

# **SHIRE OF MUNDARING**

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## **CODE OF CONDUCT**

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<b>Introduction.....</b>	<b>3</b>
<b>SECTION ONE – ELECTED MEMBERS .....</b>	<b>4</b>
1. Conflict and Disclosure of Interest.....	4
2. Conduct of Members .....	5
3. Prevention of Corruption .....	7
4. Token and Notifiable Gifts.....	8
<b>SECTION TWO – COMMITTEE MEMBERS .....</b>	<b>11</b>
1. Conflict and Disclosure of Interest.....	11
2. Personal Benefit.....	12
3. Conduct of Members .....	13
4. Prevention of Corruption .....	16
<b>SECTION THREE – EMPLOYEES.....</b>	<b>17</b>
1. Conflict and Disclosure of Interest.....	17
2. Personal Benefit.....	19
3. Conduct of Employees .....	20
4. Prevention of Fraud, Illegality and Improper Conduct .....	24
<b>SECTION FOUR – MEMBERS AND EMPLOYEES .....</b>	<b>25</b>
5. Token Gifts .....	25
Code of Conduct.....	29
Statement .....	29

## ***Introduction***

This Code of Conduct provides Elected Members, Committee Members and employees with consistent guidelines for acceptable standards of professional conduct.

This Code addresses the broad issues of ethical responsibility and encourages accountable and open local government. It is complementary to the principles and aims contained in the Local Government Act and Local Government Regulations, i.e.

- better decision making
- greater community participation
- greater accountability
- more efficient and effective local government

It contains the specific requirements of the Local Government (Administration) Regulations 34B and 34C.

## **ELECTED MEMBERS**

### ***SECTION ONE – ELECTED MEMBERS***

Definitions:

In this section:

“Member” means an elected member of the Council of the Shire of Mundaring;

“Local Government” means the Shire of Mundaring

“employee” means an employee of the Shire of Mundaring

## **1. Conflict and Disclosure of Interest**

### **1.1 Conflict of Interest**

Members -

- (a) should ensure there is no actual conflict or incompatibility between their personal interests and the impartial fulfilment of their official duties;
- (b) 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 Council, and 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) are to disclose any interest they have in any matter to be discussed at a Council or committee meeting they will attend or in respect of which the member has given or will give advice;
- (d) “interest” in this Code of Conduct has the meaning given to it by the Local Government Act including financial, proximity, impartiality and any other personal interests;—
- (e) when required to deal with the Local Government in person, shall disclose that fact to employees if they are acting in any capacity other than their official capacity as members of the Council;
- (f) who have an interest in an agenda item shall not discuss that item with other members at gatherings of the Council immediately prior to a meeting at which that agenda will be presented; and
- (g) are not to provide written information to other Members in relation to matters in which they later disclose an interest unless that information is to be officially tabled for inclusion in the Local Governments records.

### **1.2 Financial or Proximity Interest**

- (a) Members who have a direct or indirect financial interest or proximity interest in a matter to be considered by the Council (i.e. one in which there is a reasonable likelihood or expectation of loss or gain) are required to disclose the nature of the interest and are not to take part in discussion or vote on the issue except to the extent that the Local Government Act specifically allows on resolution of the Council or decision of the Minister.

## **ELECTED MEMBERS**

- (b) The onus is on a Member to identify possible financial or proximity interests or other interests which may be perceived to affect impartiality, and to determine whether such interest is one to which no statutory exemption applies.
- (c) Notwithstanding this Code of Conduct and in addition to anything contained in it, Members will comply in all respects with the provisions of the Local Government Act, Local Government (Administration) Regulations 1996 and the Local Government (Rules of Conduct) Regulations 2007.

## **2. Conduct of Members**

### **2.1 Personal Behaviour**

Members will:

- (a) act and be seen to act properly and in accordance with the requirements of the law and the terms of this Code;
- (b) perform their duties impartially and in the best interests of the whole of the Local Government uninfluenced by fear or favour;
- (c) act in good faith (i.e. honestly, for proper purposes, and without exceeding their power) in the interests of the local government;
- (d) make no allegations which are derogatory of the Local Government or any person or which are otherwise improper 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 Local Government; and
- (f) represent and promote the interests and decisions of the whole of the Local Government at all times whilst recognising their special duty to their own constituents.

### **2.2 Honesty and Integrity**

Members will:

- (a) promptly bring to the notice of the President or Chief Executive Officer any dishonesty on the part of any other Member or employee;
- (b) be frank, honest and fair in their official dealings with each other and in the performance of their duties as Members;
- (d) be objective and consider all presented information, including that presented at a Council meeting, prior to making a decision.

(Objectivity is a state of mind which imposes on an individual the obligation to be fair and impartial, intellectually honest and free of conflicts of interest and bias.)

## **ELECTED MEMBERS**

### **2.3 Administrative and Management Practices**

Members should ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

### **2.4 Development of Skills and Competence**

Members must continually strive to improve their skills and competence as Members, and to maintain their knowledge and encourage the development of the skills and competence of fellow Members and employees associated with them.

### **2.5 Corporate Obligation**

As a representative of the community, a Member needs to be not only responsive to community views, but to adequately communicate the attitudes and decisions of Council. In doing so, a Member should acknowledge and ensure that:

- (a) as a Member of Council there is respect for the decision-making processes of the Council noting that decisions are made by the statute-sanctioned majority;
- (b) information relating to decisions of the Local Government on approvals, permits and other determinations on applications should only be communicated in an official capacity by a designated officer of the Local Government; and
- (c) information concerning adopted policies, procedures and decisions of the Local Government is conveyed accurately.

### **2.6 Relationships between Members and Employees**

In order to work effectively a Member will work as part of the Council team with the Chief Executive Officer and other Members. That teamwork will only occur if Members and employees have a mutual respect and co-operate with each other to achieve the Local Government's corporate goals and strategies. To achieve that position Members need to:

- (a) accept that their role is one of leadership and not a management or administrative one;
- (b) acknowledge that they have no capacity to individually direct employees to carry out particular functions;
- (c) not expect work to be expedited by employees in relation to requests or complaints they make about matters in which they or a person closely associated with them has an interest.

### **2.7 Appointment to other Bodies**

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

## **ELECTED MEMBERS**

- (a) clearly understand the basis of their appointment and their position as representatives of Council; and
- (b) provide regular reports to Council on the activities of the organisation.

### **2.8 Travelling and Sustenance Expenses**

Members should 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.

### **2.9 Access to Information**

Members acknowledge that they -

- (a) will be entitled to access all information necessary for them to properly perform their functions and comply with their responsibilities as members;
- (b) will only be given access to Local Government information relating to a matter in which they may have an interest in the sense dealt with in 3.10(a), that is, freely available to any other elector, ratepayer or resident of the Shire of Mundaring; and
- (c) will ensure that information or documents that do not form part of the official records of the Local Government or are not otherwise known to the decision-maker are not used in the decision-making process of Council.

## **3. Prevention of Corruption**

Members -

- (a) should ensure that corruption controls are established and maintained;
- (b) must report to the Shire President or Chief Executive Officer, any evidence or suspicion they have on reasonable grounds of corruption on the part of any Member, employee or any other person providing services including advice to the Local Government; and
- (c) generally should be mindful of the requirements of the Corruption and Crime Legislation.

In this context "corruption" includes not only conduct which involves a breach of a written law, but also dishonesty or other serious improper conduct.

## ELECTED MEMBERS

### 4. Token and Notifiable Gifts

**The Local Government (Administration) Regulations provide:**

**34B. Codes of conduct (token gifts) — s. 5.103(3)**

- “(2) A code of conduct is to contain a requirement that a council member or an employee cannot accept a gift, other than a token gift, from a person who is undertaking, or is likely to undertake, business —
- (a) that requires the person to obtain any authorisation from the local government;
  - (b) by way of contract between the person and the local government; or
  - (c) by way of providing any service to the local government.”

The Chief Executive Officer will maintain a register of token gifts.

A Member who accepts a token gift that is required to be entered in the register must report promptly to the CEO in writing –

- (a) the names of the persons who gave, and received the token gift;
- (b) the date of receipt of the token gift; and
- (c) a description and the estimated value of the token gift.

**Local Government (Rules of Conduct) Regulations provide:**

**“12. Gifts**

(1) In this regulation —

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

- (a) that cannot be undertaken without an authorization 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;

## ELECTED MEMBERS

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

- (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.

**A token gift under the value of \$50 is not required to be reported upon. (Refer to following schedule).**

## ELECTED MEMBERS

### Schedule of Exempt Token Gifts

**The following is a guide for the purpose of assessing when a gift need not be included in the gift register providing any such gift is under the value of \$50.00.**

Trinket gifts of an insignificant nature, ie bios, key rings, diaries, coasters etc.

Minor items of apparel, ie ties, hats, tee shirts etc.

Minor items of a promotional nature, ie mugs etc.

Provision of food and refreshments.

Travel and other related benefits such as accommodation.

Goods and materials obtained by attendance at courses, conferences and seminars and the like including items such as satchels, (and contents of a minor nature) minor spot prizes and raffles etc and entertainment provided irrespective of value.

Attendance or participation at sporting, cultural, recreational facilities and events.

Receipt of professional, trade or like services etc.

Gifts of a seasonal or personal nature.

Token gifts and hospitality received as a result of attendance at, or involvement with another local government, or the state or federal government (or any other committee or group which Council has endorsed councillors or employees involvement with).

## **COMMITTEE MEMBERS**

### ***SECTION TWO – COMMITTEE MEMBERS***

Definitions:

In this section:

“Elected Member” means an elected member of the Council of the Shire of Mundaring

“Member” means an Elected Member or other person appointed to a committee of Council;

“other person” has the meaning given to it by s5.9(1) of the Local Government Act;

“Local Government” means the Shire of Mundaring

“employee” means an employee of the Shire of Mundaring

## **1. Conflict and Disclosure of Interest**

### **1.1 Conflict of Interest**

Members -

- (a) should ensure there is no actual conflict or incompatibility between their personal interests and the impartial fulfilment of their official duties;
- (b) 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 Council, and 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) are to disclose any interest they have in any matter to be discussed at a Council or committee meeting they will attend or in respect of which the member has given or will give advice;
- (d) “interest” in this Code of Conduct has the meaning given to it by the Local Government Act including financial, proximity, impartiality and any other personal interests;–
- (e) when required to deal with the Local Government in person, shall disclose that fact to employees if they are acting in any capacity other than their official capacity as members of the Council;
- (f) who have an interest in an agenda item shall not discuss that item with other members at gatherings of the Council immediately prior to a meeting at which that agenda will be presented; and
- (g) are not to provide written information to other Members in relation to matters in which they later disclose an interest unless that information is to be officially tabled for inclusion in the Local Governments records.

## **COMMITTEE MEMBERS**

### **1.2 Financial or Proximity Interest**

- (a) Members who have a direct or indirect financial or proximity interest in a matter to be considered by the Committee (i.e. one in which there is a reasonable likelihood or expectation of loss or gain) are required to disclose the nature of the interest and are not to take part in discussion or vote on the issue except to the extent that the Local Government Act specifically allows on resolution of the Committee or decision of the Minister.
- (b) The onus is on a Member to identify possible financial or proximity interests or other interests which may be perceived to affect impartiality, and to determine whether such interest is one to which no statutory exemption applies.
- (c) Notwithstanding this Code of Conduct and in addition to anything contained in it, Members will comply in all respects with the provisions of the Local Government Act and the Local Government (Administration) Regulations 1996.

### **1.3 Disclosure of Interest**

- (a) Members must disclose to the Chief Executive Officer or at the relevant meeting before the matter is discussed interests that might be in conflict with their public or official duties.
- (b) Whenever disclosure is required, recommended in this Code, or otherwise seems appropriate, it should be made promptly and fully as a record will be kept in a special register.

## **2. Personal Benefit**

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

Members will not use confidential information for any purpose other than the performance of the Member's functions as a Member of the Committee. For the purpose of this Code of Conduct, "confidential information" includes any information the Member acquires or has access to by reason of being a Member of a Committee of Council and which is not presently freely available to other electors, ratepayers or residents of the Shire of Mundaring.

### **2.2 Improper Use of Information**

Members must not make improper use of any information acquired in the performance of their duties as Members of a Committee of Council:

- (a) to gain directly or indirectly an advantage for themselves or any other person; or
- (b) to cause detriment to the Local Government or any other person.

(Local Government Act s.5.93).

## **COMMITTEE MEMBERS**

### **2.3 Intellectual Property**

The title to Intellectual Property produced, acquired or arising out of the performance of any duty under a contract of employment or through the work or activities of Council or a Committee of the Council will vest, upon its creation or unless otherwise agreed by separate contract, in the local government.

Intellectual property includes the knowledge an individual gains from access to privileged information, and members must acknowledge that information is the property of the Local Government and is not to be used for personal gain or application.

### **2.4 Improper or Undue Influence**

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

### **2.5 Gifts and Bribery**

- (a) Members will not seek or accept (directly or indirectly) from any person or body, any immediate or future gift, reward or benefit for themselves or for any other person or body, relating to their status with the Local Government or their performance of any duty or work which touches or concerns the Local Government.
- (b) If any gift, reward or benefit is offered (other than gifts of a token kind, or moderate acts of hospitality) disclosure must be made in a prompt and full manner and in writing for the appropriate record.

## **3. Conduct of Members**

### **3.1 Personal Behaviour**

Members will:

- (a) act and be seen to act properly and in accordance with the requirements of the law and the terms of this Code;
- (b) perform their duties impartially and in the best interests of the whole of the Local Government uninfluenced by fear or favour;
- (c) act in good faith (i.e. honestly, for proper purposes, and without exceeding their power) in the interests of the local government;
- (d) make no allegations which are derogatory of the Local Government or any person or which are otherwise improper 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 Local Government; and

## COMMITTEE MEMBERS

- (f) represent and promote the interests and decisions of the whole of the Local Government at all times.

### 3.2 Honesty and Integrity

Members will:

- (a) observe the highest standards of honesty, integrity and propriety and avoid conduct which might suggest any departure from these standards, noting that in this Code of Conduct:

"honesty" includes acting with sincerity and not lying or knowingly misleading, cheating or stealing;

"integrity" refers not only to knowing what is the right thing to do but having the moral strength and courage to act on one's convictions and on principle rather than expediency; and

"propriety" is to behave correctly as befits one's official duties and function as a Committee Member;

- (b) promptly bring to the notice of the President or Chief Executive Officer any dishonesty on the part of any other Member or employee;
- (c) be frank, honest and fair in their official dealings with each other and in the performance of their duties as Members;
- (d) be objective and consider all presented information, including that presented at a Committee meeting, prior to making a decision.

(Objectivity is a state of mind which imposes on an individual the obligation to be fair and impartial, intellectually honest and free of conflicts of interest and bias.)

### 3.3 Administrative and Management Practices

Members should ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

### 3.4 Development of Skills and Competence

Members must continually strive to improve their skills and competence as Members, and to maintain their knowledge and encourage the development of the skills and competence of fellow Members and employees associated with them.

## **COMMITTEE MEMBERS**

### **3.5 Corporate Obligation**

As a representative of the community, a Member needs to be not only responsive to community views, but to adequately communicate the attitudes and decisions of Council. In doing so, a Member should acknowledge and ensure that:

- (a) as a Member of the Committee there is respect for the decision-making processes of the Committee and Council noting that decisions are made by the statute-sanctioned majority;
- (b) information of a confidential nature is not to be communicated until it is no longer treated as confidential;
- (c) information relating to decisions of the Local Government on approvals, permits and other determinations on applications should only be communicated in an official capacity by a designated officer of the Local Government; and
- (d) information concerning adopted policies, procedures and decisions of the Local Government is conveyed accurately.

### **3.6 Relationships between Members and Employees**

In order to work effectively a Member will work as part of the Council team, with the Chief Executive Officer and other Members. That teamwork will only occur if Members and employees have a mutual respect and co-operate with each other to achieve the Local Government's corporate goals and strategies. To achieve that position Members need to:

- (a) accept that their role is one of leadership to the Committee and the Council, not a management or administrative one;
- (b) acknowledge that they have no capacity to individually direct employees to carry out particular functions;
- (c) not publicly criticise employees in a way that casts aspersions on their professional competence or credibility; and
- (d) not expect work to be expedited by employees in relation to requests or complaints they make about matters in which they or a person closely associated with them has an interest.

### **3.7 Use of Local Government Funds and Equipment**

Members will:

- (a) be scrupulously honest in their use of Local Government funds and equipment and will not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- (b) use Local Government resources entrusted to them effectively and economically in the course of their duties; and

## COMMITTEE MEMBERS

- (c) not use Local Government resources including the services of Local Government employees for private purposes.

### 3.8 Access to Information

Members acknowledge that they -

- (a) will be entitled to access all information necessary for them to properly perform their functions and comply with their responsibilities as members;
- (b) will ensure that information provided to them is used properly and to assist in the process of making reasonable and informed decisions on matters before the Committee and Council;
- (c) will only be given access to Local Government information relating to a matter in which they may have an interest in the sense dealt with in 3.8 (a), that is freely available to any other elector, ratepayer or resident of the Shire of Mundaring; and
- (d) will ensure that information or documents that do not form part of the official records of the Local Government or are not otherwise known to the decision-maker are not used in the decision making process of the Committee and Council.

## 4. Prevention of Corruption

Members -

- (a) should ensure that corruption controls are established and maintained;
- (b) must report to the Shire President or Chief Executive Officer any evidence or suspicion they have on reasonable grounds of corruption on the part of any Member, employee or any other person providing services including advice to the local government; and
- (c) generally should be mindful of the requirements of the Corruption and Crime Legislation.

In this context "corruption" includes not only conduct which involves a breach of a written law, but also dishonesty or other serious improper conduct.

# EMPLOYEES

## ***SECTION THREE – EMPLOYEES***

Definitions:

In this section:

“Elected Member” means an elected member of the Council of the Shire of Mundaring

“Member” means an Elected Member or other person appointed to a committee of Council;

“other person” has the meaning given to it by s5.9(1) of the Local Government Act;

“Local Government” means the Shire of Mundaring

“employee” means an employee of the Shire of Mundaring

### **1. Conflict and Disclosure of Interest**

#### **1.1 Conflict of Interest**

Employees -

- (a) should ensure that there is no actual conflict or incompatibility between their personal interests (financial or otherwise) and the impartial fulfilment of their professional duties;
- (b) must not engage in private work with or for any person or body with a financial 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 the employee in fact obtains advantage or in fact suffers disadvantage, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided;
- (c) must obtain written approval from the Chief Executive Officer prior to undertaking dealing in land in respect of which there may be a conflict with the functions of the Local Government (other than purchasing a principal place of residence) or any outside employment or other business dealings that relate to the activities of the local government;
- (d) who exercise a recruitment or other discretionary function must before dealing with relatives or close friends, disclose the relationship and, whenever possible, or if in doubt, should disqualify themselves from dealing with those persons;
- (e) are made aware that if they contemplate running for election to Council, or to State or Federal Parliament, there may either be a conflict of interest or an appearance of a conflict of interest in the performance of their duties;
- (f) wishing to undertake employment outside of the Local Government should first obtain the approval of the Chief Executive Officer. No such other employment should compromise or be capable of compromising the activities performed by the local government;

## EMPLOYEES

- (g) are to disclose any interest they have in any matter to be discussed at a Council or committee meeting that will be attended by the employee or in respect of which the employee has given or will give advice or will give a report. The disclosure is to be made at the meeting if the employee is in attendance. In all other instances the disclosure is to be made to the Chief Executive Officer immediately the employee becomes aware that the matter in which he/she has an interest is to be discussed as mentioned above;

"Interest" in this section has the meaning given to it in s.5.60 of the Local Government Act (financial and proximity interests) and in s.34C of the Local Government (Administration) Regulations 1996 (impartiality interest).

- (h) when required to deal with an officer of the Local Government in person shall disclose to the officer the capacity in which they are acting, i.e. as a employee or as a private individual;
- (i) who have a personal, financial or proximity interest in a matter are to raise issues relative to that matter only with the relevant Executive Manager or the Chief Executive Officer and not with other officers;
- (j) are not to provide written information to any Council Member in relation to a matter in which they propose later to disclose an impartiality, financial or proximity interest, or in relation to which there would later be an obligation to disclose an impartiality, financial or proximity interest, unless a copy of that written information is officially recorded and filed in the Local Government's records; and
- (k) who hold an impartiality, financial or proximity interest in an agenda item shall not discuss that item with either elected Members or Committee Members at gatherings of the Council or Committee immediately prior to or during a meeting at which that agenda item is proposed to be presented.

### 1.2 Financial or Proximity Interest

- (a) An employee who has an interest in a matter within the meaning of the term "interest" in s.5.60 of the Act (financial or proximity interest) likely to be considered by a meeting of a committee of the Council, of which the employee is a member, is not to take part in discussion or vote on the matter.
- (b) The obligation of an employee to disclose a financial or proximity interest at a meeting in relation to a matter on which the employee is to give advice or provide a report is set out in paragraph (g) of 1.1 above.
- (c) The onus is on employees to identify any possible impartiality, financial or proximity interest and to determine and comply with any obligation imposed in respect of such an interest under this Code of Conduct and any written law.

## **EMPLOYEES**

- (d) Notwithstanding any provision in this Code of Conduct, employees are required to comply in all respects with the provisions of the Local Government Act 1995 and the Local Government (Administration) Regulations 1996 relating to financial, proximity and impartiality interests.

### **1.3 Disclosure of Interest**

- (a) Where an employee has an impartiality, financial or proximity interest in any matter which under the preceding provisions of this Code of Conduct ought to be disclosed, or which might be perceived as being in conflict with the interest of another person capable of being affected by a decision of the Council, the interest of the employee must be disclosed to the Chief Executive Officer prior to any relevant meeting, or at the meeting if prior disclosure is not possible.
- (b) Whenever disclosure of an interest by an employee is required or recommended by this Code or any other law, the disclosure should be made immediately the employee becomes aware of the circumstances which give rise to the requirement of disclosure, and should be made fully explaining at least the nature of the employee's interest, as a record will be kept in a special register.

## **2. Personal Benefit**

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

Employees must not use confidential information for any purpose other than the performance of their duties as employees.

### **2.2 Use of Information**

Employees must not make improper use of any information acquired in the performance of their duties as employees of the local government:

- (a) to gain directly or indirectly an advantage for themselves or any other person; or
- (b) to cause detriment to the Local Government or any other person.

### **2.3 Intellectual Property**

The title to Intellectual Property produced, acquired or arising out of the performance of any function or duty under a contract of employment will vest upon its creation or unless otherwise agreed by separate contract, in the local government.

Intellectual property includes the knowledge an individual gains from access to privileged information, and employees must acknowledge that information is the property of the Local Government and is not to be used for personal gain of the employee or any other person.

## **EMPLOYEES**

### **2.4 Improper or Undue Influence**

Employees must 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, or to cause any detriment to any person.

### **2.5 Gifts and Bribery**

- (a) Employees must not seek or accept (directly or indirectly) from any person or body, any immediate or future gift, reward or benefit for themselves or for any other person or body, relating to their status with the Local Government or their performance of any duty or function which touches or concerns the local government.
- (b) If any gift, reward or benefit is offered (other than gifts of a token kind, or moderate acts of hospitality) disclosure must be made in a prompt and full manner and in writing for the appropriate record.

## **3. Conduct of Employees**

### **3.1 Personal Behaviour**

Employees must:

- (a) act and be seen to act properly and in accordance with the requirements of the law and the terms of this Code;
- (b) perform their duties impartially and in the best interests of the whole of the Local Government uninfluenced by fear or favour;
- (c) act in good faith (i.e. honestly, for proper purposes, and without exceeding their power) in the interests of the local government;
- (d) make no allegations which are derogatory of the Local Government or any person or which are otherwise improper 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 local government; and
- (f) represent and promote the interests and decisions of the whole of the Local Government at all times.

### **3.2 Honesty and Integrity**

Employees must:

- (a) observe the highest standards of honesty, integrity and propriety and avoid conduct, which might suggest any departure from these standards, noting that in this code.
  - "honesty" includes acting with sincerity and not lying or knowingly misleading, cheating or stealing.

## **EMPLOYEES**

- "integrity" refers not only to knowing what is the right thing to do but having the moral strength and courage to act on one's convictions and on principle rather than expediency; and
  - "propriety" is to behave correctly as befits the duties of one's professional responsibilities and role;
- (b) promptly bring to the notice of the Chief Executive Officer any apparent dishonesty on the part of any other employee or Member of the Council or a Committee of the Council;
  - (c) be frank, honest and fair in their official dealings with each other in the performance of their duties as employees; and
  - (d) be objective in undertaking their professional duties and functions.

(Objectivity is a state of mind which imposes on an individual the obligation to be fair and impartial, intellectually honest and free of conflicts of interest.)

### **3.3 Performance of Duties**

While on duty, employees will give their whole time and attention to the business of the Local Government 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.

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

- (a) Employees must 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) Employees should give effect to the lawful policies of the Local Government whether or not they agree with or approve of them.

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

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

### **3.6 Professional Development**

Employees must continually strive to improve their professional competence, maintain their knowledge and encourage the development of the skills and competence of associates.

# EMPLOYEES

## 3.7 Corporate Obligation

### (a) Standard of Dress

Employees are expected to comply with neat and responsible dress standards at all times. Such standards prohibit the wearing of inappropriate footwear, or any clothing which overly advertises or sponsors particular products, events or services. Management reserves the right to raise the issue of dress with individual employees.

Employees supplied with a Local Government uniform must wear that uniform and comply with this clause.

### (b) Communication and Public Relations

All aspects of communication by employees (including oral, written or personal), involving the local governments activities should reflect the status and objectives of the local government. Communications should be accurate, polite and professional.

Employees should not comment on what are clearly political issues as that is the prerogative of the President or the Chief Executive Officer.

## 3.8 Relationships between Employees and Members

Teamwork will only occur if employees have mutual respect for and co-operate with each other and with Members of Council and any committee of the Council to achieve the Local Government's corporate goals and strategies. To achieve this, employees need to:

- (a) accept that their role is a management or administrative one; and
- (b) refrain from publicly criticising other employees or Members of Council or any committee members of Council in a way that casts aspersions on their professional competence or credibility.
- (c) not expect work to be expedited by employees in relation to requests or complaints they make about matters in which they or a person closely associated with them has an interest.

## 3.9 Appointment to Committees

As part of their role employees may be asked to represent the Local Government on external organisations. It is important that employees -

- (a) clearly understand the basis of their appointment as a representative or delegate of the local government; and
- (b) provide regular reports to the Council or the Chief Executive Officer or their superior as appropriate on the activities of the organisation.

## **EMPLOYEES**

### **3.10 Use of Local Government Funds and Equipment**

Employees must:

- (a) be scrupulously honest in their use of the local government's funds and equipment and will not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- (b) use the Local Government's 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 the Local Government's employees) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so by the Chief Executive Officer.

### **3.11 Travelling and Sustenance Expenses**

Employees should 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 the Local Government policy and the provisions of the Local Government Act.

### **3.12 Access to Information**

Employees:

- (a) will be given access to all information necessary for them to properly perform their duties and functions;
- (b) must ensure that information provided to them will be used properly and to assist in the process of making reasonable and informed decisions on matters affecting the local government;
- (c) are only intended to have access to Local Government information relating to a matter in which they may have a personal, financial or proximity interest where that information is freely available to any other ratepayer or which information they would be able to obtain under the Freedom of Information Act; and
- (d) must ensure that only information or documents which are part of the records of the Local Government whether public or confidential and whether included in a report or in any other form, are used in the decision-making process of the Council.

## **EMPLOYEES**

### **4. Prevention of Fraud, Illegality and Improper Conduct**

Employees:

- (a) who are Local Government managers, are responsible for preventing fraud by ensuring that fraud prevention controls are established and maintained in their area of responsibility;
- (b) must report to the Shire President or Chief Executive Officer any evidence of fraud or illegal or improper conduct. This requirement is intended to be in line with the Corruption and Crime Legislation; and
- (c) should inform themselves of and be mindful of the requirements of the Corruption and Crime Legislation.

## COMMITTEE MEMBERS AND EMPLOYEES

### ***SECTION FOUR – MEMBERS AND EMPLOYEES***

#### **5. Token Gifts**

**An employee must not accept a gift other than a token gift from a person who is undertaking or is likely to undertake business with the local government.**

**The Local Government (Administration) Regulations provide:**

#### **34B. Codes of conduct (gifts) — s. 5.103(3)**

(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) 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;

**“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.

(2) A code of conduct is to contain a requirement that a person who is an employee refrain from accepting a prohibited gift from 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.

(3) A code of conduct is to contain a requirement that a person who is an employee and who accepts a notifiable gift from a person who —

## COMMITTEE MEMBERS AND EMPLOYEES

- (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,

notify the CEO, in accordance with subregulation (4) and within 10 days of accepting the gift, of the acceptance.

(4) A code of conduct is to require that the notification of the acceptance of a notifiable gift be in writing and 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 an employee 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” in subregulation (1) (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) A code of conduct is to require that the CEO maintain a register of notifiable gifts and record in it details of notifications given to comply with a requirement made under subregulation (3).

### **34C. Codes of conduct (disclosure of interests affecting impartiality) — s. 5.103(3)**

(1) In this regulation —

“**interest**” means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

(2) A code of conduct is to contain a requirement that 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 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) A code of conduct is to contain a requirement that 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 disclose the nature of any interest the person has in the matter —

- (a) in a written notice given to the CEO before the meeting; or
- (b) at the time the advice is given.

(4) A code of conduct is to exclude from a requirement made under subregulation (2) or (3) an interest referred to in section 5.60.

## COMMITTEE MEMBERS AND EMPLOYEES

(5) A code of conduct is to excuse a person from a requirement made under subregulation (2) or (3) to disclose the nature of an interest if —

- (a) the person's failure to disclose occurs because the person did not know he or she had an interest in the matter; or
- (b) 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.

(6) A code of conduct is to require that if, to comply with a requirement made under subregulation (2) or (3), a person who is an employee makes a disclosure 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) 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.

(7) If —

- (a) to comply with a requirement made under subregulation (2), the nature of a person's interest in a matter is disclosed at a meeting; or
- (b) a disclosure is made as described in subregulation (5)(b) at a meeting; or
- (c) to comply with a requirement made under subregulation (6)(b), 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.

**A token gift is defined as being a gift under the value of \$50.00, but does not include gifts defined by Council as exempt token gifts. (Refer to following schedule).**

## COMMITTEE MEMBERS AND EMPLOYEES

### Schedule of Exempt Token Gifts.

**The following is a guide for the purpose of assessing when a gift need not be included in the token gift register providing any such gift is under the value of \$50.00.**

Trinket gifts of an insignificant nature, i.e. biros, key rings, diaries, coasters etc.

Minor items of apparel, i.e. ties, hats, tee shirts etc.

Minor items of a promotional nature, i.e. mugs etc.

Provision of food and refreshments.

Travel and other related benefits such as accommodation.

Goods and materials obtained by attendance at courses, conferences and seminars and the like including items such as satchels, (and contents of a minor nature) minor spot prizes and raffles etc and entertainment provided irrespective of value.

Attendance or participation at sporting, cultural, recreational facilities and events.

Receipt of professional, trade or like services etc.

Gifts of a seasonal or personal nature.

Token gifts and hospitality received as a result of attendance at, or involvement with another local government, or the State or Federal Government (or any other Committee or group with which Council has endorsed Councillors' or employees' involvement).

**COMMITTEE MEMBERS AND EMPLOYEES**

***Shire of Mundaring***

**Code of Conduct**

**Statement**

**I** \_\_\_\_\_  
(Name)

**of** \_\_\_\_\_  
(Residential Address)

Having been appointed as a member of a council, a member of a council committee or as an employee (*strike out which is not applicable*) of the Shire of Mundaring I acknowledge and promise that I will abide by Shire's Code of Conduct during my appointment as a committee member or an employee of the Shire of Mundaring.

**Signed:** \_\_\_\_\_

**Date:** \_\_\_\_\_