



**File Code: OR.MTG 6/1/2**

**4 February 2016**

## **NOTICE OF MEETING**

Dear Committee Member

The next Audit & Risk Committee meeting will be held on Tuesday 9 February 2016 at 4.30pm in the Committee Room, 7000 Great Eastern Highway, Mundaring.

Yours sincerely

**Paul O'Connor**  
**DIRECTOR CORPORATE SERVICES**

### **Please Note**

If any Committee member has a query regarding a report item or requires additional information in relation to a report item, please contact the senior officer (noted in the report) prior to the meeting.



## **AGENDA**

### **AUDIT & RISK COMMITTEE MEETING**

**9 FEBRUARY 2016**

#### **ATTENTION/DISCLAIMER**

The purpose of this Committee Meeting is to discuss and make recommendations to Council about items appearing on the agenda and other matters for which the Committee is responsible. The Committee has no power to make any decisions which are binding on the Council or the Shire of Mundaring unless specific delegation of authority has been granted by Council. No person should rely on or act on the basis of any advice or information provided by a Member or employee, or on the content of any discussion occurring, during the course of the Committee Meeting.

The Shire of Mundaring expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any advice or information provided by a Member or employee, or the content of any discussion occurring during the course of the Committee Meeting.

## LEGEND

To assist the reader, the following explains the method of referencing used in this document:

<b>Item</b>	<b>Example</b>	<b>Description</b>
Page Numbers	ARC1 APRIL 12 (ARC2, ARC3 etc)	Sequential page numbering of ARC Agenda or Minutes for February 2016
Item Numbers	8.1 (8.2, 8.3 etc)	Sequential numbering of reports under the heading "8.0 Reports of Officers"
Committee Recommendation Reference	ARC11.02.16	Committee Recommendation number 11 from ARC meeting February 2016
Committee Decision Reference	DARC7.02.16	Committee Decision number 7 from ARC meeting February 2016

# CONTENTS

---

<b>1.0</b>	<b>OPENING PROCEDURES</b>	<b>4</b>
1.1	ANNOUNCEMENT OF VISITORS .....	4
1.2	RECORD OF ATTENDANCE/APOLOGIES .....	4
<b>2.0</b>	<b>ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION</b>	<b>4</b>
<b>3.0</b>	<b>DECLARATION OF INTEREST</b>	<b>4</b>
3.1	DISCLOSURE OF FINANCIAL INTEREST AND PROXIMITY INTERESTS .....	4
3.2	DISCLOSURE OF INTEREST AFFECTING IMPARTIALITY .....	4
<b>4.0</b>	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE</b>	<b>4</b>
<b>5.0</b>	<b>PUBLIC QUESTION TIME</b>	<b>4</b>
<b>6.0</b>	<b>CONFIRMATION OF MINUTES OF PREVIOUS MEETING</b>	<b>5</b>
<b>7.0</b>	<b>PRESENTATIONS</b>	<b>5</b>
7.1	DEPUTATIONS .....	5
7.2	PETITIONS.....	5
7.3	PRESENTATIONS.....	5
<b>8.0</b>	<b>REPORTS OF EMPLOYEES</b>	<b>6</b>
8.1	APPOINTMENT OF AUDITOR .....	6
8.2	COMPLIANCE AUDIT RETURN 2015 – DEPARTMENT OF LOCAL GOVERNMENT .....	11
8.3	INTERNAL AUDIT CHARTER .....	25
8.4	REVIEW OF COUNCIL POLICY HR-01 – EQUAL OPPORTUNITY AND ANTI-BULLYING .....	30
8.5	REPEAL OF POLICY OR-05 – COMMUNICATION BETWEEN ELECTED MEMBERS AND EMPLOYEES .....	42
<b>9.0</b>	<b>ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>	<b>47</b>
<b>10.0</b>	<b>URGENT BUSINESS (LATE REPORTS)</b>	<b>47</b>
<b>11.0</b>	<b>CONFIDENTIAL REPORTS</b>	<b>47</b>
<b>12.0</b>	<b>CLOSING PROCEDURES</b>	<b>47</b>
12.1	DATE, TIME AND PLACE OF THE NEXT MEETING .....	47
12.2	CLOSURE OF THE MEETING .....	47



Note: This is not a verbatim record of questions asked and answers given. It is a summary only.

## **6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

[That the minutes of the meeting of the Audit and Risk Committee Meeting held Tuesday 11 November 2015 be confirmed.](#)

## **7.0 PRESENTATIONS**

**7.1 Deputations**

**7.2 Petitions**

**7.3 Presentations**

## 8.0 REPORTS OF EMPLOYEES

### 8.1 Appointment of Auditor

---

---

<b>File Code</b>	FI.RPA 5
<b>Author</b>	Stan Kocian, Manager Finance and Governance
<b>Senior Officer</b>	Paul O'Connor, Director Corporate Services
<b>Disclosure of Any Interest</b>	Nil

---

---

#### SUMMARY

The purpose of this report is for Council to appoint the Shire's auditor for the 2015/16, 2016/17 and 2017/18 financial years.

#### BACKGROUND

The Shire's current audit contract (with Macri Partners) expired upon the completion of the 2014/15 audit.

As such, Council is now required to appoint an auditor, for a term of no more than five years, in accordance with the section 7.2 of the *Local Government Act 1995* for the purpose of auditing the statutory financial statements and any other required financial/accounting reviews.

The auditor is to carry out such work as is necessary to form an opinion as to whether:

- (a) the accounts are properly kept; and
- (b) the annual financial report –
  - (i) is prepared in accordance with the financial records; and
  - (ii) represents fairly the results of the operations of the local government and the financial position of the local government at 30 June in accordance with the Australian Accounting Standards, the *Local Government Act 1995*, the *Local Government (Financial Management) Regulations 1996* and other mandatory professional reporting requirements.

On 8 December 2015, seven audit firms on WALGA's preferred supplier panel were approached to provide quotations for the Shire's external audit service.

Submissions closed Friday 8 January 2016. At the close of submissions, the Shire had received quotes from the following four firms:

- Macri Partners
- Butler Settineri
- PKF
- Moore Stephens

The submissions received from the four audit firms are provided as a confidential attachment to this report (**CONFIDENTIAL ATTACHMENTS 1, 2, 3 & 4**).

## **STATUTORY / LEGAL IMPLICATIONS**

The *Local Government Act 1995* sets out the requirements for appointment of an auditor local government as follows:

### **Division 2 – Appointment of Auditors**

7.2 The accounts and annual financial report of a local government for each financial year are required to be audited by an auditor appointed by the local government.

7.3 Appointment of auditors

(1) A local government is to, from time to time whenever such an appointment is necessary or expedient appoint \*a person, on the recommendation of the audit committee, to be its auditor.

\*Absolute majority required.

(2) The local government may appoint one or more persons as it's auditor.

(3) The local government's auditor is to be a person who is:  
(a) a registered company auditor; or  
(b) an approved auditor.

7.6 Term of office of auditor

(1) The appointment of a local government's auditor is to have effect in respect of the audit of the accounts and annual financial report of the local government for a term of not more than 5 financial years, but an auditor is eligible for re-appointment.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

The amounts stated in the quote accepted by Council will be included as a provision in the budgets for the 2016/17, 2017/18 and 2016/17 financial years.

## **STRATEGIC IMPLICATIONS**

Strategic Theme 4: Respected Civic Leadership – Strong civic leadership and governance.

## **SUSTAINABILITY IMPLICATIONS**



Nil

## **RISK IMPLICATIONS**

Not appointing an external auditor for the 2015/16 financial year would result in a failure to comply with legislative requirements.

## **EXTERNAL CONSULTATION**

Nil

## **COMMENT**

The assessment of the four submissions was undertaken by the Manager Finance and Governance based on the information provided in each submission against each of the following non- price criteria:

- Audit Plan & Methodology – 40% weighting
- Local Government Audit Experience - 30% weighting
- Resources, Key Personnel Skills and Experience – 30% weighting.

The criteria have been used to assess each firm's resources and capacity to satisfy Council's requirements.

The submissions were assessed against each of the criteria with a score of between 1 and 10 given. A total score out of 10 was then calculated based on the weighting against each of the criteria. Below is a table which summarises the total weighted scores for each submission. A detailed breakdown of the scores against each of the criteria is provided as a confidential attachment (**CONFIDENTIAL ATTACHMENT 5**).

<b>Firm</b>	<b>Total Weighted Score out of 10</b>
Moore Stephens	8.6
Macri Partners	8.25
Butler Settineri	7
PKF	5.85

Based on the matrix used to assess the submissions, Moore Stephens scored highest with a weighted score of 8.6 out of 10. The next highest scoring submissions are Macri Partners (8.25), Butler Settineri (7) and PKF (5.85).

The following table details the prices quoted by each firm for each year of the term of the audit appointment.

<b>PRICE SCHEDULE (ex GST)</b>				
	<b>PKF</b>	<b>Moore Stephens</b>	<b>Macri Partners</b>	<b>Butler Sentineri</b>
<b>2015/16</b>	\$ 15,000.00	\$ 20,000.00	\$ 20,000.00	\$ 11,750.00
<b>2016/17</b>	\$ 16,000.00	\$ 21,000.00	\$ 21,000.00	\$ 11,750.00
<b>2017/18</b>	\$ 17,000.00	\$ 22,000.00	\$ 22,000.00	\$ 12,500.00
<b>Total</b>	<b>\$ 48,000.00</b>	<b>\$ 63,000.00</b>	<b>\$ 63,000.00</b>	<b>\$ 36,000.00</b>

Moore Stephens provided a detailed comprehensive approach and methodology in their submission. They have significant experience in auditing local governments in Western Australia (WA) and have 39 current local government clients. Their clients range across local governments in the metropolitan, regional and rural areas of WA. The senior staff at Moore Stephens have significant experience and are highly regarded in the local government industry for their knowledge and understanding of local government accounting. Moore Stephens have allocated 115 hours per audit for each year.

Macri Partners have been the Shire's auditors for a number of years. The submission they provided detailed a plan and methodology that satisfies the legislative requirements for an audit. Macri Partners, with 16 current local government clients, have a long history of auditing several metropolitan local governments. Their senior staff have significant experience and expertise in local government audits. Macri Partners have allocated 113 hours per audit for each year.

Butler Settineri's proposed audit plan and methodology satisfies the legislative requirements for an audit. They currently have 17 local government clients, the majority of which are small rural councils. Their senior staff appear to have the relevant audit experience. Butler Settineri has allocated 104 hours per audit for each year.

PKF's proposed audit plan and methodology satisfies the legislative requirements for an audit. They have stated they have experience in auditing local governments through auditing four local governments; however it is unclear if the local governments listed are current clients. Their senior staff appear to have the relevant audit experience. PKF has allocated 90 hours per audit for each year.

Council should note that the Act specifies that it is a person(s) that is appointed as auditor, not the company which employs the person. Therefore, when the audit report is received it must be signed by the person(s) appointed as the auditor; it cannot be the generic signature identifying the firm.

## **VOTING REQUIREMENT:**

Absolute majority

<b>RECOMMENDATION</b>
-----------------------

That Council, by absolute majority:

1. Appoint Messrs David Tomasi, Greg Godwin and Wen-Shien Chai of Moore Stephens as the Shire of Mundaring's external auditors for the financial years ending 30 June 2016, 30 June 2017 and 30 June 2018;
2. Agree to the quoted process of \$20,000 (ex GST), \$21,000 (ex GST) and \$22,000 (ex GST) for each of the respective years of the audit engagement; and
3. Write to Anthony Macri of Macri Partners, the Shire's previous auditors, and thank him for services rendered.

**NEXT REPORT**

## 8.2 Compliance Audit Return 2015 – Department of Local Government

---

---

<b>File Code</b>	FI.RPA 5
<b>Author</b>	Stan Kocian, Manager Finance & Governance
<b>Senior Employee</b>	Paul O'Connor, Director Corporate Services
<b>Disclosure of Any Interest</b>	Nil

---

---

### SUMMARY

The purpose of this report is to present the Audit and Risk Committee with the completed 2015 Compliance Audit Return (CAR).

The Audit and Risk Committee is requested to review the CAR and recommend its endorsement to Council for adoption.

### BACKGROUND

In accordance with the *Local Government Act 1995* and *Local Government (Audit) Regulations 1996*, a local government is required to complete an annual CAR for the period 1 January to 31 December of the preceding year.

The CAR, after being adopted by Council, is to be forwarded to the Department of Local Government and Communities by 31 March 2016.

### STATUTORY / LEGAL IMPLICATIONS

- Section 7.13 (1) (i) of the *Local Government Act 1995* requires local governments to carry out, in the prescribed manner and in a form approved by the Minister an audit of compliance with statutory requirements prescribed in the *Local Government (Audit) Regulations 1996*.
- Regulation 13 of the *Local Government (Audit) Regulations 1996* details the statutory requirements that must be addressed within the compliance audit.
- Regulation 14 of the *Local Government (Audit) Regulations 1996* specifies the requirement to undertake a compliance audit for the annual period 1 January to 31 December and the process by which the audit return is to be considered by Council.
- Regulation 15 of the *Local Government (Audit) Regulations 1996* details the actions to be taken to certify the audit return and to submit the return by 31 March following the period to which the return relates.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

Strategic Theme 4: Respected Civic Leadership – Strong civic leadership and governance.

## **SUSTAINABILITY IMPLICATIONS**

Nil

## **RISK IMPLICATION**

Failure to complete and submit the CAR by 31 March 2016 would result in non-compliance with the legislative requirements of the *Local Government (Audit) Regulations 1996*.

## **EXTERNAL CONSULTATION**

Nil

## **COMMENT**

The purpose of the annual CAR is for individual local governments to assess their level of compliance with the *Local Government Act 1995* and associated regulations.

The CAR focuses on the following areas of compliance:

- Commercial Enterprises by Local Governments
- Delegation of Power/Duty
- Disclosure of Interest
- Disposal of Property
- Elections
- Finance
- Local Government Employees
- Official Conduct
- Tenders for Providing Goods and Services.

The 2015 CAR is attached for adoption (**ATTACHMENT 6**). It indicates that the Shire is maintaining a high level of compliance in the key areas of legislation that the CAR focuses on.

**VOTING REQUIREMENT:**

Simple Majority

<p><b>RECOMMENDATION</b></p>
------------------------------

That Council:-

1. adopts the completed 2015 Compliance Audit Return for the period 1 January 2015 to 31 December 2015 as presented in **ATTACHMENT 6**; and
2. submits the completed Compliance Audit Return for the Shire of Mundaring to the Department of Local Government and Communities after the Joint Certificate is signed by the Shire President and Chief Executive Officer.

**NEXT REPORT**

**Attachment 6**

**Item 8.2**

**10 Pages**



## Mundaring - Compliance Audit Return 2015

### Certified Copy of Return

Please submit a signed copy to the Director General of the Department of Local Government and Communities together with a copy of section of relevant minutes.

<b>Commercial Enterprises by Local Governments</b>					
No	Reference	Question	Response	Comments	Respondent
1	s3.59(2)(a)(b)(c) F&G Reg 7,9	Has the local government prepared a business plan for each major trading undertaking in 2015.	N/A	No major trading undertakings in 2015.	Stan Kocian
2	s3.59(2)(a)(b)(c) F&G Reg 7,10	Has the local government prepared a business plan for each major land transaction that was not exempt in 2015.	Yes	Business Plan prepared for Lots 50 and 51 Morrison Road in 2013. Transaction was not finalised as of 31 December 2015.	Stan Kocian
3	s3.59(2)(a)(b)(c) F&G Reg 7,10	Has the local government prepared a business plan before entering into each land transaction that was preparatory to entry into a major land transaction in 2015.	Yes	As above.	Stan Kocian
4	s3.59(4)	Has the local government given Statewide public notice of each proposal to commence a major trading undertaking or enter into a major land transaction for 2015.	Yes	As above. Business plan was advertised in September 2013.	Stan Kocian
5	s3.59(5)	Did the Council, during 2015, resolve to proceed with each major land transaction or trading undertaking by absolute majority.	Yes	Council resolved to proceed with disposal of lots 50 and 51 Morrison Road on 27/1/15.	Stan Kocian





<b>Delegation of Power / Duty</b>						
No	Reference	Question	Response	Comments	Respondent	
1	s5.16, 5.17, 5.18	Were all delegations to committees resolved by absolute majority.	Yes		Danielle Courtin	
2	s5.16, 5.17, 5.18	Were all delegations to committees in writing.	Yes		Danielle Courtin	
3	s5.16, 5.17, 5.18	Were all delegations to committees within the limits specified in section 5.17.	Yes		Danielle Courtin	
4	s5.16, 5.17, 5.18	Were all delegations to committees recorded in a register of delegations.	Yes		Danielle Courtin	
5	s5.18	Has Council reviewed delegations to its committees in the 2014/2015 financial year.	Yes	Delegations register reviewed 10 Feb 2015 - Council decision C5.02.15	Danielle Courtin	
6	s5.42(1),5.43 Admin Reg 18G	Did the powers and duties of the Council delegated to the CEO exclude those as listed in section 5.43 of the Act.	Yes		Danielle Courtin	
7	s5.42(1)(2) Admin Reg 18G	Were all delegations to the CEO resolved by an absolute majority.	Yes		Danielle Courtin	
8	s5.42(1)(2) Admin Reg 18G	Were all delegations to the CEO in writing.	Yes		Danielle Courtin	
9	s5.44(2)	Were all delegations by the CEO to any employee in writing.	Yes	Delegations by the CEO to employees form part of the delegations register.	Danielle Courtin	
10	s5.45(1)(b)	Were all decisions by the Council to amend or revoke a delegation made by absolute majority.	Yes	1. Additional delegates Bush Fires Act - decision C12.09.15 on 8 September 2015; 2. Amend delegation for Expressions of Interest and Tenders - decision C9.11.15 on 10 November 2015.	Danielle Courtin	
11	s5.46(1)	Has the CEO kept a register of all delegations made under the Act to him and to other employees.	Yes		Danielle Courtin	
12	s5.46(2)	Were all delegations made under Division 4 of Part 5 of the Act reviewed by the delegator at least once during the 2014/2015 financial year.	Yes	Council reviewed all its delegations during the meeting on 10 February 2015 (decision C5.02.15).	Danielle Courtin	
13	s5.46(3) Admin Reg 19	Did all persons exercising a delegated power or duty under the Act keep, on all occasions, a written record as required.	Yes		Danielle Courtin	

<b>Disclosure of Interest</b>						
No	Reference	Question	Response	Comments	Respondent	



No	Reference	Question	Response	Comments	Respondent
1	s5.67	If a member disclosed an interest, did he/she ensure that they did not remain present to participate in any discussion or decision-making procedure relating to the matter in which the interest was disclosed (not including participation approvals granted under s5.68).	Yes		Danielle Courtin
2	s5.68(2)	Were all decisions made under section 5.68(1), and the extent of participation allowed, recorded in the minutes of Council and Committee meetings.	Yes		Danielle Courtin
3	s5.73	Were disclosures under section 5.65 or 5.70 recorded in the minutes of the meeting at which the disclosure was made.	Yes		Danielle Courtin
4	s5.75(1) Admin Reg 22 Form 2	Was a primary return lodged by all newly elected members within three months of their start day.	Yes	All four newly elected members have completed a primary return before 19 January 2016.	Danielle Courtin
5	s5.75(1) Admin Reg 22 Form 2	Was a primary return lodged by all newly designated employees within three months of their start day.	Yes		Danielle Courtin
6	s5.76(1) Admin Reg 23 Form 3	Was an annual return lodged by all continuing elected members by 31 August 2015.	Yes		Danielle Courtin
7	s5.76(1) Admin Reg 23 Form 3	Was an annual return lodged by all designated employees by 31 August 2015.	Yes		Danielle Courtin
8	s5.77	On receipt of a primary or annual return, did the CEO, (or the Mayor/ President in the case of the CEO's return) on all occasions, give written acknowledgment of having received the return.	Yes	By return email.	Danielle Courtin
9	s5.88(1)(2) Admin Reg 28	Did the CEO keep a register of financial interests which contained the returns lodged under section 5.75 and 5.76	Yes		Danielle Courtin
10	s5.88(1)(2) Admin Reg 28	Did the CEO keep a register of financial interests which contained a record of disclosures made under sections 5.65, 5.70 and 5.71, in the form prescribed in Administration Regulation 28.	Yes		Danielle Courtin
11	s5.88 (3)	Has the CEO removed all returns from the register when a person ceased to be a person required to lodge a return under section 5.75 or 5.76.	Yes		Danielle Courtin
12	s5.88(4)	Have all returns lodged under section 5.75 or 5.76 and removed from the register, been kept for a period of at least five years, after the person who lodged the return ceased to be a council member or designated employee.	Yes		Danielle Courtin



No	Reference	Question	Response	Comments	Respondent
13	s5.103 Admin Reg 34C & Rules of Conduct Reg 11	Where an elected member or an employee disclosed an interest in a matter discussed at a Council or committee meeting where there was a reasonable belief that the impartiality of the person having the interest would be adversely affected, was it recorded in the minutes.	Yes		Danielle Courtin
14	s5.70(2)	Where an employee had an interest in any matter in respect of which the employee provided advice or a report directly to the Council or a Committee, did that person disclose the nature of that interest when giving the advice or report.	Yes		Danielle Courtin
15	s5.70(3)	Where an employee disclosed an interest under s5.70(2), did that person also disclose the extent of that interest when required to do so by the Council or a Committee.	Yes		Danielle Courtin
16	s5.103(3) Admin Reg 34B	Has the CEO kept a register of all notifiable gifts received by Council members and employees.	Yes		Danielle Courtin

### Disposal of Property

No	Reference	Question	Response	Comments	Respondent
1	s3.58(3)	Was local public notice given prior to disposal for any property not disposed of by public auction or tender (except where excluded by Section 3.58(5)).	Yes	Disposal of Lot 85/Pt Lot 213 Balfour Road advertised in November 2014. Transaction not finalised as of 31 December 2015.	Stan Kocian
2	s3.58(4)	Where the local government disposed of property under section 3.58(3), did it provide details, as prescribed by section 3.58(4), in the required local public notice for each disposal of property.	Yes	As above.	Stan Kocian

### Elections

No	Reference	Question	Response	Comments	Respondent
1	Elect Reg 30G (1)	Did the CEO establish and maintain an electoral gift register and ensure that all 'disclosure of gifts' forms completed by candidates and received by the CEO were placed on the electoral gift register at the time of receipt by the CEO and in a manner that clearly identifies and distinguishes the candidates.	N/A	No electoral gifts disclosures were received.	Danielle Courtin

### Finance

No	Reference	Question	Response	Comments	Respondent
----	-----------	----------	----------	----------	------------



No	Reference	Question	Response	Comments	Respondent
1	s7.1A	Has the local government established an audit committee and appointed members by absolute majority in accordance with section 7.1A of the Act.	Yes	Committee Members appointed by absolute majority 21/10/15.	Stan Kocian
2	s7.1B	Where a local government determined to delegate to its audit committee any powers or duties under Part 7 of the Act, did it do so by absolute majority.	Yes	Delegations reviewed by Council 10/2/15. Delegation COM-46 delegates the annual meeting with auditor to the committee.	Stan Kocian
3	s7.3	Was the person(s) appointed by the local government to be its auditor, a registered company auditor.	Yes	Anthony Macri of Macri Partners.	Stan Kocian
4	s7.3, 7.6(3)	Was the person or persons appointed by the local government to be its auditor, appointed by an absolute majority decision of Council.	Yes	Appointed 10/2/15 for the 2014/15 financial year.	Stan Kocian
5	Audit Reg 10	Was the Auditor's report for the financial year ended 30 June 2015 received by the local government within 30 days of completion of the audit.	Yes		Stan Kocian
6	s7.9(1)	Was the Auditor's report for 2014/2015 received by the local government by 31 December 2015.	Yes	Audit report signed 12/11/15.	Stan Kocian
7	S7.12A(3)	Where the local government determined that matters raised in the auditor's report prepared under s7.9 (1) of the Act required action to be taken by the local government, was that action undertaken.	N/A	No matters raised.	Stan Kocian
8	S7.12A (4)	Where the local government determined that matters raised in the auditor's report (prepared under s7.9 (1) of the Act) required action to be taken by the local government, was a report prepared on any actions undertaken.	N/A	As above.	Stan Kocian
9	S7.12A (4)	Where the local government determined that matters raised in the auditor's report (prepared under s7.9 (1) of the Act) required action to be taken by the local government, was a copy of the report forwarded to the Minister by the end of the financial year or 6 months after the last report prepared under s7.9 was received by the local government whichever was the latest in time.	N/A	As above.	Stan Kocian
10	Audit Reg 7	Did the agreement between the local government and its auditor include the objectives of the audit.	Yes		Stan Kocian
11	Audit Reg 7	Did the agreement between the local government and its auditor include the scope of the audit.	Yes		Stan Kocian
12	Audit Reg 7	Did the agreement between the local government and its auditor include a plan for the audit.	Yes		Stan Kocian



No	Reference	Question	Response	Comments	Respondent
13	Audit Reg 7	Did the agreement between the local government and its auditor include details of the remuneration and expenses to be paid to the auditor.	Yes		Stan Kocian
14	Audit Reg 7	Did the agreement between the local government and its auditor include the method to be used by the local government to communicate with, and supply information to, the auditor.	Yes		Stan Kocian

### Local Government Employees

No	Reference	Question	Response	Comments	Respondent
1	Admin Reg 18C	Did the local government approve the process to be used for the selection and appointment of the CEO before the position of CEO was advertised.	N/A	No change of CEO during 2015.	Danielle Courtin
2	s5.36(4) s5.37(3), Admin Reg 18A	Were all vacancies for the position of CEO and other designated senior employees advertised and did the advertising comply with s.5.36(4), 5.37(3) and Admin Reg 18A.	N/A		Danielle Courtin
3	Admin Reg 18F	Was the remuneration and other benefits paid to a CEO on appointment the same remuneration and benefits advertised for the position of CEO under section 5.36(4).	N/A		Danielle Courtin
4	Admin Regs 18E	Did the local government ensure checks were carried out to confirm that the information in an application for employment was true (applicable to CEO only).	N/A		Danielle Courtin
5	s5.37(2)	Did the CEO inform council of each proposal to employ or dismiss a designated senior employee.	N/A	No change in designated senior employees during 2015.	Danielle Courtin



<b>Official Conduct</b>					
No	Reference	Question	Response	Comments	Respondent
1	s5.120	Where the CEO is not the complaints officer, has the local government designated a senior employee, as defined under s5.37, to be its complaints officer.	N/A	CEO is the complaints officer.	Danielle Courtin
2	s5.121(1)	Has the complaints officer for the local government maintained a register of complaints which records all complaints that result in action under s5.110(6)(b) or (c).	Yes		Danielle Courtin
3	s5.121(2)(a)	Does the complaints register maintained by the complaints officer include provision for recording of the name of the council member about whom the complaint is made.	Yes		Danielle Courtin
4	s5.121(2)(b)	Does the complaints register maintained by the complaints officer include provision for recording the name of the person who makes the complaint.	Yes		Danielle Courtin
5	s5.121(2)(c)	Does the complaints register maintained by the complaints officer include provision for recording a description of the minor breach that the standards panel finds has occurred.	Yes		Danielle Courtin
6	s5.121(2)(d)	Does the complaints register maintained by the complaints officer include the provision to record details of the action taken under s5.110(6)(b) or (c).	Yes		Danielle Courtin

<b>Tenders for Providing Goods and Services</b>					
No	Reference	Question	Response	Comments	Respondent
1	s3.57 F&G Reg 11	Did the local government invite tenders on all occasions (before entering into contracts for the supply of goods or services) where the consideration under the contract was, or was expected to be, worth more than the consideration stated in Regulation 11(1) of the Local Government (Functions & General) Regulations (Subject to Functions and General Regulation 11(2)).	Yes		Danielle Courtin
2	F&G Reg 12	Did the local government comply with F&G Reg 12 when deciding to enter into multiple contracts rather than inviting tenders for a single contract.	N/A	No multiple contracts entered into during 2015.	Danielle Courtin
3	F&G Reg 14(1) & (3)	Did the local government invite tenders via Statewide public notice.	Yes	Tenders are always advertised in the West Australian, the Hills Gazette and the Echo Newspaper.	Danielle Courtin
4	F&G Reg 14 & 15	Did the local government's advertising and tender documentation comply with F&G Regs 14, 15 & 16.	Yes		Danielle Courtin



No	Reference	Question	Response	Comments	Respondent
5	F&G Reg 14(5)	If the local government sought to vary the information supplied to tenderers, was every reasonable step taken to give each person who sought copies of the tender documents or each acceptable tenderer, notice of the variation.	Yes	This is an automatic process through the Tenderlink portal.	Danielle Courtin
6	F&G Reg 16	Did the local government's procedure for receiving and opening tenders comply with the requirements of F&G Reg 16.	Yes		Danielle Courtin
7	F&G Reg 18(1)	Did the local government reject the tenders that were not submitted at the place, and within the time specified in the invitation to tender.	Yes		Danielle Courtin
8	F&G Reg 18 (4)	In relation to the tenders that were not rejected, did the local government assess which tender to accept and which tender was most advantageous to the local government to accept, by means of written evaluation criteria.	Yes		Danielle Courtin
9	F&G Reg 17	Did the information recorded in the local government's tender register comply with the requirements of F&G Reg 17.	Yes		Danielle Courtin
10	F&G Reg 19	Was each tenderer sent written notice advising particulars of the successful tender or advising that no tender was accepted.	Yes		Danielle Courtin
11	F&G Reg 21 & 22	Did the local governments's advertising and expression of interest documentation comply with the requirements of F&G Regs 21 and 22.	N/A	No expressions of interest were advertised in 2015.	Danielle Courtin
12	F&G Reg 23(1)	Did the local government reject the expressions of interest that were not submitted at the place and within the time specified in the notice.	N/A		Danielle Courtin
13	F&G Reg 23(4)	After the local government considered expressions of interest, did the CEO list each person considered capable of satisfactorily supplying goods or services.	N/A		Danielle Courtin
14	F&G Reg 24	Was each person who submitted an expression of interest, given a notice in writing in accordance with Functions & General Regulation 24.	N/A		Danielle Courtin
15	F&G Reg 24AD(2)	Did the local government invite applicants for a panel of pre-qualified suppliers via Statewide public notice.	N/A	No panels of pre-qualified suppliers were established during 2015.	Danielle Courtin
16	F&G Reg 24AD(4) & 24AE	Did the local government's advertising and panel documentation comply with F&G Regs 24AD(4) & 24AE.	N/A		Danielle Courtin



No	Reference	Question	Response	Comments	Respondent
17	F&G Reg 24AF	Did the local government's procedure for receiving and opening applications to join a panel of pre-qualified suppliers comply with the requirements of F&G Reg 16 as if the reference in that regulation to a tender were a reference to a panel application.	N/A		Danielle Courtin
18	F&G Reg 24AD(6)	If the local government to sought to vary the information supplied to the panel, was every reasonable step taken to give each person who sought detailed information about the proposed panel or each person who submitted an application, notice of the variation.	N/A		Danielle Courtin
19	F&G Reg 24AH(1)	Did the local government reject the applications to join a panel of pre-qualified suppliers that were not submitted at the place, and within the time specified in the invitation for applications.	N/A		Danielle Courtin
20	F&G Reg 24AH(3)	In relation to the applications that were not rejected, did the local government assess which application(s) to accept and which application(s) were most advantageous to the local government to accept, by means of written evaluation criteria.	N/A		Danielle Courtin
21	F&G Reg 24AG	Did the information recorded in the local government's tender register about panels of pre-qualified suppliers, comply with the requirements of F&G Reg 24AG.	N/A		Danielle Courtin
22	F&G Reg 24AI	Did the local government send each person who submitted an application, written notice advising if the person's application was accepted and they are to be part of a panel of pre-qualified suppliers, or, that the application was not accepted.	N/A		Danielle Courtin
23	F&G Reg 24E	Where the local government gave a regional price preference in relation to a tender process, did the local government comply with the requirements of F&G Reg 24E in relation to the preparation of a regional price preference policy (only if a policy had not been previously adopted by Council).	N/A	No regional price preference in place.	Danielle Courtin
24	F&G Reg 24F	Did the local government comply with the requirements of F&G Reg 24F in relation to an adopted regional price preference policy.	N/A		Danielle Courtin
25	F&G Reg 11A	Does the local government have a current purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$150,000 or less.	Yes	AS-04 Purchasing Policy.	Danielle Courtin





Government of **Western Australia**  
Department of **Local Government and Communities**

I certify this Compliance Audit return has been adopted by Council at its meeting on \_\_\_\_\_

\_\_\_\_\_  
Signed Mayor / President, Mundaring

\_\_\_\_\_  
Signed CEO, Mundaring

### 8.3 Internal Audit Charter

---

---

<b>File Code</b>	GV.AUD 1
<b>Author</b>	Danielle Courtin, Governance Co-ordinator
<b>Senior Employee</b>	Paul O'Connor, Director Corporate Services
<b>Disclosure of Any Interest</b>	Nil

---

---

#### **SUMMARY**

To assist with the CEO's review of the appropriateness and effectiveness of the Shire's systems and procedures in relation to risk management internal control and legislative compliance, an internal audit function has been included in the Corporate Business Plan 2016 - 2019.

It will be recommended that Council adopts the Internal Audit Charter (**ATTACHMENT 7**), which will provide the framework for the conduct of the internal audit function.

#### **BACKGROUND**

In February 2013 new regulation 17 was added to the *Local Government (Audit) Regulations 1996* requiring the CEO to –

1. review the appropriateness and effectiveness of the Shire's systems and procedures in relation to risk management, internal control and legislative compliance; and
  2. report the results of that review to the Audit and Risk Committee.
- The reviews required to be undertaken under regulation 17 are to occur at least every two calendar years. The Shire's first biennial review under regulation 17 was completed and considered by the Audit and Risk Committee in November 2014.

To assist with these ongoing reviews into the future an internal audit function has been included in the Corporate Business Plan 2016 – 19.

The Shire's first internal audit, a Procurement audit, is scheduled to take place in March 2016.

It is a requirement of the International Standards for the Professional Practice of Internal Auditing that a written charter formally defines the purpose, authority and responsibility of the internal audit activity.

#### **STATUTORY / LEGAL IMPLICATIONS**

*Local Government (Audit) Regulations 1996.*

#### **POLICY IMPLICATIONS**

There are no policy implications related to this report.

### **FINANCIAL IMPLICATIONS**

An amount of \$60,000 for the internal audit function was approved in 2015/16 budget.

### **STRATEGIC IMPLICATIONS**

The internal audit function is provided for in the Corporate Business Plan 2016 – 19.

### **SUSTAINABILITY IMPLICATIONS**

There are no sustainability implications related to this report.

### **RISK IMPLICATIONS**

There are no risk implications related to this report.

### **EXTERNAL CONSULTATION**

Nil

### **COMMENT**

The Internal Audit Charter will –

- support the purpose, authority and responsibility of the internal audit activities; and
- provide a framework for performing and promoting a range of value added internal auditing services.

### **VOTING REQUIREMENT**

Simple majority

<b>RECOMMENDATION</b>
-----------------------

That Council adopts the Internal Audit Charter in **ATTACHMENT 7**.

**NEXT REPORT**

**Attachment 7**

**Report 8.3**

**2 Pages**

## Shire of Mundaring

# POLICY

### INTERNAL AUDIT CHARTER

<b>Policy Ref:</b>	<b>OR-19</b>
<b>Committee Rec:</b>	<b>Date:</b>
<b>Adopted:</b>	<b>Date:</b>
<b>Amended:</b>	<b>Date:</b>
<b>Reviewed:</b>	<b>Date:</b>
<b>Procedure Ref:</b>	<b>Delegation Ref:</b>
<b>Statute Ref:</b>	<i>Local Government (Audit) Regulations 1996 r. 17</i>
<b>Local Law Ref:</b>	N/A

### PURPOSE

This Internal Audit Charter provides the framework for the conduct of the internal audit function in the Shire of Mundaring. It defines the purpose, independence, authority and responsibility of the internal audit activity.

### POLICY

#### 1. Purpose of internal audit

The internal audit provides an independent and objective review and advisory service to:

- provide assurance to Council and the CEO that the Shire's financial and operational controls designed to manage the organisation's risks and achieve its objectives, are operating in an efficient, effective and ethical manner; and
- assist management in improving and monitoring the Shire's risk management, internal control and legislative compliance functions.

#### 2. Scope of internal audit

Internal audits may cover any programs and activities of the Shire and encompass the review of all financial and non-financial policies and operations.

#### 3. Independence

Independence is essential to the effectiveness of the internal audit function.

Internal audits will be performed by independent external contractors appointed through a transparent Expressions of Interest process.

Internal auditors report functionally to Council through the Audit and Risk Committee and are accountable to the CEO for the efficient and effective operation of the internal audit function.

#### **4. Authority and confidentiality**

Internal auditors are authorised to:

- have full free and unrestricted access to any and all of the Shire's records and other documentation, premises and Shire employees; and
- obtain assistance as required from Shire employees.

Internal auditors are responsible and accountable for maintaining the confidentiality of the information they receive during the course of their work.

#### **5. Roles and responsibilities**

The internal audit activity encompasses, but is not limited to, the examination and evaluation of the adequacy and effectiveness of the Shire's governance, risk management and internal controls as well as the quality of performance in carrying out assigned responsibilities to achieve the Shire's strategic objectives. This may include:

- Evaluating risk exposure relating to achievement of the Shire's strategic objectives;
- Evaluating the reliability and integrity of information and the means used to identify, measure, classify and report such information;
- Evaluating the systems established to ensure compliance with those policies, plans, procedures, laws and regulations which could have a significant impact on the organisation;
- Evaluating the means of safeguarding assets and – as appropriate – verifying the existence of such assets;
- Evaluating the effectiveness and efficiency with which resources are employed;
- Evaluating operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are carried out as planned;
- Monitoring and evaluating governance processes;
- Monitoring and evaluating the effectiveness of the Shire's risk management processes;
- Evaluating the quality of performance of external auditors and the degree of coordination with internal audit;
- Providing advice related to governance, risk management and internal control as appropriate;
- Reporting significant risk exposures and internal control issues, including fraud risks and governance issues; and
- Evaluating specific operations at the request of Council and the CEO.

#### **6. Relationship with external audit**

Internal and external audit activities will be coordinated to help ensure the adequacy of overall audit coverage and to minimise duplication of effort.

#### **7. Review of the Charter**

This Charter will be reviewed when required but at least bi-annually to coincide with the review of the Terms of Reference of the Audit and Risk Committee.

## 8.4 Review of Council Policy HR-01 – Equal Opportunity and Anti-Bullying

---

<b>File Code</b>	OR.OPP 1
<b>Author</b>	Paul O'Connor, Director Corporate Services
<b>Senior Officer</b>	As above
<b>Disclosure of Any Interest</b>	Nil

---

### **SUMMARY**

The Equal Employment Opportunity Policy HR-01 requires review to ensure legal obligations are understood and met.

The Audit and Risk Committee is requested to recommend to Council that it adopts the reviewed policy which now incorporates anti-bullying which aims to provide a positive, inclusive and harassment free workplace culture.

### **BACKGROUND**

The existing policy HR-01 Equal Employment Opportunity was last reviewed by Council in August 2010.

The revised policy statement incorporates information on bullying. Behaviourally, bullying and harassment manifest in a similar way and having all definitions in one document makes it easier for a person who thinks they are experiencing inappropriate behaviour to identify the nature of their concern.

A review of that policy has been undertaken in consultation with Shire employees, a lawyer and an EEO Specialist to update and augment the existing policy. These changes are reflected in the amended draft policy.

### **STATUTORY / LEGAL IMPLICATIONS**

All employees must comply with the *Equal Opportunity Act 1984* and other relevant legislation.

Advice received indicates the Elected Members are legally obliged to comply with the provisions of the *Equal Opportunity Act 1984*. Further, a victim of harassment, discrimination or bullying could bring action against an elected Member or against Council as a body corporate.

### **POLICY IMPLICATIONS**

The proposed change in policy does not impact on other Council policies.

### **FINANCIAL IMPLICATIONS**

The effect of the proposed change imposes no additional financial liability on Council.

## **STRATEGIC IMPLICATIONS**

Strategic Community Plan 2013 – 2023: Strategic Theme 4: Respected Civic Leadership – Strong civic leadership and trusted governance.

## **SUSTAINABILITY IMPLICATIONS**

Nil

## **RISK IMPLICATIONS**

Failure to provide and follow legally compliant policies, procedures and practices exposes the Shire to claims of harassment, discrimination and/or bullying which could have financial, human and reputational implications.

Updating this policy and developing relevant procedure is a risk mitigation strategy.

## **CONSULTATION**

Feedback was sought from the Shire's Leadership Team, Grievance Officers and Contact Officers. Elected Members were informed of the changes to the existing policy at Council Forum in November 2015.

## **COMMENT**

Policy HR-01 has been reviewed. The following amendments are proposed:

- Inclusion of Elected Members as legally obliged to comply with the EEO Act;
- Inclusion of anti-bullying into existing policy; and
- Inclusion of volunteers.

Copies of the proposed policy (**ATTACHMENT 8**) and the current policy (**ATTACHMENT 9**) are attached.



## **VOTING REQUIREMENT**

Simple majority.

<b>OFFICER RECOMMENDATION</b>
-------------------------------

That Council:

1. Notes that Policy HR-01 “Equal Employment Opportunity” has been renamed to “Equal Employment Opportunity and Anti-Bullying“, reviewed and amended; and
2. Adopts Policy HR-01 as attached.

**NEXT REPORT**

**Attachment 8**

**Report 8.4**

**5 Pages**

## Shire of Mundaring

# POLICY

### EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-BULLYING

<b>Policy Ref:</b>	<b>HR-01</b>		
<b>Committee Rec:</b>	SPC 184	<b>Date:</b>	18 August 2003
<b>Adopted:</b>	R25410	<b>Date:</b>	26 August 2003
<b>Amended:</b>		<b>Date:</b>	
<b>Reviewed:</b>		<b>Date:</b>	xx February 2016
<b>Procedure Ref:</b>	AS-02 Complaints Management System HR-09 Grievance Management	<b>Delegation Ref:</b>	
<b>Statute Ref:</b>	<i>Equal Employment Opportunity Act 1984</i> <i>Racial Discrimination Act 1975 (Cth)</i> <i>Sex Discrimination Act 1984 (Cth)</i> <i>Human Rights and Equal Opportunity Commission Act 1987</i> <i>(transitional Provision and Consequential Amendment) (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Disability Services Act 1993</i> <i>Local Government (Rules of Conduct) Regulations 2007</i>		
<b>Local Law Ref:</b>	N/A		

### PURPOSE

To provide a positive, inclusive and harassment free workplace culture.

### Overview

The Shire of Mundaring is an Equal Opportunity Employer committed to providing a safe workplace that is free from harassment, discrimination and bullying and one where diversity is valued and encouraged. The Shire is committed to making decisions in relation to recruitment, selection and promotions based on merit only.

Depending on the circumstances and outcome of any investigation:

- Elected Members who engage in misconduct as outlined in this policy may be suspended or disqualified from holding office.
- Employees who engage in misconduct as outlined in this policy may be subject to disciplinary action, which may include instant dismissal.

## Scope

This policy applies:

- To everyone who works at the Shire, including employees, potential employees, trainees, volunteers and contractors, regardless of whether they work full time, part-time or as casual staff.
- In the workplace and at any other place where a person is a representative of Shire of Mundaring including work outside normal work hours and at work related events such as conferences, training events and social functions like after hours drinks, Christmas party or other functions.

## Responsibilities

### Elected Members

Shire of Mundaring Elected Members must be aware of this policy. They are responsible for ensuring that:

- Their behaviour in the workplace complies with this policy.
- They must inform the Chief Executive Officer or Shire President as soon as possible if they observe behaviour in the workplace that may contravene this policy.
- They seek assistance from the Chief Executive Officer if they have any questions in relation to this policy.
- They respect confidentiality in relation any complaint made or any suspected inappropriate conduct.

Elected Members may be personally liable for their actions if they do not comply with the above requirements.

### All Employees

All employees at Shire of Mundaring must be aware of this policy. They are responsible for ensuring that:

- Their behaviour in the workplace complies with this policy.
- They must inform a manager or Human Resources (HR) or a Grievance Officer as soon as possible if they observe behaviour that may contravene this policy.
- They seek assistance from a manager or HR if they have any questions in relation to this policy.
- They respect the confidentiality of any complaint made and avoid gossip in relation to any suspected inappropriate conduct.

Employees may be personally liable for their actions if they do not comply with the above requirements.

## Managers/Supervisors

Managers and supervisors have a greater responsibility in the workplace. In addition to the all employee requirements Managers and Supervisors must also:

- Apply this policy in the workplace to ensure that all employees are protected from harassment, discrimination and bullying.
- Demonstrate a higher standard of behaviour compared with other employees and must act as a role model for appropriate standards of behaviour.
- Investigate a complaint in accordance with the Grievance Management Procedure.
- Not victimise a person for making a complaint.

Managers and supervisors may be personally liable for their actions if they do not comply with the above requirements.

## Employer

Employers must:

- Ensure this policy is accessible to all employees and others bound by the Policy.
- Include this policy in the Employee Induction manual and discuss with new employees at induction.
- Educate all employees in relation to their rights and responsibilities in relation to harassment, discrimination and bullying.
- Educate managers and supervisors in relation to their extra responsibilities and duties because of their role in the organisation.
- Either have trained grievance officers to investigate complaints or an external investigator.
- Have trained people to support employees throughout the process and/or offer free confidential access to an external counseling/support service.

## Discrimination

Discrimination can be either direct or indirect.

**Direct discrimination** is when a person is treated less favourably than another person in the same or similar circumstances based on one of the following grounds:

- Gender
- Race (includes colour, ethnicity, national origin)
- Impairment or disability
- Age
- Pregnancy or potential pregnancy
- Breastfeeding
- Marital Status

- Family Responsibility
- Family Status
- Political Conviction
- Religious Conviction
- Gender History
- Sexual Orientation
- Spent Conviction
- Trade Union membership/activities
- Association with someone who has one of the above attributes

**Indirect Discrimination** is when there is an unreasonable rule (policy, procedure or practice) that appears neutral but has a negative effect on a particular group of people with characteristics that would fit into one of the grounds mentioned above and the person discriminated against is not able to comply with the rule.

## **Harassment**

Unlawful harassment is unwanted, uninvited and inappropriate behaviour based on a person's sex, race or disability.

### **Sexual Harassment**

Sexual harassment is unwelcome conduct of a sexual nature that a reasonable person would be offended, humiliated or intimidated by. The conduct includes oral and written statements and physical gestures.

It does not matter that a person did not mean to be offensive.

### **Racial Harassment**

Racial harassment is when a person is threatened, abused, insulted or taunted about their race, or a characteristic generally associated with their race and they believe they are disadvantaged or if they object to the unwanted behaviour they will be disadvantaged.

### **Disability Harassment**

Disability harassment is when a person is threatened, abused, offended or excluded because of their disability.

## **Bullying**

Bullying is repeated unreasonable or inappropriate behavior that is directed towards an employee, or group of employees, that creates a risk to health and safety.

## **Discipline**

Discrimination, harassment and bullying will not be tolerated in Shire of Mundaring. An employee who engages in any conduct that constitutes discrimination, harassment or bullying as defined in this policy will be subject to disciplinary action up to and including instant dismissal.

Any Manager who is made aware of any of the behaviour outlined in this policy and who does not deal with the conduct appropriately or report the conduct to the appropriate personnel will also be subject to appropriate disciplinary action, up to and including instant dismissal.

## **Managing a Complaint**

Every allegation of discrimination, harassment and bullying made against an employee will be investigated by Shire of Mundaring in accordance with the Grievance Management Procedure.

If after the investigation it is found that an employee has breached this policy then appropriate disciplinary action will be taken up to and including instant dismissal.

Prior to lodging a complaint an employee may seek the support of an appropriate person to talk through the situation. An appropriate person could be internal to Shire of Mundaring such as a Manager or HR or external to Shire of Mundaring such as the Shire's counseling service (OPTUM: 1300 361 008)

At any stage in the process an employee may choose to make a complaint external to Shire of Mundaring and can lodge a complaint with the Equal Opportunity Commission, Australian Human Rights Commission, WorkSafe and/or the Fair Work Commission.

Complaints regarding Elected Members will be dealt with in accordance with the *Local Government (Rules of Conduct) Regulations 2007*.

## **Victimisation**

Any employee who has made a complaint, or is a witness to a complaint in relation to discrimination, harassment or bullying will not be discriminated against or suffer any other disadvantage for having made a complaint in good faith.

## **Vexatious Complaints**

If a complaint is made by an employee and is subsequently found to be a frivolous or vexatious complaint then the employee who made the complaint will be subject to disciplinary action up to and including instant dismissal.

**Attachment 9**

**Report 8.3**

**2 Pages**



## Shire of Mundaring

# POLICY

### EQUAL EMPLOYMENT OPPORTUNITY

**Policy Ref:** HR-01

<b>Committee Rec:</b>	SPC184	<b>Date:</b>	18 Aug 2003
<b>Adopted by:</b>	R25410	<b>Date:</b>	26 Aug 2003
<b>Amended by:</b>	C3.03.09	<b>Date:</b>	24 March 2009
<b>Reviewed:</b>	Once per Electoral Cycle	<b>Date:</b>	24 August 2010
<b>Procedure Ref:</b>	N/A	<b>Delegation Ref:</b>	
<b>Statute Ref:</b>	<i>Equal Employment Opportunity Act 1984 (WA)</i> <i>Racial Discrimination Act (Commonwealth) 1976</i> <i>Sex Discrimination Act (Commonwealth) 1984</i> <i>Human Rights and Equal Opportunity Commission Act (Commonwealth) 1987</i> <i>Disability Discrimination Act (Commonwealth) 1992</i> <i>Disability Services Act (1993)</i>		
<b>Local Law Ref:</b>	N/A		

### PURPOSE

To provide a positive, inclusive and harassment free workplace culture.

### POLICY

The Shire of Mundaring recognises its legal obligations under the *Equal Opportunity Act 1984* (as amended) and other relevant legislation and will actively promote equal employment opportunity based solely on merit to ensure that discrimination does not occur on the grounds of sex, marital status, pregnancy, age, family responsibility or family status, race, religious or political conviction, impairment or disability, sexual orientation or gender history.

Equal opportunity practices create a more harmonious and productive workplace, which not only benefits the Shire, but also the wider community.

To this end, the Shire strives to:

- Promote recruitment strategies that endeavour to attract a diverse pool of quality applicants from which to select the most suitable candidate based on merit.
- Provide a safe, secure working environment that is free from all forms of harassment, discrimination and victimisation.
- Provide equal opportunity to employees in relation to employment, development and promotion opportunities.

This means that harassment within the workplace will not be tolerated. Harassment is defined as any uninvited or unwelcome attention, including physical contact, or other behaviour, gestures, written or verbal communication concerning a person's sex, marital status, pregnancy, age, family responsibility or family status, race, religious or political conviction, impairment or disability, sexual orientation or gender history, that is interpreted by the receiver as offensive, threatening or unpleasant.

#### Supporting Plans

The Equal Opportunity and Diversity Management Plan identifies the organisational purpose and goals in relation to this policy.

The equal employment opportunity goals of the local government are designed to provide an enjoyable, challenging, harmonious work environment for all employees where each employee has the opportunity to progress to the extent of their ability.

The Shire of Mundaring is committed to ensuring that the community is accessible and inclusive for people with disabilities, their families and carers.

To this end, the Shire developed its Access and Inclusion Plan following a comprehensive consultation process with the community. The plan provides the framework for addressing the needs of residents with a disability.

## 8.5 Repeal of Policy OR-05 – Communication between Elected Members and Employees

---

<b>File Code</b>	OR.OPP 1
<b>Author</b>	Danielle Courtin, Governance Co-ordinator
<b>Senior Employee</b>	Paul O'Connor, Director Corporate Services
<b>Disclosure of Any Interest</b>	Nil

---

### SUMMARY

Policy OR-05 – Communication between Elected Members and Employees is proposed to be repealed as it deals with the operation of the administration, which is the responsibility of the Chief Executive Officer (CEO) and is documented in the Shire's Code of Conduct.

### BACKGROUND

Policy OR-05 was first adopted in 2006 and deals with the referral of requests from Elected Members to employees, based on the provisions of the Shire of Mundaring Code of Conduct. It was reviewed in April 2013, but on closer reading, it deals with administrative matters and is not a Council policy.

In accordance with section 5.41 of the *Local Government Act 1995*, some of the functions of the CEO are to –

...

(d) manage the day to day operations of the local government;

...

(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).

### STATUTORY / LEGAL IMPLICATIONS

*Local Government Act 1995:*

Section 2.7 – Role of Council: to govern the local government's affairs and to be responsible for the performance of the local government's functions, including overseeing finances and resources and determining policies.

Section 5.41 – Functions of the CEO: ... to manage the day to day operations of the local government and to be responsible for the employment, management supervision, direction and dismissal of employees.

### POLICY IMPLICATIONS

Policy OR-05 is proposed to be repealed and replaced by an Organisational Practice for employees.

## **FINANCIAL IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

Strategic Community Plan 2013 – 2023: Strategic Theme 4: Respected Civic Leadership – strong civic leadership and trusted governance.

## **SUSTAINABILITY IMPLICATIONS**

Nil

## **RISK IMPLICATIONS**

Nil

## **EXTERNAL CONSULTATION**

Nil

## **COMMENT**

The manner in which requests from Elected Members to employees are dealt with is an administrative matter which is covered within the Code of Conduct and is therefore the responsibility of the CEO.

It is proposed to develop an Organisational Practice which the CEO can update, vary or amend from time to time.

## **VOTING REQUIREMENT**

Simple majority

<b>RECOMMENDATION</b>
-----------------------

That Council repeals Policy OR-05 – Communication between Elected Members and Employees (**ATTACHMENT 10**).

**NEXT REPORT**

**Attachment 10**

**Report 8.5**

**2 Pages**

## Shire of Mundaring

# POLICY

### (a) COMMUNICATION BETWEEN ELECTED MEMBERS AND EMPLOYEES

<b>Policy Ref:</b>	<b>OR-05</b>
--------------------	--------------

<b>Committee Rec:</b>	SPC 05.02.06	<b>Date:</b>	20 Feb 2006
<b>Adopted:</b>	C7.02.06	<b>Date:</b>	28 Feb 2006
<b>Amended:</b>	C28.05.13	<b>Date:</b>	28 May 2013
<b>Reviewed:</b>		<b>Date:</b>	April 2013
<b>Procedure Ref:</b>	Corp 01	<b>Delegation Ref:</b>	
<b>Statute Ref:</b>	Shire of Mundaring Code of Conduct (Nov 2012)		
<b>Local Law Ref:</b>			

#### PURPOSE

To foster a team approach to the administration of the Shire of Mundaring that provides channels of communication that will ensure a clear understanding of the respective roles of elected member and employee and seek to eliminate duplicated or wasted effort.

#### POLICY

##### Background

Shire of Mundaring Code of Conduct adopted in November 2012:

##### **4.3 Relationships between elected members and employees**

- (1) *Elected members and employees must ensure that in their dealings with each other, they:*
  - (a) *work together as part of the Shire's Executive Team;*
  - (b) *maintain an environment of mutual respect and cooperation; and*
  - (c) *are respectful, frank and honest in their communications.*
- (2) *The Local Government Act 1995 provides for the separation of the roles of the Council and its members (elected members) and the Chief Executive Officer's responsibilities for the day-to-day operations of the local government. In order to avoid potential conflict and in recognition of the respective roles, elected members and employees must ensure that:*
  - (a) *the role of elected members is one of strategic leadership and not a management or administrative role;*
  - (b) *the Chief Executive Officer is responsible for implementing the decisions and policies of Council;*
  - (c) *employees are responsible to the Chief Executive Officer and the Chief Executive Officer is responsible to Council;*

- (d) *elected members must not direct or instruct employees;*
  - (e) *elected members must not undertake a task that contributes to the administration of the Shire, unless the activities are undertaken in relation to a meeting or the express authority of the Council or the Chief Executive Officer has been obtained prior to undertaking the task;*
  - (f) *elected members must undertake their day-to-day communications with the Shire directly through the Chief Executive Officer or relevant Directors, unless the Chief Executive Officer has established a protocol for communications on particular matters to occur directly with specified employees;*
  - (g) *when entering a Shire business location, elected members must seek approval from the Chief Executive Officer or the relevant Director, through their Personal Assistant, before engaging in discussion with employees; and*
  - (h) *an employee may undertake direct communications with an elected member only when the employee is acting within the functions and responsibilities of their position or is acting under the direction of the Chief Executive Officer or Director.*
- (3) *The Shire President and the Chief Executive Officer have responsibilities founded in fostering a good working relationship that encompasses the following:*
- (a) *open and frank communications;*
  - (b) *regular contact;*
  - (c) *information exchange in a timely manner;*
  - (d) *regard for their individual leadership responsibilities;*
  - (e) *commitment to developing understanding of each other's views and opinions;*
  - (f) *willingness to negotiate;*
  - (g) *commitment to working through conflict;*
  - (h) *sharing and encouragement of ideas and challenges; and*
  - (i) *constructive approach, undertaken in a positive manner.*

### **Requests - General**

1. The majority of communications or requests from elected members should be directed through the Chief Executive Officer or relevant Director.
2. Matters relating to policy, initial project discussion, changes to approved works and projects and the like are to be directed to the Chief Executive Officer and relevant Director.
3. Matters relating to routine requests for information/advice pertaining to a particular service area may be directed to the relevant Service Area Manager.
4. Other than providing simple statements of fact, employees should refer elected members to the Chief Executive Officer or relevant Director.
5. Matters referred by elected members to the Chief Executive Officer or Directors that require action, which may only be implemented following formal Council authorisation, shall be referred to the Executive Leadership Team or if appropriate, direct to a Standing Committee (with an associated report).
6. If requested, the elected member is to be kept informed of progress towards the resolution of matters raised by the elected member.

**9.0 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

**10.0 URGENT BUSINESS (LATE REPORTS)**

**11.0 CONFIDENTIAL REPORTS**

**12.0 CLOSING PROCEDURES**

**12.1 Date, Time and Place of the Next Meeting**

The next Audit & Risk Committee Meeting will be held on Tuesday, 10 May 2016 at 4.30pm in the Committee Room.

**12.2 Closure of the Meeting**