

LATE ITEM - C09/5089 ADOPTION OF CODE OF CONDUCT (REC) (ATTACHMENT)

Ward : All
 Category : Operational
 Subject Index : BMS Policy
 Customer Index : City of Melville.
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Nil
 Works Programme : Not Applicable
 Funding : Not Applicable
 Responsible Officer : Louis Hitchcock
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AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

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KEY ISSUES / SUMMARY

- The City has not amended its Code of Conduct for a number of years and as a result the Code in its present format does not take into consideration the *Local Government (Rules of Conduct) Regulations 2007* or subsequent amendments to the *Local Government (Administration) Regulations 1996*. In its present form the Code of Conduct is not relevant to the needs of the organisation.

BACKGROUND

It is a requirement under the *Local Government Act 1995* s. 5.103 that a local government has a code of conduct to be observed by council members, committee members and employees. Regulations may prescribe codes of conduct or the content of, and matters in relation to, codes of conduct.

The City adopted a Code of Conduct in 1999. While the Current Code of conduct has been reviewed, it appears not to have been updated for many years.

In 2007 the *Local Government (Rules of Conduct) Regulations 2007* came into force. These regulations prescribe general principles to guide the behaviour of Council members. The Rules do not limit what a code of conduct may contain but complement the intent of a Code of Conduct. In February 2008, Western Australian Local Government Association (WALGA) prepared and circulated to all local governments a Model Code of Conduct for Council Members, Committee Members and Staff.

As the current Code of Conduct at the City is inconsistent with legislation and with procedure given that it has not been amended for a number of years, a review of the Code of Conduct was undertaken. The resultant draft Code of Conduct incorporates part of the current Code of Conduct, whilst also taking into consideration the WALGA Model and the codes of conduct of other local governments.

DETAIL

The draft Code of Conduct is very different from the current Code. It provides a detailed code for observance by all Elected Members, officers, volunteers and contractors (where applicable) to ensure the highest ethical standards in decision-making and behaviour. The draft Code of Conduct sets out with greater clarity the expectations of certain behaviours and seeks to incorporate the requirements of the Rules of Conduct within the Code.

The main differences between the current and draft Codes are as follows –

1. Annexures

The Draft Code includes three annexures relating to

- respective responsibilities (Annexure 1);*
- values of the City (Annexure 2); and*
- Local Government (Rules of Conduct) Regulations 2007 (Annexure 3).*

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Annexure 1 establishes the roles and responsibilities of Elected Members and officers and the relationship between the two. It provides a reference point for individuals in determining the parameters of their position and what is required.

Annexure 2 incorporates the values of the City these being, relationships, excellence, vibrancy, and well-being, within the Code to ensure compliance by Elected Members and officers to these integral concepts.

Annexure 3 incorporates the *Local Government (Rules of Conduct) Regulations 2007* as part of the Code and as a reference for Elected Members that they also have statutory obligations with which to comply and which govern behaviour.

The Current Code does not contain any of the above annexures and requires individuals to refer to other documentation.

2. Investigative Procedures for Reporting Breaches and Misconduct

The draft Code of Conduct provides a detailed procedure for reporting breaches and misconduct. It reflects the current procedure within the City. It notes the requirements of the Corruption and Crime Commission (CCC) and Public Interest Disclosure. The draft Code of Conduct notes that under the *Local Government (Rules of Conduct) Regulations 2007* breaches of a Rule of Conduct may attract the provisions of Part 5, Division 9 of the *Local Government Act 1995* and possible external disciplinary action.

3. Access to Information and Security of Information

The draft Code of Conduct deals in greater detail with access to information and security of information and makes provision for the accepted procedure with regard to anonymous communications.

4. Quasi Judicial Role

The City has adopted a policy relating to the quasi judicial role of elected members and employees and the draft Code refers to this role in clause 3.4. This is absent in the current Code.

5. Gifts and Disclosure of Interests

The *Local Government (Administration) Regulations 1996* were amended in 2007 relating to Interest and Gifts. The current Code does not take into consideration these amended provisions. The draft Code has incorporated these provisions to ensure statutory compliance.

6. Public Interest Disclosure

As mentioned previously, the draft Code incorporates the requirements of Public Interest Disclosure. Since the Code was last amended legislation has come into effect dealing with public interest disclosures. This allows for individuals to make disclosures relating to suspected improper conduct by officials. It has been included in the Code of Conduct as it relates to the proper governance of the City by Elected Members and officers.

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7. External Committees and Bodies

The draft Code of Conduct has included provision relating to conflicts arising between the interests of the City and those of an external committee to which the Elected Member is a representative. In the event of a conflict the Code clearly states that the interest of the Elected Member rests with the City, this provision also binding officers.

PUBLIC CONSULTATION/COMMUNICATION

Elected members and the Executive Management Team and Operational Management Team were given the opportunity to comment on the draft Code of Conduct. These comments were incorporated into the draft Code of Conduct where applicable.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

Section 5.103 of the *Local Government Act 1995* requires that a local government adopts a Code of Conduct to be observed by council members, committee members and employees.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

A Code of Conduct provides a basis of expectations for the behaviour and conduct for council members, committee members and officers. It provides for the commitment to ethical and professional behaviour and outlines principles on which individual and collective local government responsibilities may be based.

POLICY IMPLICATIONS

Repeal and replacement of the current Code of Conduct Policy 14-PL-011.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

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CONCLUSION

The draft Code of Conduct provides an integrated reference document for Elected Members and officers on rules of conduct and behaviour befitting a representative of the City. It outlines the official roles and responsibilities of Elected Members and officers and the relationship between the two. It provides as an annexure the rules of conduct that Elected Members are required to follow. It incorporates the statutory requirements of the *Local Government (Administration) Regulations 1996* and the values and ethical standards of the City. The draft Code of Conduct replaces a policy that does not comply with the requirements of the Act and Regulations and is inconsistent with current procedure and expectations at the City.

OFFICER RECOMMENDATION (5089)

APPROVAL

That the current Policy 14-PL-011 Code of Conduct be repealed and the Draft Code of Conduct (as attached) 5089 Code of Conduct be adopted.