



Shire of Toodyay Code of Conduct

SHIRE OF TOODYAY

Code of Conduct for Elected Members, Committee Members and Staff

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INTRODUCTION

WHY WE HAVE A CODE OF CONDUCT

The Shire of Toodyay, as a public institution, must reflect the high standards expected of public officials by the community.

This Code of Conduct applies to elected members, staff and various committee members of the Shire of Toodyay. The Code applies to everyone unless any particular group is clearly designated.

Volunteers are a very important part of the Shire's community life and are encouraged to adopt the spirit of this Code.

WHAT IS THE BASIS OF OUR CODE OF CONDUCT?

Ethical Principles: Our Code of Conduct, which is based on the highest ethical principles of integrity and fairness, respect for people and service to the community, provides us with guidance for our behaviour when we have to make ethical choices.

Leadership and Service: Whilst this Code is extensively underpinned by law, our commitment to the Code goes beyond this and demonstrates our leadership and service to the Shire.

Our Values: This Code helps to clarify what it means to put the Shire's values into practice. We can apply the Code in any particular situation by asking ourselves "What is the right thing to do?"

MAKING OUR CODE OF CONDUCT WORK

Each of us has an individual responsibility to make this Code work. It does not matter whether a breach is intended or unintended. Breaches of this Code harm our reputation, reduce public trust and disrupt the proper functioning of the Shire. We will review our Code regularly to ensure that it reflects contemporary community expectations.

HANDLING BREACHES

When we believe that an actual or perceived breach of this Code has occurred we will act promptly to deal with it. In the first instance, if we feel competent to handle the situation, we will discuss the matter with the person involved and seek to resolve the matter informally and directly. If this is unsuccessful, we will report our concerns.

In dealing with breaches we will avoid undue concern to others by presenting factual information, not rumour or suspicion, and will not make unsubstantiated allegations. Nothing in these provisions prevents us from

reporting matters directly to the police or appropriate outside authority. In this situation, we will advise the Shire President and/or Chief Executive Officer.

- **Reporting Staff Breaches**

Any actual or perceived breach of this Code by a staff member may be reported to the supervisor of the person or directly to the Chief Executive Officer. Where the person to be reported is the Chief Executive Officer, the report may be made to the Shire President. Matters reported will be treated in the strictest confidence until appropriate action has been taken. During this period staff may be suspended with or without pay at the discretion of the Chief Executive Officer or, in the case of the Chief Executive Officer, the discretion of the Council.

- **Reporting Elected Members' Breaches**

Any actual or perceived breach of this Code by an elected member may be reported to the Shire President. Where the person to be reported is the Shire President, the report may be made to the Deputy Shire President. Matters reported will be treated in the strictest confidence until appropriate action has been taken.

The Shire President or Deputy Shire President will deal with the report, with the Chief Executive Officer providing professional support.

- **Reporting Rules of Conduct Breaches**

A breach of a Rule of Conduct (shown in a boxed section of this Code) may be reported to the Shire's Complaints Officer. If so, it will be dealt with under Part 5, Division 9 of the Local Government Act 1995 and the Local Government (Rules of Conduct) Regulations 2007.

- **Reporting to the Corruption and Crime Commission**

The Corruption and Crime Commission Act 2003 provides for the reporting to the Commission of matters involving 'misconduct' by elected members or staff. The meaning of 'misconduct' is defined in section 4 of that Act.

ACTING ON BREACHES

Many breaches will be resolved through discussion. Where a breach occurs during a meeting, Standing Orders will be used.

For more serious breaches there are a range of actions and penalties ranging from warnings to fines or even imprisonment. Any actions taken as a result of a breach will be consistent with legislative requirements.

Penalties for elected members which can be imposed by the Council itself include censure and suspension of privileges. Penalties which may be imposed by a Standards Panel for a minor breach of a Rule of Conduct by an

elected member include public censure, public apology and an order to undertake training. Penalties which may be imposed by the State Administrative Tribunal for a serious breach by an elected member include suspension (for up to six months) and disqualification (for up to five years).

A breach of this Code by staff may be dealt with under the relevant employment contract and penalties may range from warnings and other disciplinary action to instant dismissal. Where a breach of this Code is also a breach of the *Local Government Act* or another law, penalties include fines and imprisonment.

1. WE CONDUCT OURSELVES WITH INTEGRITY AND ARE FAIR AND HONEST IN OUR DEALINGS

1.1 Respect the Law and Observe this Code

We will ensure that in our Shire-related duties we always act, and are seen to act, properly and according to the requirements of the law and this Code of Conduct. We will inform ourselves of the statutory obligations imposed on us because ignorance is not an excuse for breaching the Code. Where we are in doubt we accept our responsibility to make an effort to resolve the doubt. In this way we will maintain and enhance the reputation of our Shire and demonstrate our commitment to the Shire's values.

1.2 Act Honestly and with Integrity

We will observe the highest standards of honesty, probity and integrity, and avoid any conduct that might suggest a departure from these standards. We will be loyal and act in good faith (i.e. honestly, for the proper purpose, and without exceeding our powers) in the interests of the Shire. We will not tolerate dishonesty.

1.3 Exercise Fairness and Impartiality

We will perform all our duties impartially and in the best interests of the Shire, uninfluenced by fear or favour. We will be consistent in decision making whilst treating all matters on their individual merits. We will conduct our business respectfully, courteously and fairly. We will refrain from any form of conduct which may cause any reasonable person unwarranted offence or embarrassment. We will be particularly mindful to avoid interfering in commercial relationships between developers and affected persons or developers competing for the right to develop.

1.4 Civic Leadership

The Shire President and all councillors, as the elected leaders of the Shire of Toodyay, will demonstrate the highest level of civic conscience, impartiality and personal conduct. Elected members have a primary responsibility to represent and promote the best interests of the Shire as a whole, whilst recognising their special duty to their own constituents. The Chief Executive Officer and all staff with supervisory responsibility will provide instructions that are both lawful and consistent with this Code of Conduct.

The Rules of Conduct set out principles to guide the behaviour of elected members. These include that a person in his or her capacity as an elected member should:

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

(See regulation 3 of the *Local Government (Rules of Conduct) Regulations 2007* – Attachment 1 to this Code.)

2. WE DO NOT PLACE OURSELVES IN SITUATIONS WHICH MAY RESULT IN DIVIDED LOYALTIES

In all these areas of potential divided loyalty it does not matter whether advantage is actually obtained because any appearance that our actions could conflict with an impartial fulfilment of our public duties must be scrupulously avoided.

2.1 Conflict and Disclosure of Interest

We will ensure that there is no actual or perceived conflict of interest or incompatibility between the impartial fulfilment of our duties and either our personal interests or those of our immediate family members, business partners or close associates.

When we have a direct or indirect financial interest in a matter to be considered by the Council we will not take part in discussion or vote on the issue without Ministerial or Council permission.

We recognise the onus on each of us to keep ourselves informed and to identify possible conflicts of interest or financial interest, and to determine whether these interests (to which no statutory exemption applies) exist. When we do determine that conflict of interest exists we will disclose it in a prior written return or at the relevant meeting.

Guidance on specific areas where actual or perceived conflict of interest, or divided loyalty may exist includes:

a) Outside Employment

All staff, including those who work part-time, wishing to undertake business activities or any employment other than with the Shire will first obtain written approval. The Chief Executive Officer will approve all cases where there is no conflict of interest or adverse impact on the staff members' performance of their duties. Where this request for outside employment involves work with or for any person or body with an interest in a proposed or current contract with the Shire, full written disclosure will be made as part of the request.

b) Land Dealings

Staff wishing to deal directly or indirectly (e.g., through a trust) in land in the area of the Shire of Toodyay (other than buying their principal place of residence or site for such purpose) will provide prior written notification.

c) Decision Making

Staff exercising a regulatory, inspectorial, recruitment or other discretionary function will disclose this in writing where relatives or close associates are involved. Whenever possible, they will disqualify themselves from dealing with those persons.

d) Outside Activities

Staff involved in outside unpaid activities, such as political, community and sporting activities, will be mindful of any conflict of interest or an appearance of conflict of interest. Where a potential conflict exists they will disclose it.

e) Council and Committee Meetings

A staff member has the same obligations as an elected member to disclose, at a Council or Committee Meeting, any interest affecting impartiality.

In addition, a staff member 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 staff member must disclose the nature of any impartiality interest the staff member has in the matter:

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

The Rules of Conduct require disclosure by elected members of any interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest. It includes an interest arising from kinship, friendship and membership of an association (see regulation 11 of the *Local Government (Rules of Conduct) Regulations 2007* – Attachment 1 to this Code).

Requirements relating to the disclosure of financial and proximity interests, by elected members and staff, are contained in Part 5 Division 6 of the Local Government Act 1995 (sections 5.59 – 5.90).

2.2 Personal Benefit

We have a duty to ensure that we do not seek or receive actual or perceived personal benefit from our position or status with the Shire or our performance of any duty or work related to the Shire.

Guidance on specific areas where the seeking or receiving of actual or perceived benefit by any of us is unacceptable includes:

a) Purchasing Offers and Inducements

We will not allow any company or individual with a proprietary or beneficial interest to pay or contribute to any expenses associated with the inspection, evaluation or trial of their goods and services, except where the Shire requires payment of those expenses as a standard condition for all parties with an interest in providing goods or services to the Shire.

b) Gifts

The giving and receiving of any gifts, except those on behalf of the Shire as a whole (ceremonial mementos etc.) and acceptances of civic hospitality by the elected members and staff referred to below, is strongly discouraged – and, in some cases, prohibited - because of the potential for actual or perceived conflict with our public duty. Gifts include any immediate or future gift, benefit, act of hospitality, gratuity, reward, donation, commission, inducement or opportunity to purchase at valuations significantly below usual retail prices. When we receive a personal gift we will promptly and fully disclose it to promote both a perception and practice of accountability.

c) Gifts – Obligations

A staff member has the same obligations as an elected member to disclose a “notifiable gift” and to refrain from accepting any “prohibited gift”.

Note: The definition of “notifiable gift and “prohibited gift” and an elected member’s obligations to disclose a “notifiable gift” and to refrain from accepting a “prohibited gift” are set out in regulation 12 of the Local Government (Rules of Conduct) Regulations 2007 – Attachment 1 to this Code.

The Rules of Conduct require disclosure by elected members of any interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest. It includes an interest arising from kinship, friendship and membership of an association (see regulation 11 of the *Local Government (Rules of Conduct) Regulations 2007 – Attachment 1 to this Code*).

Requirements relating to the disclosure of financial and proximity interests, by elected members and staff, are contained in Part 5 Division 6 of the Local Government Act 1995 (sections 5.59 – 5.90).

The Rules of Conduct:

- (a) require an elected member to disclose details of any gift (or multiple gifts from the same donor) worth between \$50 and \$300; and
- (b) prohibit an elected member from accepting gifts (including multiple gifts from the same donor) worth more than \$300.

(See regulation 12 of the *Local Government (Rules of Conduct) Regulations 2007* – Attachment 1 to this Code.)

d) Gifts Register

The CEO is to maintain the *Register of Gifts* and to record in it the details of all notifications given by elected members and staff members to comply with their obligations under the Rules of Conduct and this Code respectively.

e) Civic Hospitality

Subject to the preceding paragraphs, elected members and staff may accept acts of hospitality for Shire related functions where they are invited in their official capacity.

f) Disposal of Substantial Gifts

When we are unable to avoid receiving substantial gifts (valued at \$300 or more) we will disclose these promptly in the Register of Gifts and give them to the Chief Executive Officer. Any substantial gifts will be promptly returned, donated to local charities and not-for-profit community groups or used for the benefit of the Shire.

The gift-giver will be advised that details of notifiable gifts (including hospitality) are required to be entered into the Shire's *Register*.

2.3 Disclosure of Election Campaign Contributions

In the interests of uncompromised decision making, all election candidates will disclose all contributors and contributions of any kind, exceeding \$200 in value, that are made to their election campaign or that are received by them in the period of six months before an election. These written disclosures will include all relevant information and be recorded in the Shire's electoral gift register.

The detailed requirements relating to the electoral gifts that must be disclosed, as well as when and how they must be disclosed, are set out in regulations 30A – 30I of the *Local Government (Elections) Regulations 1997*. The penalty for failing to disclose an electoral gift is a fine of \$5,000.

2.4 Conflict of Role

We recognise that each of us has roles apart from our Shire roles. When we are interacting with the Shire on any matter in a capacity other than our official one the following guidance is provided:

- a) We will deal with other elected members, committee members or staff through a third party. Where this is not practicable we will communicate only with the Chief Executive Officer and make it clear that we are not acting in our official capacity.
- b) The matter will be dealt with by the Council and any delegation to a Committee or officer will not apply.
- c) Where appropriate, contract resources may be engaged to deal with the matter rather than staff.

Elected members and staff are not to be involved in discussions with claimants on claims that are subject to litigation, unless authorised to do so by either Council or by delegated authority, as any discussions or release of confidential information that may prejudice the outcome of the claim may lead to a reassessment of indemnity granted to the Council by its insurers. In the event that they are contacted by parties to the litigation, elected members are to state that they are unable to discuss any issues that are subject to litigation. Elected members and staff are nevertheless entitled to discuss with claimants matters that are explicitly unrelated to the claims.

2.5 Use of Influence

We recognise that the improper use of power is always unacceptable. We will not take advantage of our position to improperly influence others in the performance of their duties or functions to gain directly or indirectly any advantage or gain for ourselves or for any other person or body.

The Rules of Conduct also deal with the improper use by an elected member of his or her position. Regulation 7(1) of the *Local Government (Rules of Conduct) Regulations 2007* states:

‘A person who is a council member must not make improper use of the person’s office as a council member –

- (a) to gain directly or indirectly an advantage for the person or any other person; or
- (b) to cause detriment to the local government or any other person.’

(The full text of regulation 7 is as set out in Attachment 1 to this Code.)

3. WE TREAT EVERYONE WITH DIGNITY AND RESPECT

3.1 Our Shire Relationships

We will all work together courteously and effectively as part of the Shire team. Our teamwork will be based on our mutual respect for each other and our committed co-operation to achieve the Shire's goals and implement its strategies. In all our official dealings with each other we will be frank and honest and always endeavour to resolve any serious conflict through discussion. If necessary, this can be facilitated by either the Shire President, Deputy Shire President and/or the Chief Executive Officer.

To achieve this teamwork, all elected members will:

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

At the same time, staff will recognise that elected members' views and opinions often reflect valid community viewpoints that should be considered in conjunction with professional opinion. Staff will therefore make every effort to assist elected members in the performance of their role, and to achieve the satisfactory resolution of issues that may arise in the performance of their official role.

3.2 Involvement in Administration

The Rules of Conduct deal with the role of elected members in administration. Regulation 9 states:

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

(See Attachment 1 to this Code.)

3.3 Relations with Staff

The Rules of Conduct prohibit an elected member from directing or attempting to influence a staff member, or from making offensive comments about staff members. The full text of regulation 10 of the *Local Government (Rules of Conduct) Regulations 2007* is set out in Attachment 1 to this Code.

3.4 Communication and Public Relations

To ensure accountability and transparency in our activities we will effectively communicate with and promote participation by all sections of our community. All aspects of our Shire-related communication, including verbal, written or personal communications, will be accurate, polite and professional. We will not publicly reflect adversely upon any decision of the Council or the Chief Executive Officer/staff. Unless confidentiality is essential, our administrative and management practices will be open and accessible.

Elected members will be responsive to community views and accurately and adequately communicate the adopted policies, procedures and decisions of the Shire. In doing so elected members will demonstrate their respect for the Council's majority decision making processes. Confidential information will not be communicated until we are sure that it is no longer treated as confidential. Information relating to Council decisions on approvals, permits and so on will only be communicated in an official capacity by a designated officer of the Shire.

Elected members and staff are expected to behave courteously towards members of the public and are entitled to be treated with respect by members of the public. In circumstances where the behaviour of a member of the public is unacceptable and is not moderated following a request to do so, elected members and staff may discontinue dealing with the matter until an undertaking to behave appropriately is received. In the case of staff, they should report the matter to the Chief Executive Officer.

3.5 Avoid Derogatory Statements

We will not make any allegations that are derogatory or improper. We will always act in the best interests of the Shire and refrain from any type of communication, in our public or professional duties, which may cause any reasonable person unwarranted offence or embarrassment. When we are uncertain about the probable impact of our communications we should seek access to legal advice.

3.6 Access to Information

We will ensure that elected members receive access to the information they need to know to properly perform their functions. This information will be made available in sufficient time to allow proper consideration of all relevant issues.

4. WE USE THE SHIRE'S PROPERTY AND RESOURCES RESPONSIBLY AND IN THE BEST INTERESTS OF THE SHIRE

4.1 Care with Confidential Information

We will use discretion in relation to our use of confidential or privileged information. No use will be made of confidential information to gain improper advantage for ourselves or others. To do so would be inconsistent with our obligation to act impartially in the community interest. We will not use confidential information to improperly cause harm or detriment to any person, body or the Shire.

The Rules of Conduct also prohibit an elected member from disclosing confidential information, or information received at a closed meeting. The full text of regulation 6 of the *Local Government (Rules of Conduct) Regulations 2007* is set out in Attachment 1 to this Code.

4.2 Dealing with Shire Resources

We have a duty of care to ensure that all resources entrusted to us are used only in a proper manner and for their proper purpose. We will avoid any extravagance and waste. We will be scrupulously honest in our use of Shire property including funds, equipment, software, intellectual property and information, and not misuse or permit its actual or perceived misuse by any other person or body. In addition, we will ensure that the Shire's premises and places of work, including vehicles, are adequate to ensure the health and safety of staff and the public. We will not use Shire resources (including staff time, stationery and photocopying) for private purposes, unless properly authorised to do so, and appropriate payments are made.

Guidance on specific areas of concern in the use of Shire resources includes:

a) Shire Funds, Staff and Equipment

In undertaking our duties, Shire facilities, funds, staff, materials, software and equipment will always be used lawfully, efficiently and effectively. Whilst the Shire recognises the occasional need for private local use of phone, faxes or internet access during working hours, we will keep these to a minimum and ensure they do not affect our customer service responsibilities. We will not use Shire resources in any outside employment or business.

b) Intellectual Property

Intellectual property comes in many forms and includes Council records, minutes of meetings, plans and software. The title to all intellectual property in all official Shire duties vests upon its creation in the Shire, unless otherwise assigned by separate contract. We will always request authorisation for the use of the Shire's intellectual property when outside our official Shire duties. When we are in doubt about our use of intellectual property we will discuss this with the Chief Executive Officer. The Chief Executive Officer has discretion to require payment for the use of the Shire's intellectual property. We will make no unauthorised use of any information or intellectual property produced or registered by staff or external contractors for the Shire.

c) Post-separation Use of Council Information

Any confidential information we gain as a result of our involvement with the Shire remains the property of the Shire. We will not disclose it unless properly authorised or required to do so by law even after ceasing our involvement with the Shire.

The Rules of Conduct also deal with the misuse by an elected member of the Shire's resources. Regulation 8 of the *Local Government (Rules of Conduct) Regulations 2007* (set out in Attachment 1 to this Code) states:

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

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

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

5. WE ARE RESPONSIBLE FOR OUR ACTIONS AND ACCOUNTABLE FOR THEIR CONSEQUENCES

We will all work with a positive attitude towards achieving the goals of the Shire and be accountable for those outcomes over which we have control. We will honestly and fully report the results of our actions and ensure responsible and scrupulous public administration. We will be responsible for taking steps to ensure compliance with this Code.

Guidance on specific issues of accountability includes:

5.1 Travelling and Sustenance Allowance

We will ensure that claims will only be made or accepted for travelling and sustenance expenses arising out of travel-related matters which have a direct bearing on the conduct of our duties or Council services, policies or business. We will be diligent in ensuring that other expenses are claimed in accordance with Council policy, relate strictly to our official duties and are properly acquitted.

5.2 Performance of Duties by Staff

Whilst on duty, staff will give their whole time, effort and attention to Shire business and ensure that their work is carried out efficiently and effectively in accordance with their directions, duties, Shire policies and corporate objectives. Staff will at all times ensure that their standard of work, manner, and presentation (including dress) reflects favourably both on themselves and on the Shire.

5.3 Dealing with Customers

Our customers can expect prompt, professional, courteous and helpful service from staff. We also have the right to be treated with respect. Where customers are rude or abusive in their dealings with Shire staff they will be referred to the immediate supervisor and may be denied access to services at the discretion of the Chief Executive Officer.

5.4 Compliance with Lawful Orders

Staff will carry out the lawful policies of the Shire, whether or not they agree with them. Staff will comply with any lawful order given by any person having authority to make or give such an order. When there is any doubt as to the propriety of an order, they will discuss their concerns with the Chief Executive Officer.

5.5 Accountable Record Keeping

We will be mindful of our responsibility to maintain full and accurate records in the performance of our duties. In particular, staff will ensure that file notes are drafted and placed on record immediately following discussions on issues of substance with persons other than members of staff and elected members. Such issues will include matters before the Council, matters affecting the Shire or the organisation of the Shire, and matters affecting the public interest.

I have read, understood and hereby agree to abide by the Code of Conduct.

Print Name:

Signature: Date:

Signature: Date:
Witness

Attachment 1: Copy of Local Government (Rules of Conduct) Regulations 2007



Western Australia

Local Government Act 1995

**Local Government (Rules of Conduct)
Regulations 2007**

As at 21 Jan 2017

Version 00-d0-00

Extract from www.slp.wa.gov.au, see that website for further information

Local Government (Rules of Conduct) Regulations 2007

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Defined terms

Local Government (Rules of Conduct) Regulations 2007

Part 1 — General

1. Citation

These regulations are the *Local Government (Rules of Conduct) Regulations 2007*¹.

2. Commencement

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Local Government (Official Conduct) Amendment Act 2007* section 11 comes into operation.

3. General principles to guide the behaviour of council members

- (1) General principles to guide the behaviour of council members include that a person in his or her capacity as a council member should —
 - (a) act with reasonable care and diligence; and
 - (b) act with honesty and integrity; and
 - (c) act lawfully; and
 - (d) avoid damage to the reputation of the local government; and
 - (e) be open and accountable to the public; and
 - (f) base decisions on relevant and factually correct information; and

- (g) treat others with respect and fairness; and
- (h) not be impaired by mind affecting substances.

- (2) The general principles referred to in subregulation (1) are for guidance of council members but it is not a rule of conduct that the principles be observed.

4. Contravention of certain local laws

- (1) In this regulation —
local law as to conduct means a local law relating to conduct of people at council or committee meetings.
- (2) The contravention of a local law as to conduct is a minor breach for the purposes of section 5.105(1)(b) of the Act.

Part 2 — Rules of conduct

Division 1 — Preliminary

[Heading inserted in Gazette 4 Mar 2016 p. 659.]

5. Rules of conduct

- (1) This Part contains the rules of conduct referred to in section 5.104(1) of the Act.
- (2) The rules of conduct apply to a council member whether or not acting as a committee member.

Division 2 — Rules of conduct: general

[Heading inserted in Gazette 4 Mar 2016 p. 660.]

6. Use of information

- (1) In this regulation —
 - closed meeting* means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;
 - confidential document* means a document marked by the CEO to clearly show that the information in the document is not to be disclosed;
 - non-confidential document* means a document that is not a confidential document.
- (2) A person who is a council member must not disclose —
 - (a) information that the council member derived from a confidential document; or
 - (b) information that the council member acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subregulation (2) does not prevent a person who is a council member from disclosing information —

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

7. Securing personal advantage or disadvantaging others

- (1) A person who is a council member must not make improper use of the person's office as a council member —
 - (a) to gain directly or indirectly an advantage for the person or any other person; or
 - (b) to cause detriment to the local government or any other person.
- (2) Subregulation (1) does not apply to conduct that contravenes section 5.93 of the Act or *The Criminal Code* section 83.

8. Misuse of local government resources

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

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

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

9. Prohibition against involvement in administration

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

10. Relations with local government employees

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

11. Disclosure of interest

(1) In this regulation —

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

(2) A person who is a council member and who has an interest in any matter to be discussed at a council or committee meeting attended by the member must disclose the nature of the interest —

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

(3) Subregulation (2) does not apply to an interest referred to in section 5.60 of the Act.

(4) Subregulation (2) does not apply if —

- (a) a person who is a council member fails to disclose an interest because the person did not know he or she had an interest in the matter; or
- (b) a person who is a council member fails to disclose an interest because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person disclosed the interest as soon as possible after the discussion began.

(5) If, under subregulation (2)(a), a person who is a council member discloses an interest in a written notice given to the CEO before a meeting then —

- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present

immediately before a matter to which the disclosure relates is discussed.

(6) If —

- (a) under subregulation (2)(b) or (4)(b) a person's interest in a matter is disclosed at a meeting; or
- (b) under subregulation (5)(b) notice of a person's interest in a matter is brought to the attention of the persons present at a meeting,

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

12. Gifts

(1) In this regulation —

activity involving a local government discretion means an activity —

- (a) that cannot be undertaken without an authorisation from the local government; or
- (b) by way of a commercial dealing with the local government;

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

- (a) a gift from a relative as defined in section 5.74(1) of the Act; or
- (b) a gift that must be disclosed under regulation 30B of the *Local Government (Elections) Regulations 1997*; or
- (c) a gift from a statutory authority, government instrumentality or non-profit association for professional training; or
- (d) a gift from WALGA, the Australian Local Government Association Limited (ABN 31 008 613 876) or the Local Government Managers Australia WA Division Incorporated (ABN 91 208 607 072);

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

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

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

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

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

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

an activity involving a local government discretion.

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

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

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

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

- (a) the name of the person who gave the gift; and
- (b) the date on which the gift was accepted; and
- (c) a description, and the estimated value, of the gift; and
- (d) the nature of the relationship between the person who is a council member and the person who gave the gift; and

- (e) if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift” (whether or not it is also a notifiable gift under paragraph (a) of that definition) —
 - (i) a description; and
 - (ii) the estimated value; and
 - (iii) the date of acceptance,of each other gift accepted within the 6 month period.
- (5) The CEO must maintain a register of gifts in which details of notices received under subregulation (4) are recorded.

[Regulation 12 amended in Gazette 20 Jan 2017 p. 649-50.]

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[Heading inserted in Gazette 4 Mar 2016 p. 660.]

13. Terms used

In this Division —

address has the meaning given in section 5.74(1) of the Act;

assent day means the day on which the *City of Perth Act 2016* receives the Royal Assent;

designated employee has the meaning given in section 5.74(1) of the Act;

gift has the meaning given in section 5.82(4) of the Act;

political party has the meaning given in section 5.83(4) of the Act;

relative has the meaning given in section 5.74(1) of the Act;

transitional period means the period beginning on 1 July 2015 and ending at the close of assent day;

travel has the meaning given in section 5.83(4) of the Act;

travel contribution, in relation to a person, means a financial or other contribution that has been made to any travel undertaken by the person.

[Regulation 13 inserted in Gazette 4 Mar 2016 p. 660-1.]

14. Disclosure of gifts

- (1) A person who is a council member must disclose each gift received by the person during the transitional period.
- (2) The disclosure is to be made in writing to the CEO.
- (3) The disclosure is to be made within 28 days after assent day.
- (4) The disclosure is to include the following —
 - (a) a description of the gift;
 - (b) the name and address of the person who made the gift;
 - (c) the date on which the gift was received;
 - (d) the estimated value of the gift at the time it was made;
 - (e) the nature of the relationship between the person who is a council member and the person who made the gift.
- (5) Nothing in this regulation requires a person to disclose a gift received by the person if —
 - (a) the amount of the gift did not exceed \$200 unless —
 - (i) the gift was one of 2 or more gifts made by one person at any time during the year; and
 - (ii) the sum of those 2 or more gifts exceeded \$200;or
 - (b) the donor was a relative of the person.
- (6) For the purposes of subregulation (5)(a), the amount of a gift comprising property, other than money, or the conferral of a financial benefit is to be treated as being an amount equal to the value of the property or the financial benefit at the time the gift was made.

- (7) The CEO must maintain a register of gifts received during the transitional period in which details of disclosures made under this regulation are recorded.

[Regulation 14 inserted in Gazette 4 Mar 2016 p. 661-2.]

15. Disclosure of travel contributions

- (1) A person who is a council member must disclose each travel contribution received by the person during the transitional period.
- (2) The disclosure is to be made in writing to the CEO.
- (3) The disclosure is to be made within 28 days after assent day.
- (4) The disclosure is to include the following —
- (a) a description of the contribution;
 - (b) the name and address of the person who made the contribution;
 - (c) the date on which the contribution was received;
 - (d) the estimated value of the contribution at the time it was made;
 - (e) the nature of the relationship between the person who is a council member and the person who made the contribution;
 - (f) a description of the travel;
 - (g) the date of travel.
- (5) Nothing in this regulation requires a person to disclose a travel contribution if —
- (a) the contribution was made from Commonwealth, State or local government funds; or
 - (b) the contribution was made by a relative of the person; or
 - (c) the contribution was made in the ordinary course of an occupation of the person which is not related to the person's duties as a council member; or

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- (d) the amount of the contribution did not exceed \$200 unless —
 - (i) the contribution was one of 2 or more contributions made by one person at any time during the year; and
 - (ii) the sum of those 2 or more contributions exceeded \$200;or
 - (e) the contribution was made by a political party of which the person was a member and the travel was undertaken for the purpose of political activity of the party, or to enable the person to represent the party.
- (6) For the purposes of subregulation (5)(d), the amount of a contribution (other than a financial contribution) is to be treated as being an amount equal to the value of the contribution at the time the contribution was made.
- (7) The CEO must maintain a register of travel contributions received during the transitional period in which details of disclosures made under this regulation are recorded.

[Regulation 15 inserted in Gazette 4 Mar 2016 p. 662-4.]

Notes

- ¹ This is a compilation of the *Local Government (Rules of Conduct) Regulations 2007* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Citation	Gazettal	Commencement
<i>Local Government (Rules of Conduct) Regulations 2007</i>	21 Aug 2007 p. 4203-16	r. 1 and 2: 21 Aug 2007 (see r. 2(a)) Regulations other than r. 1 and 2: 21 Oct 2007 (see r. 2(b) and <i>Gazette</i> 21 Aug 2007 p. 4173)
<i>Local Government (Rules of Conduct) Amendment Regulations 2016</i>	4 Mar 2016 p. 659-64	r. 1 and 2: 4 Mar 2016 (see r. 2(a)) Regulations other than r. 1 and 2: 5 Mar 2016 (see r. 2(b))
<i>Local Government Regulations Amendment (Gifts) Regulations 2017 Pt. 3</i>	20 Jan 2017 p. 648-50	21 Jan 2017 (see r. 2(b))

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
activity involving a local government discretion	12(1)
address	13
assent day	13
closed meeting	6(1)
confidential document.....	6(1)
designated employee	13
gift.....	12(1), 13
interest.....	11(1)
local law as to conduct.....	4(1)
non-confidential document	6(1)
notifiable gift.....	12(1)
political party	13
prohibited gift	12(1)
relative	13
transitional period	13
travel	13
travel contribution.....	13