

	<h2 style="margin: 0;">Code of Conduct for Council Employees</h2>	Version No:	2.4
		Issued:	16 June 2010
		Last Review:	November 2021
		Next Review:	March 2023

Name of Council	Wudinna District Council
File reference	9.63
Responsibility:	Governance
Policy Level	Mandatory (Section 110 of the Local Government Act 1999)
Minutes reference:	10.5.7 – 16 November 2021
Next review date:	Council will endeavour to review this policy every 2 years, including within 6 months following Council election or as changes to legislation require.
Applicable Legislation:	<i>Criminal Law Consolidation Act 1935; Equal Opportunity Act 1984; Fair Work Act 1994; Freedom of Information Act 1991; Local Government Act 1999; Local Government (General) Regulations 2013; Local Government (Elections) Act 1999; Public Interest Disclosure Act 2018; Work Health and Safety Act 2012; Ombudsman’s Act 1972; Independent Commission Against Corruption Act 2012.</i>
Related Policies and Procedures:	Electronic Communications Facilities Policy; Employee Conduct Policy; Fair Treatment Policy and Procedure; Fraud Corruption, Misconduct and Maladministration Prevention Policy; Human Resources Policy; Records Management Policy; Risk Management Policy; Safe Environment Policy; Service Standards Policy; Social Media Policy; Public Interest Disclosure Policy & Procedure; Working for Home Policy Work Health & Safety ; Consultation and Communications Policy; Incident Reporting; Hazard Management Procedure; Safe Work Instructions and Training Needs Analysis; WHS Induction and Training Procedure.

INDEX

Clause	Title	Page
1	Purpose	2
2	Definitions	2
3	Application of the Code of Conduct	3
4	Responsibilities	3
5	Working Relationships	3
6	Gifts of Benefits	4
7	Invitation to Corporate Events	4
8	Use of Organisation’s Resources	4
9	Conflict of Interests	5
10	Decision Making	5
11	Corrupt and Unethical Behaviour	6
12	Corporate Image and Work Attire	6
13	Communication and the Media	6
14	Access to and Use of Information	7
15	Corporate Intellectual Property	7
16	Employee Attendance	7
17	External Employment	7
18	Compliance with Procedures	7
19	Behaviour Contrary to the Code of Conduct	7
20	Process in Dealing with Alleged Breaches	8
21	Performance Management, Disciplinary Process and Termination of Employment	9
22	Grievance / Dispute Resolution	10

23	Effect of Non-Compliance with the Code of Conduct	10
24	Availability of this Policy	11
Appendix 1	Code of Conduct as prescribed under Section 110 of the Local Government Act 1999	12
Appendix 2	Criminal Matters	15
Appendix 3	Schedule 2A Local Government (General) Regulations 2013 as prescribed by Regulation 8A (3)	16

1. PURPOSE

This Code of Conduct sets out the principles of conduct and behaviours which are expected and required of employees of Wudinna District Council. This Code is built on corporate values that are designed to assist employees in the fulfillment of their duties as Council employees and provides guidance to employees that may be unsure how to handle issues that may not be generally anticipated.

Employees of Council must meet statutory obligations that apply under Regulation 8A of the *Local Government (General) Regulations 2013*.

Employees of Wudinna District Council are expected to behave in a way which conforms to the highest standards of integrity, responsibility and fair dealing in the workplace, the Council Chamber, in relations with the community and one another.

This behaviour should be consistent with Council's values and be the basis of trust and respect from our community.

2. DEFINITIONS

Confidential Information: includes any decision, document or discussion which the Council has resolved to treat as confidential under Section 90 of the *Local Government Act 1999*, any matter deemed as confidential by the Senior Management Team or any information which would breach an employee's right to confidential protection of their personal information.

Conflict of Interest: has the same meaning as in Section 120(5) of the *Local Government Act 1999*.

Communication: captures all forms of communication with another person(s) and includes, any verbal, written and physical forms of communication (e.g. via telephone, radio, letter, memo, email, social media or in person).

Council: means the Wudinna District Council.

Employees and Employee: in the context of this document refers to employees, contractors, agency personnel, volunteers and work experience placements who are performing duties/tasks for or on behalf of Wudinna District Council.

Gifts or Benefits: included lunches, dinners, tickets to concerts or sporting events, bottles of wine or spirits, money, vouchers, travel, accommodation, electronic equipment or accessories or any item which may be interpreted or considered as payment of an expression of gratitude for a service provided, or to enhance/build a relationship which may be considered advantageous to the person providing the gift or benefit.

Media: means all forms of the public media and press including television, radio, newspapers, social media and other publications.

Members of Council: means all currently serving Elected Members of the Wudinna District Council including the Mayor.

Person with whom the employee is closely associated: has the same meaning as in Section 120(6) of the *Local Government Act 1999*.

Resources: means all property of the Wudinna District Council, consumables, plant (e.g. vehicles) and equipment (e.g. computers, photocopiers) and facilities (e.g. telephones, internet access).

Appropriate Disclosure / (Public Interest Disclosure): has the same meaning as in the *Public Interest Disclosure Act 2018*.

	<h2 style="margin: 0;">Code of Conduct for Council Employees</h2>		Version No:	2.4
			Issued:	16 June 2010
			Last Review:	November 2021
			Next Review:	March 2023

3. APPLICATION OF THE CODE OF CONDUCT

The Code of Conduct applies in all situations including those outside of normal business hours where an employee is:

- a) Undertaking work for Council;
- b) Representing Council officially;
- c) Assisting another person in accordance with the employee's duties with the Council.

4. RESPONSIBILITIES

It is expected that employees should, at all times:

- a) Act properly and in accordance with the requirements of the law, the relevant Enterprise Agreement, the terms of their employment contract, relevant Council and administration policies, plans, procedures and this Code.
- b) Ensure effective communication with the community, promote participation and respond to expressed community needs.
- c) Ensure that there is no abuse of Council's resources or time and that no activity that is undertaken during working hours is illegal or would cause legal liability, ensuring efficient and effective use of the Council's resources and their time.
- d) Perform their duties to the best of their ability, ensuring efficient and effective use of Council's resources and their time.
- e) Be mindful of their role as representative of Council, and present the Council's view to the best of their ability.
- f) Carry out lawful policies, decisions and practices of the Council and the organisation, in a professional manner, regardless of whether they agree with them.
- g) Not publicly criticise the Council, Members of Council, or other employees or the decisions made by those parties.
- h) Offer relevant and impartial advice and respect the rights and responsibilities of Members of Council and the community.
- i) Adhere to the Council's policies and procedures relating to harassment, bullying, equity and diversity and work health and safety.

Queries or concerns about responsibilities under this Code of Conduct, should be referred to the relevant Line Manager, or in the case of the Chief Executive Officer (CEO) to the Mayor of the Council.

5. WORKING RELATIONSHIPS

Members of Council and employees will achieve the best outcomes for the community by working together as a team and treating members of the community and each other with respect, courtesy and sensitivity. They should at all times, act reasonably, justly and in a non-discriminatory manner.

The *Local Government Act 1999* provides that outside of formal Council meetings, Members of Council do not have any formal powers to direct staff. Pursuant to the Act, the CEO may seek the advice of the Mayor regarding the implementation of Council decisions.

Members of Council may however, exercise their rights as residents of the Council area to approach employees in the same way that any other resident may, and will receive the same level of service.

Requests by Members of Council for action to be taken or for information to be provided over and above that which is available to the general public, must be made through the CEO, relevant Manager or nominated specialist employees. These provisions do not, and are not intended to otherwise restrict contact (for example social contact or other communications) between Members of Council and employees.

Some employees are appointed as 'Authorised Officers' under the *Local Government Act 1999*, and other legislation to undertake various duties.

To interfere or obstruct an Authorised Officer in the conduct of his/her duty is an offence under the *Local Government Act 1999*. Queries about the performance of such duties should be referred to the Authorised Officer's Line Manager for clarification.

Queries or concerns about working relationship matters should be referred to the relevant Manager

	Code of Conduct for Council Employees	
	Version No:	2.4
	Issued:	16 June 2010
	Last Review:	November 2021
	Next Review:	March 2023

6. GIFTS OR BENEFITS

A Council employee must not seek or receive a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation on the part of the employee to a person or influence the employee in the performance or discharge of their functions or duties.

If an employee is offered a gift or benefit, they are to consider the Fraud Corruption, Misconduct & Maladministration Prevention Policy and check with their Line Manager or CEO for permission to accept. This general provision applies for all values of gifts and benefits.

An employee must provide details of any gift or benefit of an amount greater than fifty dollars (\$50) (being the current amount as determined by the Minister by notice in the Government Gazette, any subsequent determinations apply) to the Chief Executive Officer. Any such gift or benefit shall be recorded in a "Register of Gifts and Benefits Received by Employees" and maintained by the Chief Executive Officer.

A gift or benefit received by a person related to an employee (same definition as set out in Schedule three of the Local Government Act 1999) is to be treated as a gift or benefit received by the employee.

In considering how to respond to an offer of a gift or benefit, the manager should question whether acceptance may place the receiver under any obligation, i.e. 'Does the gift imply, or would an objective third party believe it would imply, some expectation of service or benefit to the giver?'

In some situations, when gifts are offered refusal may cause offence. In such a case the matter should be referred to the appropriate Manager or to the CEO.

The CEO should exercise discretion in accepting a gift or benefit and seek advice from the Mayor where refusal may cause offence.

A register of "Gifts and Benefits" will be held by the CEO and all gifts and benefits accepted by all staff, including the Chief Executive Officer, shall be recorded in the Register. The "Gifts and Benefits" Register must be made available for inspection at the Council Office during ordinary office hours without charge and published on the Wudinna District Council public website: www.wudinna.sa.gov.au.

In general, if doubt exists, it is recommended that gifts or other benefits be refused. If refusal would cause offence, the item may be accepted on the proviso that it will be recorded in the Gifts and Benefits Register and Council will decide how to utilise it via a resolution discussed in an open session of Council.

7. INVITATION TO CORPORATE EVENTS

Acceptance of an Invitation by an employee to attend a social event by a corporate sponsor of a Council event is acceptable where there is no possibility of the attendance being construed as providing an advantage to any organisation seeking to conduct business with the Council in the reasonably foreseeable future.

Employees are required to list all invitations and gifts that are accepted on the Gifts and Benefits Register.

8. USE OF ORGANISATIONS RESOURCES

Employees are provided with the appropriate resources to undertake the duties and responsibilities for which they are employed. These resources are not provided for the private use of the employee and cannot be used by the employee for private activities unless specifically stated or documented to the employee.

Employees should at all times:

- a) Be scrupulously honest in the use of Council resources of all kinds, both physical and human;
- b) Seek to use such resources effectively and appropriately in the performance of public and professional duties in a proper and responsible manner in accord with Council and administration policies;
- c) Advise their Manager if material/resources are being used away from Council premises and cannot be returned immediately particularly if the material will be stored at the employee's home for a short period or overnight.

It is particularly important to note that the Electronic Communication Facilities Policy and Social Media Policy establish the responsibilities of employees relating to the access of Council's electronic communications, including social media, email, internet and telephone systems, and the electronic resources and services emanating from or within Council.

	<h2 style="margin: 0;">Code of Conduct for Council Employees</h2>		Version No:	2.4
			Issued:	16 June 2010
			Last Review:	November 2021
			Next Review:	March 2023

9. CONFLICT OF INTERESTS

In this Policy 'Conflict of Interest' is defined as in Sections 120(5) of the *Local Government Act 1999*. It is however generally accepted that the term is a broader interpretation which relates to any set of circumstances which has the potential to compromise fairness and public interest.

Conflict of Interest in the Local Government context generally refers to a situation where there is a possibility of a conflict between a person's private interests and their public duties or responsibilities.

If an actual Conflict of Interest arises, employees are legally obliged to make a written declaration to the CEO, disclosing the nature and extent of the Conflict of Interest.

In most cases (that is unless the CEO allows the employee to act), the employee who has a Conflict of Interest will not be allowed to be involved in the Council's business where the conflict exists.

Failure to report a Conflict of Interest to the CEO may result in the employee being prosecuted under provisions of Section 120(2) of the *Local Government Act 1999* or having his/her employment terminated.

It is vital that employees ensure that personal activities related to their private interests or associations with other organisations are not undertaken in a manner that would give the impression to members of the public that Wudinna District Council is involved or endorses the action.

This includes recommending particular private service providers to members of the public as this may be perceived as a Council endorsement. In general, employees should not do anything which could not be justified to the public, and should avoid any occasion for reasonable suspicion or the appearance of improper conduct.

Where the CEO has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties, the CEO must disclose this interest to the Council. The CEO must not act in relation to the matter, unless the Council determines otherwise at a Council meeting that is open to the public.

Failure by the CEO to report a Conflict of Interest to the Council may result in the CEO facing legal action pursuant to the provisions of Section 120(1) of the *Local Government Act 1999* and/or having their employment terminated.

If in doubt, employees should seek guidance from the CEO, and if necessary, legal advice will be sought by the Council.

10. DECISION MAKING

Whilst undertaking Council responsibilities and/or duties, employees should at all times:

- a) Take all reasonable steps to ensure that the information upon which decisions or actions are based, is factually correct and that all relevant information has been obtained and considered.
- b) Act in good faith, without bias and not for improper purpose.
- c) Deal with all situations consistently and equitably.

Employees may be appointed as a full (voting) member of a Council Committee under Section 41(3) of the *Local Government Act 1999*. In these cases, pursuant to Section 121 of the Act, no personal or civil liability attaches to the employee through the appointment providing they are acting honestly and within the boundaries of that role in the performance of their duty.

As a full voting member of a Committee, the same provisions applicable to Elected Members regarding Conflict of Interest apply.

Upon appointment, the employee will be required to meet with the CEO to discuss any existing or potential interest or conflict of interest that would preclude the employee's appointment or participation in the decision-making activities of the Committee.

Employees are often required to contribute to the decision-making process through the provision of advice to Council or a Committee.

To access the provisions of Section 121 of the *Local Government Act 1999*, that advice must be provided honestly and within the boundaries of the employee expertise. Civil Liability may attach to the employee if inaccurate or deceptive advice was deliberately provided.

	<h2 style="margin: 0;">Code of Conduct for Council Employees</h2>	Version No:	2.4
		Issued:	16 June 2010
		Last Review:	November 2021
		Next Review:	March 2023

11. CORRUPT AND UNETHICAL BEHAVIOUR

In this Policy 'Appropriate Disclosure / 'Public Interest Disclosure' has the same definition as in the *Public Interest Disclosure Act 2018* and Council's Public Interest Disclosure Policy and Procedure. Council supports this legislation and Policy in encouraging openness and transparency in management, while providing protection for those who make disclosures relating to such matters.

Any employee who honestly and faithfully observes the requirements of this Code and any relevant law is entitled to expect the publicly expressed support of the Council and colleagues against unfair allegations of dishonesty or unsatisfactory performance of his or her public duties.

An employee who knows of, or has good reason to suspect, any fraud, corruption, criminal or unethical conduct has a duty, in accordance with their contract of employment, to report it immediately to the relevant Manager, CEO or Mayor.

All employees are public officers within the definition of Section 237 of the *Criminal Law Consolidation Act 1935*. As a public officer if an employee engages in any illegal conduct as defined in Division 4 (Offences relating to public officers) of that Act, specifically:

- a) Section 249, Bribery or Corruption of Public Officers;
- b) Section 251, Abuse of Public Office; and
- c) Section 252, Demanding or Requiring Benefit on the Basis of Public Office.

Then that person may be subject to a criminal prosecution.

12. CORPORATE IMAGE AND WORK ATTIRE

Employees should be aware that they are representing Council while performing their duties at work and while attending meetings of functions external to the Council in a business capacity. This means that good judgement should be exercised in determining appropriate attire and accessories for work.

Employees need to ensure that jewellery, motifs, logos, wording and badges on clothing or accessories does not imply that Council has relationships or affiliations with particular groups or associations or holds/supports particular views on public or political matters. Nor should any clothing or accessories contain messages or information, which is detrimental to an organisation or person.

Employees who have face-to-face customer contact as part of their role while participating in approved 'casual clothes day' activities are required to ensure that a notice is displayed in the workplace advising that it is casual clothes day.

Material of a political nature, such as election posters or material supporting or denigrating the government or a political party cannot be displayed in the workplace.

Offensive, demeaning or discriminatory posters, displays, objects, audio visual presentations or comments will not be permitted within any work site, and officers creating or displaying such items may face disciplinary action.

13. COMMUNICATION AND THE MEDIA

Employees should be responsive to the concerns of the community, and communicate the views, decision, policies and procedures of Council in an open and honest manner.

Because all documents (including emails) are potentially publicly available under the *Freedom of Information Act 1991* or "discoverable" for the purposes of litigation, care should be taken to ensure that the content meets corporate standards and that documents are professional in their nature and content, as every document could be exposed to public scrutiny.

The Mayor and CEO or nominee are the only persons authorised to speak publicly, or to the media for and on behalf of Council. Any other employee must be specifically authorised to do so by the CEO.

While it is recognised that employees as members and/or residents of the community have their right to make public comments and enter into public debate on political and social issues, care must be taken not to convey the impression that such comment is an official comment by Council made in their capacity as an employee.

	Code of Conduct for Council Employees	
	Version No:	2.4
	Issued:	16 June 2010
	Last Review:	November 2021
	Next Review:	March 2023

Particular care is required when discussing or dealing with those matters that the Council has resolved to consider as confidential, and which carry a penalty for breach of the confidential order, under Part 3 Public Access to Council and Committee Meetings, Section 90 (Meetings to be held in public except in special circumstances) of the *Local Government Act 1999*.

No employee including the CEO, may provide confidential information to the media or any unauthorised person.

14. ACCESS TO AND USE OF INFORMATION

Employees often have access to, or are provided with, information that has not been declared to be ‘confidential’ pursuant to Section 90 of the *Local Government Act 1999*, but still may need to be considered or treated confidentially. Such information should be handled in a careful and prudent manner, and the interests of the community must be balanced with the potential for damage if perceived confidentiality is not maintained.

Information should not be used or disclosed in a way that may:

- a) Cause significant damage or distress to a person;
- b) Cause significant damage to the interests of Council;
- c) Confer a commercial or financial advantage or disadvantage on a person.

Such a use may be illegal. This means that great care must be taken with information that employees access in course of the organisation’s business. Some information is highly confidential and should be discussed only with those who have a legal right to such information.

It is recognised that many employees live, own property, or have commercial or personal interests within the Council area and as an employee, may come into contact with information which may impact upon those interests. Such information should not be used for personal or commercial benefit, nor should such information be passed to another party who may use it for personal or commercial benefit or in action against the interests of Council.

15. CORPORATE INTELLECTUAL PROPERTY

All intellectual property developed and/or enhanced through the course of an employment relationship with Council, either through the use of resources or during hours of work will remain the property of the Council.

16. EMPLOYEE ATTENDANCE

Each employee will be expected to participate in an induction orientation program when commencing employment or transferring to a new department/section or role (including Workplace Health & Safety and Risk Management). This program will provide each employee with details of the attendance requirements of their position. It is the responsibility of the employee to ensure these requirements are met.

17. EXTERNAL EMPLOYMENT

Employees who are involved in any employment or business activity in addition to their employment with Council are required to declare this activity and ensure that they comply with Council’s Human Resources Policy.

18. COMPLIANCE WITH PROCEDURES

To ensure consistency, equity and fairness in managing the employment relationship a number of policies, procedures and practices provide the foundations for conditions of employment. Employees at all levels across the Council are required to comply with all current policies, procedures and practices.

The policies and procedures relating to employment arrangements, which are particularly relevant to the Code of Conduct are listed on the front cover of this Policy.

Council Practices

Council Vehicle Use	Probationary Period of Employment
Higher Duties Entitlements and Allowances	Recognition of Vulnerable Groups
Job Orientation Training	

19. BEHAVIOUR CONTRARY TO THE CODE OF CONDUCT

Information received or observations which relate to an alleged breach of this Code must be referred to:

- a) The CEO in the case of any employee; and
- b) The Mayor in the case of the CEO.

	Code of Conduct for Council Employees		Version No:	2.4
			Issued:	16 June 2010
			Last Review:	November 2021
			Next Review:	March 2023

In the event of an employee allegedly breaching this Code, the CEO (or in the case of the CEO allegedly breaching the Code, the Mayor) will facilitate the conduct of an investigation.

The principles of procedural fairness and natural justice will be observed. The person to whom the alleged breach relates will be given full details and a reasonable opportunity to respond to the allegations in accordance with any award, legislation, EBA or contract of employment.

Any complaints, reports, recommendations, advice and associated documents relating to this Clause are to be captured and stored within Council's State Records current General Disposal Schedule (presently GDS 40) Records Management System requirements.

20. PROCESS IN DEALING WITH ALLEGED BREACHES

Council Employee

Where an allegation of a breach of the Code of Conduct is made against an Employee the following steps shall be taken:

Any complaint against an employee must be made in writing to the Employee's Supervisor or the CEO. The Employee's Supervisor must make an assessment as to whether the complaint has substance or is too trivial or frivolous to act upon. The Employee's Supervisor must, after assessing the complaint, either dismiss the complaint, or undertake a formal investigation. The Employee's Supervisor will advise the complainant of the resulting decision.

Step 1

Where the complaint warrants a formal investigation, the Employee's Supervisor will inform the CEO. The CEO may conduct the investigation personally, request the Employee's Supervisor conduct the investigation or choose to appoint an independent investigator. The CEO or the Employee's Supervisor (if directed by the CEO) must advise the employee in writing the nature of the complaint, and who will conduct the investigation.

Step 3

The investigation must be conducted with regard to procedural fairness. The investigator must show the Employee any adverse evidence gathered in the course of the investigation and give the Employee an opportunity to respond to the evidence before the investigator makes his/her findings. The Employee will be entitled to have a support person present (if he / she so wishes) for any meetings required as part of the investigation (including a Workplace Representative or Union officer).

Step 4

The investigator must provide the CEO (where the investigator is not the CEO), with a written report on his/her findings including whether any of the allegations are substantiated. The report must also make recommendations to either dismiss the allegations, or if any of the allegations are substantiated, recommend appropriate disciplinary action.

Step 5

The CEO shall determine at his/her complete discretion what action is to be taken in relation to the recommendations of the independent investigator (where an independent investigator is engaged) or based off his/her own investigation. Where disciplinary action is required, the formal disciplinary process detailed in this Code of Conduct will apply.

The investigation must be concluded within **14 days** of the commencement of the investigation by the CEO, the Employee's Supervisor or from the date of appointment of the investigator, unless the Employee is notified that an extension of time is required.

Chief Executive Officer

Where an allegation of a breach of the Code of Conduct is made against the CEO the following steps shall be taken:

Step 1

Any complaint against the CEO must be made in writing, to the Mayor. The Mayor must advise the Council of the allegation. Council will appoint an independent investigator (using the Local Government Association to assist as required), to undertake an investigation and report to Council on its findings, along with recommendations. The Council recognises that the investigation may determine that the complaint has no substance or is frivolous. Where such a determination is made by the investigator, a written report outlining the reasons should be provided to Council.

	<h2 style="margin: 0;">Code of Conduct for Council Employees</h2>		Version No:	2.4
			Issued:	16 June 2010
			Last Review:	November 2021
			Next Review:	March 2023

Step 2

The CEO shall be provided with a copy of the written complaint and advised of the appointment of the investigator. The provision of the written complaint must be made within five (5) days of the receipt.

Step 3

The independent investigator will conduct the investigation with regard to natural justice. The investigator must speak to the person alleging the breach and gather relevant information to assist in clarifying the matter. Information considered by the investigator may come from the person alleging the breach, Council records, other persons identified by the person alleging the breach by the CEO and other sources as deemed appropriate by the investigator. The investigator shall provide the CEO with any statement or evidence gathered in relation to the allegation and give the CEO an opportunity to respond to the evidence before the investigator makes his/her findings. The provision of information to the person alleging the breach may also occur.

Step 4

The independent investigator shall prepare a draft report of his/her findings and provide relevant elements of the draft report to the CEO and the person alleging the breach to raise any corrections. The investigator shall have regard to feedback received by the CEO and the person alleging the complaint and finalise a report to Council outlining his/her findings along with recommendations to either dismiss the allegations, or if the allegations are substantiated, the appropriate actions to be taken by the CEO and/or Council to address the allegation.

Step 5

The Council shall receive the report and by resolution decide what action it will take in relation to the report and its recommendations.

The investigation must be concluded within fourteen (14) days of the appointment of the independent investigator, unless the Mayor is notified that a further period of time is required and the CEO is then also notified of the extension of time.

Where an extension has been granted and the investigation is not concluded within twenty eight (28) days of the appointment of the investigator, an interim report on the progress of the investigation must be made to the Council.

Pursuant to the requirements of the Local Government Act the matter must be determined by the Council in Confidence.

Any complaints, reports, recommendations, advice and associated documents relating to this Clause are to be captured and stored within Council's Records Management System

21. PERFORMANCE MANAGEMENT, DISCIPLINARY PROCESS AND TERMINATION OF EMPLOYMENT

21.1 Poor Performance

The parties agree that management of performance will occur in the workplace through establishment of management systems of accountability including formal annual performance and development appraisal of individual employees, in accordance with Council's policy.

The mutual success of the performance review process will be judged by:

- The total commitment by employees and management to the process;
- A genuine acceptance of any conclusions from the process;
- Preparedness to correct any adverse issues emanating from the process;
- The active participation by employees in the process and any agreed outcomes.

From time to time, Supervisors will consider individual poor performance to be of such concern that formal disciplinary procedures need to be implemented.

Council shall endeavour to ascertain the reasons for poor performance and provide appropriate support to assist the employee to improve their performance. This may include counselling, training and any other measures which may be considered appropriate to assist the employee.

	Code of Conduct for Council Employees	
	Version No:	2.4
	Issued:	16 June 2010
	Last Review:	November 2021
	Next Review:	March 2023

Prior to a decision being made by Management to implement formal disciplinary procedures, the poor performance shall be informally addressed with the employee. Where there has been little or no improvement in performance, or where the Council is of the view that the continued poor performance could lead to dismissal, the formal disciplinary process set out below should be implemented.

The parties agree that the dismissal of an employee on the grounds of continued poor performance should only occur after the employee has been given a fair and proper opportunity (over a period of not less than three (3) months) to improve their work performance. It is expected that the employee concerned is made fully aware of work expectations and the specific areas of work deficiency.

21.2 Formal Disciplinary Process

In interviews or meetings involving formal disciplinary action, an employee shall be entitled to have a support person present (if he/she so wishes), including but not limited to the Workplace Representative or a Union officer.

The employee may be entitled to up to two (2) prior formal warnings before notification to terminate the employment is given. The employee shall be given the right to respond to the formal warning prior to any written notice being placed on the employee's file.

Any prior warnings shall be in writing and a copy placed on the employee's file. The employee shall sign the copy to indicate that he/she is aware of its existence on file and may request to view that file at any mutually convenient time.

The Council reserves the right to summarily terminate an employee in cases where it is considered warranted, without having to comply with the steps outlined above.

22. GRIEVANCE/DISPUTE RESOLUTION

In the event of a dispute between the Council and an employee or employees concerning any aspect of work (other than through the operation of this Code), subject to any provision in an applicable enterprise agreement, the following procedure shall apply:

- It is the aim of both parties to ensure that grievances are resolved as quickly as possible in order to preserve positive working relationships.
- Employee(s) will in the first instance seek to resolve any dispute with the relevant Supervisor.
- If the matter is not resolved at that stage, the employee (who may involve the Workplace Representative or Industrial Officer) may refer the matter to the CEO.
- If the matter is not resolved, then it may be referred to the South Australian Employment Tribunal for conciliation and/or arbitration.
- The above process should be completed within seven (7) days of the issue first being raised.

Nothing contained in this clause shall prevent the Union from raising matters directly with management.

23. EFFECT OF NON-COMPLIANCE WITH THE CODE OF CONDUCT

The Code of Conduct is created pursuant to Council's statutory obligations under the *Local Government Act 1999* and as such, the principles and standards of behaviour identified are to be adhered to by all employees. If an employee acts in a manner that is contrary to the principles and standards established by the Code of Conduct, that employee will be subject to disciplinary action and, in some cases, their employment with Council may be terminated.

Non-compliance with the Code of Conduct for Employees will be treated seriously. Such disciplinary action envisaged for breaches of the Code of Conduct may include, but is not limited to, the use of verbal and written warnings. Such warnings will identify how the employee's behaviour has breached the Code of Conduct and explain the behaviour that was expected of the employee.

Where the breach is repetitive, extends over at least 90 consecutive days, corrective action has been undertaken and the behaviour or conduct remains measurably inconsistent with the expectations and required standards set out in this Code of Conduct, an employee's employment may be terminated in accordance with and subject to the terms of the relevant Enterprise Agreement, Industrial Award or Contract of Employment.

	<h2>Code of Conduct for Council Employees</h2>		Version No:	2.4
			Issued:	16 June 2010
			Last Review:	November 2021
			Next Review:	March 2023

24. AVAILABILITY OF THIS POLICY

This Policy will be available for inspection at the Council Office during ordinary business hours and via the Council's website www.wudinna.sa.gov.au Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

Employee Signature

Employee Name

Date

	<h2 style="margin: 0;">Code of Conduct for Council Employees</h2>	Version No:	2.4
	Issued:	16 June 2010	
	Last Review:	November 2021	
	Next Review:	March 2023	

APPENDIX 1 – as per SA Government Gazette 13 February 2014 Pages 834-839

Code of Conduct for Council Employees

Published by the Minister for Planning for the purposes of section 110(1) of the Local Government Act 1999.

This Code of Conduct is to be observed by all Council employees.

Council employees must comply with the provisions of this code in carrying out their functions as public officials. It is the personal responsibility of Council employees to ensure that they are familiar with and comply with, the standards in the Code at all times. All Councils are expected to provide training and education opportunities that will assist their employees to meet their responsibilities under the *Local Government Act 1999*.

This Code does not exclude the operation of the *Fair Work Act 1994*, the rights of employees and their Unions to pursue industrial claims, or any relevant Awards or Enterprise Agreements made under the *Fair Work Act 1994*. This Code does not affect the jurisdiction of the Industrial Relations Commission.

PART 1 – PRINCIPLES

1. Principles – Overarching Statement

This part does not constitute separate enforceable standards of conduct.

Council employees in South Australia have a commitment to serve the best interests of the people within the community their Council represents and to discharge their duties conscientiously and to the best of their ability.

Council employees will act honestly in every aspect of their work and be open and transparent when making decisions or providing advice to their Council.

Council employees will perform their official duties in such a manner as to ensure that public confidence and trust in the integrity and impartiality of their Council is strong.

Council employees will respect the law, and the resolutions made by the elected member body of the Council. The Council's Chief Executive Officer will make reasonable endeavours to ensure that employees have current knowledge of both statutory requirements and best practices relevant to their position.

Council employees will make reasonable endeavours to ensure they have such current knowledge of both statutory requirements and best practices relevant to their position as is drawn to their attention by Council.

PART 2 – CONDUCT

2. Conduct required of Council employees

In line with 'PART 1 – Principles' of this Code, the following behaviour is considered essential to upholding the principles of good governance in Councils.

A failure to comply with any of these behaviours can constitute a ground for disciplinary action against the employee, including dismissal, under section 110(5) of the *Local Government Act 1999*.

Council employees must also comply with all relevant statutory requirements within the *Local Government Act 1999*, the *Work, Health and Safety Act 2012* and other Acts. A failure to comply with these statutes, as identified within this Part, can also constitute a ground for disciplinary action against the employee, including dismissal, under section 110(5) of the *Local Government Act 1999*.

	<h2>Code of Conduct for Council Employees</h2>		Version No:	2.4
			Issued:	16 June 2010
			Last Review:	November 2021
			Next Review:	March 2023

Council employees will:

General behaviour

- 2.1 Act honestly in the performance of official duties at all times, as required by s109(1) of the *Local Government Act 1999*.
- 2.2 Act with reasonable care and diligence in the performance of official duties, as required by s109(2) of the *Local Government Act 1999*.
- 2.3 Discharge duties in a professional manner.
- 2.4 Act in a way that generates community trust and confidence in the Council.
- 2.5 Act in a reasonable, just, respectful and non-discriminatory way when dealing with all people.
- 2.6 Ensure that personal interests, including financial interests, do no influence or interfere with the performance of their role.

Responsibilities as an employee of Council

- 2.7 Comply with all relevant Council policies, codes and resolutions of which they have been made aware, relevant to their particular role.
- 2.8 Deal with information received in their capacity as a Council employee in a responsible manner.
- 2.9 Endeavour to provide accurate information to the Council and to the public at all times.
- 2.10 Take all reasonable steps to ensure that the information upon which employees make decisions or actions are based is factually correct and that all relevant information has been obtained and is considered.
- 2.11 Not release or divulge information that the Council or Chief Executive Officer of the Council has ordered be kept confidential, or that the Council employee should reasonably know is information that is confidential, including information that is considered by the Council of the Chief Executive Officer in confidence, subject to the *Ombudsman Act 1972* and the *Independent Commissioner Against Corruption Act 2012*.
- 2.12 Not make improper use of information, including confidential information, acquired by the virtue of their position.
- 2.13 Ensure that relationships with external parties do not amount to interference by improper influence, affecting judgement, decisions and/or actions.
- 2.14 Comply with all lawful and reasonable directions given by a person with authority to give such directions.
- 2.15 Only make public comment in relation to their duties when specifically authorised to do so, and restrict such comment to factual information and professional advice.

Relationships within Council

- 2.16 Not make any public criticism of a personal nature of fellow Council employees or Council members.
- 2.17 Take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons, as required by the *Work, Health and Safety Act 2012*.
- 2.18 Direct any allegations of breaches of the Code of Conduct for Council Members to the Chief Executive or nominated delegate/s.

Gifts and Benefits

- 2.19 Council employees must not:
 - 2.19.1 Seek gifts or benefits of any kind
 - 2.19.2 Accept any gift or benefit that may reasonably create a sense of obligation on their part or may be reasonably perceived to be intended to or would reasonably be likely to influence them in carrying out their public duty.
 - 2.19.3 Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the Council
- 2.20 Notwithstanding Code 2.19.3, Council employees may accept hospitality provided in the context of performing their duties, including:
 - 2.20.1 Free or subsidised meals, beverages or refreshments of reasonable value provided in conjunction with:

	<h2>Code of Conduct for Council Employees</h2>	Version No:	2.4
		Issued:	16 June 2010
		Last Review:	November 2021
		Next Review:	March 2023

2.20.1.1 Council work related events such as training, education sessions, workshops and conferences; and

2.20.1.2 Council functions or events; and

2.20.1.3 Social functions organised by groups such as Council committees and community organisations.

2.20.2 Invitations to and attendance at local social, cultural, or sporting events.

2.21 Where any Council employee receives a gift or benefit of more than a value published in the *Government Gazette* by the Minister from time to time, details of each gift or benefit must be recorded within a gifts and benefits register maintained and updated quarterly by the Council's Chief Executive Officer. This register must be made available for inspection at the principal office of the Council and on the Council website.

Use of Council Resources

2.22 Council employees using Council resources must do so effectively and prudently when undertaking Council work.

2.23 Council employees must not use Council resources, including the services of Council staff, for private purposes, unless legally and properly authorised to do so, and payments are made where appropriate.

2.24 Council employees must not use public funds or resources in a manner that is irregular or unauthorised.

Register of Interests

2.25 An employee of the Council must adhere to the statutory requirements to lodge a primary return and submit an ordinary return in accordance with section 113, 114 and 115 of the *Local Government Act 1999* if they have been declared by the Council to be subject to these provisions.

Chief Executive Officers

2.26 Chief Executive Officers must act in accordance with the provisions specific to their position within the *Local Government Act 1999* at all times.

Complaints

2.27 Any person may make a complaint about a Council employee under this Code.

2.28 Complaints about an employee's behaviour that is alleged to have breached this Code should be brought to the attention of the Chief Executive Officer of the Council, or a delegated person.

2.29 Complaints about a Chief Executive Officer's behaviour that is alleged to have breached the Code should be brought to the attention of the Council's Principal Member.

2.30 A complaint may be investigated and resolved according to the disciplinary processes of that Council.

2.31 In considering the lodgement of a complaint against a Council employee for a breach of the Code, Public Officers should be mindful of the obligations outlines in the *Independent Commissioner Against Corruption – Directions and Guidelines*.

2.32 Nothing in this code in any way derogates from the rights of an employee of duties of an employer under the *Fair Work Act 1994*, other legislation, an award, an industrial agreement or contract of employment.

	<h2 style="margin: 0;">Code of Conduct for Council Employees</h2>		Version No:	2.4
			Issued:	16 June 2010
			Last Review:	November 2021
			Next Review:	March 2023

APPENDIX 2 – Criminal Matters

The matters within this appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for Council Employees.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this document only in order to provide a complete overview of the standards of conduct and behaviour expected of Council employees.

Alleged breaches of matters outlined in this appendix should be reported to the Office for Public Integrity in the first instance.

Breaches of the Local Government Act 1999

Provision of false information

A council employee who submits a return under Chapter 7 Part 4 Division 2 (Register of Interests) and that is to the knowledge of the employee false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence (Section 117).

Restrictions on disclosure

A Council employee must not disclose to any other person any information furnished pursuant to Chapter 7 Part 4 Division 2 (Register of Interests) unless the disclosure is necessary for the purposes of the preparation or use of the Register by the Chief Executive Officer or is made at a meeting of the Council, a Council committee or a subsidiary of the Council (Section 119(1)).

Conflict of Interest

The Chief Executive Officer of a Council who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the Council and must not, unless the Council otherwise determines during a Council meetings that is open to the public, act in relation to the matter (Section 120(1)).

An employee of the Council (other than the Chief Executive Officer) who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the Chief Executive Officer and must not, unless the Chief Executive Officer otherwise determines, act in relation to the matter (Section 120(2)).

If an employee is entitled to act in relation to a matter and the employee is providing advice or making recommendations to the Council or a Council committee on the matter, the employee must also disclose the relevant interest to the Council or Council committee (Section 120(4)).

Breaches of other Acts

Acting in his or her capacity as a public officer, a Council employee shall not engage in conduct, whether within, or outside the state, that constitutes corruption in public administration as defined by Section 5 of the *Independent Commissioner Against Corruption Act 2012*, including:

An offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:

- Bribery or corruption of public officers;
- Threats or reprisals against public officers;
- Abuse of public office;
- Demanding or requiring benefit on basis of public office;
- Offences relating to appointment to public office.

Any other offence, including an offence against Part 5 (Offences of dishonesty) if the *Criminal Law Consolidation Act 1935*, committed by a public officer while acting in his or her capacity as a public officer, or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or to an attempt to commit such an offence.

Any of the following in relation to an offence referred to in a preceding paragraph:

- Aiding, abetting, counselling or procuring the commission of the offence;
- Inducing, whether by threats or promises or otherwise, the commission of the offence;
- Being in anyway, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
- Conspiring with others to effect to commission of the offence.

	<h1>Code of Conduct for Council Employees</h1>	Version No:	2.4
		Issued:	16 June 2010
		Last Review:	November 2021
		Next Review:	March 2023

APPENDIX 3 – Local Government (General) Regulations 2013 – Prescribed Regulations

Schedule 2A—Code of conduct for employees

1—Gifts and benefits

- (1) An employee of a council must not seek out or receive a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation on the part of the employee to a person or influence the employee in the performance or discharge of the employee's functions or duties.
- (2) If an employee of a council receives a gift or benefit of an amount greater than the amount determined by the Minister (from time to time), by notice published in the Gazette, the employee must provide details of the gift or benefit to the chief executive officer of the council in accordance with any requirements of the chief executive officer.
- (3) The chief executive officer of a council must maintain a register of gifts and benefits received by employees of the council and must ensure that the details of each gift and benefit provided under this clause are included in the register.
- (4) A register maintained under this clause must be—
 - (a) made available for inspection at the principal office of the council during ordinary office hours without charge; and
 - (b) published on a website determined by the chief executive officer.
- (5) A register maintained under this clause—
 - (a) need not include information available in another register published by, or available for inspection at, the council or otherwise available under the Act; and
 - (b) may include information by reference to another register or document, provided the register or document is published by, or available for inspection at, the council and the register maintained under this clause identifies that other register or document.
- (6) For the purposes of this clause, a gift or benefit received by a person related to an employee of a council will be treated as a gift or benefit (as the case requires) received by the employee.
- (7) Unless the contrary intention appears, terms and expressions used in this clause and in Schedule 3 of the Act have the same respective meanings in this clause as they have in that Schedule, provided that a reference in Schedule 3 to a **member** will be taken, for the purposes of this clause, to be a reference to an **employee**.

Note—

The Act requires that certain gifts and benefits must be disclosed by employees and recorded on the Register of Interests relating to employees.

2—Complaints

- (1) A complaint alleging that an employee of a council has contravened or failed to comply with the code set out in this Schedule must be dealt with in accordance with a policy prepared and maintained by the council relating to complaints against employees.
- (2) The policy referred to in subclause (1) must nominate a person or persons to whom complaints are to be given and, in the case of a complaint against the chief executive officer of the council, must provide for the complaint to be given to the principal member of the council, except in circumstances where it would be inappropriate to do so (for example, if the matter to which the complaint relates must be kept confidential under an Act or law).

Note—

- 1 Chapter 13 Part 2 of the Act requires a council to develop and maintain policies, practices and procedures for dealing with (among other things) complaints about the actions of employees of the council.
- 2 The code set out in this Schedule is in addition to and does not—
 - (a) limit the operation of the *Fair Work Act 1994*; or
 - (b) operate to lessen any rights or obligations on employees or employers under the *Fair Work Act 1994* or any award, industrial agreement or contract of employment; or
 - (c) affect the jurisdiction of the South Australian Employment Tribunal conferred under the *Fair Work Act 1994*.