



**CITY OF
PERTH**

Integrity at the City of Perth

Code of Conduct for Council Members,
Committee Members and Candidates



Acknowledgement of Traditional Custodians

We acknowledge the Whadjuk Nyoongar people, Traditional Owners of the lands and waters where the City of Perth is today and pay our respects to Elders past and present. We pay our respects to Aboriginal and Torres Strait Islander Elders past, present and future for they hold the memories, the traditions, the culture and hopes for Aboriginal Australia.

The City is committed to forging stronger relationships and a deeper respect for Aboriginal and Torres Strait Islander Australians. By acknowledging and respecting the diversity and history of our Aboriginal and Torres Strait Islander community, we will continue to realise our vision for reconciliation.

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Using the Code

As the capital city local government authority for Western Australia, the City of Perth is responsible for providing effective and high-quality government for residents, ratepayers and visitors, as mandated in the *Local Government Act 1995* (LG Act) and *City of Perth Act 2016* (City of Perth Act). This Code of Conduct (Code) establishes the standards and principles that outline expected behaviour and relevant legal responsibilities for each appointed and prospective Council Member, Committee Member and Candidate. It facilitates the delivery of good governance by Council and the Chief Executive Officer by supporting:

- Decision making processes that are responsible, inclusive, participatory and representative and deliver outcomes which are in the best interests of community and our stakeholders.
- Developing and strengthening public trust in the integrity of the City and local government.
- Strong, effective relationships between Council Members, Committee Members, Candidates, the CEO and employees of the City based on clear roles and responsibilities and shared principles.

This Code focuses on principles and gives general guidance, rather than detailed policies and procedures. It does not describe every requirement of legislation, policies, and procedures, or all rights and obligations that would ordinarily apply under law. It is to be read in conjunction with the LG Act, its subsidiary legislation and the City of Perth Act.

It is the responsibility of Council Members, Committee Members and Candidates to seek information if they are unclear on any area of conduct. Misunderstanding or being unaware of laws does not relieve a person from the obligation to comply.

This Code is subsidiary to (and informed by) personal responsibilities and compliance obligations under legislation. The laws that apply to your conduct include, but is not limited to:

- *Local Government Act 1995*
 - *Local Government (Model Code of Conduct) Regulations 2021*
 - *Local Government (Elections) Regulations 1997*
 - *Local Government (Functions and General) Regulations 1996*
 - *Local Government (Administration) Regulations 1996*
- *City of Perth Standing Orders Local Law 2009*
- *Corruption, Crime and Misconduct Act 2003*
- *The Criminal Code*
 - Chapter XII - Corruption and abuse of office.
- *Disability Discrimination Act 1992*
- *Environmental Protection Act 1986*
- *Equal Opportunity Act 1984*
- *Fair Work Act 2009*
- *Freedom of Information Act 1992*
- *Work Health and Safety Act 2020*
- *Public Interest Disclosure Act 2003*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *State Records Act 2000*

Division 1 — Preliminary provisions

1. CITATION

This is the City of Perth Code of Conduct for Council Members, Committee Members and Candidates.

2. TERMS USED

1. In this code —

Act means the *Local Government Act 1995*;

candidate means a candidate for election as a council member;

complaint means a complaint made under clause 11(1);

publish includes to publish on a social media platform.

2. Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.



Division 2 — General principles

3. OVERVIEW OF DIVISION

This Division sets out general principles to guide the behaviour of council members, committee members and candidates.

4. PERSONAL INTEGRITY

1. A council member, committee member or candidate should —
 - (a) act with reasonable care and diligence; and
 - (b) act with honesty and integrity; and
 - (c) act lawfully; and
 - (d) identify and appropriately manage any conflict of interest; and
 - (e) avoid damage to the reputation of the local government.
2. A council member or committee member should —
 - (a) act in accordance with the trust placed in council members and committee members; and
 - (b) participate in decision making in an honest, fair, impartial and timely manner; and
 - (c) actively seek out and engage in training and development opportunities to improve the performance of their role; and
 - (d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.

5. RELATIONSHIP WITH OTHERS

1. A council member, committee member or candidate should —
 - (a) treat others with respect, courtesy and fairness; and
 - (b) respect and value diversity in the community.
2. A council member or committee member should maintain and contribute to a harmonious, safe and productive work environment.

6. ACCOUNTABILITY

A council member or committee member should —

- (a) base decisions on relevant and factually correct information; and
- (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
- (c) read all agenda papers given to them in relation to council or committee meetings; and
- (d) be open and accountable to, and represent, the community in the district.



Division 3 — Behaviour

GENERAL CONDUCT

As a current or prospective representative and leadership figure of the City of Perth, Council Members, Committee Members and Candidates are role models and their behaviours shape the culture of what is acceptable and expected at the City. By acting in accordance with our principles, Council Members, Committee Members and Candidates can foster a positive culture in the City and provide effective leadership to the organisation and community.

Conduct at meetings is particularly important in effective, democratic and ethical decision making. Council Members are required to vote on every item of business considered at a Council meeting, except where prevented from doing so by the *Local Government Act 1995* or due to absence from the Chamber (apology, leave of absence or relevant disclosure of interest).

7. OVERVIEW OF DIVISION

This Division sets out —

- (a) requirements relating to the behaviour of council members, committee members and candidates; and
- (b) the mechanism for dealing with alleged breaches of those requirements.

8. PERSONAL INTEGRITY

- 1. A council member, committee member or candidate —
 - (a) must ensure that their use of social media and other forms of communication complies with this code; and

- (b) must only publish material that is factually correct.

- 2. A council member or committee member —
 - (a) must not be impaired by alcohol or drugs in the performance of their official duties; and
 - (b) must comply with all policies, procedures and resolutions of the local government
 - (d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.



EXAMPLES OF BEHAVIOURAL EXPECTATIONS

- Exercise responsibilities in the interests of the local community.
- Understand that ethical behaviour is an integral part of responsible, effective and accountable government.
- Endeavour to foster a culture of good governance, risk awareness, health and safety, and equal opportunity within the City and the community.
- Act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person.
- Do not engage in any fraudulent, corrupt or illegal behaviour, and report any information about actual or potentially fraudulent, corrupt, or illegal activities to the Chief Executive Officer or, if necessary, the Corruption and Crime Commission where the conduct may meet the definition of serious misconduct under the *Corruption, Crime and Misconduct Act 2003*.
- Commit to ensuring that elections conducted by the City are conducted fairly and democratically and in accordance with the highest standards of governance.
- Act in accordance with the letter and intent of legislation such as the *Corruption, Crime and Misconduct Act 2003*, *Public Interest Disclosure Act 2003*, and *Local Government (Model Code of Conduct) Regulations 2021*.
- Understand the different types of breaches and misconduct findings and sanctions that may be made due to failure to comply with applicable legislation and the Code.
- Take all reasonable steps to become familiar with policies and protocols and participate in any reviews of these documents.
- Understand and comply with the *City of Perth Standing Orders Local Law 2009*, and act professionally, democratically, and respectfully at all meetings, briefings, forums, workshops, and training sessions.
- Use a good governance and risk management focused approach when making decisions and in all other official duties.



9. RELATIONSHIP WITH OTHERS

A council member, committee member or candidate —

- (a) must not bully or harass another person in any way; and
- (b) must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government; and
- (c) must not use offensive or derogatory language when referring to another person; and
- (d) must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and
- (e) must not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.

DIVERSITY AND INCLUSION

The City aims to foster within the community and the workplace an environment of trust, mutual respect and appreciation where everyone is treated fairly, with respect and can realise their full potential.

All individuals have a right to feel confident that the diversity of their experiences will be valued and supported, regardless of their gender, age, language, ethnicity, cultural background, ability, religious belief, identification as gay, lesbian, bisexual, transgender, intersex or queer (LGBTIQ), education, work and life experiences, socio-economic background, opinions, job function, geographical location, marital status and family.

BULLYING AND HARASSMENT

Harassment occurs when someone engages in conduct that would make a reasonable person feel offended, humiliated or intimidated because of their age, race, religion, gender or gender expression, sexual orientation or some other attribute specified under anti-discrimination legislation. Bullying is repeated, unreasonable behaviour directed toward an individual or group of individuals that creates a risk to health and safety.

There is no place for bullying or harassment at the City, and it will not be tolerated. It is unlawful, breaches our policies, and goes against our values.

EXAMPLES OF BEHAVIOURAL EXPECTATIONS

- Recognise and embrace the diversity each person brings to the City, and value and consider diversity in decision-making, program and policy development.
- Recognise that there is no place for unlawful discrimination, harassment (sexual or otherwise), racial and religious vilification and victimisation of any individual.
- Treat all people with dignity and respect, and have due regard to the opinions, identities, beliefs, rights and experiences of other Council Members, City staff and other persons.
- Act in accordance with legislation such as the *Equal Opportunity Act 1984* and other anti-discrimination legislation.
- Identify individual needs to undertake training or activities to further develop awareness and understanding.
- Allow others to freely express their opinions, and swiftly resolve any conflicts that may rise.
- Communicate with other Council and Committee Members openly, equitably and without bias or favouritism.
- Uphold the City's obligations to support a safe workplace and do not engage in unreasonable behaviour toward another Council Member, Committee Member, the general public, the Chief Executive Officer or any City employee that creates a risk to the health and safety of that person.
- Do not behave in a manner that may be perceived as intimidating, offensive, or inappropriate.
- Report harassment and bullying.
- Take responsibility for personal health and safety and the health and safety of others and fulfill any obligations under the *Work Health and Safety Act 2020* and *Fair Work Act 2009*.
- Any comments or representations made publicly are to be factually correct and not cause detriment to other Council Members, Committee Members, Candidates, the Chief Executive Officer, the City administration, the City as an entity or any other person.
- Work constructively with other Council, Committee Members, Candidates, the Chief Executive Officer and the City's employees and respect their perspectives and input.



10. COUNCIL OR COMMITTEE MEETINGS

When attending a council or committee meeting, a council member, committee member or candidate —

- (a) must not act in an abusive or threatening manner towards another person; and
- (b) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and
- (c) must not repeatedly disrupt the meeting; and
- (d) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and
- (e) must comply with any direction given by the person presiding at the meeting; and
- (f) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.

11. COMPLAINT ABOUT ALLEGED BREACH

1. A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
2. A complaint must be made —
 - (a) in writing in the form approved by the local government; and
 - (b) to a person authorised under subclause (3); and
 - (c) within 1 month after the occurrence of the alleged breach.

3. The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.

12. DEALING WITH COMPLAINT

1. After considering a complaint, the local government must, unless it dismisses the complaint under clause 13 or the complaint is withdrawn under clause 14(1), make a finding as to whether the alleged breach the subject of the complaint has occurred.
2. Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard.
3. A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
4. If the local government makes a finding that the alleged breach has occurred, the local government may —
 - (a) take no further action; or
 - (b) prepare and implement a plan to address the behaviour of the person to whom the complaint relates.
5. When preparing a plan under subclause (4)(b), the local government must consult with the person to whom the complaint relates.
6. A plan under subclause (4)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following —
 - (a) engage in mediation;
 - (b) undertake counselling;
 - (c) undertake training;
 - (d) take other action the local government considers appropriate.
7. If the local government makes a finding in relation to the complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of —

- (a) its finding and the reasons for its finding; and
- (b) if its finding is that the alleged breach has occurred — its decision under subclause (4).

13. DISMISSAL OF COMPLAINT

1. The local government must dismiss a complaint if it is satisfied that —
 - (a) the behaviour to which the complaint relates occurred at a council or committee meeting; and
 - (b) either —
 - (i) the behaviour was dealt with by the person presiding at the meeting; or
 - (ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.
2. If the local government dismisses a complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of its decision and the reasons for its decision.

14. WITHDRAWAL OF COMPLAINT

1. A complainant may withdraw their complaint at any time before the local government makes a finding in relation to the complaint.
2. The withdrawal of a complaint must be —
 - (a) in writing; and
 - (b) given to a person authorised under clause 11(3).

15. OTHER PROVISIONS ABOUT COMPLAINTS

1. A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.
2. The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division.

15A. ADDITIONAL PROVISIONS

Failure to observe the following additional behavioural requirements may constitute a breach of this Code and be dealt with by the City of Perth.

As a Council or Committee Member for the City of Perth, I must —

1. only use information technology facilities provided by the City to perform the duties of the office or appointment held.
2. clearly preface any personal opinions or views I express publicly as my own and not the City's, including when using social media.
3. not make any adverse reflection on Council Members, Committee Members, the CEO, employees, or decisions of Council and Committees, including when publicly expressing my own personal opinions or views.
4. direct to the CEO any request for a query or complaint to be dealt with, or other work or action to be undertaken, by a local government employee.

As a Council Member for the City of Perth, I must —

5. only use my Lord Mayor or Councillor title when fulfilling the official functions of my elected office.



COMMUNICATION

As an appointed or prospective Council or Committee Member, you are seen to be representing the City of Perth in your interactions with the community and our stakeholders.

These expectations are applicable whenever you are speaking or communicating on behalf of the City, and when using channels such as:

- social media
- websites
- electronic direct mail (EDM)
- publications such as local newspapers (print and electronic)
- advertising (print, electronic and digital)
- media communications and releases
- promotional items
- displays and exhibitions promotional items

LOBBYING

Section 2.10 of the *Local Government Act 1995* and Section 11 of the *City of Perth Act 2016* outlines the role of Council Members. A common requirement of these sections is that Council Members facilitate communication between the community and the council. Therefore, opportunities for communication between elected members and community members are encouraged.

The City's communication protocol guides Council Members in their communications with members of the community.

Occasionally members of the community will engage with Council Members, individually or as a group, on a matter that Council is required to decide on. It is in the public interest that this engagement is fair and open and not undermine public confidence in impartial decision-making.

Council members must be aware of the difference between appropriate and inappropriate lobbying and the risks associated with inappropriate lobbying.

Council members, when being lobbied:

- Must provide copies of correspondence and information presented during meetings with applicants, supporters or objectors, and lobbyists to all Council Members and the Chief Executive Officer.
- Must keep a record of all correspondence related to these meetings in accordance with the record keeping responsibilities.
- Must not commit to a decision on a proposal, application or any other decision of Council.
- May invite applicants, supporters or objectors, and lobbyists who have approached them for a meeting, to participate in consultation with all Council Members and the City.



EXAMPLES OF BEHAVIOURAL EXPECTATIONS

- Understand that the Lord Mayor is the authorised spokesperson for the City, and do not make unauthorised public representations about the City, its activities or its views.
- Only make public comment or representation on behalf of the City with appropriate prior approval.
- Act according to legal requirements, policies and all other lawful directives regarding communication with other fellow Council Members, Committee Members and Candidates, the Chief Executive Officer, employees of the City, media and community.
- When expressing personal views and opinions, clearly identify them as your own and not the City's.
- Respect decisions of Council and Committees by not criticising or actively undermining any decisions which have been made.
- Not bringing the City into disrepute through any words or actions.

BREACHES OF THE BEHAVIOURAL REQUIREMENTS

If a person has reason to believe a Council Member, Committee Member or Candidate has breached the behavioural requirements of this Code, a complaint may be made to a person authorised to receive these complaints. The complaint needs to be made within one month of the alleged breach occurring.

Complaints of this nature are to be dealt with by the City in accordance with the *Local Government (Model Code of Conduct) Regulations 2021* (the "Model Code Regulations"), this Code of Conduct, and any relevant policies and procedures adopted by Council.

If an alleged breach is found to have occurred, the City may prepare and implement a plan to address behaviour under clause 12(4)(b) of Schedule 1 of the Model Code Regulations.

This plan may require that a Council Member, Committee Member or Candidate engage in mediation, undertake counselling, undertake training, or any other action the City considers appropriate, in accordance with 12(6) of Schedule 1 of the Model Code Regulations.



Division 4 — Rules of conduct

NOTES FOR THIS DIVISION

1. Under section 5.105(1) of the Act a council member commits a minor breach if the council member contravenes a rule of conduct. This extends to the contravention of a rule of conduct that occurred when the council member was a candidate.
2. A minor breach is dealt with by a standards panel under section 5.110 of the Act.

USE OF CITY RESOURCES

You have a responsibility to the community to ensure the City operates efficiently and effectively. This extends to your own behaviours, which means that you are expected to act only in the public interest, and without self-interest, and to use the City's resources carefully and transparently.

16. OVERVIEW OF DIVISION

1. This Division sets out rules of conduct for council members and candidates.
2. A reference in this Division to a council member includes a council member when acting as a committee member

17. MISUSE OF LOCAL GOVERNMENT RESOURCES

1. In this clause —
electoral purpose means 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;
resources of a local government includes —
 - (a) local government property; and
 - (b) services provided, or paid for, by a local government.
2. A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

EXAMPLES OF BEHAVIOURAL EXPECTATIONS

- Use City resources, facilities, funds and equipment (including employee time) effectively and economically, and only for official duties unless properly authorised to do otherwise.
- Report any damage or loss of property or equipment immediately to the City.
- Refer requests by an external party to use City facilities to the City for approval.
- Understand and comply with the City's provisions and policies for the reimbursement of expenses, including travel and accommodation.
- Ensure the responsible and efficient expenditure of ratepayer funds.
- Maintain adequate security over City property, facilities and resources in your possession or control.



18. SECURING PERSONAL ADVANTAGE OR DISADVANTAGING OTHERS

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

PERSONAL ADVANTAGE OR DISADVANTAGING OTHERS

The position of Council Member or Committee Member is inherently a position of power. The community rightfully expects you to use your office to fairly and faithfully represent and act in their best interests, and properly dispel your duties. If you improperly use your office to gain a personal advantage for yourself or another person or to cause detriment to the City or any other person, community trust in the City and local government broadly is damaged.

Improperly using your office to gain a personal advantage for yourself or another person, or to cause detriment to the City or another person, may constitute corruption if it meets the definition of serious misconduct under the *Corruption, Crime and Misconduct Act 2003*.

EXAMPLES OF BEHAVIOURAL EXPECTATIONS

- Understand the trust placed in Council and Committee Members by the community and stakeholders to serve fairly and transparently, and do not seek to gain advantage directly or indirectly for yourself or any other person.
- Act equitably, without seeking to cause detriment to the City or any other person.
- Do not improperly use information obtained in the course of official duties, or use it for direct or indirect, personal or commercial gain, or to do harm to others.
- As a sitting Council Member, during an election period, abide by the requirements of the applicable legislation and policies.
- Whether or not you are standing for re-election, always act respectfully towards all candidates for the election.

19. PROHIBITION AGAINST INVOLVEMENT IN ADMINISTRATION

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

20. RELATIONSHIP WITH LOCAL GOVERNMENT EMPLOYEES

1. In this clause —
local government employee means a person —
 - (a) employed by a local government under section 5.36(1) of the Act; or
 - (b) engaged by a local government under a contract for services.
2. A council member or candidate must not —
 - (a) direct or attempt to direct a local government employee to do or not to do anything in their 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 local government employee in their capacity as a local government employee; or
 - (c) act in an abusive or threatening manner towards a local government employee.
3. Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.
4. If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means —
 - (a) make a statement that a local government employee is incompetent or dishonest; or
 - (b) use an offensive or objectionable expression when referring to a local government employee.
5. Subclause (4)(a) does not apply to conduct that is unlawful under The Criminal Code Chapter XXXV.

INVOLVEMENT IN ADMINISTRATION

As a Council Member, your role includes providing leadership and guidance to the community. The *Local Government (Model Code of Conduct) Regulations 2021* prohibit your involvement in the administration of the City. This separation of duties between the representative decision makers (Council and Committee Members) and the administrators responsible for implementing those decisions (local government employees) is a fundamental good governance principle.

RELATIONS WITH COUNCIL MEMBERS, COMMITTEE MEMBERS, THE CHIEF EXECUTIVE OFFICER AND CITY ADMINISTRATION

Effective working relationships based on clear roles and responsibilities are crucial to the ability of the City to effectively serve the community and its stakeholders.

Given the open nature of local government and the absence of party-based political structures, Council Members and Committee Members must work together to achieve outcomes. It is also critical to good governance to maintain an appropriate relationship between Council Members, Committee Members, the Chief Executive Officer and City administration. Working relationships should be characterised by mutual respect and an acknowledgement that, while all parties may not agree on all issues, they are all doing important, and often challenging work, and each have a clear role to play in serving the community.

EXAMPLES OF BEHAVIOURAL EXPECTATIONS

- Understand that the role is to provide leadership, and not to interfere or get involved in administrative matters.
- Respect the role that each Council Member, Committee Member and employee plays to achieve the City's objectives and deliver effective service to the community and our stakeholders.
- Do not approach staff directly about matters unless given authority to do so.
- Do not make vexatious or inappropriate queries to the administration and understand and value the time spent by City employees in responding to requests and questions from Council and Committee Members.
- Adhere to the *Local Government Act 1995* and the City's Communication Protocol.
- Not undertaking tasks that contribute to the administration of the City.
- Not directing (except as part of an established council or committee meeting process) or attempting to influence a local government employee in their capacity as a local government employee.
- Do not seek to restrict or place undue influence on the ability of employees to give professional advice to Council.

21. DISCLOSURE OF INFORMATION

1. In this clause —

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, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;

document includes a part of a document;

non confidential document means a document that is not a confidential document.

2. A council member must not disclose information that the council member —
 - (a) derived from a confidential document; or
 - (b) acquired at a closed meeting other than information derived from a non confidential document.
3. Subclause (2) does not prevent 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.

RECORD KEEPING

All public officers, including Council Members and Committee Members, are responsible under the *State Records Act 2000* for creating and managing government records appropriately. Correspondence and documents created or received in the course of official business are official records.

The State Records Commission requires that records of Council Member communications and transactions which constitute evidence affecting the accountability of the Council and the discharge of its business be created and retained, regardless of the record's format or where it was received. This includes messages sent via text or applications such as WhatsApp, Messenger, or WeChat.

Making and maintaining proper records assists with accountability and transparency by demonstrating the basis for decisions and the process used to make them. Documentation enables decisions to be reviewed, including by an independent person or authority. The *Freedom of Information Act 1992* gives members of the public the right to access the City's documents, subject to some limitations. All documents created by Council Members and the administration can be subject to a Freedom of Information request.

DISCLOSURE OF INFORMATION

Council and Committee Members are privy to confidential and highly sensitive information such as information relating to commercial matters and legal issues, notably when considering meeting items deemed to be confidential under the *Local Government Act 1995*. The confidentiality of information must be maintained unless determined otherwise.

It is important that you do not inappropriately or unlawfully disclose information acquired in the course of your official duties or for personal, commercial, or political gain for yourself or others, or to the detriment of others. You should be particularly cautious when information to which you are privy could be seen to involve any conflict of interest you may have.



EXAMPLES OF BEHAVIOURAL EXPECTATIONS

- Follow meeting procedures and disclosure processes to facilitate the accurate recording of decision-making practices (including motions and questions), events, and activities.
- Diligently handle and store City records and secure sensitive documents.
- Dispose of duplicate copies of records and confidential waste in accordance with record keeping and archive procedures.
- Do not falsify, destroy, alter or damage any public records.
- Allow prompt access and ensure personal information held is accurate, complete, up to date and not misleading.
- Record salient facts in documents.
- Avoid recording inappropriately disparaging remarks and unsubstantiated personal opinions about individuals on official documents.
- Comply with the *State Records Act 2000*, *Freedom of Information Act 1992* and the City's Recordkeeping Plan and procedures.
- Understand and fulfill record keeping obligations, including by only using approved City systems to discuss official Council business and decision-making.
- Ensure that records created or received that relate to official City business are captured in the City's record keeping systems in accordance with the City's Recordkeeping Plan.
- Avoid discussing confidential matters in public places where there is a likelihood of being overheard.
- Maintain and respect confidentiality and don't divulge information deemed confidential or sensitive, other than as required by law or where proper authorisation is given.
- Comply with any legislative provisions and Council policies concerning access to, use of or disclosure of, Council information, whether confidential or otherwise.
- Protect intellectual property.
- Raise concerns of improper communications or use of information with the Chief Executive Officer or relevant authority.
- Respect the privacy of individuals and the security of personal information.

22. DISCLOSURE OF INTERESTS

1. In this clause —
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.
2. A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council 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. Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
4. Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —
 - (a) that they had an interest in the matter; or
 - (b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.
5. If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —
 - (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.
6. Subclause (7) applies in relation to an interest if —
 - (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or
 - (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.
7. The nature of the interest must be recorded in the minutes of the meeting.

CONFLICTS AND DISCLOSURES

Decisions can arise that a Council Member or Committee Member has an actual or perceived interest in a matter.

When decisions are made and there is the perception of a conflict of interest the community may doubt the integrity of the decision. The validity of decisions made with an actual or perceived conflict can be challenged. To ensure conflicts do not undermine public trust it is important to transparently disclose them and leave meetings when required.

Sections 5.65 of the *Local Government Act 1995* requires Council Members and Committee Members to disclose financial and proximity interests of themselves and people they are closely associated with. Council Members must complete primary and annual returns in accordance with the requirements of Division 6 of Part 5 of the *Local Government Act 1995*.

The *Local Government (Model Code of Conduct) Regulations 2021* requires the disclosure of any interest which could, or could reasonably be perceived to, adversely affect the impartiality of the Council Member.



GIFTS

Council Members may be offered gifts from organisations and individuals as a result of their role. Gifts can include items such as goods, discounts, hospitality, attendance at events or contributions to travel.

The full definition of a gift is included under section 5.57 of the *Local Government Act 1995*.

Whenever a Council Member accepts (or in some instances, is offered) a gift, there is a risk of real or perceived influence arising. Even though this might not be your intention, or the intention of the donor, impressions and perceptions are important.

Sections 5.87A and 5.87C of the *Local Government Act 1995* require declaration of any gift received in a person's capacity as a Council Member where the value of the gift (or the cumulative value of gifts from the same donor in a 12-month period) is over the prescribed threshold. Gifts must be declared within ten days of receipt to the Chief Executive Officer.

Interests can arise from accepting a gift. This may require a disclosure of interest and affect voting.

ELECTORAL GIFTS

All electoral candidates must comply with the *Local Government Act 1995* and the *Local Government (Elections) Regulations 1997* in disclosing electoral donations or 'gifts'.

Requirements relating to the disclosure of electoral gifts are set out in the *Local Government (Elections) Regulations 1997*, particularly Part 5A.

EXAMPLES OF BEHAVIOURAL EXPECTATIONS

- Carefully identify and appropriately manage potential conflicts and keep private commercial or political interests separate from your role.
- Openly and transparently disclose interests in matters before Council or Committee in accordance with the *Local Government Act 1995*.
- Ensure there is no actual or perceived conflict of interest between personal interests and the impartial fulfilment of public duties and functions.
- Diligently review meeting agendas and papers to identify and disclose any conflicts prior to meetings.
- Understand that conflict and bias can arise from personal and professional relationships, and can potentially lead or be seen to lead to decisions made as a Council Member being made for reasons other than the public interest.
- Do not participate, even informally, in decisions where you have any interest unless the interest has been disclosed and the participation is authorised.
- Understand the different types of interests under legislation and the disclosure requirements that apply to them.
- Seek assistance if unsure about a possible conflict of interest.
- Wholly completing and lodging primary and annual returns and related party disclosures in a timely fashion and in accordance with legislation.
- Strive to build and maintain public trust and understand that accepting gifts can give the impression that decisions could be influenced by the gift.
- Do not expect or seek gifts and benefits.
- Consider the appropriateness of a gift, including its potential impact on future decision making and community perception before accepting.
- Consider whether there is a benefit to the City when considering accepting a gift.
- Comply with statutory obligations in relation to gifts, benefits and hospitality.
- Refuse offers of gifts that could reasonably be perceived to be seeking to influence decision making or undermine the integrity of the City or Council or Committee Member.
- When relevant gifts under the threshold are received either:
 - Declare the gift; or
 - Keeping personal records and declaring when the threshold is reached.
- Comply with the relevant provisions of the *Local Government Act 1995*, *Local Government (Election) Regulations 1996*, *The Criminal Code*, *State Records Act 2000* and *Corruption, Crime and Misconduct Act 2003*.

23. COMPLIANCE WITH PLAN REQUIREMENT

If a plan under clause 12(4)(b) in relation to a council member includes a requirement referred to in clause 12(6), the council member must comply with the requirement.

BREACHES OF THE RULES OF CONDUCT

Failure to act in accordance with the *City of Perth Standing Orders Local Law 2009* or the prescribed rules of conduct under the *Local Government (Model Code of Conduct) Regulations 2021* may constitute a minor breach under the *Local Government Act 1995*.

If a person has reason to believe a minor breach has occurred, the matter may be referred to the Chief Executive Officer by completing a minor breach form with all supporting evidence. Complaints of this nature may be forwarded to the Local Government Standards Panel (Standards Panel) for determination.

Addendum

RESOURCES

City of Perth publications and local laws

- *City of Perth Standing Orders Local Law 2009*
- Corporate Governance Framework
- Communication Protocol
- Reconciliation Action Plan
- Cultural Development Plan 2019 - 2029
- Disability Access and Inclusion Plan 2021 - 2025
- Equity Diversity and Inclusion Framework (1)
- Recordkeeping Plan
- Information Statement
- Disclosure of Interest Form
- Disclosure of Interest Protocol
- Declaring Gifts Protocol for elected members

Department of Local Government, Sport and Cultural Industries

- The role of a council member
- Electoral gifts and crowdfunding
- Local government operational guidelines:
 - Clarity in council motions
 - Council forums
 - Disclosure of financial interests in meetings
 - Disclosure of gifts and disclosure of interests relating to gifts
 - Disclosure of interests affecting impartiality
 - Primary and annual returns
 - Elected Members' Relationship with Developers

Other external resources

- Equal Opportunity Commission fact sheets and other resources
- Bullying | Fair Work Commission
- Australian Human Rights Commission – Rights and freedoms: right by right
- Racism. It Stops With Me
- Reconciliation Australia
- Resources | CCC | Corruption and Crime Commission
- Public Sector Commission
 - Integrity in the WA government sector
 - Diversity and inclusion in the public sector
- Record keeping
 - Local Government Elected Members' Records
 - Office of the Information Commissioner



This publication is available in
alternative formats upon request.



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