



## SHIRE OF MUKINBUDIN

### CODE OF CONDUCT - ELECTED MEMBERS AND STAFF

#### PREAMBLE

The Code of Conduct provides elected members and staff of the Shire of Mukinbudin 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 regulations which incorporates four fundamental aims to result in: -

- a) Better decision making;
- b) Greater community participation in the decisions and affairs of the Council;
- c) Greater accountability of the Council to its community; and
- d) More efficient and effective local government

The Code provides a guide and a basis of expectations for elected members and staff. 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 (Administration) Regulations 1996* (Regs 34B and 34C)

#### 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 ELECTED MEMBERS

The President shall have a role in maintaining harmonious relations and adherence to this Code of Conduct by Councillors in consultation with the CEO.

A Councillor's primary role 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 Mukinbudin will be the focus of the Councillor's public life.

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, elected 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 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 Mukinbudin.

## **1 CONFLICT AND DISCLOSURE OF INTEREST**

### **1.1 Conflict of Interest**

- a) Members and staff will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfillment of their professional duties.
- b) Staff will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Local Government, without first making disclosure to the Chief Executive Officer. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
- c) Members and staff will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the Shire of Mukinbudin or which may otherwise conflict with the Council's functions (other than purchasing the principal place of residence);
- d) Members and Staff who exercise recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- e) Staff 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-discriminatory legislation.

## **1.2 Financial Interest**

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

## **1.3 Disclosure of Interest**

- a) In addition to disclosure of financial interests, members and staff including persons under a contract for services:
- attending a Council or Committee meeting; or
  - giving advice to a Council or Committee meeting;
- are required to disclose any interest they have in a matter to be discussed at the meeting that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected.
- b) where an interest must be disclosed under (a) above, the disclosure is to be made at the meeting immediately before the matter is discussed or at a time the advice is given, and is to be recorded in the minutes of the meeting.

## **2 PERSONAL BENEFIT**

### **2.1 Use of Confidential Information**

Members and staff 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 Intellectual Property**

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

### **2.3 Improper or Undue Influence**

Members and staff will not take advantage of their position to improperly influence other 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.

### **2.4 Gifts and Bribery**

- (a) Members are not to accept a gift other than a gift of or below \$100 from a person who is undertaking, or is likely to undertake, business –
- That requires the person obtain any authorisation from the Shire of Mukinbudin;

- By way of contract between the person and the Shire of Mukinbudin; or
  - By way of providing any service to the Shire of Mukinbudin.
- (b) Members who accept a gift of or below \$100 from a person referred to in (a) above are to record in a register of token gifts-
- The names of the persons who gave and received the gift
  - The date of receipt of the gift; and
  - A description and the estimated value of, the gift.

Gifts given by way of hospitality; or classes of gift such as key rings, caps, T-shirts and drinks to the value of \$100.00 given by way of hospitality, need not be recorded.

- (c) This clause does not apply to gifts received from a relative (as defined in s5.74(1) of the *Local Government Act 1995*) or an electoral gift (to which other disclosure provisions apply)

### **3 CONDUCT OF MEMBERS**

#### **3.1 Personal Behaviour**

- (a) Members and staff will:

- i. Act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
- ii. refrain from any act which may be construed as sexual harassment, and report acts of sexual harassment to the President (if the allegation concerns a council member or the CEO) and in accordance with instructions in the Procedures Manual distributed by the CEO (where the allegation concerns an employee other than the CEO);

Sexual harassment is any conduct of a sexual and/or sexist nature (whether physical, verbal or non-verbal) which is unwelcome and unsolicited and rejection of which may disadvantage a person in their employment or their life in general. The following examples may constitute sexual harassment when they are considered offensive to an employee, elected member or member of the general public:-

- Deliberate and unnecessary physical contact such as patting, pinching, fondling, kissing, brushing against, touching.
  - Subtle or explicit demands for sexual activities or molestation.
  - Intrusive enquiries into a person's private life.
  - Uninvited and unwelcome jokes that have a sexual and/or sexist undertone.
  - Unsolicited leers and gestures of a sexual nature and the display within the workplace of sexually offensive material.
- iii. Perform their duties impartially and in the best interests of the Shire of Mukinbudin and the community, uninfluenced by fear or favour;
  - iv. Act in good faith (i.e. honestly, for the proper purpose and without exceeding their powers) in the interests of the Shire of Mukinbudin and the community;
  - v. 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,
- vi. Always act in accordance with their obligation of fidelity to the Shire of Mukinbudin.
- (b) Members will represent and promote the interests of the Shire of Mukinbudin, while recognizing their special duty to their own constituents.

### **3.2 Honesty and Integrity**

Members and staff will:

- a) observe the highest standards of honesty and integrity and avoid conduct which might suggest any departure from these standards
- b) bring to 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**

- (a) While on duty, staff will give their whole time and attention to the Local Government'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 Local Government.
- (b) 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 possible about functions of the Council, and treat all members of the community honestly and fairly.
- (c) Staff wishing to undertake employment additional to duties performed for the Shire of Mukinbudin should first obtain the approval of the CEO. No other employment should compromise the duties performed for the Shire of Mukinbudin.

### **3.4 Compliance with Lawful Orders**

- a) Members and staff 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) Members and staff will give effect to the lawful policies of the Shire of Mukinbudin, whether or not they agree with or approve of them.

### **3.5 Administrative and Management Practices**

The CEO will keep the Council fully informed of the capacity of its administrative structure to comply with the purposes and legislative requirements of *the Local Government Act 1995*.

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

### **3.6 Corporate Obligations**

#### **(a) Standard of Dress**

Staff are expected to comply with neat and responsible dress standards at all times. Management reserves the right to raise the issue of dress with individual staff.

#### **(b) Communication and Public Relations**

(i) All aspects of communication by staff (including verbal, written or personal), involving Local Government's activities should reflect the status and objectives of that Local Government. Communications should be accurate, polite and professional.

(ii) As a representative of the community Members need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so Members 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;
- 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.

### **3.7 Relationships between Members and Staff**

An effective Councillor will work as part of the Council team with the Chief Executive Officer and other members of staff. That teamwork will only occur if Members and staff 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 that position Members need to:

- Accept that their role is a leadership, 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 respective role Members are often asked to represent Council on external organisations.

It is important that 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 and staff will:

- a) be scrupulously honest in their use of the Shire of Mukinbudin's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- b) Use the Shire of Mukinbudin resources entrusted to them effectively and economically in the course of their duties; and
- c) Not use the Shire of Mukinbudin'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 Traveling and Sustenance Expenses**

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

### **4.3 Access to Information**

- i) Staff will ensure that Members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities as members;
- ii) 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.

# ATTACHMENT 1.11A – RULES OF CONDUCT

Western Australia

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

As at 21 Oct 2007

Version 00-b0-02

Extract from [www.slp.wa.gov.au](http://www.slp.wa.gov.au), see that website for further information

Western Australia

# Local Government (Rules of Conduct) Regulations 2007

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

## **Part 1 — General**

### **1. Citation**

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

### **2. Commencement**

These regulations come into operation as follows:

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

### **3. General principles to guide the behaviour of council members**

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

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- (g) treat others with respect and fairness; and
  - (h) not be impaired by mind affecting substances.
- (2) The general principles referred to in subregulation (1) are for guidance of council members but it is not a rule of conduct that the principles be observed.

**4. Contravention of certain local laws**

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

## Part 2 — Rules of conduct

### 5. Rules of conduct

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

### 6. Use of information

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

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- (e) to the Minister; or
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

**7. Securing personal advantage or disadvantaging others**

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

**8. Misuse of local government resources**

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

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

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

**9. Prohibition against involvement in administration**

- (1) A person who is a council member must not undertake a task that contributes to the administration of the local government unless authorised by the council or by the CEO to undertake that task.

- (2) Subregulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

**10. Relations with local government employees**

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

**11. Disclosure of interest**

- (1) In this regulation —
- interest* means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person

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having the interest and includes an interest arising from kinship, friendship or membership of an association.

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

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

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

## 12. Gifts

- (1) In this regulation —

***activity involving a local government discretion*** means an activity —

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

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

- (a) a gift from a relative as defined in section 5.74(1) of the Act; or
- (b) a gift that must be disclosed under regulation 30B of the *Local Government (Elections) Regulations 1997*; or
- (c) a gift from a statutory authority, government instrumentality or non-profit association for professional training;

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

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

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

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- (a) a gift worth \$300 or more; or
  - (b) a gift that is one of 2 or more gifts given to the council member by the same person within a period of 6 months that are in total worth \$300 or more.
- (2) A person who is a council member must not accept a prohibited gift from a person —
- (a) who is undertaking or seeking to undertake; or
  - (b) who it is reasonable to believe is intending to undertake,
- an activity involving a local government discretion.
- (3) A person who is a council member and who accepts a notifiable gift from a person —
- (a) who is undertaking or seeking to undertake; or
  - (b) who it is reasonable to believe is intending to undertake,
- an activity involving a local government discretion must, within 10 days of accepting the gift, notify the CEO of the acceptance in accordance with subregulation (4).
- (4) Notification of the acceptance of a notifiable gift is to be in writing and is to include —
- (a) the name of the person who gave the gift; and
  - (b) the date on which the gift was accepted; and
  - (c) a description, and the estimated value, of the gift; and
  - (d) the nature of the relationship between the person who is a council member and the person who gave the gift; and
  - (e) if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift” (whether or not it is also a notifiable gift under paragraph (a) of that definition) —
    - (i) a description; and
    - (ii) the estimated value; and
    - (iii) the date of acceptance,of each other gift accepted within the 6 month period.

- (5) The CEO must maintain a register of gifts in which details of notices received under subregulation (4) are recorded.

## Local Government (Rules of Conduct) Regulations 2007

### Notes

- <sup>1</sup> This is a compilation of the *Local Government (Rules of Conduct) Regulations 2007*. The following table contains information about those regulations.

### Compilation table

Citation	Gazettal	Commencement
<i>Local Government (Rules of Conduct) Regulations 2007</i>	21 Aug 2007 p.4203-16	r. 1 and 2: 21 Aug 2007 (see r. 2(a)) Regulations other than r. 1 and 2: 21 Oct 2007 (see r. 2(b) and <i>Gazette</i> 21 Aug 2007 p. 4173)