Worker's Code of Conduct

1. Introduction

The Shire of Toodyay (the Shire) Worker's Code of Conduct (the Code) provides workers with clear guidelines for the standards of professional conduct expected of them in carrying out their functions and responsibilities.

The Code addresses the broader issue of ethical responsibility and encourages transparency and accountability. The Code expresses the Shire's commitment to high standards of ethical and professional behaviour and outlines the principles that are the foundation of all individual responsibilities.

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

(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.

2. Application

The Code applies to all workers, including the CEO, while on the Local Government's premises or while engaged in local government related activities; the only exception being that clause 4.15 of this Code (Gifts) does not apply to the CEO.

For the purposes of the Code, the term 'worker' (as defined in section 7 of the *Work Health and Safety Act 2020* describes any person who carries out work in any capacity for a person conducting a business or undertaking, including work as -

(a) an employee; or

(b) a contractor or subcontractor; or

(c) an employee of a contractor or subcontractor; or

(d) an employee of a labour hire company who has been assigned to work in the person's business or undertaking; or

(e) an outworker; or

(f) an apprentice or trainee; or

(g) a student gaining work experience; or

(h) a volunteer; or

(i) a person of a prescribed class.

The term 'employee' (of the local government) means a person employed by a local government under section 5.36(1) of the *Local Government Act 1995*; or engaged by a

local government under a contract for services as per Regulation 19AA of the *Local Government (Administration) Regulations 1996.*

The term 'volunteer' means a person who is acting on a voluntary basis (irrespective of whether the person receives out-of-pocket expenses) as per the *Work Health and Safety Act 2020.*

3. Policy Intent

3.1 Statutory environment

The Code addresses the requirement in section 5.51A of the Act, requiring the CEO to prepare and implement a code of conduct for local government workers that includes matters prescribed in Part 4A of the *Local Government (Administration) Regulations 1996.*

3.2 Statutory responsibilities

The Code should be read in conjunction with the Act and associated regulations. Workers should ensure that they are aware of their statutory responsibilities under this and other legislation.

3.3 Organisational Values

The Code is underpinned by the following values which should be applied by all employees:

Integrity:	We behave honestly to the highest ethical standard.
Accountability:	We are transparent in our actions and accountable to the community.
Inclusiveness:	We are responsive to the community, and we encourage involvement by all people.
Commitment:	We translate our plans into actions and demonstrate the persistence that produces results.

4. Code of Conduct

4.1 Role of Workers

The role of workers is determined by the functions of the CEO as set out in section 5.41 of the Act.

5.41. Functions of CEO

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 section 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.*

Local Government Act 1995

4.2 Principles affecting employment by the Shire of Toodyay

The principles set out in section 5.40 of the Act apply to the employment of Shire workers:

5.40. Principles affecting employment by local governments

The following principles apply to a local government in respect of its employees —

(a) *employees are to be selected and promoted in accordance with the principles of merit and equity; and*

(b) *no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage; and*

(c) *employees are to be treated fairly and consistently; and*

(d) *there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the Equal Opportunity Act 1984 or on any other ground; and*

(e) *employees are to be provided with safe and healthy working conditions in accordance with the Work Health and Safety Act 2020; and*

(f) *such other principles, not inconsistent with this Division, as may be prescribed.*

Local Government Act 1995

4.3 Personal behaviour

Workers will:

(a) act, and be seen to act properly, professionally and in accordance with the law, the requirements of the Code, the limitations of Council delegations, and all Shire policies and procedures;

(b) perform their duties impartially and in the best interests of the Shire and community, without fear or favour;

(c) act in good faith (honestly and for the proper purpose, without exceeding their powers) in the interests of the Shire and the community;

(d) make no allegations which are improper or derogatory (unless true and in the public interest);

(e) refrain from any form of conduct in the performance of their official or professional duties, which may cause unwarranted offence or embarrassment to any reasonable person;

(f) always act in accordance with their obligation of fidelity to the Shire.

4.4 Honesty and integrity

Workers will:

(a) act with reasonable care and diligence;

(b) observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;

(c) act lawfully;

(d) be frank and honest in their official dealings with each other; and

(e) identify and report any conflict of interest;

(f) avoid damage to the reputation of the Shire or local government as a whole;

(g) report any dishonesty or possible dishonesty on the part of any other worker to an Executive Manager, their supervisor, or the CEO in accordance with this Code and the Shire's policies.

4.5 Performance of duties

While on duty, workers will give their whole time and attention to the Shire's business, ensure that their standard of work is carried out efficiently, economically, and reflects favourably both on them and on the Shire.

4.6 Compliance with lawful and reasonable directions, decisions and policies

(a) Workers will comply with any lawful and reasonable direction given by any person having authority to make or give such an order, including but not limited to a supervisor, manager or the CEO.

(b) Workers will give effect to the lawful decisions and policies of the Shire, whether or not they agree with or approve of them.

4.7 Administrative and management practices

Workers will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

4.8 Intellectual property

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

4.9 Recordkeeping

Employees will ensure complete and accurate local government records are created and maintained in accordance with the Shire of Toodyay's Recordkeeping Plan.

4.10 Dealing with other employees

(a) Workers will treat other Workers with respect, courtesy and professionalism, and refrain from behaviour that constitutes discrimination, bullying or harassment.

(b) Workers must be aware of and comply with their obligations under relevant law and the Shire's policies regarding workplace behaviour and workplace safety and health, including:

- Prevention of Discrimination, Harassment and Bullying (zHR03);
- Resolving Workplace Grievances and Complaints Procedures (zHR08);
- Shire of Toodyay Worker Safety Handbook;
- Fitness for Work Policy – Workplace Drug & Alcohol Use (zHR02); and
- Workplace Health and Safety Statement (zHR06).

(c) Worker behaviour must reflect the Shire's values and contribute towards creating and maintaining a harmonious, safe, productive, and supportive work environment.

4.11 Dealing with community

(a) Workers will treat members of the community with respect, courtesy, fairness, and professionalism; and value diversity.

(b) All services must be delivered in accordance with the Shire's Customer Service Charter and relevant policies and procedures, and any issues resolved promptly, fairly and equitably.

4.12 Professional communications

(a) All aspects of communication by Workers (including verbal, written and electronic), involving the Shire's activities must reflect the status, values and objectives of the Shire.

(b) Communications should be accurate, polite and professional.

4.13 Personal communications and social media

(a) Personal communications and statements made privately in conversation, written, recorded, emailed or posted on personal social media, have the potential to be made public, whether intended or not.

(b) Workers must not, unless undertaking a duty in accordance with their employment, disclose information, make comment or engage in any form of communication about or on behalf of the Shire, its Council members, employees or contractors, which breach this Code.

(c) Worker's comments which become public and breach the Code, or any other operational policy or procedure, may constitute a disciplinary matter and may also be determined as misconduct and be notified in accordance with the *Corruption, Crime and Misconduct Act 2003.*

4.14 Personal presentation

Workers are expected to comply with professional and responsible dress standards and be fit for work at all times, in accordance with the Shire's relevant policies and procedures.

4.15 Gifts

(a) Application

This clause does not apply to the CEO.

(b) Definitions

In this clause the following definitions apply as contained in 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;

[r.19AA of the Local Government (Administration) Regulations 1996]

associated person *means 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

[r.19AA of the Local Government (Administration) Regulations 1996]

gift —

(a) has the meaning given in section 5.57 [of the Local Government Act 1995]; but

(b) does not include —

(i) a gift from a relative as defined in section 5.74(1); or

(ii) a gift that must be disclosed under the Local Government (Elections) Regulations 1997 regulation 30B; or

(iii) a gift from a statutory authority, government instrumentality or non-profit association for professional training; or

(iv) a gift from WALGA, the Australian Local Government Association Limited (ABN 31 008 613 876), the Local Government Professionals Australia WA (ABN 91 208 607 072) or the LG Professionals Australia (ABN 85 004 221 818);

[r.19AA of the Local Government (Administration) Regulations 1996]

gift *means —*

(a) a conferral of a financial benefit (including a disposition of property) made by 1 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;

***travel** includes accommodation incidental to a journey;*

***travel contribution** means a financial or other contribution made by 1 person to travel undertaken by another person*

[Section 5.57 of the Local Government Act 1995]

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;

[Section 5.74(1) of the Local Government Act 1995]

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prohibited gift, *in relation to a local government employee, means —*

(a) a gift worth the threshold amount or more; or
(b) a gift that is 1 of 2 or more gifts given to the local government employee by the same person within a period of 1 year that are in total worth the threshold amount or more;

[r.19AA of the Local Government (Administration) Regulations 1996]

threshold amount, *for a prohibited gift, means —*

(a) a gift worth the threshold amount or more; or

(b) a gift that is 1 of 2 or more gifts given to the local government employee by the same person within a period of 1 year that are in total worth the threshold amount or more;

[r.19AA of the Local Government (Administration) Regulations 1996]

A ***reportable gift*** means:

(i) a gift worth more than $20 but less than $50; or

(ii) a gift that is 1 of 2 or more gifts given to the local government employee by the same person within a period of 1 year that are in total worth more than $20 but less than $50.

(c) In accordance with Regulation 19AF of the *Local Government (Administration) Regulations 1996* the CEO has determined the threshold amount for prohibited gifts is $50.

(d) Employees must not accept a prohibited gift from an associated person.

(e) An employee who accepts a reportable gift from an associated person is to notify the CEO in accordance with subclause (f) and within 10 days of accepting the gift.

(f) The notification of the acceptance of a reportable 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 one of two or more accepted from the same person within a period of one year:

(1) a description;

(2) the estimated value; and

(3) the date of acceptance,

of each other gift accepted within the one year period.

(g) The CEO will maintain a register of reportable gifts and record in it details of notifications given to comply with subclause (f).

(h) The CEO will arrange for the register maintained under subclause (g) to be published on the Shire of Toodyay's official website.

(i) As soon as practicable after a person ceases to be an employee, the CEO will remove from the register all records relating to that person. The removed records will be retained for a period of at least 5 years.

4.16 Conflict of Interest

(a) Workers will ensure there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.

(b) Workers will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Shire, without first disclosing the interest to the CEO in writing. 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) Workers will provide written notice with the CEO describing an intention to undertake a dealing in land which is within the district of the Shire, or which may otherwise be in conflict with the Shire's functions (other than purchasing the principal place of residence).

(d) Workers who exercise a recruitment or any other discretionary function will disclose any actual (or perceived) conflict of interest to the CEO in writing, before dealing with relatives or friends and will disqualify themselves from dealing with those persons.

(e) Workers will conduct themselves in an apolitical manner and refrain from political activities, which could cast doubt on their neutrality and impartiality in acting in their professional capacity.

4.17 Secondary Employment

An employee must not engage in secondary employment (including paid and unpaid work) without receiving the prior written approval of the CEO.

4.18 Disclosure of Financial Interests

(a) All Workers will apply the principles of disclosure of financial interest as contained within the Act.

(b) Workers who have been delegated a power or duty, have been nominated as 'designated employees' or provide advice or reports to Council or Committees, must ensure that they are aware of, and comply with, their statutory obligations under the Act.

4.19 Disclosure of Interests Relating to Impartiality

(a) In this clause, **interest** has the meaning given to it in the *Local Government (Administration) Regulations 1996.*

> **interest** —
>
> *(a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and*
>
> *(b) includes an interest arising from kinship, friendship or membership of an association.*
>
> *[r.19AA of the Local Government (Administration) Regulations 1996]*

(b) An employee who has an interest in any matter to be discussed at a Council or Committee meeting attended by the employee 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.

(c) 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 is required to disclose the nature of any interest the employee 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.

(d) A requirement described under (b) and (c) excludes an interest referred to in Section 5.60 of the Act.

(e) An employee is excused from a requirement made under (b) or (c) to disclose the nature of an interest because they did not know and could not reasonably be expected to know:

(i) that they had an interest in the matter; or

(ii) that the matter in which they had an interest would be discussed at the meeting and they disclosed the nature of the interest as soon as possible after the discussion began.

(f) If an employee makes a disclosure in a written notice given to the CEO before a meeting to comply with requirements of (b) or (c), 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) At the meeting, the person presiding must bring the notice and its contents to the attention of persons present immediately before a matter to which the disclosure relates is discussed.

(iii) to comply with a requirement made under item (b), the nature of an employee's interest in a matter is disclosed at a meeting; or

(iv) a disclosure is made as described in item (e)(ii) at a meeting; or

(v) to comply with a requirement made under item (f)(ii), a notice disclosing the nature of an employee'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.

4.20 Use and Disclosure of Information

(a) Workers must not access, use or disclose information held by the Shire except as directly required for, and in the course of, the performance of their duties.

(b) Workers will handle all information obtained, accessed or created in the course of their duties responsibly, and in accordance with this Code, the Shire's policies and procedures.

(c) Workers must not access, use or disclose information to gain improper advantage for themselves or another person or body, in ways which are inconsistent with their obligation to act impartially and in good faith, or to improperly cause harm, detriment or impairment to any person, or the Shire.

(d) Due discretion must be exercised by all Workers who have access to confidential, private or sensitive information.

(e) Nothing in this section prevents a Worker from disclosing information if the disclosure:

- is authorised by the CEO or the CEO's delegate; or
- is permitted or required by law.

4.21 Improper or undue influence

(a) Workers must not in the performance of their duties or functions, use their position to improperly influence Council Members, employees or any other person, in order to gain an advantage (direct or indirect) for themselves or any other person, or cause a detriment or impairment to any person, or the Shire.

4.22 Use of Shire of Toodyay resources

(a) In this clause –

Shire of Toodyay resources includes local government property and services provided or paid for by the Shire;

Local government property has the meaning given to it in the Act.

> **local government property** *means anything, whether land or not, that belongs to, or is vested in, or under the care, control or management of, the local government*
>
> *[Section 1.4 of the Local Government Act 1995*]

(b) Workers will:

(i) be honest in their use of the Shire resources and must not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;

(ii) use the Shire resources entrusted to them effectively, economically, in the course of their duties and in accordance with relevant policies and procedures; and

(iii) not use the Shire's resources (including the services of employees) 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 CEO).

4.23 Use of Shire Toodyay finances

(a) Workers are expected to act responsibly and exercise sound judgment with respect to matters involving the Shire's finances.

(b) Workers will use Shire finances only within the scope of their authority, as defined in Shire policies and procedures.

(c) Workers with financial management responsibilities will comply with the requirements of the *Local Government (Financial Management) Regulations 1996*.

(d) Workers exercising purchasing authority will comply with the Shire's Purchasing Policy, Statement of Business Ethics and the systems and procedures established by the CEO in accordance with regulation 5 of the *Local Government (Financial Management) Regulations 1996*.

(e) Workers will act with care, skill, diligence, honesty and integrity when using local government finances.

(f) Workers will ensure that any use of Shire finances is appropriately documented in accordance with the relevant policy and procedure, including the Shire of Toodyay's Recordkeeping Plan.

4.24 Reporting of Suspected Breaches of the Code of Conduct

Workers must report suspected breaches of the Code to an Executive Manager, their supervisor, or the CEO, in accordance with 'HR.8 Resolving Workplace Grievances and Complaints Procedures'.

4.25 Handling of Suspected Breaches of the Code of Conduct

Any suspected breaches of this Code will be dealt with in accordance with relevant Shire policies and procedures, depending on the nature of the suspected breach; and if substantiated, may result in disciplinary action.

4.26 Reporting Suspected Unethical, Fraudulent, Dishonest, Illegal or Corrupt Behaviour

(a) Workers must report any information about suspected unethical, fraudulent, dishonest, illegal activities or corrupt behaviour to an Executive Manager, a Line Manager, Supervisor, or the CEO in accordance with the Shire's Resolving Workplace Grievances and Complaints Procedure.

(b) In accordance with the *Corruption, Crime and Misconduct Act 2003*, if the CEO suspects on reasonable grounds that the alleged behaviour may constitute misconduct as defined in that Act, the CEO will notify:

  (i) the Corruption and Crime Commission, in the case of serious misconduct; or

  (ii) the Public Sector Commissioner, in the case of minor misconduct.

(c) Workers may also report suspected serious misconduct to the Corruption and Crime Commission or suspected minor misconduct to the Public Sector Commissioner.

(d) Workers may also make a Public Interest Disclosure to report suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour in accordance with the *Public Interest Disclosure Act 2003*.

4.27 Handling of Suspected Unethical, Fraudulent, Dishonest, Illegal or Corrupt Behaviour

Suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour will be dealt with in accordance with the appropriate Shire policies and procedures, and where relevant, in accordance with the lawful directions of the appropriate statutory body.

5. Authorised for Implementation



Suzie Haslehurst – Chief Executive Officer

2 August 2023

Date

6. Worker Acknowledgement

I hereby confirm that I have received a copy of the Shire of Toodyay Worker's Code of Conduct and that I have read and understood my obligations under the Code.

_____	_____	_____
Name	Signature	Date

Reference Information

- Shire of Toodyay policies and procedures.

Legislation

- Local Government Act 1995 & its regulations

Associated documents

Customer Service Charter

Fair Work Information Statement

Worker's Safety Handbook

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