



**SHIRE OF PINGELLY**

# **CODE OF CONDUCT**

**For**

**Elected Members**

**2019**

Last Updated: 5 September 2019

## **PREAMBLE**

The Code of Conduct provides Council Members and Committee Members in Local Government 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 individual Local Governments.

The Code is complementary to the principles adopted in the Local Government Act and regulations which incorporates 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 and Committee Members. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

## **STATUTORY ENVIRONMENT**

The Code of Conduct observes statutory requirements of the *Local Government Act 1995* (S 5.103 – Codes of Conduct) and *Local Government (Administration) Regulations 1996* (Regs 34B and 34C).

## **RULES OF CONDUCT**

Council Members acknowledge their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed rules of conduct as described in the *Local Government Act 1995* and *Local Government (Rules of Conduct) Regulations 2007*.

## **AASB 124 RELATED PARTY DISCLOSURES**

The scope of AASB 124 Related Party Disclosures was extended in July 2015 by the Australian Accounting Standards Board to include applications by not for profit entities, including local governments.

The operative date for Local Government is 1 July 2016, with the first disclosures made in the Financial Statements for the year ended 30 June 2017.

The objective of the standard is to ensure that an entity's financial statements contain disclosures necessary to draw attention to the possibility that its financial position and profit or loss may have been affected by the existence of related parties and transactions. The disclosure requirements apply to the existence of relationships regardless of whether a transaction has occurred or not. For each financial year the Shire must make an informed judgement as to who is considered to be a related party and what transactions need to be considered, when determining if disclosure is required.

The purpose of this procedure is to stipulate the information to be requested from related parties to enable an informed judgement to be made.

Please contact the Director of Corporate & Community Services for further information.

## 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 Local Government will be the focus of the Council Member's public life.

The Role of Council Members as set out in S 2.10 of the *Local Government Act 1995* 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 Local Government'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 a local government 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 Staff

The role of staff is determined by the functions of the CEO as set out in S 5.41 of the *Local Government Act 1995*:

*"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 S 2.7 of the *Local Government Act 1995*:

*“(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 Staff

An effective Councillor will work as part of the Council team with the Chief Executive Officer and other members of staff. That teamwork will only occur if Council Members and staff 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 staff to carry out particular functions;
- refrain from publicly criticising staff 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 and Committee Members will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- (b) Council Members and Committee Members will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the local government area or which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).
- (c) Council Members and Committee Members who exercise a recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.

### 2.2 Financial Interest

Council Members and Committee Members will adopt the principles of disclosure of financial interest as contained within the *Local Government 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 an elected member 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 elected member 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 *Local Government Act 1995*.
- (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 an elected member 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 and Committee Members 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 will be assigned to the Local Government upon its creation unless otherwise agreed by separate contract.

#### 3.3 Improper or Undue Influence

Council Members and Committee Members will not take advantage of their position to improperly influence other Council Members or Committee Members 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 Gifts

*Definitions :*

*In this clause, and in accordance with Regulation 34B of the Local Government (Administration) Regulations 1996 - "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 S 5.82(4) except that it does not include -*

- (a) a gift from a relative as defined in S 5.74(1); 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 an employee, means -*

- (a) a gift worth between \$50 and \$300; or*
- (b) a gift that is one of 2 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", in relation to a person who is an employee, means -*

- (a) a gift worth \$300 or more; or*
- (b) a gift that is one of 2 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.*

- (a) A person who is an elected member is to refrain from accepting a prohibited gift from a person who -
  - (i) is undertaking or seeking to undertake an activity involving a local government discretion; or
  - (ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion.
- (b) A person who is an elected member and who accepts a notifiable gift from a person who -
  - (i) is undertaking or seeking to undertake an activity involving a local government discretion; or
  - (ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion, notify the CEO, in accordance with item (c) and within 10 days of accepting the gift, of the acceptance.

- (c) The notification of the acceptance of a notifiable gift must be in writing and include -
  - (i) the name of the person who gave the gift; and
  - (ii) the date on which the gift was accepted; and
  - (iii) a description, and the estimated value, of the gift; and
  - (iv) the nature of the relationship between the person who is an employee and the person who gave the gift; and
  - (v) 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) –
    - (1) a description; and
    - (2) the estimated value; and
    - (3) the date of acceptance,of each other gift accepted within the 6 month period.
- (d) The CEO is to maintain a register of notifiable gifts and record in it details of notifications given to comply with a requirement made under item (c).
- (e) This clause does not apply to gifts received from a relative (as defined in S 5.74(1) of the *Local Government Act*) or an electoral gift (to which other disclosure provisions apply).
- (f) This clause does not prevent the acceptance of a gift on behalf of the local government in the course of performing professional or ceremonial duties in circumstances where the gift is presented in whole to the CEO, entered into the Register of Notifiable Gifts and used or retained exclusively for the benefit of the local government.

## **4. CONDUCT OF COUNCIL MEMBERS AND COMMITTEE MEMBERS**

### **4.1 Personal Behaviour**

(a) Council Members and Committee Members will:

- (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 Local Government uninfluenced by fear or favour;
- (iv) act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the Local Government and the community;
- (v) 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
- (vi) always act in accordance with their obligation of fidelity to the Local Government.

(b) Council Members will represent and promote the interests of the Local Government, while recognising their special duty to their own constituents.

### **4.2 Honesty and Integrity**

Council Members and Committee Members 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/President 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 dealing with each other.

### **4.3 Performance of Duties**

- (a) While on duty, elected members will give their whole time and attention to the Local Government's business and ensure that their duties are carried out efficiently, economically and effectively, and that their standards reflect favourably both on them and on the Local Government.
- (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 will 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 and Committee Members 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 and if resolution cannot be achieved, with the Chief Executive Officer.
- (b) Council Members and Committee Members will give effect to the lawful policies of the Local Government, whether or not they agree with or approve of them.

#### **4.5 Administrative and Management Practices**

Council Members and Committee Members 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 and Committee Members are expected to comply with neat and responsible dress standards at all times. Accordingly:
  - (i) Council Members and Committee Members will dress in a manner appropriate to their position, in particular when attending meetings or representing the Local Government in an official capacity.
  - (ii) Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individuals.
- (b) Communication and Public Relations
  - (i) All aspects of communication by staff (including verbal, written or personal), involving Local Government's activities should reflect the status and objectives of that Local Government. Communications should be accurate, polite and professional.
  - (ii) As a representative of the community, Council Members need 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.
  - (iii) Committee Members accept and acknowledge it is their responsibility to observe any direction the Local Government 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 will:

- (a) be scrupulously honest in their use of the Local Government'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 Local Government resources entrusted to them effectively and economically in the course of their duties; and
- (c) not use the Local Government'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 and Committee Members will 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 Local Government in accordance with Local Government policy and the provisions of the *Local Government Act 1995*.

### **5.3 Access to Information**

- (a) Staff will 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 will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.

**6. Code of Conduct**

- 6.1** The Shire of Pingelly Code of Conduct is to be reviewed at least annually by the Chief Executive Officer prior to the bi-annual Council elections. It is during the review process that Councillors will be advised of any changes or amendments that have been made or are proposed. If any amendments are made a new acknowledgement statement will need to be signed by all Councillors acknowledging the amendments.

I, \_\_\_\_\_ have read and understood the content of this document as being the Shire of Pingelly Code of Conduct for all Councillors to adhere to.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_