



**CODE OF CONDUCT
EMPLOYEES
2021**

References	<i>Local Government Act 1995</i> (Section 5.103 – Codes of Conduct) and <i>Local Government (Administration Regulations 1996</i> (Regulations 34B and 34C)		
Related Documents	<ul style="list-style-type: none"> • Shire of Leonora Induction Checklist • Shire of Leonora Safety Handbook (Inside) • Shire of Leonora Safety Handbook (Outside) • Shire of Leonora Policy Manual 		
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1. Code of Conduct

Responsible Officer	Chief Executive Officer
File Number	1.41

1.1 OBJECTIVE

1.1.1 Statutory Requirement

The Code of Conduct observes statutory requirements of the *Local Government Act 1995* (section 5.103 – Codes of Conduct) and *Local Government (Administration) Regulations 1996* (Regulations 34B and 34C).

1.1.2 Preamble

The Code of Conduct (The Code) provides Staff in Local Government 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 is complementary to the principles adopted in the *Local Government Act 1995* and regulations which incorporates four fundamental aims to result in:-

- (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 provides a guide and a basis of expectations for Staff. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

1.1.3 Ethical Principles

This Code of Conduct is also governed by three ethical principles – Justice, Respect for Persons, and Responsible Care.

1.1.4 Justice

A responsibility to: -

- Be fair and equitable in our treatment of others, not treating people as a means to an end.
- Use and share power for the common good of both individuals and society.
- Avoid discrimination, abuse or exploitation of others.

1.1.5 Respect for Persons

A responsibility to:

- Respect the rights of individuals and groups allowing them their opinion and their right to be different.
- Enable and empower others to achieve their potential by promoting their physical, mental and social wellbeing.
- Encourage honest working relationships by being truthful and sincere when dealing with others.

1.1.6 Responsible Care

A responsibility to: -

- Contribute to the wellbeing of individuals and society by exercising due diligence and a duty of care to others.
- Treat others, as they would like to be treated, doing good and not doing harm.
- Uphold the rights of those who are unable to do so, advocating for others where required.
- Protect and responsibly manage the resources of the Shire of Leonora (SoL)

2. RULES OF CONDUCT

2.1 ROLES

2.1.1 Role of Staff

The role of staff is determined by the functions of the CEO 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;*
- (b) ensure that advice and information is available to the council so that informed decisions can be made;*
- (c) cause council decisions to be implemented;*
- (d) manage the day to day operations of the local government;*
- (e) liaise with the mayor or president on the local government’s affairs and the performance of the local government’s functions;*
- (f) speak on behalf of the local government if the mayor or president agrees;*
- (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);*
- (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.”*

2.1.2 Relationships between Council Members and Staff

Employees will recognise that Members' views and opinions often reflect valid community viewpoints that should be considered in conjunction with professional opinion. Employees will therefore make every effort to assist Members in the performance of their role, and to achieve the satisfactory resolution of issues that may arise in the performance of their official role.

3. CONFLICT AND DISCLOSURE OF INTEREST

3.1 Conflict of Interest

- (a) Staff will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- (b) 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 an advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
- (c) Staff will lodge written notice with the Chief Executive Officer 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).
- (d) Staff who exercise a 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.

3.2 Financial Interest

Staff will adopt the principles of disclosure of financial interest as contained within the *Local Government Act 1995*.

3.3 Disclosure of Interest

Definition:

In this clause, and in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996 -

“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.

- (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 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 -
 - (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. PERSONAL BENEFIT

4.1 Use of Confidential Information

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 and in good faith, or to improperly cause harm or detriment to any person or organisation.

4.2 Intellectual Property

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

4.3 Improper or Undue Influence

Staff will not take advantage of their position to improperly influence other 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.

4.4 Gifts

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 section 5.82(4) except that it does not include -

- (a) a gift from a relative as defined in section 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;*
- (d) a gift from WALGA, the Australian Local Government Association Limited (ABN 31 008 613 876) or the Local Government Managers Australia WA Division Incorporated (ABN 91 208 607 072);*

“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.*

- (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,

must 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 section 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.
- (g) **Amendment to disclosure of gifts:**

Following the publication of the Governance Bulletin - Issue 11 - March 2016 the Local Government Act 1995 was amended with regard to the disclosure of gifts. A relevant person who accepts a gift which is worth greater than \$200 must disclose acceptance of the gift within ten days of receipt to the Chief Executive Officer. Rather than in an annual return, the disclosure must be made on line.

- (h) **Disclosure of a contribution to travel:**

The disclosure of a contribution to travel must include:

- Name of relevant person making the disclosure;
- A description of the contribution to travel;
- The name and address of the person who made the contribution to travel;
- The date on which the contribution to travel was received;
- The estimated value of the contribution to travel at the time it was made;
- The nature of the relationship between the relevant person and the person who made the contribution;
- A description of the travel undertaken; and
- Date of travel undertaken.

- (i) The CEO is required to keep a record of the disclosures by way of a register. This is to be published on the local government's official website as well as made available for public inspection at the council offices.
- (j) As soon as is practicable after a person ceases to be a relevant person, the CEO must remove all records relating to that person from the register. However, a CEO must ensure that these disclosures are kept for a period of at least 5 years, and made available for public inspection if requested.

5. CONDUCT OF COUNCIL MEMBERS, COMMITTEE MEMBERS AND STAFF

5.1 Personal Behaviour

- (a) 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) perform their duties impartially and in the best interests of the Local Government uninfluenced by fear or favour;
 - (iii) act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the Local Government and the community;
 - (iv) 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;
 - (v) always act in accordance with their obligation of fidelity to the Local Government; and

5.2 Honesty and Integrity

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 the notice of the Shire 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; and
- (c) Be frank and honest in their official dealing with each other.

5.3 Performance of Duties

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.

5.4 Compliance with Lawful Orders

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.

Staff will give effect to the lawful policies of the Local Government, whether or not they agree with or approve of them.

5.5 Administrative and Management Practices

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

5.6 Corporate Obligations

(a) Standard of Dress

Staff are expected to comply with neat and responsible dress standards at all times. Accordingly:

- (i) Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual staff.

(b) Communication and Public Relations

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

6. DEALING WITH COUNCIL PROPERTY

6.1 Use of Local Government Resources

Staff will:

- (a) be scrupulously honest in their use of the Local Government'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 Local Government resources entrusted to them effectively and economically in the course of their duties; and

- (c) not use the Local Government'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).

6.2 Travelling and Sustenance Expenses

Staff 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 Local Government in accordance with Local Government policy and the provisions of the *Local Government Act 1995*.

6.3 Access to Information

- (a) Staff will ensure that Council Members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities.

7. REPORTING BREACHES AND SUSPECTED BREACHES OF THE CODE

7.1 Breaches of the Code by Staff

A person who reasonably believes that a member of staff's behaviour is in breach of the standards of conduct set out in the Code, may refer the matter to the CEO or the responsible person for Human Resources who will take the matter into consideration and deal with it according to the management protocols, procedures or practices of the Shire of Leonora and any applicable laws regarding staff.

A person who reasonably believes that the personal behaviour of the CEO is in breach of the standards of conduct set out in the Code may refer the matter to the Deputy CEO who will take the matter into consideration and deal with it according to the management protocols, procedures or practices of the Shire of Leonora and any applicable laws.

Each report of a breach is to be dealt with efficiently, effectively and fairly in line with the principles of fair procedures.

7.2 Reporting legislative breaches by regular external contractors and consultants, internal consultants and volunteers

The person responsible for Human Resources ensures delivery of an induction to staff, internal consultants, and volunteers. The induction which is outlined in the document "Shire of Leonora Induction" includes an obligation to report legislative breaches. The DCEO will ensure that an induction including an obligation to report legislative breaches is delivered to external contractors and consultants. The induction is outlined in the document "Contractor OHS Compliance Guidelines".

7.3 Reporting misconduct to the Corruption and Crime Commission

As a 'principal officer of a notifying authority' (for the purposes of the *Corruption and Crime Commission Act 2003*), the CEO, is statutorily obligated to report to the Corruption and Crime Commission:

- (a) any alleged misconduct; or
- (b) any situation that might be drawn to his or her attention involving misconduct,

where the CEO reasonably suspects that the misconduct is relevant or is an issue of concern to the CEO in his or her official capacity.

Nonetheless, any staff member or any other person may report directly to the Corruption and Crime Commission any matter which that person reasonably suspects may concern misconduct that:

- (a) has or may have occurred
- (b) is or may be occurring
- (c) is or may be about to occur; or
- (d) is likely to occur.

Section 4 of the *Corruption and Crime Commission Act 2003* defines the instances when 'misconduct' occurs:

7.3.1 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;
- (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;
- (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;
 - (ii) constitutes or involves the performance of his or her functions in a manner that is not honest or impartial;

- (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) an offence against the *Statutory Corporations (Liability of Directors) Act 1996* or any other written law; or
- (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 3 of the *Corruption and Crime Commission Act 2003* defines 'serious misconduct' as misconduct of a kind described in section 4(a), (b) or (c) of the *Corruption and Crime Commission Act 2003*.

7.4 Public Interest Disclosure Act 2003

The *Public Interest Disclosure Act 2003* facilitates the reporting of public interest information and provides protection for those who report this information under that Act.

The SoL:

- (a) does not tolerate corrupt or other improper conduct, including mismanagement of public resources, in the exercise of the public functions of the SoL, by its members, employees or contractors.
- (b) is committed to the aims and objectives of the *Public Interest Disclosure Act 2003*.
- (c) strongly supports disclosures being made by employees as to corrupt or other improper conduct.
- (d) will take all reasonable steps to provide protection to employees who make disclosures from any detrimental action in reprisal for the making of a public interest disclosure.
- (e) does not tolerate any of its employees or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures.

Employees are encouraged to contact the CEO as the SoL's nominated Public Interest Disclosure Officer to be assisted on their disclosure and to lodge completed Public Interest Disclosure forms.

A person who makes an appropriate disclosure of public interest information to the SoL's nominated Public Interest Disclosure Officer under section 5 is ensured of protection under section 13 of the *Public Interest Disclosure Act 2003* as outlined below:

- (a) incurs no civil or criminal liability for doing so
- (b) is not, for doing so, liable:
 - (i) to any disciplinary action under a written law
 - (ii) to be dismissed
 - (iii) to have his or her services dispensed with or otherwise terminated; or
 - (iv) for any breach of duty of secrecy or confidentiality or any other restriction on disclosure (whether or not imposed by a written law) applicable to the person

Code of Conduct Acknowledgement and Acceptance

I, _____, can confirm that I have read and understand the Shire of Leonora Code of Conduct, and acknowledge my capacity to uphold the values within.

Position	Signature	Date
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Supervisor confirmation

Supervisor Name	Position	Signature	Date
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