

Employee Code of Conduct Policy

Objective

The City of Albany (the City) recognises the importance of key values that are the cornerstone to the behaviour of all employees and interactions with the community.

The objectives of the Code of Conduct (the Code) are to:

- Provide direction to employees, contractors and volunteers around expected conduct whilst affiliated with the City;
- Assist employees, contractors and volunteers in dealing with ethical issues in ways that reflect the City's values and standards;
- Promote professionalism and excellence;
- Express shared assumptions and organisational values; and
- Commit to public accountability and corporate governance.

Scope

This Code applies to all of the City's employees, contractors, volunteers and work placement/experience students.

The gift provision, prescribed in this Code, does not apply to the CEO, noting Councillors and CEOs are required to meet the gift provisions prescribed in Part 5, Division 6 of the *Local Government Act 1995* (the Act).

Policy Statement:

The Code

The Code is underpinned by the City's values. These include:

- **Focused:** on community outcomes
- **United:** by working and learning together
- **Accountable:** for our actions
- **Proud:** of our people and our community

These values provide the most fundamental direction on what type of local government we aspire to be, and what type of behaviour we regard as appropriate.

As a values-driven local government we go beyond simply complying with minimum standards of personal conduct.

Our goal is to make every decision and every action one that we can be proud of.

The Code is the City's policy that provides specific guidance as to the standard of personal behaviour expected of City of Albany employees, contractors, volunteers and work placement/experience students.

The Code complements other job specific documents, policies & procedures and relevant industrial instruments that define the practices, principles, performance and standards of behaviour expected at the City.

The basic principles of the Code include but are not limited to the following:

- Abide by the City's values;
- Abide by all City policies and procedures;
- The rights of employees to be treated fairly and equitably in the workplace;
- Treat all customers, members of the public and fellow employees with respect, courtesy, professionalism and without harassment;
- Maintain a work environment free of discrimination, harassment and bullying;
- Perform our duties as best we can, taking into account our skills, experience, qualifications and position;
- Do our jobs in a safe, responsible and effective manner;
- Behave honestly and with integrity;
- Obey the law and follow reasonable requests by management;
- Uphold the principles of equal opportunity;
- Use City property and money efficiently, carefully and honestly with due authorisation and without misappropriation;

- Maintain confidentiality of all information gained through our work and only access information relevant to the fulfilment of our duty to the City;
- Ensure our personal business, financial and other outside interests do not conflict with our duty to the City;
- Communicate (verbal, written and electronic) in an accurate, polite and professional manner aligned with the City's values and objectives;
- Ensure complete and accurate local government records are created and maintained in accordance with the City's Record Keeping Plan;
- Employees must not, unless undertaking a duty in accordance with their employment, disclose information, make comments or engage in communication activities about or on behalf of the City, its Council Members, employees or contractors or which breach this Code;
- The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the City upon its creation unless otherwise agreed by separate contract; and
- Behave in a way that upholds the values, integrity and reputation of the City.

Accountability

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

Every employee has a personal accountability to act in accordance with the intentions of this Code, not condone behaviour in breach of this Code and report breaches of this Code.

Any Employee found to be in breach in part of the above Code will result in disciplinary action, which may include termination of employment.

Further Support:

Please discuss with your line manager and/or direct supervisor in the first instance.

For advice or clarification on this Code please contact the City's People & Culture Team.

Legislative and Strategic Context

Statutory environment:

The Code should be read in conjunction with the Local Government Act 1995 and the Local Government (Administration) Regulations 1996.

Employees should ensure that they are aware of their statutory responsibilities under this and other legislation.

Local Government Act 1995 (the Act):

- **Role of Employees:** The role of employees in Local Government is determined by the functions of the CEO as set out in section 5.41 of the Act.
- **Functions of CEO** are set out in section 5.41 of the Act.
- **Principles affecting employment** by the City are set out in section 5.40.
- **Gift threshold amount determination** complies with regulation 19AF of the Local Government (Administration) Regulations 1996.

Community Strategic Plan 2032:

This policy relates directly to the following elements of the Strategic Community Plan:

- **Leadership:** A well governed city that uses resources wisely to meet local needs.
- **Outcomes:**
 - Proactive, visionary leaders who are aligned with community needs and values.
 - Strong workplace culture and performance.
- **Objectives:**
 - Provide strong, accountable leadership.
 - Provide cost effective financial management and value for money.

Review Position and Date

The former *Local Government (Code of Conduct) Regulations 2003* is now superseded and replaced with the *Local Government (Model Code of Conduct) Regulations 2021*.

This policy has been updated to ensure compliance with the *Local Government Act 1995* amendment that came into effect in January 2021; which has prescribed content and requires that a separate code of conduct for employees be formally approved by the CEO.

This policy and procedure is to be reviewed by the Document Owner every three years.

Associated Documents

Other documents that have a bearing on this policy and that may be useful reference material for users of this policy, follow:

Legislation:

- Corruption, Crime and Misconduct Act 2003
- Equal Employment Opportunity Act 1984
- Local Government Act 1995
 - Local Government (Administration) Regulations 1996
 - Local Government (Model Code of Conduct) Regulations 2021
- Public Interest Disclosure Act 2003
- Work Health and Safety Act 2020
 - Work Health and Safety (General) Regulations 2022

Policy Positions:

- Bullying and Harassment Policy
- Drug and Alcohol Policy
- Equal Employment and Anti-Discrimination Policy
- Managing and Improving Performance Behaviour Procedure.
- Occupational Health and Safety Policy
- Rights & Obligations under the Public Interest Disclosure Act 2003 Policy & Procedure
- Recording Keeping Plan: Social Media Guideline.

Definitions

Gift —

- a gift is defined under section 5.57 of the Act as a conferral of a financial benefit (including a disposition of property) made by one person in favour of another; and
- it includes any contributions to travel.

Reportable gift means —

- a gift worth more than \$25 dollars but less than \$299 dollars; or
- 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 more than \$25 dollars but less than \$299 dollars.

Attachments

- **Attachment 1:** Employee Gift Reporting and Management Directive
- **Attachment 2:** Conflict of Interest Management
- **Attachment 3:** Public Interest Disclosure (Whistleblowing)

ATTACHMENT 1: EMPLOYEE GIFT REPORTING AND MANAGEMENT DIRECTIVE

A: Reportable Gift

A gift valued:

- up to \$25 may be accepted by an employee, but must be recorded on the Gift Register.
- over \$25 and up to \$299 may be accepted with the approval of the CEO.

A gift offered:

- above \$299 is a prohibited gift and must not be accepted.
- above \$299, even though not accepted, must be reported to the CEO.

An employee who accepts a reportable gift from an associated person is to notify the CEO in accordance with the following notification procedure within 10 days of accepting the gift.

Employees must not accept a prohibited gift from an associated person.

associated person means a person who —

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

B: Gift Notification Procedure:

- The notification of the acceptance of a reportable gift must be in writing and include:
 - the name of the person who gave the gift; and
 - the date on which the gift was accepted; and
 - a description, and the estimated value, of the gift; and
 - the nature of the relationship between the person who is an employee and the person who gave the gift; and
 - if the gift is one of two or more accepted from the same person within a period of one year:
 - a description;
 - the estimated value; and
 - the date of acceptance, of each other gift accepted within the one-year period.

C: Gift Register:

- The CEO will maintain a register of reportable gifts and record in it details of notifications given to comply with this procedure.
- The CEO will arrange for the register to be published on the City's official website.
- As soon as practicable after a person ceases to be an employee, the CEO will remove from the register all records relating to that person. The removed records will be retained for a period of at least 5 years.

ATTACHMENT 2: CONFLICT OF INTEREST MANAGEMENT

Employees will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.

Employees will not engage in private work with or for any person or body with an interest in a proposed or current contract with the City, without first disclosing the interest to the CEO. 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.

Employees will lodge written notice with the CEO describing an intention to undertake a dealing in land which is within the district of the City, or which may otherwise be in conflict with the Local Government's functions (other than purchasing their principal place of residence).

Employees who exercise a recruitment or any other discretionary function will disclose any actual (or perceived) conflict of interest to the CEO before dealing with relatives or friends and will disqualify themselves from dealing with those persons.

Employees will conduct themselves in an apolitical manner and refrain from political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity, acknowledging that the *Equal Opportunity Act 1984* provides that it is unlawful to discriminate against an employee or prospective employee on the ground of political conviction.

Secondary Employment

An employee must not engage in any additional business or secondary employment (including paid and unpaid work) without receiving the prior written approval of the CEO.

Disclosure of Financial, Proximity and Impartiality Interest

All employees will apply the principles of disclosure of financial interest as contained within the *Local Government Act 1995* (the Act).

Employees who have been delegated a power or duty or provide advice or reports to Council or Committees, must ensure that they are aware of, and comply with, their statutory obligations under the Act.

Proximity and Impartiality interest has the meaning given to it in the *Local Government (Administration) Regulations 1996*.

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.

ATTACHMENT 3 - PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWING)

The Corruption, Crime and Misconduct Act 2003 (CMM Act) defines a public authority and public officer.

The City of Albany (the City) is a public authority and generally speaking, a public officer may be anyone using public resources to carry out a public function under a written law. Public Officers, include:

- Elected Members (Mayor & Councillors)
- Chairpersons and committee members
- Employees
- Contractors

The City has designated officers responsible for all inquiries relating to disclosures in the public interest, being:

- Chief Executive Officer
- Executive Director Corporate & Commercial Services
- Manager People & Culture
- Manager Governance & Risk (Primary Contact Officer)

Minor misconduct in context

Minor misconduct, as defined in the Corruption, Crime and Misconduct Act 2003 (CCM Act) is actually not that minor.

What is a public interest disclosure?

A disclosure must relate to a matter of public interest and tend to show wrongdoing by a public body when performing a public function.

Who can make a disclosure? Anyone (including a member of the public) who believes on reasonable grounds that the information they have is or may be true can make a disclosure.

“Generally, improper conduct is a breach of the standards of conduct that a reasonable person would expect of a person or body, knowing their duties, powers and authority in the circumstances of the case.”

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.

How to lodge a misconduct complaint (I think it might be minor misconduct?)

You can report any reasonable suspicion of minor misconduct involving a public officer to the designed Public Interest Disclosure (PID) Officer and/or the Public Sector Commission (PSC).

To assist you, please refer to the Rights & Obligations under the Public Interest Disclosure Act 2003 Policy & Procedure available on the City’s website.

In addition the PSC has prepared fact sheets you might find useful, on their website.

<https://www.wa.gov.au/organisation/public-sector-commission>

Please note:

A disclosure is more than a general complaint about dissatisfaction with a product or service or a decision by government, and is more than a personal grievance that can be resolved by agreement between parties.

In order to be covered by the protections of the Public Interest Disclosure Act, the information needs to relate to a matter of public interest.

Consider confidentiality

You can choose to tell us who you are, or remain anonymous when you report. The things you might like to consider include:

If you identify yourself

- We will be able to ask you for more information if we need it
- We can tell you what action we intend to take based on your report
- We will know your identity and it will be recorded in our database
- If the matter is referred to the public authority to investigate, we might have to provide your contact details to them to enable the matter to be investigated.

If you remain anonymous

- Our ability to assess your complaint may be limited
- We will not be able to ask you for more information if we need it
- We will not be able to tell you anything further about the report once it is made.

Document Approval			
Document Development Officers:		Document Owner:	
Manager Governance & Risk (MGR) Manager People & Culture (MPC)		Chief Executive Officer	
Document Control			
File Number - Document Type:	CM.STD.7 – Policy		
Synergy Reference Number:	NP22144950		
Status of Document:	Approved		
Quality Assurance:	People & Culture Team, Governance & Risk Team, Executive Management Team		
Distribution:	Public Document		
Document Revision History			
Version	Author	Version Description	Date Completed
0.1 to 1.2	HR Coordinator	<p>Author: HR Coordinator – OSH & Special Projects Implemented and approved by EMT (23/07/2015) Document Reference: NP1654961_1.</p> <ul style="list-style-type: none"> - Reviewed by Document Owner (20/06/2016) - Reviewed and updated to Corporate Document format (05/07/2017) - Reviewed, minor administrative amendments applied (06/07/2017) 	06/07/2017
1.3	MGR	<p>Author: Manager Governance & Risk (MGR) Appended with mandatory content. RE: Local Government Act 1995, was amended in early 2021. This amendment prescribes mandatory content that must be included in Employee Codes of Conduct., noting in accordance with the Local Government (Administration) Regulations 1996, the Code must contain:</p> <ul style="list-style-type: none"> - 19AA. 19AB. Prohibited gifts - 19AC. Recording, storing, disclosure and use of information relating to gifts. - 19AD. Conflicts of interest - 19AE. Other matters codes of conduct must deal with - 19AF. Determination of threshold amount. The CEO may determine an amount (which may be nil) for the purposes of the definition of threshold amount in regulation 19AA. This determination must be published on the local government's official website. <p>The former Local Government (Code of Conduct) Regulations 2003 is now superseded and replaced with the Local Government (Model Code of Conduct) Regulations 2021.</p> <p>Following appended from WALGA template to address observations and recommendations from the auditor:</p> <ul style="list-style-type: none"> - Intellectual Property - Record Keeping - Secondary employment. 	18/08/2021

1.4	MGR	<p>Prepared for Executive Management Team (EMT) review and Chief Executive Officer approval.</p> <p>EMT recommended: A gift valued:</p> <ul style="list-style-type: none"> - up to \$25.00 may be accepted by an employee, but must be recorded on the Employee Gift Register. - over \$25.00 and up to \$299.00 may be accepted with the approval of the CEO. <p>A gift offered:</p> <ul style="list-style-type: none"> - above \$299.00 is a prohibited gift and must not be accepted. - above \$299.00, even though not accepted, must be reported to the CEO. 	02/09/2021
1.5	MGR	<p>Fully reviewed and prepared for Chief Executive Officer approval, noting mandated content prescribed under the Local Government Act 1995 and the Local Government (Administration) Regulations 1996. Synergy Reference: NP22144950.</p> <ul style="list-style-type: none"> - Minor formatting. - Reference to Strategic Community Plan 2032 updated. - Appended with reference to Work Health and Safety Act 2020, noting it provides a framework to protect the health, safety and welfare of workers in WA workplaces, and of other people who might be affected by the work. The Work Health and Safety Act 2020, other than Part 1 Division 1 and Part 14 Division 4, comes into operation on 31 March 2022. 	16/03/2022
1.6	MGR	<p>Reviewed by CEO and amended to apply recommendations. Amendments applied to:</p> <ul style="list-style-type: none"> - Scope. - Community Strategic Plan reference. - Review position and date. - Definitions. <p>Appended with additional information, specifically: Attachment 3 – Public Interest Disclosure (Whistleblowing).</p>	17/03/2022
2.0	MGR & MP&C	<p>Approved by CEO in consultation with Executive Management Team at the Executive Management Team meeting held on 5 April 2022.</p>	05/04/2022