

# Council Delegates – Roles and Responsibilities

## Introduction

This policy is intended to ensure that Council Delegates, nominated to represent the Shire of Toodyay on Committees, Other Committees or Organisations, comply with legislative provisions contained in Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021* (the Regulations).

## Objective

To provide guidance to Delegates in respect to their roles and responsibilities that will assist them in fulfilling their representative role.

## Scope

This policy applies to all Members and Shire Officers nominated or appointed onto Committees, Other Committees or Organisations.

## Definitions

Term	Definition
Act	<i>Local Government Act 1995.</i>
Appointment	Means appointment as a Member on a Committee or Organisation
CEO	Chief Executive Officer.
Committees	Means Council Committees or Mandated Committees that Council nominates representatives for as detailed in the Committee Book endorsed by Council Resolution 241/11/21 at an Ordinary Council Meeting held on 23 Nov 2021.
Council	Means the council of a local government, responsible for making decisions in formal meetings held under the auspices of Part 5 of the <i>Local Government Act 1995</i> and under the <i>Shire's Standing Orders Local Law 2008</i> .
Councillor Hub	Means the BIGTINCAN Platform utilised by the Shire of Toodyay to relay and provide pertinent information to all Elected Members.
Delegate	Representative nominated by the Shire of Toodyay through a decision of Council made after a local government election or as required.
Meetings	Scheduled Meetings – Committee or Organisation Meetings

Term	Definition
Member	means in relation to a council or committee, a Council Member in the Act; Elected Member; or Councillor; or a member of the committee.
Other Committees or Organisations	Pertains to the External Representation to Other Committees or Organisations that Council nominates representatives for as detailed in the Committee Book endorsed by Council Resolution 241/11/21 at an Ordinary Council Meeting held on 23 Nov 2021.
Regulations	Local Government (Model Code of Conduct) Regulations 2021.
Shire	the Shire of Toodyay.
Shire Officer	Employee of the Local Government
Shire President	Means a mayor or president elected by the council from amongst the councillors.

## Policy Statement

The role of Members or Shire Officers who are appointed to represent the Shire on Committees, or Other Committees or Organisations is generally to provide advice, identify strategic opportunities and act as a conduit between the Shire and the community.

This Policy sets the manner by which those nominated as delegates to Committees or Organisations may fulfil their representative role. It provides guidance to Members, Shire Officers and the CEO on the Roles and Responsibilities of a Delegate.

### 1. Introduction

Acting as a Delegate on Committees; or Other Committees or Organisations can assist engagement, partnership, collaboration, and inform Council decision-making.

Council is often asked to nominate one or more delegates to represent Council. Member Delegates perform an important role that carries with it a high level of responsibility because, as a Member, you are representing the Shire of Toodyay.

It is important to ensure that the most appropriate person is appointed as a delegate, and that clear guidance is given as to the obligations of the role.

### 2. Authority

An individual Member has no authority to make decisions or to participate in the day-to-day management or operations of the Shire. This includes making any form of representation on behalf of the Council or the Shire unless they are specifically authorised by Council to do so.

The Code of Conduct for Council Members, Committee Members and Candidates also prevents Elected Members from undertaking tasks that contribute to the administration.

Sign-off of any joint document involving the Shire of Toodyay must occur through formal Council resolution unless formally delegated by Council.

### 3. Determined position

Delegates will communicate and be cognisant of Council's determined position on any matter that is consistent with a formally established Council position, or with the Council's known strategic vision or direction.

The determinations made, if any, may be determined from:-

- Resolutions of Council dealing specifically with a matter at hand;
- Resolutions of Council dealing generally with a matter at hand;
- Relevant statements of the Council's position contained in adopted Council policies or the Shire of Toodyay's Strategic Community Plan;
- If Council has not previously established a position, the Delegate should give consideration to the potential sensitivity and/or risk inherent to the matter i.e. potential for negative environmental or social impact, or risk of community conflict.

Council recognises that whilst it requires a delegate to communicate the Shire's position to a Committee or Organisation it is not Council's intention to bind the delegate's vote on any particular matter.

This does not entitle a delegate to substitute their personal beliefs for Council's position.

Delegates should bring any significant matters to Council for discussion and direction through Concept forums where any matter may fall outside current Council policy positions or known strategic direction.

If a matter arises requiring a decision, which may be inconsistent with established policies; strategies; or vision; these matters will always be referred to the Council, through the Shire President, for discussion and direction, and any pressures for early decision on such matters will be resisted.

### 4. Principles

Where possible, within the parameters of this policy, delegates will have the ability to explore new ideas and possible solutions freely, and to achieve consensus with other members.

Delegates to any Committee or Organisation will always advocate for their community, but also should seek, where possible, wider outcomes which benefit other communities, provided the interests of the Shire of Toodyay community are not adversely affected.

Members who are private members of an Organisation receiving financial assistance from the Council, or with a financial interest in the outcomes of any its deliberations, will not be appointed as a delegate to that Organisation.

Where conflict arises between the statutory obligations as a Member and fidelity to an Organisation, Members should consider their position on the Organisation.

#### 4.1 Non-delegate participation

It may be appropriate or necessary for Members who are not Council's resolved delegate to attend meetings held by Other Committees or Organisations.

In such situations, Members should carefully consider the reputational and collegial impacts of attending and inform Council's delegate of their attendance

prior to the meeting. Members are public officials and participation could be interpreted or perceived as participation as a Member.

## 4.2 Being an Observer at Meetings

Members or Shire Officers attending the meeting of an Organisation where access is not generally available to the public are only permitted to attend as an observer subject to:

- Seeking prior consent of the Organisation's Presiding Member, as a matter of courtesy, before attending as an observer;
- Being invited by an Organisation to attend the meeting;
- Acting within the meeting protocols established by the Organisation;
- Communicating with the meeting only through Council's nominated delegate or only at the request of the Presiding Member of that meeting; being mindful of not interfering with due process or the role of Council's nominated delegate;
- the standards set out in the Shire of Toodyay's Code of Conduct;
- the Member or Shire Officer attending only in the capacity of a private person, if access to the meeting is generally available to the public; making clear to the meeting that opinions or positions stated are their own and not those of Council, nor the Shire.

## 5. Delegate Reporting

Where a nominated delegate attends a meeting of an Organisation, it is expected that they will provide a summary of points to the Shire President who will include them in the President's briefing to the CEO; that is then provided to Council.

When delegates are appointed, Shire Officers will notify Other Committees or Organisations of the relevant appointments, and request to receive a copy of the minutes of the Organisation, when they become available, for upload to the Councillor hub.

These tasks ensure that Council and the Shire of Toodyay is kept informed of the activities and achievements of the Organisation in a timely manner.

Where confidentiality requirements exist over either Council or the Organisation's business the Member and Shire Officer must ensure that confidentiality is appropriately maintained and protected.

## 6. Provisions

### Appointment of Delegates

Council will consider the appointment of a delegate to a Committee where:

- it is a Committee of Council in accordance with the Act; and
- it is a Mandatory Committee of Council in accordance with the provisions of relevant legislation, as detailed in the Committee Book endorsed by Council.

Council will only consider the appointment of a delegate to an Organisation that:

- represents local interests and the group occupies Shire property;
- represents local interests and the Council has any direct or indirect financial or strategic interest in the affairs of that group;
- represents state or regional interests that are likely to have an impact on the Shire;
- it is working in partnership with or considering entering into a partnership with; related to matters or issues of significant strategic interest to Council. This may be confined to local interests, involve state or regional matters, or be issue based at any level.

#### Review of Appointments

Council will review its appointments to Committees, and Other Committees or Organisations, encompassed within its endorsed Committee Book, in conjunction with the regular election cycle.

The review of the Committee Book enables the Shire to identify any potential, real, or perceived conflicts associated with appointment of Council delegates.

#### Nomination of Delegates

The CEO will call for the nomination of delegates to all relevant Committees and Other Committees or Organisations as soon as possible after the local government elections and appointment of Members to their positions. Where a position arises outside this process, the CEO will call for nominations within ten days of notification of the position becoming available.

#### Conduct

Members approved as Council's delegate for a Committee or Organisation shall understand that their appointment is as a representative of the Council; by virtue of their position with Council.

Members shall perform the functions and duties of a delegate in accordance with the principles set out in this policy and the standards set out in the Shire's Code of Conduct.

#### Member Attendance at Meetings

Where a Member has been endorsed as a Delegate on a Committee or Organisation the delegate shall ensure their availability to attend meetings.

If unable to attend a meeting a delegate must:

- Provide a written apology to the respective Presiding Member, prior to a meeting;
- Notify Other Committees or Organisations of their approved leave of absence, approved by Council;
- Advise the relevant Deputy Delegate (where appointed) to ensure that they will be replaced at the meeting.
- Ensure that where Council has nominated a proxy or deputy delegate, that the proxy is provided with early advice and adequate information to facilitate their attendance and participation in meetings where the delegate is unable to attend.

- Advise the CEO of the arrangements made and the name of the delegate who will be in attendance.

It is preferable that at least 24 hours' notice is afforded.

#### Shire Officer Attendance at Meetings

Shire Officers who are a Delegate on a Committee, or Other Committee or Organisation shall ensure their availability to attend meetings.

If unable to attend a meeting a delegate must advise the CEO and provide a written apology to the respective Presiding Member prior to a meeting.

It is preferable that at least 48 hours' notice is afforded.

#### Commitment

Where a delegate has failed to attend three successive Committee, or Other Committee or Organisation meetings, without an apology, during a period where leave of absence has not been granted, the CEO shall liaise with the Delegate in respect to their commitment status.

If a delegate is unable to fulfil their commitment to a committee, or Other Committee or Organisation; they must advise the CEO in writing so that a report can be put to Council to consider the appointment of a replacement delegate.

#### Voting Rights – Elected Members

A Member appointed as a delegate may have to participate in the decision-making process of the Committee, Other Committee or Organisation. This would mean they would be entitled to vote on matters coming before the Committee, Other Committee or Organisation. As a delegate they will have a fiduciary responsibility to participate in decision-making processes and vote in accordance with obligations to act in good faith for the purposes for which the Committee, Other Committee or Organisation was established.

#### Voting Rights – Shire Officers

A Shire Officer does not have voting rights on Council Committees but may participate in decision-making processes if not statutorily prohibited. They are appointed as members to these Committees for the provision of support and advice.

However, where a Shire Officer has been appointed as a delegate or member of a Mandatory Committee, Other Committee or Organisation, they are entitled to vote on matters being considered by the Mandatory Committee, Other Committee or Organisation.

Shire Officers have a duty to participate in decision-making processes and vote in accordance with obligations to act in good faith for the purposes for which the Mandatory Committee, Other Committee or Organisation was established.

#### Communication

Both the delegate and Council have a shared responsibility to ensure that effective communication between delegates and Council occurs before and after meetings of Other Committees or Organisations.

This is to enable Council to deliberate and discuss relevant matters and to consider and inform future decision making.

One of the primary purposes of appointing Council delegates to Committees, Other Committees or Organisations is to inform Council decision-making and Member delegates should carefully consider managing situations where Committees, Other Committees or Organisations wish to discuss confidential matters.

## Reference Information

- [Committee Book](#) endorsed by Council Resolution 241/11/21 at an Ordinary Council Meeting held on 23 Nov 2021.
- [State Records Act 2000](#).
- [Risk Management](#) (ADM18) – containing the Risk Matrix tables.
- [Attendance at Events](#) (GOV14).
- [Legal Representation and Costs Indemnification](#) (ADM4).

## Legislation

### *Local Government Act 1995*

- s.2.7 *Role of council;*
- s.2.10 *Role of councillors;*
- s.5.103. *Model code of conduct for council members, committee members and candidates*

### *Local Government (Model Code of Conduct) Regulations 2021 (Division 3 – Behaviour)*

- r.8. *Personal integrity*
- r.9. *Relationship with others*
- r.10. *Council or committee meetings*

### *Local Government (Model Code of Conduct) Regulations 2021 (Division 4 – Rules of conduct)*

## Associated documents

*Code of Conduct for Council Members, Committee Members and Candidates*

*Standing Orders Local Law 2008*

*Governance Framework*

## Version control information

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