
CODE OF CONDUCT (EMPLOYEES)

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1. INTRODUCTION

The City of Melville (City) Code of Conduct Employees (the Code) provides clear standards of professional conduct for all employees of the City when carrying out their functions and responsibilities. Any reference within the Code relating to employees also applies to volunteers, or contractors engaged by the City under a contract for services.

The Code has been developed to clarify the standards of conduct that are expected of employees, and that in fulfilling their roles they have an inherent statutory duty to act honestly, openly and to exercise a reasonable degree of care and diligence that enhances public confidence in the integrity of local government.

The Code encourages transparency and accountability and is complementary to the principles adopted in the *Local Government Act 1995* and associated Regulations, 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.*

1.1 Statutory Environment

The *Local Government Act 1995* (the Act) requires that a code of conduct for employees be developed and implemented.

The Code of Conduct (Employees) reflects statutory requirements of the *Local Government Act 1995* (s5.51A – Code of conduct for employees) and *Local Government (Administration) Regulations 1996* (Regulations Part 4A). This Code must be read in conjunction with the *City of Melville Meeting Procedures Local Law 2017*, that relate to Council and Committee (of the Council) meetings.

1.2 Application

This Code applies to all employees of the City of Melville, and Annexure 1 outlines the official roles and responsibilities of employees. The City's contractors and volunteers are also required to observe the City's Code of Conduct insofar as the provisions relate to their area of operation.

Adherence to the Code instils confidence and trust in the City, through employees demonstrating their commitment to carrying out the functions of the City in a proper manner, and particularly the foundational function of local government as expressed in Section 3.1 (1) of the Act which states:

“The general function of a local government is to provide for the good government of persons in its district.”

Employees are to use their best endeavours, meaning to do all they reasonably can, in the circumstances, to comply with the standards in the Code and are to regularly review their personal circumstances with the intent of the Code in mind.

The Code stipulates the requirements for good governance and the standards of behaviours expected to be demonstrated by employees. It encourages a commitment to ethical and professional behaviour and outlines principles on which individual and collective local government responsibilities may be based. It does not replace, the obligations set out in an employee's contract of employment, the *Local Government Act 1995*, any other Act or Regulation and the City of Melville's Local Laws, Policies, procedures and associated documents.

1.3 Our Vision, Mission, Values and Signature Behaviours

The City has identified a set of core values and signature behaviours. Although these are current, the City reserves the right to amend these or review the present values to ensure that they reflect the underlying principles of good governance and those of the Public Sector Standards.

Vision:	
Engaging with our diverse community to achieve an inclusive, vibrant and sustainable future	
Mission:	
To provide good governance and quality services for the City of Melville community	
Values	
Excellence	Striving for the best possible outcomes
Participation	Involving, collaborating and partnering
Integrity	Acting with honesty, openness and good intent
Caring	Demonstrating empathy, kindness and genuine concern

Signature Behaviours

We will work together by:

- Talking about how to support each other;
- Speaking up when we are concerned about ourselves or someone else;
- Acknowledge a job well done, no matter how small;
- Find the fun in what we do;
- Have the courage to give new things a go;
- Use each other's strengths to get the job done;
- Do our best to learn from our mistakes;
- Do what we say we will do;
- Treat others how they would like to be treated;
- Get to know our colleagues across the City.

1.4 General Principles and Ethical Standards

The local community and the public in general are entitled to expect that the following general principles will be used to guide employees in their behaviours –

- a) act with reasonable care and diligence;
- b) act with honesty and integrity;
- c) act lawfully;
- d) avoid damage to the reputation of the City of Melville;
- e) be open and accountable to the public and in their dealings with the City as their employer;
- f) base decisions on relevant and factually correct information;
- g) treat others with respect and fairness;
- h) not be impaired by mind affecting substances such as drugs and alcohol;
- i) ensure that decision making takes into account the interests of the City of Melville ratepayers and residents as a whole, which is paramount;
- j) perform all duties to the best of your ability at all times;
- k) use your best endeavours to promote and protect the interests and values of the City of Melville; and
- l) follow all reasonable and lawful directions given to you by the City of Melville, including complying with the City's policies and procedures as amended from time to time.

1.5 Key Principles

The following key principles, underpinned by the City's values outlined above also apply to City of Melville Employees:

1.5.1 Selflessness and Honesty

To act with care and diligence and make decisions that places the responsibility for the interests of the community before the interests of you and/or any business and/or personal interests.

1.5.2 Fairness and Equity

Treat others fairly and equitably and make decisions for the common good of the community; whilst avoiding discrimination, abuse or exploitation of others. Decisions should be based on all relevant factual information with honesty, fairness and impartiality.

1.5.3 Accountability, Openness and Objectivity

- (a) To use the resources of the City of Melville in a responsible and accountable manner that ensures the efficient, effective and appropriate use of human, natural, financial and physical resources, property and information;
- (b) To have a duty to be as open as possible about decisions and actions, giving reasons for decisions;
- (c) To make decisions solely on merit and in accordance with statutory obligations when carrying out public business;
- (d) To consider and act in the best interests of the electors, ratepayers and residents of the City of Melville as a whole.

1.5.4 Leadership

To promote and support the key principles of leadership which incorporates leading by example so as to maintain and strengthen the public's trust and confidence in the integrity of the City. The City recognises that leadership is demonstrated by 'all' within the City.

1.5.5 Respect

To treat people with respect, courtesy and sensitivity and recognise their interests, rights, safety and welfare.

1.5.6 Social Responsibility and Duty of Care

To contribute to the well-being of the individual and society by exercising due diligence and a duty of care to others and to uphold the rights of those they deal with, to recognise the special needs of minority groups, whilst considering the societal and community benefit of the residents of the City when making decisions.

1.5.7 Economic Guardianship

To protect and responsibly manage the resources of the City of Melville to ensure they are applied in a sustainable way and also to minimise duplication of government services.

1.5.8 Safety and Security

Promote the safety, security and health of all who work for the City of Melville, reside in the City of Melville or visit the City of Melville.

The City of Melville has a statutory obligation under the *Occupational Health and Safety Act 1984* to 'provide and maintain a working environment in which its employees are not exposed to hazards'. These provisions apply to physical and psychological health and wellbeing.

The City's Code of Conduct is therefore a key approach for achieving a safe, supportive and productive work environment; and complying with statutory requirements. This can only happen when everyone cooperates and agrees to suitable standards of conduct so as to ensure cooperative, professional and positive interactions that enhance the City of Melville as a whole.

1.5.9 Environment

Endeavour to avoid actions that which could harm or pollute the environment, and operate in accordance with the City's Environmental Business Management System and contribute positively to enable the City of meet its objective of achieving net zero emissions by 2030 as resolved by the Council at its meeting held on 15 June 2021 as follows:

That the Council commits to:

- declaration of a climate emergency;
- the reduction of the carbon emissions caused by the operations of the City of Melville to net zero by December 2030; and
- working with the State and Federal Governments, the community and local businesses to ensure that the carbon emissions within the geographical area of the City of Melville reach net zero by 2050.

1.6 Principles affecting employment by local governments

The principles set out in section 5.40 of the Act apply to employment of City of Melville Employees:

The following principles apply to a local government in respect of its employees -

- (a) employees are to be selected and promoted in accordance with the principles of merit and equity; and
- (b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage; and
- (c) employees are to be treated fairly and consistently; and
- (d) there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the *Equal Opportunity Act 1984* or on any other ground; and
- (e) employees are to be provided with safe and healthy working conditions in accordance with the *Occupational Safety and Health Act 1984*; and
- (f) such other principles, not inconsistent with this Division, as may be prescribed.

2. CONDUCT OF EMPLOYEES

2.1 Personal Behaviour

Employees will:

- (a) act, and be seen to act impartially, properly and in accordance with the requirements of the law, the terms of the Code, Council and Operational Policies and Council decisions;
- (b) perform their duties impartially and in the best interests of the City of Melville uninfluenced by political or personal beliefs, persuasion, 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 City of Melville and the community;
- (d) make no assertions or allegations which are improper or derogatory 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;
- (e) always act in accordance with their obligation of fidelity to the City of Melville;
- (f) act in observance of the General and Key Principles (Sections 1.4 and 1.5 of this Code);
- (g) perform all duties to the best of their ability at all times;
- (h) use their best endeavours to promote and protect the interests & values of the City of Melville;
- (i) follow all reasonable and lawful directions given by the City of Melville, including complying with the City's policies and procedures as amended from time to time; and
- (k) be open, frank and honest in their dealings with the City as their employer.

Generally legal behaviour outside of working hours is considered private and not a concern of the City. There are however some instances in which an employee must take due care. Behaviour outside of working hours has the potential to affect community perceptions of the integrity and professionalism of the City, particularly if there is an obvious link between the employee and the City, including through online communication. Examples include inappropriate behaviour while the employee is wearing a uniform identifying the City of Melville, or where the actions of an individual (such as on social media) can be attributed to the individual representing the City and or being associated to the City of Melville as an employee, or may be at risk of becoming so attributed.

2.2 Honesty and Integrity

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 Chief Executive Officer (the CEO) any dishonesty or possible dishonesty on the part of any other individual associated with the City, including employees, contractors, volunteers, and Elected Members. In the case of an allegation involving the Chief Executive Officer notice will be provided to the Mayor.
- (c) be professional, impartial, frank, open, honest and respectful in their official dealing with each other.

2.3 Responsibility to Disclose

Employees, or their Power of Attorney, will notify the Chief Executive Officer in writing of:

- (a) Being charged with a criminal offence if there are reasonable grounds for believing the interests of the City of Melville may be adversely affected by such charge – written notification to be received within 5 working days.
- (b) Any suspension or loss of licence, qualification or certificate which relates to a defined requirement for their role (as updated and communicated) – written notification to be received within 5 working days.

It is expected that an employee will also verbally notify their Supervisor as soon as possible, and within these timeframes of any of these relevant matters for disclosure. Any delay beyond these specified timeframes maybe deemed to be a non-compliance with a reasonable instruction and result in the application of performance management processes which could result in an employee's employment being reviewed.

2.4 Performance of Duties

- (a) While on duty, employees will give their whole time and attention to the City of Melville's business and ensure their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably both on them and the City of Melville.
- (b) Employees will at all time exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making but treating all matters on their individual merits. Employees are to make themselves informed as possible about the functions of the City within their area of operations, and treat all members of the community honestly and fairly.
- (c) If there are any issues that may impact on an employee's ability to safely and effectively conduct the performance of their duties the employee has an obligation to advise their Supervisor.

2.5 Compliance With Lawful Orders

- (a) Employees will comply with any lawful order (deemed reasonable) 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 or the Mayor if the order is from the Chief Executive Officer.
- (b) Employees will give effect to the lawful policies and procedures of the City of Melville, whether or not they agree with or approve of them.

2.6 Administrative and Management Practices

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

2.7 Corporate Obligations

2.7.1 Appearance/Attire

- (a) Employees are expected to comply with neat and responsible dress standards at all times that would not and does not cause offence to colleagues or the public, and which ensures the image of the City is maintained (deemed to constitute a professional manner).
- (b) The City of Melville reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual employees. Employees should dress in a professional manner and in full consideration of occupational health and safety requirements.
- (c) For any employee undertaking a role requiring personal protective equipment (PPE), including compliance with requirements for wearing long and longs, the employee will ensure adequate PPE that has been provided is worn.

2.7.2 Communication and Public Relations

- a) All aspects of communication by employees should align with desired behaviours that support our values (including verbal, written, online or personal). Communication involving the City's activities should reflect the status and objectives of the City of Melville.
- b) All communications should be aligned with the City of Melville values and be accurate, polite and professional in accordance with the objectives and standards of the City's Customer 1st Strategy, Customer Service Charter and Handbook and be made on and via authorised City software platforms.
- c) Employees must not make quotable "official statements" on behalf of the City unless authorised by the Chief Executive Officer.
- d) All communication must serve to enhance the services of the City, in line with the City's vision and values, and must not bring the City into disrepute.
- e) Employees must comply with all City policies and protocols, with specific compliance under this clause in relation to communication, public relations as updated;
 - the City's Social Media Policy, Procedure and User Guidelines;
 - The City Records Management Policy and Procedure;
 - The City's Public Relations Policy;
 - The City's Media Release process.and applicable legislative compliance relating to discrimination, harassment, copyright, recordkeeping, privacy and defamation.
- f) Employees should avoid making statements or engaging in activities of a political nature.

2.8 Appointments to Committees

As part of their representative role employees are often asked to represent the City of Melville on external organisations. It is important that employees:

- (a) clearly understand the basis of their appointment and level of authority to commit the City to any action;
- (b) provide regular reports on the activities of the organisation to which they have been appointed; and
- (c) understand that in the event of a conflict arising between the City of Melville and the external organisation that the interest of the employee rests with the City of Melville.

2.9 Fit for Work – Fatigue, Alcohol, Drugs

To support and maintain a safe workplace, employees are to report to the workplace ‘fit for work’, which focuses on the relationship between an employee and their capacity to perform the inherent requirements of their role without impairment from:

- Fatigue
 - Alcohol and/or other drug use (illicit and prescribed medication/drugs)
- and in consideration of their own medical fitness being inclusive of mental health.

Employees have a duty of care to report immediately to their Supervisor if they are aware they or another employee are/is not fit for work and to the Supervisor and/or Manager if they perceive an employee may be under the influence of alcohol and/or drugs, or the presence of illicit drugs within the workplace.

3. GENERAL CONDUCT OBLIGATIONS

3.1 Ethical and Behavioural Obligations

- (a) The additional ethical and behavioural obligations imposed by this Code of Conduct are based on the ethics principles which are contained in the Western Australian Public Sector Code of Ethics. These obligations are in addition to any statutory obligations.
- (b) The principles that must be met by additional obligations set out in this Code are as follows –
 - (i) Integrity of Local Government
It is vital that the public has confidence in a Local Government’s ability to ensure the good rule and government of its area. Employees must conduct themselves in a way that promotes and maintains the public’s trust and confidence in the integrity of the City of Melville and the good rule and government of its area.
 - (ii) Primacy of the public interest
Employees are required to make decisions solely in terms of the public interest. Employees must take steps to avoid, resolve or disclose both actual and perceived conflicts of interest.
 - (iii) Independence of action
Employees must not place themselves under any financial obligation that may influence them in discharging of their duties and responsibilities as employees of the City of Melville.

- (iv) **Appropriate use of information**
Employees, who in the course of carrying out their duties receive and access information that is not available to the general public, must not misuse this information in line with conflict of interest, personal benefit, privacy and security expectations, policy or legislation.
- (v) **Transparency and scrutiny**
It is vital that the public has confidence in the integrity of the City of Melville's decision-making processes. To ensure transparency and public scrutiny of, and public confidence in those processes, employees must disclose their financial interests.
- (vi) **Appropriate use of entitlements**
Employees must comply with the requirements about using entitlements provided for under the City's relevant policies and procedures.
- (vii) **Employees will ensure complete and accurate local government records are created and maintained in accordance with the City of Melville Recordkeeping Plan.**

3.2 Obligations during Council and Committee Meetings

Employees must act in accordance with the *City of Melville Meeting Procedures Local Law 2017* during Council and Committee meetings.

Employees must respect the Chair, each other, Elected Members and any members of the public present during Council and Committee meetings or other formal proceedings of the Council.

3.3 Fairness and Equity

Employees have an obligation to consider issues consistently, impartially, promptly and fairly. This involves dealing with matters in accordance with established procedures, in a non-discriminatory manner.

Employees must take all relevant facts known to them or that they should be reasonably aware of, into consideration and have regard to the particular merits of each case.

3.4 Harassment and Discrimination

Employees shall not bully, harass, intimidate, discriminate against, or support others who bully, harass, intimidate and discriminate against colleagues, employees or members of the public. This includes, but is not limited to harassment and discrimination, on the grounds of sex, pregnancy, age, race (including their colour, nationality, descent, ethnic or background), religion, political affiliation, marital status, disability, sexual preference or gender.

3.5 Electronic Surveillance

The City of Melville reserves the right to use, continue using and extend the use of electronic surveillance in accordance with the *Surveillance Devices Act 1998 (WA)* and relevant auditing and security principles.

Individual employees must also protect other individual's privacy by the correct application of workplace privacy principles. This includes no electronic recording to occur without advising the other participants and ensuring consent is obtained prior to the use of any surveillance device, including phone recordings. Significant records of this kind must be kept in accordance with legislative and record keeping requirements.

4. CONFLICT OF INTERESTS

4.1 Conflict Of Interest

A conflict of interest involves a conflict between an employee's duties and their personal or private interests.

It isn't wrong or unethical to have a conflict of interest, what is important is that it is identified and appropriately managed.

Conflicts of interest can be actual, perceived or potential;

An actual conflict of interest may arise when an employee is asked to make a decision that directly affects or impacts their personal or private interests.

Importantly, some conflicts may only be **perceived**—an employee's decision could be questioned based on a personal or private interest that may not actually have impacted any decision.

A potential conflict of interest arises where an employee has private interests that could conflict with their official duties in the future, or where an employee has competing interests because they hold more than one official role or duty.

Employees will ensure that there is no actual, perceived or potential conflict of interest between their personal interests and the impartial fulfilment of their professional duties. Employees must behave or act in a manner at all times that demonstrates their impartial involvement with City work and that this work doesn't involve bias such as:

- Personal beliefs or attitudes
- Personal or business interest or rights;
- Interest or rights of you family, friends, or colleagues.

If any such perceived bias appears to exist the employee must remove themselves from any work and/or decision making that is necessary for the work event. This includes unwarranted contact with the City business owner as this could be construed as trying to unduly influence outcomes.

This element may be tested by reference to Annexure Three – Examples of Assessment of an Interest.

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 City of Melville, without first making disclosure to the Chief Executive Officer and obtaining CEO consent, via their Supervisor. 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.

Employees will lodge written notice via their Supervisor with the Chief Executive Officer describing an intention to undertake a dealing in land within the City of Melville area or where such dealing may be in conflict with the Council's functions (other than purchasing the principal place of residence), with the consent of the CEO, which consent may not be unreasonably withheld.

Employees who exercise recruitment, procurement of services or other discretionary functions will make disclosure before dealing with relatives, closely associated persons or friends and will disqualify themselves from participating in those processes.

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-discriminatory legislation.

4.2 Secondary Employment

Employees will seek permission to undertake secondary employment via their Director/ Executive Manager on behalf of the Chief Executive Officer before undertaking work outside the organisation of the City of Melville. If the work is the operation of a business, then contractors they may engage with, and or in the case of a consulting business, then the Employee needs to declare any new clients they may engage with as part of operating a their business to their Director/Executive Manager as their client list change. Elements to be considered are possible interference with the completion of normal duties, and where there is any possibility of any conflict of interest. Should there be any conflict of interest that cannot be managed; the Director/ Executive Manager may decline to provide permission.

4.3 Financial and Proximity Interests

Employees will adopt the principles of disclosure of financial and proximity interests as contained within the 5.60, 5.60A and 5.60B of the *Local Government Act 1995*.

Employees who have been delegated a power or duty, have been nominated as 'designated employees' or provide advice or reports to Council or Committees, must ensure that they are aware of, and comply with, their statutory obligations under the Act.

4.4 Disclosure of Interest Relating to Impartiality

In this part, interest has the meaning given to it in the *Local Government (Administration) Regulations 1996*:

"interest -

- (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and*
 - (b) includes an interest arising from kinship, friendship or membership of an association."*
- (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 —
 - (i) in a written notice given to the CEO before the meeting; or
 - (ii) at the meeting immediately before the matter is discussed.
 - (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 -
 - (i) in a written notice given to the CEO before the meeting; or
 - (ii) at the time the advice is given.
 - (c) A requirement to disclose described under items (a) and (b) does not exclude the requirement to disclose an interest referred to in s. 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 -
 - (i) the person's failure to disclose occurs because the person did not know he or she had an interest in the matter; or
 - (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.

- (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.

4.5 Independent Legal Advice to Be Sought if in Doubt

If an employee is in doubt whether a conflict of interest exists, they should at their personal expense seek independent legal or other appropriate advice.

4.6 Annual Disclosure of Interest

If an employee holds a position as an Officer Bearer whether paid or unpaid, with any organisation, commercial or not-for-profit, the employee will provide a disclosure to the CEO that is updated annually in July.

5 PERSONAL BENEFIT & DETRIMENT TO ANY PERSON

5.1 Use of Confidential Information

Employees will not access or 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 and in good faith, or to improperly cause harm or detriment to any person or organisation.

5.2 Improper or Undue Influence

Employees will not take advantage of their position to improperly influence other 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 for any other person or body.

5.3 Personal Dealings with Council

Employees will inevitably deal personally with their local government (for example, as a ratepayer, recipient of a City service or applicant for a consent granted by the Council). They must not expect or request preferential treatment for themselves or their family because of their position. They must avoid any action that could lead members of the public to believe that they are seeking preferential treatment.

5.4 Gifts

A gift valued over the amount of \$50 is a prohibited gift.

In this part, the following definitions have the meanings given as in 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;

associated person means a person who —

- (a) is undertaking or seeking to undertake an activity involving a local government discretion; or
- (b) it is reasonable to believe, is intending to undertake an activity involving a local government discretion;

code of conduct means a code of conduct under section 5.51A;

gift —

- (a) has the meaning given in section 5.57; but
- (b) does not include —
 - (i) a gift from a relative as defined in section 5.74(1); or
 - (ii) a gift that must be disclosed under the *Local Government (Elections) Regulations 1997* regulation 30B; or
 - (iii) a gift from a statutory authority, government instrumentality or non-profit association for professional training; or
 - (iv) a gift from WALGA, the Australian Local Government Association Limited (ABN 31 008 613 876), the Local Government Professionals Australia WA (ABN 91 208 607 072) or the LG Professionals Australia (ABN 85 004 221 818);

interest —

- (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and
- (b) includes an interest arising from kinship, friendship or membership of an association;

local government employee means a person —

- (a) employed by a local government under section 5.36(1); or
- (b) engaged by a local government under a contract for services;

prohibited gift, in relation to a local government employee, means —

- (a) a gift worth the threshold amount or more; or
- (b) a gift that is 1 of 2 or more gifts given to the local government employee by the same person within a period of 1 year that are in total worth the threshold amount or more;

threshold amount, for a prohibited gift, means \$300 or a lesser amount determined under regulation 19AF.”

5.5.1 19AF. Determination of threshold amount

- (1) The CEO may determine an amount (which may be nil) for the purposes of the definition of **threshold amount** in regulation 19AA.
- (2) A determination under sub regulation (1) must be published on the local government's official website.

The CEO has determined that the threshold amount applicable to employees of the City will be \$50 including GST. A gift valued over the amount of \$50 is therefore a prohibited gift.

A person who is an employee must not accept a prohibited gift from a person who -

- (i) is undertaking or seeking to undertake an activity involving the City of Melville's discretion; or
- (ii) it is reasonable to believe is intending to undertake an activity involving the City of Melville's discretion.

5.5.2 Reportable Gifts

A **reportable gift** means – a gift or 2 or more gifts from the same person (or organisation) valued at less than \$50, being the threshold amount determined by the CEO.

- (a) A person who is an employee and who accepts a reportable gift from a person who -
 - (i) is undertaking or seeking to undertake an activity involving the City of Melville's discretion; or
 - (ii) it is reasonable to believe is intending to undertake an activity involving the City of Melville's discretion,must notify the CEO, in accordance with item (b) below and within 10 days of accepting the gift, of the acceptance.
- (b) The notification of the acceptance of a reportable 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 one of two or more accepted from the same person within a period of one year –
 - (1) a description; and
 - (2) the estimated value; and
 - (3) the date of acceptance,of each other gift accepted within the one year period.
- (c) The CEO will maintain a register of reportable gifts and record in it details of notifications given to comply with a requirement made under item (b).
- (d) This clause does not apply to gifts received from a relative (as defined in s.5.74(1) of the *Local Government Act 1995*).
- (e) This clause does not prevent the acceptance of a gift on behalf of the City of Melville in the course of performing professional or ceremonial duties in circumstances where the gift is presented in whole to the employee, entered into the Register of Notifiable Gifts and used or retained exclusively for the benefit of the City of Melville.

6 ACCESS TO INFORMATION AND COUNCIL RESOURCES

6.1 Access to Information

Employees must only access information that they are authorised to access such as matter that directly relate to their work duties, roles and functions in a specific work area. Employee's shall note that inappropriate access of information may also be deemed unlawful and will be referred to the appropriate external State Government Agencies for investigation.

Nevertheless, employees have an obligation to provide, within reason, full and timely information to Elected Members about matters that they are dealing with before Council and that are relevant to them in the performance of their functions under the *Local Government Act 1995*. Employees will ensure that Elected Members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities.

Employees have an obligation to properly examine all the information provided to them relating to matters that they are dealing with to enable them to make a recommendation on the matter in accordance with the City of Melville policies, procedures and associated information.

Employees 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. Access to information is on a need to know basis only i.e. employees are not to access information unless there is a specific need to use that information to undertake their role.

6.2 Security of information

The City's legal obligation to release information is governed by relevant state legislation including but not limited to the *Local Government Act 1995*, *Building Act 2011*, *Planning & Development Act 2005* and *Freedom of Information Act 1992*, lawful demands such as subpoenas and City Policy/Procedures. Under these lawful guidelines the City effectively manages and delivers its information disclosure outcomes.

Therefore, an employee must take care to maintain the integrity and security of confidential documents or information in their possession, or for which they are responsible. Employees must not release information that they know, or should reasonably know, is confidential to the Local Government other than to authorities or persons with a right of access to such information. An employee must not disclose any information discussed during a confidential session of a Council meeting unless and until it ceases to be confidential.

An employee must not use City of Melville information for personal purposes. Employees must use organisational information in a way that promotes and maintains the public's trust and confidence in the integrity of the City of Melville. In using City information they must give priority to public interests over private interests.

Employees must not cause harm to the City of Melville, another person or organisation, for instance by misrepresenting organisational policy or using organisational information improperly to gain advantage or detriment for someone.

6.3 Anonymous Communication

An employee will under no circumstances distribute anonymous communication received by them other than within the normal provisions of their role and responsibilities. Where such communication is received, the employee should advise their manager who will deal with such communication in accordance with the policies of the City of Melville.

7 DEALING WITH COUNCIL PROPERTY

7.1 Use of Local Government Resources

Employees will:

- (a) be honest in their use of the City of Melville resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- (b) use the City of Melville resources entrusted to them effectively and economically in the course of their duties and in accordance with relevant policies and procedures; and
- (c) not use the City of Melville resources without authorisation (including the services of City Officers) for private purposes.

7.2 Travelling and Sustenance Expenses

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 City of Melville in accordance with the City's policies and the provisions of the *Local Government Act 1995*.

8 REPORTING BREACHES AND MISCONDUCT

8.1 Reporting breaches of the Code of Conduct

An employee has an implied obligation to report perceived or suspected breaches of the Code of Conduct to the Chief Executive Officer for investigation; or if the breach involves the Chief Executive Officer it should be reported to the Mayor, or relevant external agency.

Misconduct can be reported either internally or externally in accordance with the Grievance procedure, and the Fraud and Corruption Prevention Management Plan. If you suspect that a breach has occurred, you can report it directly to the CEO (by phone, email or in person) and providing sufficient details for the allegation to be investigated.

8.2 Investigation procedures – Employees' conduct (excluding the CEO)

The Chief Executive Officer will authorise an investigation of breaches of the Code of Conduct regarding employees. Each complaint will be dealt with quickly and fairly in accordance with the principles of procedural fairness and in accordance with the City of Melville policies, procedures and related documentation.

8.3 Investigation procedures – Chief Executive Officer conduct

Where an Employee, Elected Member or member of the public alleges that the Chief Executive Officer has failed to comply with the Code of Conduct, they should report the matter to the Mayor who deal with the matter in accordance with the CEO's employment contract.

If there is reasonable suspicion of misconduct that may be cause to review the employment of the CEO if found to be substantiated then Officers of the City, on behalf of the Mayor, are to notify the Public Sector Commission (PSC) or Corruption and Crime Commission (CCC).

The Council should initiate actions that will mitigate any further risk of misconduct and should await directions from the statutory authority as to the actions it should take; which may include an external investigation by a statutory authority or an internal investigation conducted by or on behalf of the City. Any investigation undertaken is to be based upon the rules of procedural fairness and the investigator must:

- inform the person/s against whose interests a decision may be made of any allegations against them and the substance of any adverse comment in respect of them;
- provide the person/s with a reasonable opportunity to put their case;
- hear all parties to a matter and consider submissions;
- make reasonable enquiries before making a decision;
- ensure that no person is involved in enquiries in which they have a direct interest;
- ensure that any decision is effectively communicated to the relevant interested parties.

8.4 Misconduct

The CEO has a statutory obligation to report, to the Public Sector Commission and/or the Corruption and Crime Commission:-

- (a) any allegation of misconduct; or
- (b) any situation that otherwise comes to his or her attention involving misconduct,

where the CEO considers on reasonable grounds that misconduct may have occurred and in the case of an allegation or situation involving an employee could constitute reasonable grounds for termination of a person's office or employment.

The *Corruption and Crime Commission Act 2003* requires that matters of misconduct and/or corruption be reported to the Public Sector Commission or Corruption and Crime Commission and those protections are afforded to persons who make such reports. It is an offence to:

- (a) victimise any person who has given evidence to or helps the PSC, CCC;
- (b) dismiss or prejudice any person for having appeared before or having given evidence to the CCC;
- (c) cause injury or detriment to any person for having appeared before or having given evidence to the CCC.

Where an internal investigation is required it will be done in accordance with City of Melville policies, procedures and associated requirements.

Minor or Serious Misconduct should be reported to either the CCC or the PSC. Both organisations have websites which contain online forms for reports and guidance on what constitutes Minor and Serious Misconduct.

8.5 Public Interest Disclosure

The City of Melville has implemented a Public Interest Disclosure process to provide a confidential mechanism for investigating misconduct allegations or improper conduct and other 'public interest information' as defined in the *Public Interest Disclosure Act 2003*.

Employees will immediately report to the CEO or to the appointed Public Interest Disclosure (PID) officer any instance of misconduct or improper conduct that they suspect may have occurred.

The *Public Interest Disclosure Act 2003* (PID Act) facilitates the disclosure of public interest information, and provides protection for those making such disclosures and those who are the subject of disclosures. The PID Act provides a system for the matters disclosed to be investigated and for appropriate action to be taken and protection for persons who make disclosures. The CEO is the Principal Executive PID Officer.

8.6 Non-Compliance with Code

The City will investigate any allegations of a breach of the Code by any of the following classes of persons or organisations:

- (a) Employees:
- (b) Contractors: and
- (c) Volunteers.

Should a breach of the Code be found by an investigation based upon the balance of probability, the following actions may be applied:

- (a) An employee may be subject to performance management action which may include a review and or ultimately termination of employment.
- (b) A contractor (and all staff of the contractor) may be required to observe the Code provisions and in the event of any further breach, have their contracts terminated.
- (c) Volunteers may receive a warning and advice from the City and may be removed from the area/tasks that they are volunteering.

Whilst not exhaustive, actions that breach the Code are listed on Annexure Two and may result in a review of employment.

The City may seek to recover any loss resulting from a breach of the Code.

Annexure One - Role Of The Chief Executive Officer And Employees

The role of Officers is determined by the functions of the CEO as set out in S 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 section 5.37(2) in relation to senior employees); and*
- (h) ensure that records and documents of the local government are properly kept for the purposes 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.”*

Employees of the City have an implied and expressed obligation to –

- (a) give their attention to the business of the City while on duty;
- (b) ensure that their work is carried out efficiently, economically and effectively;
- (c) carry out lawful directions given by any person having authority to give such directions; and
- (d) give effect to the lawful policies, decisions and practices of the council, whether or not the officer agrees with or approves of them.

Annexure Two – Examples of Actions That May Breach the Code of Conduct

It is deemed a breach by the City of Melville of this Code of Conduct for an employee of the City of Melville to:

1. Act negligently.
2. Act dishonestly.
3. To wilfully or deliberately behave in a manner that causes risk to the health and safety of a person.
4. To wilfully or deliberately behave in manner that causes risk to the reputation, viability or deliverability of the City of Melville's business.
5. Make false, misleading or improper allegations against any person.
6. Fail to disclose a charge for a criminal offence or suspension or loss of a licence, qualification or certificate that is an inherent requirement to their employment.
7. Wilfully or deliberately not comply with any lawful and reasonable instruction that is given by any person having authority to make or give such an order, except when that order violates this Code, is inconsistent with the employee's contract of employment, the law, the City's policies, or is clearly detrimental to the public interest such as but not limited to complying with a reasonable task which is within the skill set and scope of an individual's role, not complying with communication policies, protocols.
8. Make public statements on behalf of the City unless authorised by the CEO.
9. Contravene any laws relevant to the City's business, in particular relating to copyright, record keeping, privacy, defamation, use of surveillance devices, and unlawful discrimination.
10. Contravene relevant local laws including the Meeting Procedure Local Law.
11. Be taken to be intoxicated if the employee's faculties are, by reason of the employee being under the influence of intoxicating liquor or a drug (except a drug administered by or taken in accordance with the directions of a person lawfully authorised to administer the drug), so impaired that the employee is unfit to be entrusted with the employee's duties or with any duty that the employee may be reasonably instructed to perform.
12. Disclose without authority or misuse confidential information obtained in the course of their duties or by means of their employee-access to the City's records.
13. Fail to disclose any real, perceived or potential conflict of interest including:
 - i. Direct or indirect financial interests.
 - ii. Interests arising from a personal, social or business relationship.
14. Inappropriately use or improperly claim any employment-related entitlements.
15. Bully, harass, intimidate or discriminate against colleagues, employees, Elected Members or members of the public, or support any person who does so.
16. Take advantage of their position to improperly influence other employees in the performance of their duties or function or to seek preferential treatment by the City to gain advantage for themselves or any other person or cause detriment to any person.
17. Accept any prohibited gift as defined in the *Local Government (Administration) Regulations 1996*.
18. Fail to declare secondary employment, appointments which could be an actual, perceived or potential conflict of interest.
19. Fail to declare any notifiable gift as defined in the *Local Government (Administration) Regulations 1996*.
20. Make unauthorised use of the City's resources or information for private purposes.
21. Engage in any form of retaliation against another employee for raising a legitimate concern about suspected violations of this Code or any law or for cooperating in an investigation.

Breaches of this Code are disciplinary matters and will be subject to performance and or, disciplinary action which may include a review of employment which could result in the termination of an individual's performance.

Annexure Three - Examples of Assessment of an Interest

These are known as the “6Ps” which also align with the Western Australian Public Sector Commission guidance on identifying conflicts of interest.

Public duty versus private interest

Do I have personal or private interests that may conflict or be perceived to conflict with my public duty?

Potential

Could there be benefits for me now or in the future that could cast doubt on my objectivity?

Perception

Remembering that perception is important, how will my involvement in the decision or action be viewed by others? Are there risks associated for me or my organisation?

Proportion

Does my involvement in the decision appear fair and reasonable in all the 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 or decision?

Other References that may be applicable to this Policy

Legislative Requirements: *Local Government Act 1995*
Local Government Regulations (Administration) 1996
Fair Work Act 2009 Cth
Public Interest Disclosure Act 2003
Occupational Health and Safety Act 1984
Corruption and Crime Commission Act 2003
City of Melville Meeting Procedures Local Law 2017

Delegated Authority:

Plan / Policy / Framework: People Framework
Customer Service Framework
SP-020 Records Management
OP-026 Social Media Policy
CP-003 Public Relations
CP-026 Employee Appointments

Procedure: Grievance Procedure

Work Instructions / Process Maps:

Forms / Supporting Documents (internal): City of Melville Values
City of Melville Customer 1st Strategy
Customer Service The Melville Way Handbook

Supporting Documents (external):

Origin/Authority

ELT 27/03/2014

Reviews

ELT 25/11/2019
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