**' means:
  - a gift worth between \$50 and \$300; or
  - a gift that is one of two or more gifts given to an employee by the same person within a period of six months that are in total worth between \$50 and \$300
- '**activity involving a local government discretion**' has the same meaning as referred to in 4.5(2)(b) above
- A '**gift**' has the meaning set out in s5.82(4) of the *Local Government Act 1995* but does not include:
  - a gift from a relative as defined in s5.74(1); or
  - a gift that must be disclosed under regulation 30B of the *Local Government (Elections) Regulations 1997*; or
  - a gift from a statutory authority, government instrumentality or non-profit association for professional training; or
  - a gift from WALGA, the Australian Local Government Association.

All notifiable gifts or benefits received by an employee must be declared to the CEO by completing the Gift Disclosure Form within 10 days of acceptance.

### 3.7 Prohibited gifts in relation to a person who is an employee

An employee must not accept a prohibited gift from a person who:

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

For the purpose of this clause:

- a '**prohibited gift**' means:
  - a gift worth \$300 or more; 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 \$300 or more.
- ‘activity involving a local government discretion’ is an activity:
  - that cannot be undertaken without an authorisation from the Town; or
  - by way of a commercial dealing with the Town.
- A ‘gift’ has the meaning set out in s5.82(4) of the Act but does not include:
  - a gift from a relative as defined in s5.74(1); or
  - a gift that must be disclosed under regulation 30B of the *Local Government (Elections) Regulations 1997*; or
  - a gift from a statutory authority, government instrumentality or non-profit association for professional training; or
  - a gift from WALGA, the Australian Local Government Association

#### **4. Conduct of Council Members, Committee Members and Staff**

##### *4.1 Personal Behaviour*

- (a) Council Members, Committee Members and employees are required to:
  - (i) act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
  - (ii) perform their duties impartially and in the best interests of the Town uninfluenced by fear or favour;
  - (iii) act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the Town and the community;
  - (iv) 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 any reasonable person unwarranted offence or embarrassment; and
  - (v) always act in accordance with their obligation of fidelity to the Town.
- (b) Council Members are required to represent and promote the interests of the Town, while recognising their special duty to their own constituents.

##### *4.2 Honesty and Integrity*

Council Members, Committee Members and employees will:

- (a) observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- (b) bring to the notice of the Mayor any dishonesty or possible dishonesty on the part of any other member, and in the case of an employee to the Chief Executive Officer.
- (c) be frank and honest in their official dealings with each other.

##### *4.3 Performance of Duties*

- (a) While on duty, employees are required to give their whole time and attention to the Town’s business and ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably both on them and on the Town.
- (b) Council Members and Committee Members will at all times exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making but treating all matters on individual merits. Council Members and Committee Members are required to be as informed as possible about the functions of the Council, and treat all members of the community honestly and fairly.

#### *4.4 Compliance with Lawful Orders*

- (a) Council Members, Committee Members and employees will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the Chief Executive Officer.
- (b) Council Members, Committee Members and employees are required to give effect to the lawful policies of the Town, whether or not they agree with or approve of them.

#### *4.5 Administrative and Management Practices*

Council Members, Committee Members and employees will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

#### *4.6 Corporate Obligations*

##### *(a) Standard of Dress*

- Council Members, Committee Members and employees are expected to comply with neat and responsible dress standards at all times. Accordingly:
- (i) Council Members and Committee Members are required to dress in a manner appropriate to their position, in particular when attending meetings or representing the Town in an official capacity.
  - (ii) Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual staff.

##### *(b) Communication and Public Relations*

- (i) All aspects of communication by employees (including verbal, written or personal), involving the Town's activities should reflect the status and objectives of the Town. Communications should be accurate, polite and professional.
- (ii) Only the Mayor or CEO is authorised to speak to the media on behalf of the Town of East Fremantle. The Mayor or CEO may appoint a spokesperson to speak on their behalf, where it is deemed to be appropriate.
- (iii) As a representative of the community, Council Members are required to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so Council Members should acknowledge that:
  - as a member of the Council there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council;
  - information of a confidential nature ought not be communicated until it is no longer treated as confidential;
  - information relating to decisions of the Council on approvals, permits and so on ought only be communicated in an official capacity by a designated officer of the Council;
  - information concerning adopted policies, procedures and decisions of the Council is conveyed accurately.
- (iv) Committee Members accept and acknowledge it is their responsibility to observe any direction the Town may adopt in terms of advancing and promoting the objectives of the Committee to which they have been appointed.

#### *4.7 Appointments to Committees*

As part of their representative role Council Members are often asked to represent the Council on external organisations. It is important that Council Members:

- clearly understand the basis of their appointment; and
- provide regular reports on the activities of the organisation.

## **5. Dealing with Council Property**

### **5.1 Use of Local Government Resources**

Council Members and staff will:

- (a) be scrupulously honest in their use of the Town's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- (b) use the Town's resources entrusted to them effectively and economically in the course of their duties; and
- (c) not use the Town's resources (including the services of Council staff) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer).

### **5.2 Travelling and Sustenance Expenses**

Council Members, Committee Members and staff are required to only claim or accept travelling and sustenance expenses arising out of travel-related matters which have a direct bearing on the services, policies or business of the Town in accordance with policy and the provisions of the *Local Government Act 1995*.

### **5.3 Access to Information**

- (a) Staff are required to ensure that Council Members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities.
- (b) Council Members are required to ensure that information provided is to be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.

<b>Responsible Directorate:</b>	Office of the Chief Executive Officer
<b>Reviewing Officer:</b>	Chief Executive Officer
<b>Decision making Authority:</b>	Council
<b>Policy Adopted:</b>	24/9/96
<b>Policy Amended/Reviewed:</b>	27/4/98, 17/8/99, 21/8/01 15/9/15 & 20/10/15, 17/9/19, 21/7/20
<b>Former Policy No:</b>	4.1.2

Attachment

Code of Conduct Declaration



## CODE OF CONDUCT DECLARATION

Declaration:

I, .....(print name) have read and understand the conditions of the Town of East Fremantle Code of Conduct and hereby agree to abide by the requirements of this document.

SIGNED: \_\_\_\_\_

DATE: \_\_\_\_\_

Please return completed declaration to the Chief Executive Officer