
Staff Code of Conduct

Roles

Conflict and Disclosure of Interest

Personal Benefit

Conduct

Performance of Duties

Dealing with Council Property



Document Owner	Chief Executive Officer
Date Effective	August 2021

Introduction

This Code of Conduct (“the Code”) provides Employees in local government with consistent guidelines for an acceptable standard of professional conduct. 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 is complementary to the principles adopted in the Local Government Act 1995 and Regulations which incorporate the following fundamental aims:

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

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

Statutory Environment

The Code of Conduct observes statutory requirements of the Local Government (Administration) Regulations 1996 (Regs 34B and 34C).

Roles

1. Role of Employees

The role of employees is determined by the functions of the CEO as set out in s. 5.41 of the Local Government Act 1995:

The CEO’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 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 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 CEO.

Principles Affecting Employment by the Shire

The following principles, set out in s. 5.40 of the Act, apply to employment by the Shire:

- (a) employees are to be selected and promoted in accordance with the principles of merit and equity; and
- (b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage; and
- (c) employees are to be treated fairly and consistently; and
- (d) there is to be no unlawful discrimination against employees or persons seeking employment by the Shire on a ground referred to in the Equal Opportunity Act 1984 or on any other ground; and
- (e) employees are to be provided with safe and healthy working conditions in accordance with the Occupational Safety and Health Act 1984; and
- (f) such other principles, not inconsistent with this Division, as may be prescribed.

For the purposes of this Code, “employee” includes a person who is under contract for services with the local government.

Conflict and Disclosure of Interest

1. Conflict of Interest

- a. 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. An example of this could include, but is not limited to, secondary employment, contract work, etc.
- b. 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 Shire, without first making disclosure 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.
- c. Employees will lodge written notice with the CEO describing an intention to undertake a dealing in land within the local government district or which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).
- d. Employees who exercise a recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- e. Employees will 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-discrimination legislation.

2. Interest

2.1 Financial and Proximity Interests

Employees must comply with the laws governing financial and proximity interests and, in the case of the CEO, interests relating to gifts, including the disclosure of such interests, set out in the Local Government Act 1995.

The onus is on employees to identify possible financial interests and other interests (such as proximity interests and non-financial interests) in order to determine whether an interest exists, what disclosure is required by this Code or applicable laws, and whether any statutory exemption applies.

Section 5.70 of the Act specifies that an employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.

If required to do so by the council or committee, then the employee must also disclose the extent of the interest.

2.1.1 Financial Interests

Section 5.60A of the Act states that a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government (or by an employee, councillor, Council or committee of the local government) in a particular way, result in a financial gain, loss, benefit or detriment for the person

A financial interest may be direct or indirect. An indirect financial interest includes where a financial relationship exists between a relevant person and another person or body requiring a local government decision in relation to a particular matter.

An employee is also required to disclose (unless the matter is exempt), if a closely associated person as defined by s. 5.62 of the Act has a financial interest in a matter.

2.1.2 Proximity Interests

Section 5.60B of the Local Government Act 1995 states that an employee has a proximity interest in a matter if the matter concerns:

- a. a proposed change to a planning scheme affecting land that adjoins the person's land; or
- b. a proposed change to the zoning or use of land that adjoins the person's land; or
- b. a proposed development (as defined in s. 5.63(5) of the Act) of land that adjoins the person's land.

Land is considered to adjoin a person's land if:

- a. it has a common boundary with the person's land; or
- b. any part of the land is directly across a thoroughfare from the person's land.

The term "land" includes any land owned by the person or in which the person has any estate or interest.

2.3 Impartiality Interests

Employees must comply with the impartiality interest provisions set out in this Code.

2.3.1 Meaning of "impartiality interest"

For the purposes of this Code, “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 and Regulation 11(1) of the Local Government (Rules of Conduct) Regulations 2007.)

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

2.3.2 Requirement to disclose

An 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, an employee who has given, or will give, advice in respect of any matter to be discussed at a committee meeting not attended by the employee must disclose the nature of any impartiality interest he or she has in the matter either:

- a. if the employee is the author of a report in the agenda for a meeting, as part of that report; or
- b. in a written notice given to the CEO before the meeting; or
- c. at the time the advice is given.

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

- a. did not know that 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 then disclosed the nature of the impartiality interest as soon as possible after becoming aware of the discussion of that matter.

The disclosure of an impartiality interest does not necessarily affect the ability of the employee to discuss or vote on the matter.

Where a verbal disclosure is made at a meeting without a prior written disclosure being made, a written disclosure form must be completed in relation to the impartiality interest as soon as practicable following the meeting.

2.3.3 Notice and Recording

Where an impartiality interest is disclosed in a written notice given to the CEO before a meeting, then:

- a. before the meeting the CEO is to ensure that the notice is given to the person who is to preside at the meeting; and
- b. at the meeting, the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matter to which the disclosure relates is discussed.

Where an impartiality interest is disclosed or brought to the attention of the persons present at a meeting, the nature of the impartiality interest must be recorded in the minutes of the meeting.

2.3.4 Disclosure requirements outside of Council and Committee meetings

Employees shall disclose, at any Concept Forum, Annual Meeting of Electors or community meeting, any interest or conflict which may arise on any matter in which they would ordinarily disclose an interest, if that same matter were to arise during the course of a Council or Committee meeting.

Personal Benefit

1. Use of Confidential Information

Employees must not disclose to another person, unless it is required for the performance of their duties at the Shire, written or oral information that is provided to them or obtained by them in confidence, or is identified by the CEO as confidential.

Employees may not allow any unauthorised person to have access to places where confidential information is displayed, reproduced or stored.

Employees must take whatever measures are reasonably necessary to preserve confidential information, including complying with all secure measures established to safeguard confidential information from unauthorised access or use.

Nothing in this section prevents an employee from disclosing confidential information:

- a. to a legal practitioner for the purpose of obtaining legal advice; or
- b. if the disclosure is permitted by law.

2. Improper Use of Information

Employees must not make improper use of any information acquired in the performance of their functions under the Local Government Act 1995 or any other written law. Employees shall use discretion with information and avoid improperly causing harm or detriment to any person, organisation or the Shire.

3. Intellectual Property

The Shire owns rights, titles and interests in any intellectual capital or property developed during the employee's service with the Shire.

'Intellectual Property' is defined as all present and future rights to each of the following used by or on behalf of the Shire, or developed in connection with the business or operations of the Shire, before, during or after the employment:

- a. know-how;
- b. trade marks, whether registered or unregistered;
- c. inventions and improvements;
- d. domain or business names; c. confidential information;
- e. concepts, ideas and information;
- f. processes, data and formula;
- g. copyright, moral rights, inventions, patents, patent applications, designs; and
- h. any other intellectual property.

4. Improper or Undue Influence

Employees will not take advantage of their position to:

- a. improperly influence other employees, Councillors or committee members in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body; or
- c. improperly influence any other person in order to gain undue or improper (direct or indirect) advantage or gain, pecuniary or otherwise, for themselves or for any other person or body; or
- d. improperly disadvantage or cause detriment to the Shire of Yilgarn or any other person.

5. Gifts

Section 5.57 of the Local Government Act 1995 defines a **gift** as:

- a. a conferral of a financial benefit (including a disposition of property) made by one person in favour of another person unless adequate consideration in money or money's worth passes from the person in whose favour the conferral is made to the person who makes the conferral; or
- b. a travel contribution.

It is the Shire's position that an employee should not seek or accept (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 with the Shire.

However, it is acknowledged that there may be instances when receiving a gift is unavoidable or when refusal of a gift may be inappropriate. In these circumstances, employees must comply with the provisions of this section.

The following gifts are exempt from the requirements of this section:

- a. a gift from the following persons (relatives as defined in s.5.74 of the Local Government Act 1995):
 - i. Spouse or de facto spouse
 - ii. Parent;
 - iii. Grandparent;
 - iv. Brother;
 - v. Sister;
 - vi. Uncle;
 - vii. Aunt;
 - viii. Nephew;
 - ix. Niece;
 - x. Lineal descendant of you or your spouse or de facto partner; or
 - xi. The spouse or de facto partner of any person identified above.

It should be noted that the above list does not include cousins, in-laws, foster children etc. If a relationship is not specifically included in the list, then the person is not recognised as a "relative" for the purposes of the Local Government Act 1995 and gifts from that person are not exempt from the disclosure requirements of this Code of Conduct.

- b. a gift that must be disclosed under regulation 30B of the Local Government (Elections) Regulations 1997;

- c. a gift from a statutory authority, government instrumentality or non-profit association for professional training; or
- d. a gift from the Western Australian Local Government Association (WALGA), the Australian Local Government Association (ALGA), or Local Government Professionals WA.

5.1 Gift Disclosures (All Employees Other Than the CEO)

5.1.1 Prohibited Gifts

Prohibited Gifts are:

- a. a gift worth \$300 or more; or
- b. a gift that is one of two or more gifts given to the employee by the same person or organisation within a period of six months that, in total, are worth \$300 or more; and
- c. the person or organisation offering the gift:
 - i. is undertaking or seeking to undertake an activity involving a local government discretion; or
 - ii. it is reasonable to believe is intending to undertake an activity involving a local government discretion.

Employees must not accept a prohibited gift and any gift valued at \$300 or more should be politely declined. If it is considered inappropriate to reject a gift worth \$300 or more (such as a gift from a dignitary), then the gift should be accepted on behalf of the Shire and provided to the CEO at the first possible opportunity. Council will be formally advised of any gifts of this nature at the next ordinary Council meeting, with the gift then being displayed in an appropriate position within the Shire's Administration Centre, or otherwise stored as deemed appropriate by the CEO.

In any circumstance where it is believed that the value of a gift may approach \$300, then the precise value of the gift should be determined before acceptance to ensure compliance with this Code. It is also important to ensure that the full value of the gift is taken into account, including all hidden costs associated with acts of hospitality.

5.1.2 Reportable Gifts

Reportable Gifts are:

- a. worth between \$50 and \$300; or

- b. one of two or more gifts given to the employee by the same person or organisation within a period of six months that are in total worth between \$50 and \$300; and
- c. the person or organisation offering the gift:
 - i. is undertaking or seeking to undertake an activity involving a local government discretion; or
 - ii. it is reasonable to believe is intending to undertake an activity involving a local government discretion.

Reportable gifts must be disclosed to the CEO, in writing, within 10 days of acceptance of the gift. The disclosure must include:

- a. The name of the person who gave the gift;
- b. The date on which the gift was accepted;
- c. A description, and the estimated value, of the gift;
- d. The nature of the relationship between the person who is an employee and the person who gave the gift; and
- e. If the gift is a reportable gift because it is one of two or more gifts given to the employee by the same person within a period of six months that are in total worth between \$50 and \$300:
 - i. a description;
 - ii. the estimated value; and
 - iii. the date of acceptance,of each other gift accepted within the six month period.

5.1.3 The CEO is required to maintain a register of reportable gifts and record in it details of notifications given in accordance with the reportable gift provisions of the Local Government (Administration) Regulations 1996. An up-to-date version of the register must be published on the Shire of Yilgarn's website for public information.

5.2 Gift Disclosures (CEO)

In accordance with s.5.87B of the Local Government Act 1995 and r.20A of the Local Government (Administration) Regulations 1996, the CEO is required to disclose any gift or gifts received in their capacity as CEO that:

- a. has a value of over \$300; or
- b. cumulatively have a value exceeding \$300 where the gifts are received from the same donor within a period of 12 months.

The CEO must disclose any such gift in writing to the Shire President within 10 days of receipt of the gift. The disclosure must include:

- a. a description of the gift;
- b. the name and address of the person who made the gift;
- c. the date on which the gift was received;
- d. the estimated value of the gift at the time it was made;
- e. the nature of the relationship between the person who made the gift and the person who received the gift; and
- f. in the case of a travel contribution:
 - i. a description of the travel; and
 - ii. the date of the travel.

5.3 The CEO must keep a register of all gift disclosures made under s.5.87B. The register must be updated with details of a disclosure within 10 days of the disclosure being made, and the up-to-date register must then be published on the Shire's website for public information.

Conduct

1. Personal Behaviour

Employees will:

- a. Act, and be seen to act, properly and in accordance with the requirements of the law and Shire of Yilgarn policies and procedures, including this Code.
- b. Perform their duties impartially and in the best interests of the Shire not influenced by fear or favour.
- c. Act in good faith (i.e, honestly, for the proper purpose, and without exceeding their powers) in the interests of the Shire and the community.

- d. 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.
- e. Treat others with respect, courtesy, honesty and fairness, having regard for their interests, rights, safety and welfare.
- f. Be open and accountable to the public.
- g. Not harass or intimidate others in the conduct of the Shire's functions, duties or business.
- h. Make decisions that are based on relevant and factually correct information.
- i. Always act in accordance with their obligation of fidelity to the Shire of Yilgarn and not publicly reflect adversely upon any decision of Council or employees.
- j. Be fit for work or any other duties associated with the role of employee of the Shire of Yilgarn.

2. Honesty and Integrity

Employees will:

- a. observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- b. bring any dishonesty or possible dishonesty:
 - i. on the part of another employee (other than the CEO), the Shire President or another Councillor, or a committee member who is not a Councillor to the attention of the CEO; or
 - ii. on the part of the CEO to the attention of the Executive Manager Corporate Services; and
 - iii. be frank and honest in their official dealings with other employees, Councillors and committee members.

3. Smoking

The Shire of Yilgarn is committed to providing employees with a healthy smoke free environment. Smoking is prohibited in areas or circumstances where there are clear safety considerations.

All employees who smoke during their designated lunch break are to consider other people. When out of doors and the smoke is affecting a person in the vicinity, the smoker is to move far enough away that the smoke will not come into contact with others. If a smoker is reasonably asked to extinguish a cigarette or move away from an area, they will comply with the request.

4. Drugs and Alcohol

Employees must take all reasonable care not to endanger the safety of themselves or others (including customers) in the workplace. Alcohol and drug usage becomes an occupational safety and health issue if an employee's ability to exercise judgment, coordination, motor control, concentration and alertness at the workplace is impaired.

The consumption of alcohol and/or drugs while at work is unacceptable, except in relation to any authorised and responsible use of alcohol at workplace social functions. Employees are required to present themselves for work and remain, while at work, capable of performing their work duties safely. An employee who is under the influence of, or impaired by alcohol and/or drugs at the workplace, may face disciplinary action.

Employees are not permitted to buy, take or sell drugs on Shire of Yilgarn premises. "Drugs" means a chemical or natural substance, whether legal or illegal, which has the ability to impair an employee's physical or mental capacity. This includes drugs of an illicit nature.

Employees who have been prescribed medication by a medical practitioner, or who purchase over the counter medication that could interfere with their ability to safely carry out their role, or cause other employees to be impaired, must inform their Manager or the Human Resources Officer as soon as possible and disclose any side effects that the medication they are taking may cause.

All employees who undertake work on Shire premises, must have a blood alcohol concentration of not more than 0.000%. The exception to this requirement is the reasonable consumption of alcohol permitted by the Shire at pre-approved work functions.

5. Illness and Attendance at Work

An employee must provide the Shire with notice of the need to take personal/carer's leave before their shift commences, or if this is not possible, as soon as practicable. The employee must also advise the Shire of the period or expected period of leave.

The Shire may request evidence that would satisfy a reasonable person of the need to take personal/carer's leave, which includes a medical certificate from a medical practitioner.

The Shire will allow employees to take five (5) single (non-consecutive) working days of personal/carer's leave per calendar year without requesting a medical certificate, provided the leave does not fall on either side of a standard weekend, long weekend or other periods of leave such as annual or long service leave. If an employee is absent for two or more continuous working days or more than five single (non-consecutive) working days in a calendar year, the Shire requires the employee to provide a medical certificate.

Medical certificates must be provided to the employee's supervisor immediately on return to work and must not be left attached to timesheets.

If an employee is unwell with an infectious illness (eg, influenza virus, COVID-19 virus, viral gastroenteritis, etc) the Shire advocates staying home to recover and prevent the illness being spread to colleagues.

6. Social Media

Personal communications and statements made privately in conversation, written, recorded, emailed or posted in personal social media have the potential to be made public, whether intended or not.

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 Shire of Yilgarn, Councillors, Shire employees or contractors which breach this Code of Conduct.

Employee comments which become public and breach the Code of Conduct, or any other operational policy or procedure may constitute a disciplinary matter and may also be determined as misconduct and be notified in accordance with the Corruption, Crime and Misconduct Act 2003.

Performance of Duties

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

1. Compliance with Lawful Orders

- a. 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. Employees will give effect to the lawful policies of the Shire, whether or not they agree with or approve of them.

2. Administrative and Management Practices

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

3. Corporate Obligations

3.1 Standard of Dress

- a. Employees are expected to comply with neat and responsible dress standards, which includes wearing the Shire's corporate uniform and/or personal protective clothing (where applicable).
- b. The Shire allows administrative employees to dress casually on Fridays. It is however a requirement that employees wear the Shire Logo Shirt and to present to work in 'smart casual' attire, which is appropriate to the work undertaken, and is clean, tidy and presentable. For example, items not considered to be appropriate are: denim, short dresses, skirts or shorts; beach, sporting or exercise wear; low cut or strappy tops/shirt; rubber thongs.
- c. Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual employees.

3.2 Communication and Public Relations

- a. All aspects of communication by employees (including verbal, written or personal), involving the Shire's activities should reflect the status and objectives of the Shire. Communications should be accurate, polite and professional.
- b. Information of a confidential nature will not be communicated until it is no longer treated as confidential;

- c. Information relating to decisions of the Shire on approvals, permits and so on, may only be communicated in an official capacity by a designated officer of the Shire;
- d. Information concerning adopted policies, procedures and decisions of the Shire is to be conveyed accurately.

3.3 Requirement for Police Clearance

All employees are required to provide a current Police Clearance at their own expense prior to commencement of employment, and thereafter when required or requested to do so by the CEO.

4. Relationships between Employees and Councillors

An effective employee will work as part of the Shire team, which includes CEO, Executive Managers, Colleagues and Councillors. That teamwork will only occur if employees and Councillors have a mutual respect and co-operate with each other to achieve the Shire's corporate goals and implement the Shire's strategies.

Dealing with Council Property

1. Use of Local Government Resources

Employees will:

- a. Be scrupulously honest in their use of the Shire's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body.
- b. Use Shire resources entrusted to them effectively and economically in the course of their duties.
- c. Not use the Shire's resources 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).

2. Travelling and Sustenance Expenses

Employees will only claim or accept travelling and sustenance expenses arising out of travel-related matters which have a direct bearing on the services, policies or business of the Shire in accordance with Council policy and the provision of the Local Government Act 1995.

Employees must make every endeavour to arrange for use of a Shire vehicle when attending Shire related events, including training, conferences, meetings and social functions. If a pool vehicle is not available, then employees should arrange the availability of another Shire vehicle through their Executive Manager.

Use of private vehicles for Shire-related travel is not permitted unless prior approval is granted by an Executive Manager.

3. Access to Information

Employees will ensure that Councillors are given access to all information necessary for them to properly perform their functions and comply with their responsibilities as Councillors.

Reporting Breaches of the Code by Employees

Any person who has reason to believe that an employee other than the CEO has breached the standards of conduct set out in the Code may refer the matter to the CEO, who will consider the matter and deal with it in accordance with the management protocols, procedures and/or practices of the Shire and any applicable law concerning employees.

Any person who has reason to believe that the CEO has breached the standards of conduct set out in the Code may refer the matter to the Executive Manager Corporate Services, who will consider the matter and deal with it in accordance with the management protocols, procedures and practices of the Shire and any applicable law.

Every report of a breach is to be dealt with quickly and fairly in accordance with the principles of procedural fairness.

Employee Declaration

I have **read, understand and agree** to abide by the terms and conditions contained **within the Shire of Yilgarn Staff Code of Conduct**.

Name (please print in block letters):

Signed: _____

Dated: _____

Witnessed: _____

Dated: _____

Please return this signed & witnessed page only to Human Resources