

# **Shire of Wongan-Ballidu**



## **SHIRE OF WONGAN-BALLIDU CODE OF CONDUCT FOR EMPLOYEES**

**May 2021**

# CONTENTS

- 1. INTRODUCTION..... 1
- 2. STATUTORY ENVIRONMENT..... 2
  - 2.1 RULES OF CONDUCT .....2
  - 2.2 REVIEW .....2
  - 2.3 DEFINITIONS.....2
- 3. VALUES, PRINCIPLES AND BEHAVIOUR..... 5
  - 3.1 ORGANISATIONAL VALUES .....5
  - 3.2 PRINCIPLES.....5
  - 3.3 SHIRE VALUES.....5
- 4. ROLES..... 6
  - 4.1 ROLE OF COUNCIL MEMBER.....6
  - 4.2 ROLE OF EMPLOYEES.....7
  - 4.3 ROLE OF COUNCIL .....7
  - 4.4 RELATIONSHIPS BETWEEN COUNCIL MEMBERS AND EMPLOYEES .....7
  - 4.5 APPOINTMENTS TO COMMITTEES .....8
- 5. PROFESSIONAL CONDUCT, PERSONAL BENEFIT AND USE OF LOCAL GOVERNMENT RESOURCES..... 9
  - 5.1 FRAUDULENT AND CORRUPT CONDUCT .....9
  - 5.2 PERFORMANCE OF DUTIES .....9
  - 5.3 USE OF CONFIDENTIAL INFORMATION .....9
  - 5.4 INTELLECTUAL PROPERTY .....9
  - 5.5 IMPROPER OR UNDUE INFLUENCE.....9
  - 5.6 USE OF LOCAL GOVERNMENT RESOURCES..... 10
- 6. CONDUCT AND BEHAVIOUR OF EMPLOYEES ..... 11
  - 6.1 PERSONAL BEHAVIOUR ..... 11
  - 6.2 BEHAVIOUR AT COUNCIL AND COMMITTEE MEETINGS..... 11
  - 6.3 BULLYING, HARASSMENT AND DISCRIMINATION ..... 11
  - 6.4 HONESTY AND INTEGRITY ..... 13
  - 6.5 NO ADVERSE REFLECTION ON COUNCIL DECISION ..... 13
  - 6.6 PERFORMANCE OF DUTIES ..... 13
  - 6.7 COMPLIANCE WITH LAWFUL ORDERS..... 13
  - 6.8 ADMINISTRATIVE AND MANAGEMENT PRACTICES..... 13
  - 6.9 CORPORATE OBLIGATIONS ..... 14
  - 6.10 ALCOHOL AND DRUGS..... 14
- 7. CONFLICT AND DISCLOSURE OF INTEREST ..... 15
  - 7.1 GUIDING PRINCIPLES..... 15
  - 7.2 CONFLICT OF INTEREST ..... 15
  - 7.3 FINANCIAL INTEREST..... 16
  - 7.4 IMPARTIALITY INTERESTS FOR EMPLOYEES ..... 16
  - 7.5 DISCLOSURE OF INFORMATION IN RETURNS ..... 17
  - 7.6 DISCLOSURE OF INTEREST..... 17
- 8. DECLARATION OF GIFTS ..... 18
  - 8.1 DETERMINATION OF THRESHOLD AMOUNT ..... 18
  - 8.2 GIFTS FROM PERSONS HAVING DEALINGS WITH THE SHIRE ..... 18
- 9. INFORMATION AND COMMUNICATION ..... 19
  - 9.1 ACCESS TO INFORMATION ..... 19
  - 9.2 ACCESS TO INFORMATION – PERSONAL INTEREST..... 19
  - 9.3 IMPROPER USE OF INFORMATION ..... 19
  - 9.4 CONFIDENTIAL INFORMATION ..... 19
  - 9.5 COMMUNICATION AND PUBLIC RELATIONS ..... 19

9.6	EXPRESSION OF PERSONAL VIEWS.....	20
9.7	SOCIAL MEDIA.....	20
9.8	CONTACT WITH DEVELOPERS.....	20
10.	<b>BREACHING THIS CODE .....</b>	<b>21</b>
10.1	BREACHES OF THE CODE BY EMPLOYEES.....	21
10.2	PROCEDURES FOR BREACHES OF THIS CODE .....	21
10.3	REPORTING MISCONDUCT TO THE CORRUPTION AND CRIME COMMISSION .....	22
10.4	MISCONDUCT, CORRUPTION and FRAUD .....	22
10.5	FORMS OF MISCONDUCT .....	23
10.6	PUBLIC INTEREST DISCLOSURE ACT 2003 .....	24
10.7	PROTECTION OF PERSONS REPORTING UNACCEPTABLE OR ILLEGAL BEHAVIOUR .....	24
10.8	WHISTLE BLOWER PROTECTION.....	24

**CODE OF CONDUCT DECLARATION**  
**CODE OF CONDUCT COMPLAINT FORM**

# 1. INTRODUCTION:

Section 5.51A of the *Local Government Act 1995* requires the Chief Executive Officer to prepare and adopt a Code of Conduct to be observed by local government employees and which addresses:

- (a) the behaviour expected of a local government employee in relation to each of the following —
  - (i) the performance of the local government employee's duties;
  - (ii) dealings with other local government employees and the broader community;
  - (iii) the use and disclosure of information acquired by the local government employee in the performance of their duties;
  - (iv) the use of the resources of the local government;
  - (v) the use of the local government's finances; and
- (b) how the records of the local government are to be kept; and
- (c) the reporting by local government employees of suspected breaches of codes of conduct and suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour; and
- (d) the way in which suspected breaches of the code of conduct and suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour of a local government employee are to be managed.

The Chief Executive Officer has prepared this Code of Conduct. The Code applies to all Shire of Wongan-Ballidu local government employees.

This Code of Conduct provides Shire of Wongan-Ballidu local government employees with consistent guidelines for an acceptable standard of professional conduct and behaviour in carrying out their functions and responsibilities. The Code addresses, in a concise manner, the broader issue of ethical responsibility and encourages greater transparency and accountability in individual Local Governments.

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

- better decision-making by local governments;
- greater community participation in the decisions and affairs of local governments;
- greater accountability of local governments to their communities; and
- more efficient and effective local government.

The Code provides a guide and a basis of expectations for local government employees. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Shire responsibilities may be based.

The Code should be read in conjunction with the *Local Government Act 1995* and other legislation that affect local government employees and the Code does not override or affect those provisions or requirements.

## 2. STATUTORY ENVIRONMENT

The Shire of Wongan-Ballidu Code observes statutory requirements of the *Local Government Act 1995* (Section 5.51A – Codes of Conduct), and *Local Government (Administration) Regulations 1996*.

### 2.1 Rules of Conduct

The local community and the public in general are entitled to expect that:

- The business of the Shire will be conducted with efficiency, impartiality and integrity;
- Employees will obey the spirit and the letter of the law and, in particular, the provisions of all relevant State and Federal legislation, local laws, regulations and instruments;
- Duty to the public will always be given absolute priority over the private interests of the Employee;
- The business of the Council will be conducted in a spirit of good will and co-operation, with the individual rights and integrity of all persons being respected.

The Code outlines those responsibilities and behaviours that need to be observed to retain the good faith and trust of all parties involved. It does not override or affect the legislation applicable to Local Government. It provides a guide and a basis of expectations of Employees and encourages a commitment to ethical, professional and cooperative behaviour.

### 2.2 Review:

In order to ensure that the Code remains current and relevant, it will be regularly reviewed by the CEO.

### 2.3 Definitions:

In this Code, unless the contrary appears:

**‘Act’** means the *Local Government Act 1995*;

**‘activity involving a local government discretion’** means an activity —

- (a) that cannot be undertaken without an authorisation from the local government; or
- (b) by way of a commercial dealing with the local government;

**‘associated person’** means a person who —

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

**‘Code’ of Conduct’** means a code of conduct under section 5.51A of the Act;

**‘breach’** means a breach of the Code;

**‘CEO’** means the Chief Executive Officer of the Shire;

**‘Committee’** means a Committee established by the Council under Section 5.8 of the *Local Government Act 1995*;

**‘confidential document’** means a document either:

- (a) Marked by the CEO to clearly show the information in the document is not to be disclosed;
- (b) Provided at a meeting closed to the public; or
- (c) Designated confidential by resolution of Council or Committee;

**‘Council’** means the Council of the Shire;

**‘Corruption and Crime Commission’** means the Commission established under section 8 of the *Corruption, Crime and Misconduct Act 2003*;

**‘Council Member’** has the same meaning as ‘Member’ under the *Local Government Act 1995*;

**‘designated employee’** has the same meaning as set out in Section 5.74 of the *Local Government Act 1995*;

**‘gift’**—

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

**‘interest’** —

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

**‘local government employee’** means a person —

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

**‘misconduct’** has the meaning given in the *Corruption, Crime and Misconduct Act 2003*;

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

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

**‘secondary employment’** means any work, employment, or engagement in a business unconnected to an Employee’s role at the Shire;

**‘resources of the local government’** includes —

- (a) local government property; and
- (b) services provided, or paid for, by the local government.

**‘Shire’** means the Shire of Wongan-Ballidu;

**‘social media’** includes: social networking sites, video and photo sharing sites, blogs, microblogs, wikis, online collaboration forums, instant messaging, geo-spatial tagging;

**‘Values’** are defined as beliefs adopted by the Shire about socially or personally desirable end states or actions that are explicitly or implicitly shared by employees of the Shire;

**‘regulation’** means a regulation made under the Act.

**‘threshold amount’**, for a prohibited gift, means \$300 or a lesser amount determined under regulation 19AF of the *Local Government (Administration) Regulations 1996*.

Unless prescribed to the contrary, the definitions and words prescribed in the Act and Regulations, *Criminal Code Act Compilation Act 1913*, *Corruption, Crime and Misconduct Act 2003*; *Equal Opportunity Act 1984*, *Sex Discrimination Act 1984*, *Public Interest Disclosure Act 2003*, and *Public Sector Management Act 1994* are applicable in this Code of Conduct.

#### **Statutory References:**

*Criminal Code Act Compilation Act 1913*

*Corruption, Crime and Misconduct Act 2003.*

*Equal Opportunity Act 1984.*

*Freedom of Information Act 1992.*

*Local Government Act 1995.*

*Local Government (Administration) Regulations 1996.*

*Local Government (Financial Management) Regulations 1996.*

*Occupational Safety and Health Act 1984.*

*Public Interest Disclosure Act 2003.*

*Public Sector Management Act 1994.*

*Public Service Act 1999 (Commonwealth).*

*Sex Discrimination Act 1984.*

## 3. VALUES, PRINCIPLES AND BEHAVIOUR

### 3.1 Organisational Values

The organisational values ('the Values') and culture are an important part of working at the Shire. Employees are expected to work within the Shire's Values and display the following behaviours:

#### **Respect:**

- We will acknowledge an individual's uniqueness and will treat them in a dignified and positive manner.

#### **Friendly and Helpful:**

- We value our community members and will assist them in the best way we can.

#### **Teamwork:**

- We believe teamwork is essential for improving our services and achieving our goals.

#### **Integrity:**

- We will act responsibly, place trust in each other, and will be accountable for our actions.

### 3.2 Principles

Local government employees must comply with the following conduct and behaviour:

- Act with reasonable care and diligence;
- Act with honesty and integrity;
- Act lawfully;
- Avoid damage to the reputation of the Shire;
- Be open and accountable to the public;
- Ensure they are as informed as possible about matters relating to their role;
- Base decisions on relevant and factually correct information;
- Treat others with respect and fairness; and
- Not be impaired by mind affecting substances.

Local government employees must avoid conduct and behaviour that:

- Contravenes the *Local Government Act 1995* and the Shire's relevant administrative requirements;
- Is improper or unethical;
- Is an abuse of power or otherwise amounts to misconduct;
- Causes, comprises or involves intimidation, harassment or verbal abuse;
- Causes, comprises or involves discrimination or adverse treatment in relation to employment; and
- Causes, comprises or involves prejudice in the provision of a service to the community.

### 3.3 Shire Values

Local government employees must at all times observe the Shire of Wongan-Ballidu Values and apply them in all they do and promote those Values to others.

## 4. ROLES

### 4.1 Role of Council Member

The primary role of a Council Member is to represent the community, and to enable the effective translation of the community's needs and aspirations into a direction and future for the Local Government will be the focus of the Council Member's public life.

The role of Council Members, as set out in Sections 2.8 and 2.10 of the *Local Government Act 1995* and relevantly provides:

*"2.8 Role of mayor or president*

- (1) *The mayor or president -*
- (a) *presides at meetings in accordance with this Act; and*
  - (b) *provides leadership and guidance to the community in the district; and*
  - (c) *carries out civic and ceremonial duties on behalf of the local government; and*
  - (d) *speaks on behalf of the local government; and*
  - (e) *performs such other functions as are given to the mayor or president by this Act or any other written law; and*
  - (f) *liaises with the CEO on the local government's affairs and the performance of its functions.*

(2) *Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor."*

*"2.10 Role of councillors*

*A Councillor:-*

- (a) *represents the interests of electors, ratepayers and residents of the district;*
- (b) *provides leadership and guidance to the community in the district;*
- (c) *facilitates communication between the community and the council;*
- (d) *participates in the local government's decision-making processes at council and committee meetings; and*
- (e) *performs such other functions as are given to a Councillor by this Act or any other written law."*

A Council Member is part of the team in which the community has placed its trust to make decisions on its behalf, and the community is therefore entitled to expect high standards of conduct from Council Members. In fulfilling the various roles, Council Members' activities will focus on:-

- achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- achieving sound financial management and accountability in relation to the Shire's finances;
- ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;
- working with other governments and organisations to achieve benefits for the community at both a local and regional level;
- having an awareness of the statutory obligations imposed on Council Members, the Shire and on local governments more generally.

In carrying out its functions the Shire is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

## **4.2 Role of Employees**

The role of Employees is determined by the functions of the Chief Executive Officer, as set out in Section 5.41 of *the Local Government Act 1995*:-

*“The Chief Executive Officer’s functions are to:-*

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;*
- (b) ensure that advice and information is available to the council so that informed decisions can be made;*
- (c) cause council decisions to be implemented;*
- (d) manage the day to day operations of the local government;*
- (e) liaise with the mayor or president on the local government’s affairs and the performance of the local government’s functions;*
- (f) speak on behalf of the local government if the mayor or president agrees;*
- (g) be responsible for the employment, management, supervision, direction and dismissal of other Employees (subject to S 5.37(2) in relation to senior Employees);*
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the Chief Executive Officer.”*

## **4.3 Role of Council**

The Role of the Council is provided in Section 2.7 of the *Local Government Act 1995*:-

- “(1) The council —*
  - (a) directs and controls the local government’s affairs; and*
  - (b) is responsible for the performance of the local government’s functions.*
- (2) Without limiting subsection (1), the council is to:-*
  - (a) oversee the allocation of the local government’s finances and resources; and*
  - (b) determine the local government’s policies.”*

## **4.4 Relationships between Council Members and Employees**

An effective Councillor will work as part of the Council team with the Chief Executive Officer and other members of staff. That teamwork will only occur if Council Members and staff have a mutual respect and co-operate with each other to achieve the Council’s corporate goals and implement the Council’s strategies. To achieve that position, Council Members need to observe their statutory obligations which include, but are not limited to, the following:

- accept that their role is a leadership, not a management or administrative one;
- acknowledge that they have no capacity to individually direct members of staff to carry out particular functions;
- refrain from publicly criticising staff in a way that casts aspersions on their professional competence and credibility.

#### **4.5 Appointments to Committees**

Local government employees often represent the Council on external organisations. Where appointed, it is important that local government employees: -

- (a) clearly understand the basis of their appointment;
- (b) if appropriate, provide reports on the activities of the external organisation; and
- (c) represent the Shire's interests on all matters relating to that external organisation while maintaining any confidentiality requirements of the Shire.

## **5. PROFESSIONAL CONDUCT, PERSONAL BENEFIT AND USE OF LOCAL GOVERNMENT PROPERTY**

As local government employees, high standards of professional conduct ensure that a positive image of the Shire is conveyed when the Shire interacts with its stakeholders and the community.

The conduct displayed should encourage fair, equitable and lawful operation of the Shire.

### **5.1 Fraudulent and Corrupt Conduct**

Fraud is a dishonest activity that causes actual or potential financial loss to any person or the Shire, or results in a personal benefit, by deception or other means. Corrupt conduct is behaviour that lacks virtue or integrity, including when a local government employee uses or attempts to use their position for personal advantage.

The Criminal Code makes it illegal for a public officer (including a local government employee, to engage in fraudulent and/or corrupt conduct.

### **5.2 Performance of Duties**

Local government employees have a legal duty of fidelity to act in the best interests of the Shire. While on duty, local government employees must give their time and attention to the Shire's business and ensure that their work is carried out efficiently and effectively, so that their standard of work reflects favourably both on them and on the Shire.

Local government employees must exercise reasonable care and diligence in the performance of their duties, being consistent in their decision-making and treating all matters on individual merits. The CEO and local government employees must furnish Council Members with all information, as prescribed by law, required for them to perform these duties.

### **5.3 Use of Confidential Information**

Local government employees must not use confidential documents or confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially and in good faith, or to improperly cause harm or detriment to any person or organisation.

### **5.4 Intellectual Property**

The title to intellectual property in all duties relating to contracts of employment must be assigned to the Shire upon its creation unless otherwise agreed by separate contract.

### **5.5 Improper or Undue Influence**

Local government 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.

## **5.6 Use of Local Government Resources and Finances**

The Shire provides local government employees with access to resources, finance and assets to enable them to carry out the duties of their position.

Local government employees must:

- (a) be scrupulously honest in their use of the Shire's resources and finances and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- (b) use the Shire's resources and finances entrusted to them effectively and economically in the course of their duties;
- (c) not use the Shire's resources and finances (including the services of Shire Employees) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the CEO); and
- (d) ensure any assets of the Shire which they are in possession of and/or operate are protected from damage and kept secure at all times.

## 6. CONDUCT OF EMPLOYEES

### 6.1 Personal Behaviour

- (a) Local government employees must:
- (i) act, and be seen to act lawfully, properly and in accordance with the requirements of the law and the terms of this Code, including but not limited to those detailed in Part 10 of this Code;
  - (ii) perform their duties impartially and in the best interests of the Shire uninfluenced by fear or favour;
  - (iii) act in good faith, honesty and integrity (ie honestly, for the proper purpose, and without exceeding their powers) in the interests of the Shire and the community;
  - (iv) make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment; and
  - (v) always act in accordance with their obligation of fidelity to the Shire.
- (b) Local government employees must not to reflect adversely upon any decision of the Council, the Shire's management or the character or actions of another person nor use offensive, derogatory or objectionable language or expressions in reference to any Employee or other person.
- (c) Local government employees must not damage or adversely reflect on the reputation to the local government.

### 6.2 Behaviour at Council and Committee Meetings

- (a) Local government employees must at all times show respect towards other persons.

### 6.3 Bullying, Harassment and Discrimination

A person must not bully, harass or discriminate against another person (within the meaning of relevant legislation) or support others who bully, harass or discriminate.

Bullying, harassment or discrimination of local government employees is not tolerated. The Shire has detailed policies in regard to this matter that can be used as a guide for local government employees.

#### 6.3.1 Bullying in the workplace

Bullying and harassment can be discrimination when it happens because of someone's disability, race, sexual orientation, age, physical features or any other protected attribute under the *Equal Opportunity Act 2010*. Bullying and harassment can be verbal, physical or in writing, and includes behaviour that intimidates, degrades or humiliates another person. This can be a form of unfavourable treatment covered by the law.

### What is bullying?

A worker is bullied at work if:

- a) a person or group of people repeatedly act unreasonably towards them or a group of workers;
- b) the behaviour creates a risk to health and safety;

Unreasonable behaviour includes victimising, humiliating, intimidating or threatening. Whether a behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

### What isn't bullying?

Reasonable management actions carried out in a fair way are not bullying. For example:

- (a) allocating work and setting performance goals, standards and deadlines;
- (b) informing and warning a worker about unsatisfactory work performance;
- (c) informing and warning a worker about inappropriate behaviour;
- (d) undertaking performance management processes and providing constructive feedback.

### **6.3.2 Harassment**

Workplace harassment is unwelcome conduct from a boss, co-worker, group of co-workers, vendor, or customer whose actions, communication, or behaviour mocks, demeans, puts down, disparages, or ridicules an employee.

### **6.3.3 Sexual harassment**

Sexual harassment is an offence under the *Equal Opportunity Act 2010*.

**'Sexual harassment'** is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, verbal or written. It can include:

- (a) comments about a person's private life or the way they look;
- (b) sexually suggestive behaviour, such as leering or staring;
- (c) brushing up against someone, touching, fondling or hugging;
- (d) sexually suggestive comments or jokes;
- (e) displaying offensive screen savers, photos, calendars or objects;
- (f) repeated requests to go out;
- (g) requests for sex;
- (h) sexually explicit emails, text messages or posts on social networking sites;
- (i) sexual assault.

Sexual harassment is not consensual interaction, flirtation or friendship. Sexual harassment is not behaviour that is mutually agreed upon.

Some types of sexual harassment may also be offences under criminal law. These include indecent exposure, stalking, sexual assault and obscene or threatening communications, such as phone calls, letters, emails, text messages and posts on social networking sites.

#### **6.3.4 Discrimination**

If someone is being bullied because of a personal characteristic protected by equal opportunity law, it is a form of discrimination.

In most cases, bullying behaviour is persistent and happens over a period of time. However, under the *Equal Opportunity Act 2010*, this behaviour does not have to be repeated to be discrimination – it may be a one-off event.

#### **6.4 Honesty and Integrity**

Local government employees must:

- (a) observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- (b) bring to the notice of the CEO any dishonesty or possible dishonesty on the part of any other person;
- (c) be frank and honest in their official dealing with each other.

#### **6.5 No Adverse Reflection on Council Decision**

A local government employee must not reflect adversely upon a decision of the Council.

#### **6.6 Performance of Duties**

While on duty, local government employees must give their whole time and attention to the Shire's business and ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably both on them and on the Shire.

#### **6.7 Compliance with Lawful Orders**

- (a) Local government employees will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order, and if resolution cannot be achieved, with the CEO.
- (b) Local government employees must give effect to the lawful policies of the Shire, whether or not they agree with or approve of them.

#### **6.8 Administrative and Management Practices**

(a) Management Practices

Local government employees must ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

(b) Purchasing of Goods and Services

The CEO has on-delegated authority to various positions to purchase goods and services on behalf of the Shire. Those exercising the delegated authority must:

- (i) conform with the purchasing threshold requirements detailed in the Council Purchasing Policy;
- (ii) always seek 'best value' for money from suppliers;
- (iii) be scrupulously honest in dealings with suppliers; and
- (iv) conduct all business with suppliers fairly and with integrity.

## **6.9 Corporate Obligations**

### **(a) Standard of Dress**

Local government employees are expected to comply with neat and responsible dress standards at all times. Accordingly: -

- (i) Local government employees must dress in a manner appropriate to their position, in particular when attending meetings or representing the Shire in an official capacity.
- (ii) Local government employees must wear, whilst on official duty, the approved corporate uniform or a uniform specific to their role (eg Ranger, Pool Attendant), where specified by the CEO.
- (iii) Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual local government employees.
- (iv) Local government employees are required to maintain a minimum standard of 'smart business attire' (except for 'casual dress' days approved by the CEO), dressing suitably and modestly for the business environment.
- (v) Local government employees must wear personal protective clothing/equipment and safety footwear where it is compulsory or as otherwise directed.

### **(b) Communication and Public Relations**

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

## **6.10 Alcohol and Drugs**

- (a) Local government employees are required to present themselves for work in a fit state, and not be unduly affected by alcohol or any mind altering substances, so that in carrying out their work or duties, they do not expose themselves, their co-workers, or other persons to unnecessary risks to health and safety.
- (b) Moderate alcohol consumption is permitted at approved functions hosted by the Shire or when attending external functions as a representative of the Shire. The principles of responsible drinking must be applied at all functions and behavior, whilst consuming alcohol, must be appropriate to the standard expected by the Shire's Values at all times.

## 7. CONFLICT AND DISCLOSURE OF INTEREST

### 7.1 Guiding Principles

The nature of the Shire's business is conducive to conflicts of interests arising. Genuine or perceived conflicts of interests may arise from a number of sources, including friends, relatives, close associates, financial investments, past employment and the like.

### 7.2 Conflict of Interest

- (a) Local government employees must ensure that there is no conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- (b) Local government employees must not engage in private work with or for any person or body with an interest in a proposed or current contract with the Shire, without first making disclosure to the Chief Executive Officer. 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) The definition of outside employment includes paid employment with another organisation, running a business, maintaining a professional practice or consultancy and being a director of an organisation. It may include voluntary activities if those activities have the potential to affect decisions made or actions taken in respect of employment with the Shire.
- (d) All local government employees who are considering engaging in employment outside the Shire (including employment during leave breaks) must seek written approval of the CEO before doing so.
- (e) Local government employees must lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the Shire or which may otherwise be in conflict with the Shire's functions (other than purchasing their principal place of residence).
- (f) Local government employees who exercise a recruitment or other discretionary function must make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- (g) Local government employees must refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity. An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti- discriminatory legislation.

### 7.3 Financial Interest

Local government employees must comply with the laws governing financial interests, including the disclosure of financial interests, set out in the *Local Government Act 1995*.

Sections 5.59-5.90 of the *Local Government Act 1995* establish the requirements for local government employees of financial interests (including proximity interests).

The onus is on local government employees to identify possible financial interests (including proximity interests and non-financial interests), to determine whether an interest exists, and whether any statutory exemption applies.

### 7.4 Impartiality interests for Employees

For the purposes of the Code, an impartiality 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” (see Regulation 34(C)(1) of the Local Government (Administration) Regulations 1996).”*

An ‘impartiality interest’ does not include a ‘financial interest’ that is subject to the requirements of the *Local Government Act 1995*.

A local government employee who has an impartiality interest in any matter to be discussed at a Council or Committee Meeting attended by that person must disclose the nature of the impartiality interest:

- (a) in a written notice given to the CEO before the meeting;  
*or*
- (b) at the meeting immediately before the matter is discussed.

In addition, a local government employee 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 local government employee must disclose the nature of any impartiality interest he or she 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.

A local government employee is excused from the requirement to disclose an impartiality interest if the failure to disclose occurs because the person:

- (a) did not know he or she had an impartiality interest in the matter;  
*or*
- (b) did not know the matter in which he or she had an impartiality interest would be discussed at the meeting and the person discloses the nature of the impartiality interest as soon as possible after becoming aware of the discussion of that matter.

## 7.5 Disclosure of Information in Returns

Designated Employees must provide primary and annual returns in accordance with the requirements of Division 6 of Part 5 of the *Local Government Act 1995*.

## 7.6 Disclosure of Interest

### *Definition:*

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

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

- (a) A person who is a local government employee and who has an interest in any matter to be discussed at a Council or Committee Meeting attended by the person is required to disclose the nature of the interest:-
  - (i) in a written notice given to the CEO before the Meeting; or
  - (ii) at the Meeting immediately before the matter is discussed.
- (b) A person who is a local government employee and who has given, or will give, advice in respect of any matter to be discussed at a Council or Committee Meeting not attended by the person is required to disclose the nature of any interest the person has in the matter:-
  - (i) in a written notice given to the CEO before the Meeting; or
  - (ii) at the time the advice is given.
- (c) A requirement described under items (a) and (b) exclude an interest referred to in Section 5.60 of the *Local Government Act 1995*.
- (d) A person is excused from a requirement made under items (a) or (b) to disclose the nature of an interest if:-
  - (i) the person's failure to disclose occurs because the person did not know he or she had an interest in the matter; or
  - (ii) the person's failure to disclose occurs because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.
- (e) If a person who is a local government employee makes a disclosure in a written notice given to the CEO before a meeting to comply with requirements of items (a) or (b), then:-
  - (i) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
  - (ii) immediately before a matter to which the disclosure relates is discussed at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present.
- (f) If:
  - (i) to comply with a requirement made under item (a), the nature of a person's interest in a matter is disclosed at a meeting; or
  - (ii) a disclosure is made as described in item (d)(ii) at a meeting; or
  - (iii) to comply with a requirement made under item (e)(ii), a notice disclosing the nature of a person's interest in a matter is brought to the attention of the persons present at a meeting,the nature of the interest is to be recorded in the minutes of the meeting.

## 8. DECLARATION OF GIFTS

### 8.1 Determination of threshold amount

- (a) For the purposes of Regulation 19AF of the *Local Government (Administration) Regulations 1996*, the CEO has determined the amount for the purposes of the definition of **threshold amount** in regulation 19AA, is **nil**.

### 8.2 Gifts from Persons having Dealings with the Shire

- (a) Shire of Wongan-Ballidu local government employees are not permitted to accept any gifts or hospitality of any kind as part of their employment with the Shire.
- (b) A local government employee must not accept a prohibited gift from an associated person.
- (c) Any gifts received by a local government employee are to be immediately returned and any offers are to be politely declined and the person to be thanked for their kind gesture and advised that gifts and hospitality cannot be accepted under the Shire of Wongan-Ballidu Code of Conduct.

For the purposes of the Code, a **"gift"** has the meaning set out in the *Local Government (Administration) Regulations 1996*.

There are two key elements to the definition of a **"gift"**. These are:

1. the disposition of property, or the conferral of any other financial benefit; and
2. the absence of 'consideration', or anything less than 'fully adequate' consideration (in terms of money or money's worth) passing from the recipient to the donor.

However, a **gift** does not include a gift from a relative as defined in Section 5.74(1) of the *Local Government Act 1995*.

Local government employees must not seek (either directly or indirectly) any immediate or future gift (including any financial benefit, reward, donation or hospitality) for themselves, or for any other person or body, as a result of their role at the Shire.

If a gift is offered from a dignitary, the gift should be accepted politely on behalf of the Shire and provided to the CEO at the first possible opportunity. At the CEO's discretion, these gifts will be placed in an appropriate location within the Shire, and/or registered in the Shire's memorabilia collection.

## 9. INFORMATION AND COMMUNICATION

### 9.1 Record-keeping and use of information

Local government employees must:

- (a) Not access or use information that is not required for them to do their role;
- (b) Record actions and reasons for decisions to ensure transparency;
- (c) Ensure the secure storage of sensitive or confidential information;
- (d) Not destroy records without authorisation;
- (e) Comply with the Shire's record keeping plan and the *State Records Act 2000*; and
- (f) ensure that Council Members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities, and to make reasonable and informed decisions on matters before the Council.

### 9.2 Access to Information – Personal Interest

Any local government employee must not use confidential information gained through their official position for the purpose of securing a private benefit for themselves or for any other person. When making an enquiry on a matter being considered by the Shire in which they have a personal/financial interest, they shall seek the information only from the CEO or relevant Director in writing.

### 9.3 Improper Use of Information

Local government employees must not make improper use of any information acquired by the person in the performance of his or her functions under the *Local Government Act 1995* or any other written law. Due discretion must be exercised by all those who have access to confidential or sensitive information. This applies not only to the proper disclosure of that information, but also to take the appropriate measures to be taken to ensure that the security of the information is not compromised.

### 9.4 Confidential Information

Local government employees must only access information needed for official business and use confidential information only for the purpose it is intended to be used. They have a duty to protect confidential information and must only release confidential information if they have authority to do so.

### 9.5 Communication and Public Relations

All aspects of communication by local government employees (including verbal, written, electronic or personal), involving the Shire's activities must be accurate, polite and professional.

Local government employees must:

- (a) Respect the decision-making processes of the Shire which are based on decisions of the majority of the Council or a Committee;
- (b) Not communicate confidential information;
- (c) Convey information concerning adopted policies, procedures and decisions of the Shire accurately;
- (d) Recognise that the spokespersons for the Council are the President, and with the President's authorisation, the Chief Executive Officer, either of whom may make a statement on behalf of the Council.

Section 2.8(1)(d) of the *Local Government Act 1995* states the Mayor/President is to speak on behalf of the local government.

Section 5.41(f) of the *Local Government Act 1995* states the CEO can speak on behalf of the local government if the Mayor agrees.

## **9.6 Expression of Personal Views**

Local government employees are free to make their own personal position known about any matter which is pertinent to the business of the Shire, including Council decisions provided that it cannot be construed to be a statement on behalf of the Council.

Local government employees must refrain from making personal statements to the media without approval.

## **9.7 Social Media**

(refer to the Shire of Wongan-Ballidu Website and Social Media Procedure Manual)

## **9.8 Contact with Developers**

Local government employees must ensure development decisions are made in accordance with legislative requirements and the Shire's relevant administrative requirements. Dealings with applicants and consideration of assessment of development applications must be open and transparent to prevent accusations or perceptions of improper conduct, preferential treatment or bias.

## 10. BREACHING THIS CODE

### 10.1 Breaches of the Code by Employees

#### 10.1.1 Allegations and Complaints about Employees

Any person who has reason to believe that the personal behaviour of a local government employee breaches the standards of conduct set out in this Code, may refer the matter to the CEO who will consider the matter and deal with it in accordance with the management protocols, procedures or practices of the Shire, and any applicable law concerning local government employees.

#### 10.1.2 Allegations and Complaints about the CEO

Any person who has reason to believe that the personal behaviour of the CEO breaches the standards of conduct set out in this Code, may refer the matter to the Shire President.

Each report of a breach is to be dealt with quickly and fairly in accordance with the principles of procedural fairness and the procedure specified in Clause 10.2.3.

### 10.2 Procedures for Breaches of this Code

#### 10.2.1 Matters Not Dealt with by this Code

A breach by a Council Member, committee member or a candidate of the Conduct of Conduct for Council Members or the *Local Government (Model Code of Conduct) Regulations 2021* may be reported to the Shire's Complaints Officer (the Shire President) in accordance with the prescribed Complaints Form, as determined from time to time. Such complaints will be dealt with under Division 9 of Part 5 of the *Local Government Act 1995* or *Local Government (Model Code of Conduct) Regulations 2021* or the Code of Conduct for Council Members.

#### 10.2.2 Code of Conduct Matters

Any person who has reason to believe that the personal behaviour of a local government employee breaches the standards of conduct or behaviour set out in this Code, may refer the matter to the CEO.

#### 10.2.3 Procedure for dealing a Complaint and Allegations

- (1) The CEO is responsible for the investigation of allegations of breaches of the Code of Conduct and must either:
  - (a) investigate the alleged breach; or
  - (b) engage a suitably qualified independent person or a barrister to investigate the allegation; and
  - (c) where deemed possible and appropriate by the CEO try and resolve the issue through discussions with the parties.
- (2) If a breach of the Code is found, then the CEO must prepare a report on the matter.

- (3) An investigation conducted by the Chief Executive Officer or independent Investigator will follow the rules of procedural fairness. The CEO and/or the Investigator must:
- (a) inform the person/s against whose interests a decision may be made of any allegations against them and the substance of any adverse comment in respect of them;
  - (b) provide the person/s with a reasonable opportunity to put their case;
  - (c) hear all parties to a matter and consider submissions;
  - (d) make reasonable enquiries before making a decision;
  - (f) ensure that no person is involved in enquiries in which they have a direct interest;
  - (g) endeavour to ensure the complaint is dealt with in a timely manner and where the investigation is prolonged, keep the parties informed as to the progress of the investigation; and
  - (h) ensure that any decision is effectively communicated to the relevant interested parties.
- (4) Wherever reasonably practical parties will meet with the intent of resolving the issue.
- (5) Wherever reasonably practical investigations will be kept confidential.

### **10.3 Reporting Misconduct to the Corruption and Crime Commission**

The CEO, being a 'Principal Officer of a Notifying Authority' (for the purposes of the *Corruption and Crime Commission Act 2003*) has a statutory obligation to report to the Corruption and Crime Commission any allegation of misconduct, or any situation that otherwise comes to his or her attention involving misconduct, where it is of relevance or concern to the CEO in his or her official capacity.

Notwithstanding, any local government employee or any other person, may report directly to the Corruption and Crime Commission any matter which that person suspects on reasonable grounds may concern misconduct that has occurred, is occurring, or may occur.

### **10.4 Misconduct, Corruption and Fraud**

The term '**misconduct**' has a particular and specific meaning in the *Corruption, Crime and Misconduct Act 2003*. Section 4 of the *Corruption, Crime and Misconduct Act 2003* outlines the meaning of misconduct which includes fraud and corruption.

'**Fraud**' is defined as: 'dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by Employees, or persons external to the entity and where deception is used at the time, immediately following the activity.' This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position for personal financial benefit.

'**Corruption**' is defined as: 'dishonest activity in which an Employee or contractor of an entity acts contrary to the interests of the Shire of Wongan-Ballidu and abuses his/her position of trust in order to achieve some personal gain for him or herself or for another person or entity.'

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

#### 4. Term Used: Misconduct

Misconduct occurs if —

- a. a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment;
- b. a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person;
- c. a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years' imprisonment; or
- d. a public officer engages in conduct that —
  - (i) adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct;
  - (ii) constitutes or involves the performance of his or her functions in a manner that is not honest or impartial;
  - (iii) constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer; or
  - (iv) involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person;
  - (v) and constitutes or could constitute a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the *Public Sector Management Act 1994* (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).

Section 3 of the *Corruption and Crime Commission Act 2003* defines 'serious misconduct' as misconduct of a kind described in Section 4(a), (b) or (c) of the *Corruption and Crime Commission Act 2003*.

#### 10.5 Forms of Misconduct:

'**Minor misconduct**', as defined in the *Corruption, Crime and Misconduct Act 2003* (CCM Act) is actually not that minor. To meet the definition, the misconduct should be so significant that it could reasonably lead to termination of a public officer's employment if proved.

However, misconduct matters that do not meet that threshold still need to be dealt with. Conduct matters that are not misconduct under the CCM Act definition are appropriately managed by the employing authority under relevant discipline, grievance or performance management policies.

## 10.6 Public Interest Disclosure Act 2003

The *Public Interest Disclosure Act 2003* facilitates the reporting of public interest information and provides protection for those who report this information under that Act. Local government employees are encouraged to contact the Shire's nominated Public Interest Disclosure Officer to seek guidance on their disclosure and to lodge completed Public Interest Disclosure forms.

A person who makes an appropriate disclosure of public interest information to the Shire's nominated Public Interest Disclosure Officer under Section 5 of the *Public Interest Disclosure Act 2003*:

- (a) incurs no civil or criminal liability for doing so;
- (b) is not, for doing so, liable:
  - (i) to any disciplinary action under a written law;
  - (ii) to be dismissed;
  - (iii) to have his or her services dispensed with or otherwise terminated; or
  - (iv) for any breach of duty of secrecy or confidentiality or any other restriction on disclosure (whether or not imposed by a written law) applicable to the person (Section 13).

## 10.7 Protection of Persons Reporting Unacceptable or Illegal Behaviour

The CEO is to ensure that any person who reports unacceptable or illegal behaviour (that is, whistle blowers) are not in any way disadvantaged or victimised because of their actions. The CEO's action is limited to matters for which he/she has responsibility and/or jurisdiction to act.

## 10.8 Whistle Blower Protection

A commonly accepted definition for "whistle blowing" is the disclosure by organisation members (former or current) of illegal, immoral or illegitimate practices.

The *Corruption, Crime and Misconduct Act 2003* provides protection for witnesses who voluntarily report allegations of misconduct or corrupt conduct to the Corruption and Crime Commission.

The CEO has an obligation to ensure Employees, or others who report illegal or unacceptable behaviour are not in any way compromised, disadvantaged or persecuted.

### References:

*Corruption, Crime and Misconduct Act 2003*: State Law Publisher.

# Code of Conduct Declaration



I, .....  
(print name)

declare that I am a local government employee of the Shire of Wongan-Ballidu.

I acknowledge that I have read the Code of Conduct and all Policies contained / mentioned therein, understand the content, and agree to be bound by them.

..Signed:.....

..Position:.....

..Date:.....

*Please return completed declarations to the HR Officer*



# Code of Conduct Complaint Form

## Note to person making the complaint:

This form may be completed if you wish to complain about an Employee who you allege has breached the Shire of Wongan-Ballidu Code of Conduct for Local Government Employees.

All information requested in this form must be provided before the complaint can be processed. After all information has been provided, sign and date the form, and submit to the Chief Executive Officer. A determination will then be made in relation to the complaint.

Any information provided in this form **MUST NOT** be sent or divulged in any way to the person who is the subject of the complaint.

All information requested below must be provided by the person making the complaint.

What is the name of the local government employee who you allege has breached the Code?	
What date do you allege the breach occurred?	
What clauses of the Code do you allege has been breached?	
How do you allege the breach occurred? ..... ..... ..... ..... ..... ..... .....	
<i>Attach additional sheets to this complaint form if required.</i>	
Were there any witnesses to the alleged breach?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Are the witnesses willing to provide information to assist in resolving the complaint?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If so, what are the name(s) and contact details of the witness(es)?	
<i>Witness No 1 Name:</i> .....	
<i>Contact Details:</i> .....	
<i>Witness No 2 Name:</i> .....	
<i>Contact Details:</i> .....	
Have you attached all relevant and additional information which may assist in resolving the complaint?	Yes <input type="checkbox"/> No <input type="checkbox"/>

.....  
**Complainant's Signature:**

.....  
**Full Name:**

.....  
**Telephone Contact**

.....  
**Email:**

.....  
**Date:**