

GOVERNANCE

G 1.4 Code of Conduct – Council Members & Committee Members

<i>Responsible Department</i>	Chief Executive Officer
<i>Resolution Number</i>	C.4052
<i>Resolution Date</i>	21/10/2020
<i>Next Scheduled Review</i>	2022
<i>Related Shire Documents</i>	
<i>Related Legislation</i>	<i>Local Government Act 1995-s5.57-5.60, 5.62, 5.65, 5.67-5.69, 5.87A-5.87C, 5.89A & 5.103 Codes of Conduct</i>

OBJECTIVE

To promote an acceptable standard of conduct among Council Members and members representing the community on Council committees.

SCOPE

Applies to all Council Members and members representing the community on Council committees.

POLICY

Preamble

The Code of Conduct provides Council Members of the Shire of Northam with consistent guidelines for an acceptable standard of professional conduct. The Code addresses in a concise manner the broader issues of ethical responsibility and encourages greater transparency and accountability.

The Code is complimentary to the principles adopted in the *Local Government Act 1995* and *Local Government (Rules of Conduct) Regulations 2007* which incorporates four fundamental aims to result in:

- a) Better decision making;
- b) Greater community participation in the decisions and affairs of Council;

c) Greater accountability of Council to its community; and

d) More efficient and effective local government

The Code provides a guide and a basis of expectations for Council Members. It encourages commitment to ethical and professional behaviour and outlines principles in which individual and collective local government responsibilities may be based.

Statutory Environment

The Code of Conduct observes statutory requirements of the Local Government Act 1995 (s5.103 – Codes of Conduct) and *Local Government (Rules of Conduct) Regulations 2007*.

Rules of Conduct

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

Role of Council Members

The role of Council Members as set out in section 2.10 of the Act is as follows: “A Councillor — (a) represents the interests of electors, ratepayers and residents of the district; (b) provides leadership and guidance to the community in the district; (c) facilitates communication between the community and the Council; (d) participates in the local government’s decision-making processes at council and committee meetings; and (e) performs such other functions as are given to a Councillor by this Act or any other written law.”

A Councillor is part of the team in which the community has placed its trust to make decisions on its behalf, and the community is therefore entitled to expect high standards of conduct from its elected representatives.

In fulfilling the various roles, Council Members’ activities will focus on:

- Achieving a balance in the diversity of community views to develop an overall strategy for the future of the community
- Achieving sound financial management and accountability in relation to Council’s finances
- Ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents’ concerns
- Working with other governments and organisations to achieve benefits for the community at both a local and regional level
- Having an awareness of the statutory obligations imposed on Councillors and on the Shire of Northam

1. Conflict and Disclosure of Interest

1.1 Conflict of Interest

- (a) Members will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- (b) Members will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the Shire of Northam or which may otherwise conflict with Council's functions (other than purchasing the principal place of residence).
- (c) Members who exercise a function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- (d) An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti-discriminatory legislation.
- (e) A Council Member is to disclose any interest he or she has in the matter to be discussed at a Council or committee meeting that will be attended by the member. Any disclosure is to be made at the meeting immediately before the matter is discussed and is to be recorded in the minutes of the relevant meeting.

1.2 Pecuniary Interest

Members will adopt the principles of disclosure of pecuniary interests as contained within the Local Government Act 1995.

1.3 Conflicts of Interest – Gifts (including travel)

Receipt of a gift – any gift, whether or not in a person's capacity as Council Member or member of a committee – will create a relationship of a closely associated person and therefore an interest (sections 5.60 and 5.62).

The following situations are specifically excluded from the interest provisions:

- where the gift (or gifts over a 12-month period from the one donor) do not exceed \$300 in value;

- where the gift is a ticket to or otherwise relates to attendance at an event, and the local government approves the person's attendance in accordance with Council policy G1.2; or
- where the gift is received from one of the following organisations:
 - WALGA (but not LGIS)
 - Local Government Professionals Australia (WA)
 - Australian Local Government Association
 - A department of the public service
 - A government department of another state, territory or the Commonwealth
 - A local government or regional local government.

(The gifts referred to in the second and third points above must still be disclosed in accordance with sections 5.87A and 5.87B, as described above).

This interest creates a perceived or actual conflict which prevents the Council Member from participating in the meeting on the matter to be discussed (see sections 5.67 and 5.71A), unless approval has otherwise been given.

If the amount of the gift(s) is less than \$1,000, under section 5.68 Council will consider allowing the disclosing Council Member to participate if:

- The Council Member discloses the extent of the interest they have; and
- Council decides that the interest is so trivial or insignificant as to be unlikely to influence the disclosing person's conduct in relation to the matter; or
- The interest is common to a significant number of other electors or ratepayers

The interest, Council's decision, and the reasons for that decision will be recorded in the minutes.

If an interest valued at over \$1,000 is disclosed, under section 5.69 Council or the Chief Executive Officer may apply to the Minister to allow the disclosing member to participate in meetings or parts of meetings relating to that matter.

Similar provisions are contained in sections 5.71A and 5.71B in relation to the Chief Executive Officer providing advice or a report, directly or indirectly, to Council or a committee.

1.4 Disclosure of Interest

- (a) Members will disclose, in a written return or at the relevant meeting, the interests which might be in conflict with their public or professional duties.
- (b) Whenever disclosure is required, recommended in this Code, or otherwise seems appropriate, it will be made promptly, fully, and in writing within the register provided.

2. Personal Benefit

2.1 Use of Confidential Information

Members will not use confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially, or to improperly cause harm or detriment to any person or organisation.

2.2 Improper or Undue Influence

Members will not take advantage of their position to improperly influence other Council Members or staff in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

2.3 Gifts

In accordance with sections 5.87A and 5.87B of the Act, Council Members will disclose gifts that are received in their capacity as a Council Member and:

- are valued over \$300; or
- are of a cumulative value that exceeds \$300 where the gifts are received from the same donor in a 12-month period

Additionally, a gift given by two or more related bodies corporate (as defined in the Corporations Act 2001 (Cth)) is considered to have been given by a single corporation (donor).

3. Conduct of Members

3.1 Personal Behaviour

Members will:

- (a) Act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
- (b) Perform their duties impartially and in the best interests of the Shire of Northam uninfluenced by fear or favour;

- (c) Act in good faith (i.e. honestly, for the proper purpose and without exceeding their powers) in the interests of the Shire of Northam and the community;
- (d) Make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any conduct, in the performance of their official duties, which may cause any reasonable person unwarranted offence or embarrassment; and
- (e) Always act in accordance with their obligation of fidelity to the Shire of Northam.
- (f) Members will represent and promote the interests of the Shire of Northam, while recognising their special duty to their own constituents.

3.2 Honesty and Integrity

Members will:

- (a) Observe the highest standards of honesty and integrity and avoid conduct which might suggest any departure from these standards;
- (b) Bring to the notice of the President any dishonesty or possible dishonesty on the part of any other member and, in the case of an employee, to the Chief Executive Officer;
- (c) Be frank and honest in their official dealing with each other.

3.3 Performance of Duties

Members will, at all times, exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making but treating all matters on individual merits. Members will be as informed as soon as possible about functions of Council, and treat all members of the community honestly and fairly.

3.4 Compliance with Lawful Orders

- (a) Members will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if a resolution cannot be achieved, with the Chief Executive Officer.
- (b) Members will give effect to the lawful policies of the Shire of Northam, whether or not they agree with or approve of them.

3.5 Administrative and Management Practices

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

3.6 Corporate Obligations

(a) Communication and Public Relations

As a representative of the community, Council Members need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of Council. In doing so, Council Members should acknowledge that:

- As a member of Council there is respect for the decision making processes of Council which are based on a decision of the majority of Council
- Information of a confidential nature ought not be communicated until it is no longer treated as confidential
- Information relating to decisions of Council on approvals, permits and so on ought only to be communicated in an official capacity by a designated officer of Council
- Information concerning adopted policies, procedures and decisions of Council is conveyed accurately.

3.7 Relationships between Members and Staff

An effective Council Member will work as part of the Council team with the Chief Executive Officer and other members of staff. That teamwork will only occur if Council Members and staff have a mutual respect and cooperate with each other to achieve Council's corporate goals and implement Council's strategies.

To achieve that position Council Members need to:

- Accept that their role is a leadership one, not a management or administrative one
- Acknowledge that they have no capacity to individually direct members of staff to carry out particular functions
- Refrain from publicly criticising staff in any way that casts aspersions on their professional competence and credibility

3.8 Appointments to Committees

As part of their representative role Council Members are often asked to represent Council in external organisations.

It is important that Council Members:

- Clearly understand the basis of their appointment; and
- Provide regular reports on the activities of the organisation

4. Dealing With Council Property

4.1 Use of Local Government Resources

Members will:

- Be scrupulously honest in their use of the Shire of Northam's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- Use the Shire of Northam resources entrusted to them effectively and economically in the course of their duties; and
- Not use the Shire of Northam's resources (including the services of Council staff) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer).

4.2 Travelling and Sustenance Expenses

Members will only claim or accept travelling and sustenance expenses arising out of travel related matters which have a direct bearing on the services, policies or business of the Shire of Northam in accordance with Shire of Northam policy and the provisions of the Local Government Act 1995.

4.3 Access to Information

- (a) The Chief Executive Officer will ensure that Council Members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities as Council Members;
- (b) Members will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before Council.