5.24 Shire of Wongan-Ballidu Code of Conduct for Elected Members, Committee Members and Candidates 2021

Policy Owner	**Administration and Financial Services**
Person Responsible	**Chief Executive Officer**
Date of Adoption	**28 April 2021 – Resolution 050421**
Date of Last Review	**24 July 2024 – Resolution 040724**
Date Next Due for Review	**3 years / or earlier if required**

PURPOSE

The purpose of the Model Code is to guide the decisions, actions and behaviours of Elected Members, both in Council and on Council committees, and of candidates running for election as an Elected Member. One of the key changes to the *Local Government (Model Code of Conduct) Regulations 2021* is their application to individuals who have nominated as a candidate in a local government election, as they are also required to demonstrate professional and ethical behaviour during their election campaign.

BACKGROUND

An outline of the amendments to the Act and the new regulations and actions required by Council are set out below:

To enable the Shire to be compliant with the legislation changes and be able to process complaints made under Division 3 of the Model Code of Conduct the Shire must:

- appoint a person to receive and withdraw complaints and
- approve a form for complaints to be lodged.

The form that is proposed to be used (Attachment) has been created using a template provided by the Department of Local Government, Sport and Cultural Industries.
Local Government (Model Code of Conduct) Regulations 2021

On 3rd February 2021, the Local Government (Model Code of Conduct) Regulations 2021 introduced a mandatory code of conduct for Elected Members, committee members and candidates. The Local Government (Model Code of Conduct) Regulations 2021 repeals and replaces the Local Government (Rules of Conduct) Regulations 2007 and also replaces the

previous statutory requirement to develop and implement an individual code of conduct for Elected Members and committee members.

The Local Government (Model Code of Conduct) Regulations 2021 are now in effect and Elected Members and Committee Members should familiarise themselves with the principles, behaviours and complaints required to be managed by Council and the rules of conduct, contraventions of which are considered by the independent Local Government Standards Panel (Standards Panel) where appropriate.

Further information and guidelines are available on the DLGSC website.

https://www.dlgsc.wa.gov.au/local-government/strengthening-local-government/public-consultations/local-government-act-review/priority-reforms/model-code-of-conduct

Elected Members must comply with the provisions in the Model Code Regulations in fulfilling their roles and responsibilities in Council and on Council committees, as set out in the Act.

The purpose of the Model Code is to guide the decisions, actions and behaviours of members, both in Council and on Council committees, and of candidates running for election as an Elected Member. One of the key changes to the Local Government (Model Code of Conduct) Regulations 2021 is their application to individuals who have nominated as a candidate in a local government election, as they are also required to demonstrate professional and ethical behaviour during their election campaign.

POLICY/LEGISLATIVE REQUIREMENTS:

Local Government Act 1995
Local Government Legislation Amendment Act 2019
Local Government (Administration) Amendment Regulations 2021
Local Government (Model Code of Conduct) Regulations 2021

REVIEW

Reviews of this policy are to be undertaken every three years or earlier if required.

RESPONSIBILITY FOR IMPLEMENTATION

The President and the Chief Executive Officer are responsible for implementing and applying this policy.

Code of Conduct For Council Members, Committee Members and Candidates

July 2024

CODE OF CONDUCT FOR COUNCIL MEMBERS, COMMITTEE MEMBERS AND CANDIDATES

INTRODUCTION

The Council of the Shire of Wongan-Ballidu is the elected body responsible for the administration of the Shire in the best interests of its residents. The Council is committed to providing open, responsive and accountable government.

The Local Government Act 1995 in conjunction with the Local Government (Model Code of Conduct) Regulations 2021, requires every Western Australian local government to prepare and adopt a code of conduct to be observed by Council Members, Committee Members and candidates (code).

The code provides Council Members, Committee Members and candidates in the Shire of Wongan-Ballidu with the minimum standard of professional conduct and behaviour in carrying out their functions and responsibilities. The code addresses ethical responsibility and encourages greater transparency and accountability. It encourages a commitment to ethical and professional behaviour and outlines principles upon which individual and collective local government behaviours are to be based.

The Shire also has a Governance Framework which complements this code. The framework functions as an overarching framework for good governance. It is endorsed by Council and reflects the practices and principles Elected Members and staff will adhere to when making decisions and delivering services. The framework reinforces and expands on legislative requirements, policy statements and established practices.

The Shire of Wongan-Ballidu Governance Framework can be found under Governance Policy 5.0 of the Council Policy Manual. A copy of this policy is also attached to this document.

Division 1 - Preliminary provisions

1. Citation

This is the Shire of Wongan-Ballidu's Code of Conduct for Council Members, Committee Members and Candidates.

2. Terms used

(1) In this code —

Act means the Local Government Act 1995;

candidate means a candidate for election as a council member;

complaint means a complaint made under clause 11(1);

publish includes to publish on a social media platform.

(2) Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

Division 2 - General Principles

3. Overview of Division

This Division sets out general principles to guide the behaviour of council members, committee members and candidates.

4. Personal integrity

(1) A council member, committee member or candidate should —

(a) act with reasonable care and diligence; and

(b) act with honesty and integrity; and

(c) act lawfully; and

(d) identify and appropriately manage any conflict of interest; and

(e) avoid damage to the reputation of the local government.

(2) A council member or committee member should —

(a) act in accordance with the trust placed in council members and committee members; and

(b) participate in decision making in an honest, fair, impartial and timely manner; and

(c) actively seek out and engage in training and development opportunities to improve the performance of their role; and

(d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.

5. Relationship with others

(1) A council member, committee member or candidate should —

(a) treat others with respect, courtesy and fairness; and

(b) respect and value diversity in the community.

(2) A council member or committee member should maintain and contribute to a harmonious, safe and productive work environment.

6. Accountability

A council member or committee member should —

(a) base decisions on relevant and factually correct information; and

(b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and

(c) read all agenda papers given to them in relation to council or committee meetings; and

(d) be open and accountable to, and represent, the community in the district.

Division 3 — Behaviour

7. Overview of Division

This Division sets out —

(a) requirements relating to the behaviour of council members, committee members and candidates; and

(b) the mechanism for dealing with alleged breaches of those requirements.

8. Personal integrity

(1) A council member, committee member or candidate —

(a) must ensure that their use of social media and other forms of communication complies with this code; and

(b) must only publish material that is factually correct.

(2) A council member or committee member —

(a) must not be impaired by alcohol or drugs in the performance of their official duties; and

(b) must comply with all policies, procedures and resolutions of the local government; and

(c) must ensure they are as informed as possible about matters relating to their role.

9. Relationship with others

A council member, committee member or candidate —

(a) must not intimidate, bully or harass another person in any way; and

(b) must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government; and

(c) must not use offensive or derogatory language when referring to another person; and

(d) must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and

(e) must not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and

(f) must treat others with respect and fairness.

10. Council or committee meetings

When attending a council or committee meeting, a council member, committee member or candidate —

(a) must not act in an abusive or threatening manner towards another person; and

(b) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and

(c) must not repeatedly disrupt the meeting; and

(d) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and

(e) must comply with any direction given by the person presiding at the meeting; and

(f) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting; and

(g) must base decisions on relevant and factually correct information.

11. Complaint about alleged breach

(1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.

(2) A complaint must be made —

(a) in writing in the form approved by the local government; and

(b) to a person authorised under subclause (3); and

(c) within 1 month after the occurrence of the alleged breach.

(3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.

12. Dealing with complaint

(1) After considering a complaint, the local government must, unless it dismisses the complaint under clause 13 or the complaint is withdrawn under clause 14(1), make a finding as to whether the alleged breach the subject of the complaint has occurred.

(2) Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard.

(3) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.

(4) If the local government makes a finding that the alleged breach has occurred, the local government may —

(a) take no further action; or

(b) prepare and implement a plan to address the behaviour of the person to whom the complaint relates.

(5) When preparing a plan under subclause (4)(b), the local government must consult with the person to whom the complaint relates.

(6) A plan under subclause (4)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following —

(a) engage in mediation;

(b) undertake counselling;

(c) undertake training;

(d) take other action the local government considers appropriate.

(7) If the local government makes a finding in relation to the complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of —

(a) its finding and the reasons for its finding; and

(b) if its finding is that the alleged breach has occurred — its decision under subclause (4).

13. Dismissal of complaint

(1) The local government must dismiss a complaint if it is satisfied that —

(a) behaviour to which the complaint relates occurred at a council or committee meeting; and

(b) either —

(i) the behaviour was dealt with by the person presiding at the meeting; or

(ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.

(2) If the local government dismisses a complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of its decision and the reasons for its decision.

14. Withdrawal of complaint

(1) A complainant may withdraw their complaint at any time before the local government makes a finding in relation to the complaint.

(2) The withdrawal of a complaint must be —

(a) in writing; and

(b) given to a person authorised under clause 11(3).

15. Other provisions about complaints

(1) A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.

(2) The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division.

Division 4 — Rules of conduct

Notes for this Division:

1 Under section 5.105(1) of the Act a council member commits a minor breach if the council member contravenes a rule of conduct. This extends to the contravention of a rule of conduct that occurred when the council member was a candidate.

2 A minor breach is dealt with by a standards panel under section 5.110 of the Act.

16. Overview of Division

(1) This Division sets out rules of conduct for council members and candidates.

(2) A reference in this Division to a council member includes a council member when acting as a committee member.

17. Misuse of local government resources

(1) In this clause —

electoral purpose means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the Electoral Act 1907 or the Commonwealth Electoral Act 1918;

resources of a local government includes —

(a) local government property; and

(b) services provided, or paid for, by a local government.

(2) A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

18. Securing personal advantage or disadvantaging others

(1) A council member must not make improper use of their office —

(a) to gain, directly or indirectly, an advantage for the council member or any other person; or

(b) to cause detriment to the local government or any other person.

(2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or The Criminal Code section 83.

19. Prohibition against involvement in administration

(1) A council member must not undertake a task that contributes to the administration of the local government unless authorised by the local government or the CEO to undertake that task.

(2) Subclause (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

20. Relationship with local government employees

(1) In this clause —

local government employee means a person —

(a) employed by a local government under section 5.36(1) of the Act; or

(b) engaged by a local government under a contract for services.

(2) A council member or candidate must not —

(a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or

(b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or

(c) act in an abusive or threatening manner towards a local government employee.

(3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

(4) If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means —

(a) make a statement that a local government employee is incompetent or dishonest; or

(b) use an offensive or objectionable expression when referring to a local government employee.

(5) Subclause (4)(a) does not apply to conduct that is unlawful under The Criminal Code Chapter XXXV.

21. Disclosure of information

(1) In this clause —

closed meeting means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;

confidential document means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;

document includes a part of a document;

non confidential document means a document that is not a confidential document.

(2) A council member must not disclose information that the council member —

(a) derived from a confidential document; or

(b) acquired at a closed meeting other than information derived from a non-confidential document.

(3) Subclause (2) does not prevent a council member from disclosing information —

(a) at a closed meeting; or

(b) to the extent specified by the council and subject to such other conditions as the council determines; or

(c) that is already in the public domain; or

(d) to an officer of the Department; or

(e) to the Minister; or

(f) to a legal practitioner for the purpose of obtaining legal advice; or

(g) if the disclosure is required or permitted by law.

22. Disclosure of interests

(1) In this clause, **interest** —

(a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and

(b) includes an interest arising from kinship, friendship or membership of an association.

(2) A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must 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) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.

(4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —

(a) that they had an interest in the matter; or

(b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.

(5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —

(a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and

(b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.

(6) Subclause (7) applies in relation to an interest if —

(a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or

(b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.

(7) The nature of the interest must be recorded in the minutes of the meeting.

23. Compliance with plan requirement

If a plan under clause 12(4)(b) in relation to a council member includes a requirement referred to in clause 12(6), the council member must comply with the requirement.

Shire of Wongan-Ballidu

Complaint About Alleged Breach Form
Code of conduct for Council Members, Committee Members and Candidates

Schedule 1, Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021*

The complaint must be made to the authorised officer <u>within one month</u> after the occurrence of the alleged breach.

Name of person who is making the complaint:	
Given Name:	Family Name:
Contact details of person making the complaint:	
Address:	
Contact number:	Email:
Name of the local government concerned:	Shire of Wongan-Ballidu
Name of council member, committee member, candidate alleged to have committed the breach:	
State the full details of the alleged breach. Attach any supporting evidence to your complaint form.	
Date of alleged breach: / /	
Date: / /	**Complainant's Signature**

Received by Authorised Officer:	Chief Executive Officer
Signature:	
Date received:	
Forward to:-	shire@wongan.wa.gov.au **Shire of Wongan-Ballidu** **PO Box 84** **Wongan Hills WA 6603** **ATT: COMPLAINTS OFFICER**

NOTE:

1. A complaint about an alleged breach must be made:-

   (a) in writing in the form approved by the local government;
   (b) to an authorised person; and
   (c) within one month after the occurrence of the alleged breach.

2. This form should be completed, dated and signed by the person making acomplaint of an alleged breach of the Code of Conduct.

3. The complaint is to be specific about the alleged breach and include the relevant section/subsection of the alleged breach.