



# **CODE OF CONDUCT**

## **for**

# **COUNCIL MEMBERS, COMMITTEE MEMBERS, EMPLOYEES & VOLUNTEERS**

### **OUR VISION:**

*A progressive, inclusive and prosperous community built on opportunity.*

### **OUR MISSION:**

*To demonstrate leadership in the provision of facilities, infrastructure and services that meets the needs of our community.*

### **OUR VALUES**

<b><i>Honesty</i></b>	through integrity, ethical behaviour and trustworthiness
<b><i>Responsibility</i></b>	through accountability, transparency and ownership
<b><i>Respect:</i></b>	of diversity and opinion through politeness and inclusiveness of all community groups
<b><i>Excellence</i></b>	through consistency and the pursuit of continual improvement
<b><i>Fairness</i></b>	through justice and equality
<b><i>Teamwork</i></b>	through collaboration, partnerships and a willingness to work together

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## PREAMBLE

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

The Code of Conduct is complementary to the principles adopted in the Local Government Act 1995, Regulations and local laws which incorporate four fundamental aims:

- (a) better decision-making by local governments;
- (b) greater community participation in the decisions and affairs of local governments;
- (c) greater accountability of local governments to their communities; and
- (d) more efficient and effective local government.

The Code of Conduct has been developed to assist Council Members and employees to:

- (a) understand the standard of conduct that is expected of them;
- (b) enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of due care and diligence; and
- (c) act in ways that enhance public confidence in the integrity of local government.

## STATUTORY ENVIRONMENT

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This Code of Conduct observes the statutory requirements of the *Local Government Act 1995* (S5.103 - Codes of Conduct) and the *Local Government (Administration) Regulations 1996* (Regulations 34B and 34C).

## RULES OF CONDUCT

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

# ROLES

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## ROLE OF THE COUNCIL

The Role of the Council is in accordance with section 2.7 of the *Local Government Act 1995*:

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|------------|---|
| <b>2.7</b> | <b>Role of Council</b>  |
| 1)         | The Council –<br>(a) governs the local government's affairs; and<br>(b) is responsible for the performance of the local government's functions.   |
| 2)         | Without limiting subsection (1), the council is to –<br>(a) oversee the allocation of the local government's finances and resources; and<br>(b) determine the local government's policies |

[Section 2.7 amended by No.17 of 2009 s.4.]

## ROLE OF COUNCIL MEMBERS

The primary role of a Council Member is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the Shire of Gnowangerup. This will be the focus of the Council Member's public life.

The Role of a Council Member as set out in section 2.10 of the *Local Government Act 1995* follows:

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| <b>A Councillor -</b><br>(a) represents the interest of electors, ratepayers and residents of the district; and<br>(b) provides leadership and guidance to the community in the district; and<br>(c) facilitates communication between the community and the council; and<br>(d) participates in the local government's decision-making processes at council and committee meetings; and<br>(e) performs such other functions as are given to a councillor by this Act or any other written law. |
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A Council Member is part of a 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 Council Members.

In fulfilling their 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 the Shire's finances;
- ensuring that appropriate mechanisms are in place to deal with the prompt handling of resident's concerns;
- working with other governments and organisations to achieve benefits for the community at both a local and regional level;
- being aware of the statutory obligations imposed on Council Members and the Shire.

In carrying out its functions, the Shire is to use its best endeavours to meet the needs of current and future generations through the integration of environmental protection, social advancement and economic prosperity.

## **ROLE OF EMPLOYEES**

The role of employees is determined by the functions of the Chief Executive Officer as set out in section 5.41 of the *Local Government Act 1995*:

The CEO's functions are to -

- a) advise the council in relation to the functions of a local government under this Act and other written laws; and
- b) ensure that advice and information is available to the council so that informed decisions can be made; and
- c) cause council decisions to be implemented; and
- d) manage the day to day operations of the local government; and
- e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions; and
- f) speak on behalf of the local government if the mayor or president agrees; and
- g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to S5.37(2) in relation to senior employees); and
- h) ensure that records and documents of the local government are properly kept for the purpose of this Act and any other written law; and
- i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

The CEO is responsible for the effective and efficient implementation of Council decisions and in turn all employees of the Shire are subject to the direction of the Chief Executive Officer.

Employees enable the functions of the Shire and Council to be performed, and they have an obligation to:

- give their attention to the business of Council while on duty;
- ensure that their work is carried out efficiently, economically and effectively;
- carry out lawful direction given by any person having authority to give such direction; and
- give effect to the lawful policies, decisions and practices of the Council, whether or not the employee agrees or approves of them.

## **RELATIONSHIPS BETWEEN COUNCIL MEMBERS AND EMPLOYEES**

An effective Councillor will work as part of the Council team with the Chief Executive Officer and other employees. That teamwork will only occur if Council Members and employees have a mutual respect and co-operate with each other to achieve the Council's corporate goals and implement the Council's strategies. To achieve this, Council members and employees need to observe their statutory and professional obligations which include, but are not limited to, the following:

### ***COUNCILLORS***

- accept that their role is a leadership, not a management or administrative one;
- acknowledge that they have no capacity to individually direct members employees to carry out particular functions;
- refrain from publicly criticizing any employee in a way that casts aspersions on their professional competence and credibility.

## ***EMPLOYEES***

- respect the role and position of Councillors and implement to their best ability the decisions of Council;
- acknowledge that individual Councillors have no capacity to direct employees or become involved in day to day operations of the Shire of Gnowangerup;
- will not actively involve Councillors in any work instruction, direction, conflict, dispute or issue arising from their employment with the Shire of Gnowangerup;
- refrain from publicly criticizing Council decisions and/or individual Councillors in public forums or in situations where their personal views would be reasonably misinterpreted as the views of the Shire's Management and/or Administration.

## **ROLE OF VOLUNTEERS AND CONTRACTORS ASSISTING THE SHIRE OF GNOWANGERUP**

- Volunteers assisting the Shire of Gnowangerup, and contractors who work alongside existing employees, are also expected to comply with the principles and where relevant, specific provisions of this Code of Conduct.
- While the word employee has been used throughout this document, this should be read as applying to volunteers and contractors who work alongside existing employees as well.

# CONFLICT AND DISCLOSURE OF INTEREST

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## GUIDING PRINCIPLES

The nature of the Shire's business is conducive to conflicts of interest between a Council Member and an employees personal interests and the performance of their public or professional duties.

Genuine or perceived conflicts of interest may arise from a number of sources, including friends, relatives, close associates, financial investments, past employment and the like.

Although there is no right way to identify conflict of interest, a good starting point is to consider the following principles:

- **Public duty versus private interests**  
Do I have personal or private interests that may conflict, or be perceived to conflict with my public duty?
- **Potentialities**  
Could there be benefits for me now, or in the future, that might cast doubt on my objectivity?
- **Perception**  
How will my involvement in the decision/action be viewed by others? Are there risks associated for me/my organisation?
- **Proportionality**  
Does my involvement in the decision appear fair and reasonable in all circumstances?
- **Presence of mind**  
What are the consequences if I ignore a conflict of interest? What if my involvement was questioned publicly?
- **Promises**  
Have I made any promises or commitments in relation to the matter? Do I stand to gain or lose from the proposed action/decision?

## CONFLICT OF INTEREST

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

Employees will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Shire, without first making disclosure to the CEO. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.

Council Members and employees will lodge a written notice with the CEO describing an intention to undertake a dealing in land within the local government area or which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).

Council Members and employees who exercise recruitment or other discretionary functions will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.

Employees will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity. 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-discrimination legislation.

## FINANCIAL INTEREST

Council Members, Committee Members and employees must comply with the laws of governing financial interests, including the disclosure of financial interests set out in the *Local Government Act 1995*.

Sections 5.59 – 5.90 of the *Local Government Act 1995* establish the requirements for disclosure by Council Members or employees of financial interest (including proximity interests).

The responsibility is on Council Members and employees to identify possible financial interests (including proximity interests), to determine whether an interest exists, and whether any statutory exemption applies.

## DISCLOSURE OF INTEREST

### *Employees*

Regulation 34C of the *Local Government (Administration) Regulation 1996* contains the provisions relating to employees disclosing interests:

<p><u><i>Definition:</i></u></p> <p><i>In this clause, and in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996 –</i></p> <p><i>“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.</i></p>	
(a)	A person who is an employee and who has an interest in any matter to be discussed at a Council or Committee meeting attended by the person is required to disclose the nature of the interest: <ul style="list-style-type: none"><li>(i) in a written notice given to the CEO before the meeting; or</li><li>(ii) at the meeting immediately before the matter is discussed.</li></ul>
(b)	A person who is an employee and 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 person is required to disclose the nature of any interest the person has in the matter: <ul style="list-style-type: none"><li>(i) in a written notice given to the CEO before the meeting; or</li><li>(ii) at the time the advice is given.</li></ul>
(c)	A requirement described under items (a) and (b) exclude an interest referred to in Section 5.60 of the Local Government Act 1995.
(d)	A person is excused from a requirement made under items (a) or (b) to disclose the nature of an interest if: <ul style="list-style-type: none"><li>(i) the person's failure to disclose occurs because the person did not know he or she had an interest in the matter; or</li><li>(ii) the person's failure to disclose occurs 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 discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.</li></ul>

- (e) If a person who is an employee makes a disclosure in a written notice given to the CEO before a meeting to comply with requirements of items (a) or (b), then:
  - (i) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
  - (ii) immediately before a matter to which the disclosure relates is discussed at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present.
- (f) If:
  - (i) to comply with a requirement made under item (a), the nature of a person's interest in a matter is disclosed at a meeting; or
  - (ii) a disclosure is made as described in item (d)(ii) at a meeting; or
  - (iii) to comply with a requirement made under item (e)(ii), a notice disclosing the nature 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.

### **Council Members**

Regulation 11 of the *Local Government (Rules of Conduct) Regulations 2007* contains the provisions relating to Council Members disclosing interests –

- 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.

### **INDEPENDENT LEGAL ADVICE TO BE SOUGHT IF IN DOUBT**

If a Council Member is in doubt whether a conflict of interest exists, they should seek independent legal or other appropriate advice, including but not limited from the Department of Local Government (or equivalent) or the Western Australian Local Government Association (WALGA).

# INFORMATION AND PERSONAL BENEFIT

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## **USE OF CONFIDENTIAL INFORMATION**

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

Council Members and employees must not disclose to another person, written or oral information that is provided to them in confidence, or derived from a confidential document, or acquired at a closed Council or Committee Meeting which is not open to the public.

A closed meeting means a Council or Committee Meeting that is closed to members of the public under section 5.23(2) of the *Local Government Act 1995*.

## **INTELLECTUAL PROPERTY**

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

## **IMPROPER OR UNDUE INFLUENCE**

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

# GIFTS

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In relation to acceptance of gifts, Council Members and employees are required to comply with the provisions of the LG Act 1995 and Regulations.

## Definitions:

*In this clause, and in accordance with Regulation 34B of the Local Government (Administration) Regulations 1996:*

*“activity involving a local government discretion” means an activity:*

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

*“gift” has the meaning given to that term in S 5.82(4) except that it does not include:*

- (a) a gift from a relative as defined in S 5.74(1); 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;*

*“notifiable gift”, in relation to a person who is an employee, means:*

- (a) a gift worth between \$50 and \$300; or*
- (b) a gift that is one of 2 or more gifts given to the employee 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 an employee, means:*

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

## **GIFTS - EMPLOYEES:**

- (a) A person who is an employee is to refrain from accepting a prohibited gift from a person who:
  - (i) is undertaking or seeking to undertake an activity involving a local government discretion; or
  - (ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion.
- (b) A person who is an employee and who accepts a notifiable gift from a person who:
  - (i) is undertaking or seeking to undertake an activity involving a local government discretion; or
  - (ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion,is to notify the CEO, in accordance with item (c) and within 10 days of accepting the gift, of the acceptance.
- (c) The notification of the acceptance of a notifiable gift must be in writing and include:
  - (i) the name of the person who gave the gift; and

- (ii) the date on which the gift was accepted; and
- (iii) a description, and the estimated value, of the gift; and
- (iv) the nature of the relationship between the person who is an employee and the person who gave the gift; and
- (v) if the gift is 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):
  - (1) a description; and
  - (2) the estimated value; and
  - (3) the date of acceptance,
 of each other gift accepted within the 6 month period.
- (d) The CEO is to maintain a register of notifiable gifts and record in it details of notifications given to comply with a requirement made under item (c).
- (e) This clause does not apply to gifts received from a relative (as defined in s.5.74(1) of the *Local Government Act 1995*) or an electoral gift (to which other disclosure provisions apply).
- (f) This clause does not prevent the acceptance of a gift on behalf of the local government in the course of performing professional or ceremonial duties in circumstances where the gift is presented in whole to the CEO, entered into the Register of Notifiable Gifts and used or retained exclusively for the benefit of the local government.

#### **GIFTS – COUNCIL MEMBERS:**

(1) A council member must disclose, in accordance with subsection (2) and section 5.87C, a gift received by the council member.

Penalty for this subsection: a fine of \$10 000 or imprisonment for 2 years.

(2) The disclosure must be made in writing to the CEO.

(3) A person does not commit an offence against subsection (1) if —

(a) the amount of the gift does not exceed the amount prescribed for the purposes of this paragraph; or

(b) the gift is not received by the person in their capacity as a council member.

(4) For the purposes of subsection (3)(a), if the gift is 1 of 2 or more gifts made by 1 person to the council member at any time during a year, the amount of the gift is the sum of the amounts of those 2 or more gifts.

(5) For the purposes of subsection (3)(b), the gift is not received by the person in their capacity as a council member if it is a gift that the person would have received even if the person were not a council member.

*[Section 5.87A inserted: No. 16 of 2019 s. 38.]*

#### **GIFTS - CEO**

(1) A CEO must disclose, in accordance with subsection (2) and section 5.87C, a gift received by the CEO.

Penalty for this subsection: a fine of \$10 000 or imprisonment for 2 years.

- (2) The disclosure must be made in writing to the mayor or president.
- (3) A person does not commit an offence against subsection (1) if —
  - (a) the amount of the gift does not exceed the amount prescribed for the purposes of this paragraph; or
  - (b) the gift is not received by the person in their capacity as the CEO.
- (4) For the purposes of subsection (3)(a), if the gift is 1 of 2 or more gifts made by 1 person to the CEO at any time during a year, the amount of the gift is the sum of the amounts of those 2 or more gifts.
- (5) For the purposes of subsection (3)(b), the gift is not received by the person in their capacity as the CEO if it is a gift that the person would have received even if the person were not the CEO.

*[Section 5.87B inserted: No. 16 of 2019 s. 38.]*

#### **5.87C. Provisions about disclosure**

- (1) This section applies to a disclosure under section 5.87A or 5.87B.
- (2) The disclosure must be made within 10 days after receipt of the gift.
- (3) The disclosure must 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 made the gift and the person who received the gift;
  - (f) in the case of a travel contribution —
    - (i) a description of the travel; and
    - (ii) the date of the travel.

*[Section 5.87C inserted: No. 16 of 2019 s. 38.]*

### **Subdivision 3 — General**

#### **5.88. Register of financial interests**

- (1) A CEO is to keep a register of financial interests.
- (2) The register is to contain —
  - (a) the returns lodged under section 5.75 and 5.76; and
  - (b) a record of the disclosures made under sections 5.65, 5.70, 5.71 and 5.71A, and be in the form that is prescribed (if any).

(3) As soon as is practicable after a person ceases to be a person who is required under section 5.75 or 5.76 to lodge a return, the CEO is to remove from the register all returns relating to that person.

(4) Returns lodged under section 5.75 or 5.76 and removed from the register under subsection (3) are to be kept by the CEO for a period of at least 5 years after the person who lodged the return ceased to be a council member or designated employee.

*[Section 5.88 amended: No. 16 of 2019 s. 39(1).]*

#### **5.89A. Register of gifts**

(1) A CEO is to keep a register of gifts.

(2) The register is to contain a record of the disclosures made under sections 5.87A and 5.87B..

(2A) The CEO must record a disclosure made under section 5.87A or 5.87B in the register within 10 days after the disclosure is made.

(2B) If a gift disclosed under section 5.87A or 5.87B is an excluded gift under section 5.62(1B)(a), the CEO must record in the register —

- (a) the date of the approval referred to in section 5.62(1B)(a)(ii); and
- (b) the reasons for that approval; and
- (c) any prescribed information.

(3) The register is to be in the form that is prescribed (if any).

*[(4) deleted]*

(5) The CEO is to publish an up-to-date version of the register on the local government's official website.

(5A) The version of the register published under subsection (5) must not, in the case of a disclosure about a gift made by an individual, include the address disclosed under section 5.87C(3)(b) and must instead include the town or suburb mentioned in the address.

(6) As soon as practicable after a person ceases to be a person who is required under section 5.87A or 5.87B to make a disclosure, the CEO is to remove from the register all records relating to that person.

(7) If records relating to a person are removed from the register under subsection (6), a copy of the records is, for a period of at least 5 years after the person ceases to be a person required under section 5.87A or 5.87B to make a disclosure —

- (a) to be kept by the CEO; and
- (b) to be made available for public inspection.

*[Section 5.89A inserted: No. 2 of 2016 s. 37; amended: No. 16 of 2019 s. 40.]*

**(PLEASE REFER TO ATTACHMENTS A TO C)**

## GENERAL CONDUCT OBLIGATIONS

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High standards of professional conduct displayed by Council Members and employees, ensures that a positive image of the Shire is conveyed when interacting with stakeholders and the community. The conduct displayed should encourage fair, unbiased and lawful operations of the Shire.

### PERSONAL BEHAVIOUR

- a) Council Members and employees will:
- act and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
  - perform their duties impartially and in the best interests of the Shire of Gnowangerup uninfluenced by fear or favour;
  - act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interest of the Shire and the community;
  - make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment, and
  - always act in accordance with their obligation of fidelity to the Shire.
- b) Council Members will represent and promote the interests of the Shire, while recognising their special duty to facilitate communication between the community and the Council.

### HONESTY AND INTEGRITY

Council Members and employees 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 Shire President any dishonesty or possible dishonesty on the part of any Council Member, and in the case of an employee, to the Chief Executive Officer; and
- c) be frank and honest in their official dealings with each other.

### FRAUD AND CORRUPTION

The Shire has a zero tolerance approach to fraud and corruption and will deal appropriately with all allegations and suspected instances of fraud and/or corruption. The Shire has developed a Fraud and Corruption Control Plan and all Council Members, Committee Members, Employees and Volunteers must adhere to Plan.

### PERFORMANCE OF DUTIES

- a) While on duty, employees will give their whole time and attention to the Shire of Gnowangerup's business and ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably both on them and on the Shire.
- b) Council Members and Committee 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. Council Members and Committee Members will be as informed as possible about the functions of the Council, and treat all members of the community honestly and fairly.

### **COMPLIANCE WITH LAWFUL ORDERS**

- a) Council Members and employees 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 resolution cannot be achieved, with the Chief Executive Officer.
- b) Council Members and employees will give effect to the lawful policies of the Shire, whether or not they agree or approve of them.

### **ADMINISTRATIVE AND MANAGEMENT PRACTICES**

Council Members and employees will ensure compliance with proper and reasonable administrative practices and conduct, and professional and reasonable management practices.

Council Members and employees shall at all times be mindful of their responsibility to maintain full and accurate records in the performance of their duties.

### **CORPORATE OBLIGATIONS**

#### **a) STANDARD OF DRESS**

Council Members and employees are expected to comply with neat and respectable dress standards at all times. Accordingly:

- Council Members and employees will dress in a manner appropriate to their position, in particular when attending meetings or representing the Shire in an official capacity.
- Management reserves the right to adopt policies relating to corporate dress and to raise any issue of dress with individual employees.
- Management reserves the rights to prescribe appropriate Personal Protective Equipment (PPE).

#### **b) COMMUNICATION AND PUBLIC RELATIONS**

- The Shire President and the Chief Executive Officer (or their delegated nominees) are the only people authorised to represent the views of the Council or the Shire to the media.
- All aspects of communication by employees (including by phone, electronic means, written or in person) involving the Shire's activities should reflect the status and objectives of the Shire of Gnowangerup. Communications should be accurate, polite and professional.
- As a representative of the community, Councillors need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so Councillors should acknowledge that:
  - as a member of the Council there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council, and Councillors will publicly support Council's decision even if contrary to their own personal views.
  - information of a confidential nature ought not be communicated until it is no longer treated as confidential;



- information relating to decisions of the Council on approvals, permits and so on ought only be communicated in an official capacity by a designated officer of the Council;
- information concerning adopted policies, procedures and decisions of the Council is conveyed accurately.

#### **c) PERSONAL COMMUNICATIONS AND SOCIAL MEDIA**

- Personal communications and statements made privately in conversation, written, recorded, emailed or posted in personal social media, have the potential; to be made public, whether it as intended to be made public or not.

Therefore, on the basis that personal or private communications may be shared or become public at some point in the future, Councillors and employees must ensure that their personal and private communications do not breach the requirements of the Code of Conduct and for Councillors, the *Local Government (Rules of Conduct) Regulations 2007*.

- Employees must not, unless specifically authorised to do so, disclose information, make comments or engage in communication activities about or on behalf of the Shire of Gnowangerup, it's Councillors, employees, volunteers or contractors, which breach this Code of Conduct.
- Councillors comments which become public and breach the *Local Government (Rules of Conduct) Regulations 2007* may constitute a serious breach of the *Local Government Act 1995* and may be referred for investigation.
- Employee comments which become public and breach the Code of Conduct, or any other operational policy or procedure, may constitute a disciplinary matter and may also be determined as misconduct and be reported under the *Public Sector Management Act 1992*.

#### **APPOINTMENTS TO COMMITTEES**

As part of their representative role Council Members are often asked to represent the Council on committees of external organisations. It is important that Council Members:

- a) clearly understand the basis of their appointment;
- b) provide regular reports to Council on the activities of the organisation; and
- c) represent the views and decisions of Council.

#### **HARASSMENT AND DISCRIMINATION**

Council Members and employees must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to, harassment and discrimination on the grounds of sex, pregnancy, age, race (including colour, nationality, ethnic or religious background), political affiliation, marital status, disability, or sexual preference.

The Shire will ensure compliance with the principles and provisions of the *Equal Opportunity Act 1984 (WA)*. This commitment extends to ensuring that recruitment and selection, promotion and advancement will be solely on the basis of equity and fairness and that appointment will be based on merit.

All people have the right to work in an environment that is free from sexual harassment. Sexual harassment will not be tolerated at the Shire of Gnowangerup. Any Council members or employees found to be committing sexual harassment will be subject to discipline and/or termination proceedings.

# DEALING WITH COUNCIL PROPERTY

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## USE OF SHIRE RESOURCES

Council Members and employees will:

- a) be scrupulously honest in their use of the Shire of Gnowangerup's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or organisation; and
- b) use the resources entrusted to them effectively and economically in the course of their duties; and
- c) not use the Shire of Gnowangerup's resources or equipment (including the services of Council employees) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer); and
- d) avoid any action or situation which could create the impression that Shire property, official services or public facilities are being improperly used for their own or any other person's or organisation's private benefit; and
- e) not use the Shire's computer or telecommunications resources to access, search, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

## TRAVELLING AND SUSTENANCE EXPENSES

Council Members and employees 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 in accordance with Shire policy and the provisions of the *Local Government Act 1995*.

Council Members and employees shall be diligent in ensuring that the expenses claimed in accordance with Council policy relate to their functions as a Council Member or an employee, and are appropriately acquitted.

## ACCESS TO INFORMATION

Employees 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 Members of Council.

Council 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 the Council.

The *Local Government Act 1995* provides for access to information by Council Members which is detailed in sections 5.91 and 5.92.

# REPORTING BREACHES AND MISCONDUCT

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## BREACHES OF THE CODE BY EMPLOYEES

Any person who has reason to believe that the personal behaviour of a member of an employee breaches the standards of conduct as set out in the Code, must refer the matter to the CEO, who will consider the matter and deal with it in accordance with management protocols, procedures and any applicable law concerning employees.

## BREACHES OF CODE BY CEO

Any person who has a reason to believe that the personal behaviour of the CEO breaches the standards of conduct as set out in the Code, must refer the matter to the Shire President, who will consider the matter and deal with it in accordance with Shire policies and procedures, any applicable law and be mindful of any applicable clauses in the CEO's Employment Contract which may be relevant to such a disclosure and its consequences.

Reporting of breaches may be made anonymously.

## BREACHES OF CODE BY COUNCIL MEMBERS

A breach by a Council Member under the *Local Government (Rules of Conduct) Regulations 2007* must be reported to the CEO and will be dealt with under Part 5 Division 9 of the *Local Government Act 1995*.

Any person who has reason to believe that the personal behaviour of a Council Member breaches the standards of conduct set out in the Code, other than those matter set out in the *Local Government (Rules of Conduct) Regulations 2007*, must refer the matter to the CEO, who will consider the matter and deal with it accordingly as he or she sees fit.

## REPORTING MISCONDUCT TO THE CORRUPTION AND CRIME COMMISSION

Misconduct means misconduct as defined in section 4 of the *Corruption, Crime and Misconduct Act 2003*. It can involve activities such as improper handling of conflicts of interest, abuse of position, unauthorised access to or disclosure of confidential information, biased or preferential employment practices, allegations involving improper practices concerning contracts and tendering and misappropriation of public fund or property.

Section 4 of the *Corruption, Crime and Misconduct Act 2003*:

**4. Term used: misconduct**

Misconduct occurs if —

- (a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment; or
- (b) a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person; or
- (c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years' imprisonment; or
- (d) a public officer engages in conduct that —
  - (i) adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or

(ii)	constitutes or involves the performance of his or her functions in a manner that is not honest or impartial; or
(iii)	constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer; or
(iv)	involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person,
and constitutes or could constitute —	
(v)	deleted]
(vi)	a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the Public Sector Management Act 1994 (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).
[Section 4 inserted by No. 78 of 2003 s. 6; amended by No. 35 of 2014 s. 7.]	

The Chief Executive Officer has a statutory obligation to report, to the Corruption and Crime Commission:

- any allegations of misconduct; or
- any situation that otherwise comes to his or her attention involving misconduct,

where the CEO considers on reasonable grounds that misconduct may have occurred.

## LEGISLATION AND ASSOCIATED DOCUMENTS RELATING TO THIS CODE

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- (a) Local Government Act 1995
- (b) Local Government (Administration) Regulations 1996
- (c) Local Government (Rules of Conduct) Regulations 2007
- (d) Equal Opportunity Act 1984
- (e) Corruption, Crime and Misconduct Act 2003

## REVIEW

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This Code will be reviewed after each ordinary election of Council.

I (name) \_\_\_\_\_ have read and agree to comply with this Code of Conduct whilst employed by the Shire of Gnowangerup.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Gift framework - disclosure







