



CODE OF CONDUCT

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1 INTRODUCTION

1.1 Preamble

1.1.1 The Code of Conduct provides Councillors, Committee Members and employees of the City of Karratha with consistent guidelines for an acceptable minimum standard of professional conduct in carrying out their functions. It addresses in a concise manner the broad issues of ethical responsibility and encourages greater transparency, integrity and accountability at the City of Karratha (the City), thus enabling Councillors, Committee Members and employees to act in a way that enhances public confidence in local government.

1.1.2 The four fundamental aims of the Code are:

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

1.2 Statutory Basis

1.2.1 The Code observes the statutory requirements of and must be read in conjunction with the *Local Government Act 1995*, the *Local Government (Rules of Conduct) Regulations 2007*, and Part 9 of the *Local Government (Administration) Regulations 1996*. Councillors, Committee Members and employees must meet the requirements of all legislation that affects performance of their role and duties. The Code does not override or affect those statutory provisions or requirements.

1.2.2 Extracts of relevant legislation have been cited or summarised throughout the Code and placed in highlighted boxes. These highlighted sections do not form part of the Code and will be updated if legislation changes.

1.3 Application of this Code

1.3.1 The Code of Conduct is applicable to:

- a) Councillors; and
- b) Members of Committees of Council whether or not the member is a Councillor; and
- c) employees of the City of Karratha.

1.3.2 The Code of Conduct provides a guide and a basis of expectations for Councillors, Committee Members and employees, and as such they are subject to the provisions of the Code for the duration of the time that they hold a position with the City.

1.3.3 In addition to this Code of Conduct, Councillors acknowledge that their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed rules of conduct as described in the *Local Government Act 1995* and the *Local Government (Rules of Conduct) Regulations 2007*.

1.4 Guiding Principles

1.4.1 The following are the guiding principles of this Code:

- a) Our mission is to provide community leadership and excellent Local Government services in an innovative and efficient manner to enhance the social, cultural, economic and environmental well-being of current and future generations.
- b) We aspire towards a cohesive and vibrant community, celebrating diversity and working together to create a sense of place and a sustainable future.
- c) We value leadership and provide clear direction and inspire people to achieve their full potential.
- d) We encourage cooperation and teamwork within and between our employees and our community stakeholders.
- e) We believe in having pride in our integrity and acting in an honest, lawful, professional, accountable and transparent manner.
- f) We avoid damage to the reputation of the local government.
- g) We base decisions on relevant and factually correct information.
- h) We treat others with respect and fairness.
- i) We encourage creativity, innovation and initiative to achieve Council's vision.
- j) We work with reasonable diligence in the interests of the City and the community.

1.5 Definitions

The following definitions apply, unless the contrary appears:

"Act"	means the <i>Local Government Act 1995</i> ;
"CEO"	means the Chief Executive Officer of the City of Karratha;
"Code"	means this Code of Conduct;
"Committee"	means a Committee established by the Council under the Act;
"Council"	means the Council of the City of Karratha;
"Councillor"	means a person who holds the office of Mayor or Councillor on the Council;
"employee"	means a person employed by the City of Karratha;
"Regulations"	means any regulations made under the Act; and
"S."	means a section of the Act.

2 ROLES

2.1 Role of Councillors

- 2.1.1 A Councillor's primary role is to represent the community, and as such, translate the community's needs and aspirations into a direction and future for the City.
- 2.1.2 A Councillor is part of a team in which the community has placed its trust to make decisions on its behalf, and the community is therefore entitled to expect high standards of conduct from its Elected Representatives. In fulfilling their various roles, Councillor's activities will focus on:
- a) achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
 - b) achieving sound financial management and accountability in relation to the City's finances;
 - c) ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;
 - d) working with other governments and organisations to achieve benefits for the community at both a local and regional level; and
 - e) having an awareness of the statutory obligations imposed on Council Members and on Local Government.

Section 2.10 of the Act states that a Councillor:

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

2.2 Appointments to Committees

- 2.2.1 As part of their representative role Councillors are often asked to represent the Council at external organisations. It is important that Councillors:
- a) clearly understand the basis of their appointment; and
 - b) provide regular reports on the activities of the organisation.

2.3 Role of Council

- 2.3.1 The group of Councillors form what is known as the Council for the local government.

Section 2.7 of the Act states that the council governs the local government's affairs, is responsible for the performance of the local government's functions, oversees the allocation of the local government's finances and resources, and determines the local government's policies.

2.4 Role of Mayor

- 2.4.1 As an elected leader of the community, the Mayor provides leadership and guidance, as well as demonstrating the highest level of civic conscience, impartiality and personal conduct.

Section 2.8 of the Act sets out the role of mayor, indicating that the Mayor:

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

2.5 Role of the Chief Executive Officer and employees

- 2.5.1 The role of the CEO is defined by s. 5.41 of the Act. In summary the function of the CEO is to implement the decisions of the Council within legislative frameworks and provide the administrative base to carry out services of the Local Government to the community as identified and endorsed through strategic and corporate planning process.
- 2.5.2 The CEO has the ability and responsibility to employ employees with requisite skills and experience to ensure that the functions of the Local Government are carried out in a timely and cost effective manner.
- 2.5.3 In fulfilling the various roles, employee's activities will focus on:
 - a) complying with agreed Council policies, guidelines, systems and processes;
 - b) acting within legislative parameters at all times;
 - c) properly managing resources in which they have either direct or indirect responsibility and custodianship;
 - d) providing a high level of customer service and engagement with stakeholders and community members;
 - e) assessing opportunities for business improvement;
 - f) ensuring sound financial management and accountability in relation to the Council's finances; and
 - g) exercising due diligence when expressly delegated or authorised with decision making powers on behalf of the Council.

3 INTERACTIONS

3.1 Interactions between Council Members and employees

3.1.1 An effective Councillor will work as part of the Council team with the Chief Executive Officer and other employees. That teamwork will only occur if Council Members and employees have a mutual respect and co-operate with each other to achieve the Council's corporate goals and implement the Council's strategies, and have an understanding of each other's role. To achieve that position, Council Members and Committee Members need to:

- a) accept that their role is a leadership, not a management or administrative one;
- b) acknowledge that they have no capacity to individually direct employees to carry out particular functions;
- c) refrain from publicly criticising employees (including in a Council meeting) in a way that casts aspersions on their professional competence, character, ability, integrity, reputation or credibility; and
- d) ensure that no restrictions or undue influence is placed on the ability of employees to provide professional advice to Council.

3.1.2 Employees must recognise that a Councillor's or a Committee Member's views and opinions often reflect valid community viewpoints that should be considered in conjunction with professional opinion. Employees are therefore to make every effort to assist Councillors and Committee Members in the performance of their role, and to achieve the satisfactory resolution of issues that may arise in the performance of that role.

3.2 Inappropriate Interactions

3.2.1 The following interactions are inappropriate and therefore Councillors and Committee Members shall not approach employees:

- a) other than CEO or Directors for information on sensitive or controversial matters; or
- b) outside the Council building or outside hours of work to discuss Council business.

3.2.2 Councillors and Committee Members must:

- a) refrain from directing City employees other than by the Mayor giving appropriate direction to the Chief Executive Officer in the performance of Council's functions by way of a Council or committee resolution;
- b) refrain from, in any public or private forum, directing or influencing, or attempting to direct or influence, any other employee of the Council or a delegate of the Council in the exercise of the functions of the employee or delegate;
- c) refrain from contacting an employee unless in accordance with procedures governing the interaction of Councillors and employees that have been authorised by the Chief Executive Officer;
- d) not contact or issue instructions to any of the City's contractors or tenderers, including the City's legal advisers;
- e) not be overbearing or threatening to employees;
- f) not direct or pressure (or attempt to) employees in the performance of their work, or recommendations they should make;
- g) not approach employee organisations; for example unions and associations; in relation to employee matters that relate to individual employees rather than broader industrial policy issues; and

- h) not attend on-site inspection meetings with lawyers and/or consultants engaged by the City associated with current or proposed legal proceedings (other than those where approval has been granted to participate).

3.2.3 Employees shall not:

- a) approach Councillors or Committee Members directly on individual employee matters;
- b) refuse to give information which is available to other Councillors to a particular Councillor because of the employee or Councillor's political views;
- c) provide ad hoc advice to Councillors or Committee Members without recording or documenting the interaction as they would if the advice was provided to a member of the community; or
- d) meet with developers alone and outside standard office hours to discuss development applications or proposals.

3.3 Dealings with Council by Councillors and employees

- 3.3.1** All commercial/business dealings (including the awarding of contracts) with the City by Council Members and employees (and their closely associated persons) shall at all times be open, transparent and accountable.

Regulations 9 and 10 of the Local Government (*Rules of Conduct*) Regulations 2007 apply to Elected Members in respect of involvement in the City's administration and relationships with employees. Regulation 9 states that a person who is a council member must not undertake a task that contributes to the administration of the local government unless authorised by the council or by the CEO to undertake that task. This does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

Regulation 10 states that a person who is a council member must not direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee. It also states that a Councillor must not attempt to influence, by means of a threat or the promise of a reward, the conduct of a person who is a local government employee in the person's capacity as a local government employee.

It goes on to say that if a Councillor is attending a council meeting, committee meeting or other organised event and members of the public are present, the Councillor must not make a statement that a local government employee is incompetent or dishonest, or use offensive or objectionable expressions in reference to a local government employee.

4 CONDUCT OBLIGATIONS

High standards of professional conduct ensure that a positive image of the City is conveyed when the City interacts with its stakeholders and the community.

4.1 General Conduct

4.1.1 Councillors, Committee Members and employees shall:

- a) act, and be seen to act, in accordance with the requirements of the law, Council Policies and Guidelines, and the terms of this Code;
- b) perform their duties impartially and in the best interests of their communities, uninfluenced by fear or favour; and
- c) act in good faith (i.e. honestly, for the purpose, and without exceeding their powers) in the interest of the Council and the community; and
- d) avoid behaviour that causes, comprises or involves prejudice in the provision of a service to the community; and
- e) always act in accordance with their obligation of fidelity to the local government.

4.1.2 Councillors, Committee Members and employees shall not:

- a) make allegations which are improper or derogatory (unless true and in the public interest);
- b) make verbal allegations without substantiating them in a formal written manner;
- c) display any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment;
- d) harass or discriminate against anyone or support others who harass and discriminate against any person.
- e) Councillors will represent and promote the interests of the Council, while recognising their special duty to their constituents.

4.2 Public Duty

4.2.1 Public duty is the obligation public officers have when carrying out their official duties. Councillors, Committee Members and employees are expected to ensure that the public interest is deemed to be their first priority.

4.2.2 Putting the public interest first means:

- a) being impartial and unbiased;
- b) acting fairly and justly;
- c) being accountable and transparent;
- d) doing our job effectively and efficiently; and
- e) behaving in accordance with the City of Karratha's Code of Conduct.

4.3 Honesty and Integrity

4.3.1 Councillors and employees will:

- a) observe the highest of standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards; and
- b) bring to notice of the:
 - (i) Mayor, any dishonesty or possible dishonesty on the part of any Councillor or CEO; or
 - (ii) CEO, any dishonesty or possible dishonesty on the part of an employee or Councillor; and
- c) be frank and honest in their official dealings with each other; and

- d) treat all members of the community honestly and fairly; and
- e) report immediately any suspicious behaviour to the Council's Public Interest Disclosure Officer (PID Officer) or CEO, where they have good reasons to suspect any fraud, corrupt, criminal or unethical conduct; and
- f) lead by example in order to maintain and strengthen the public's confidence in the integrity of the Council; and
- g) be accountable and as open as possible about their decisions and actions.

4.4 Fairness and Equality

4.4.1 Councillors, Committee Members and employees:

- a) have an obligation to consider issues consistently, promptly and fairly. This involves dealing with matters in accordance with established procedures, in a non-discriminatory manner; and
- b) must take all relevant facts known to them, or that they should be reasonably aware of, into consideration and have regard to the particular merits of each case. They must not take irrelevant matters or circumstances into consideration when making decisions.

4.5 Abusive Behaviour

4.5.1 Councillors or employees shall not in any way be verbally aggressive, intimidating or derogatory to another employee, Councillor or member of the general public, including use of offensive language.

4.6 Performance of Duties

4.6.1 Employees must:

- a) while on duty, give their whole time and attention to the business of the City;
- b) ensure that their work is carried out efficiently, economically and effectively;
- c) ensure that their standard of work reflects favourably both on them and on the City of Karratha;
- d) demonstrate loyalty and commit to the unconditional acceptance and support of all Council decisions and lawful instructions from the CEO;
- e) continue to uphold the principles detailed within this Code whilst wearing the Council uniform, including when outside of official business hours; and
- f) attend their workplace in a functional manner, and are not to be under the influence of drugs and/or alcohol as outlined in the Fitness for Work Policy.

4.6.2 Councillors and Committee Members will:

- a) at all times exercise reasonable care and diligence in the performance of their duties;
- b) be consistent in their decision making, and treat all matters on their individual merits;
- c) ensure they are well informed on matters before Council by reading all agendas and reports provided;
- d) be as informed as possible about the functions of the Council and/or Committee; and
- e) treat all members of the community fairly.

4.7 Compliance with Lawful Orders

4.7.1 Councillors, Committee Members and employees will:

- a) comply with any lawful order given by any person having authority to make or give such an order. Any doubts as to the propriety of any such order should be taken up with the Supervisor of the person who gave the order. If a resolution cannot be achieved, the order should be referred to the Director of that Department for final resolution; and
- b) give effect to the lawful policies of the Local Government, regardless of whether they personally agree with or approve of them.

4.8 Administrative and Management Practices

4.8.1 Councillors, Committee Members and employees will ensure:

- a) compliance with proper and reasonable administrative practices and conduct;
- b) compliance with professional and responsible management practices;
- c) that accurate records are documented and retained in accordance with the *State Records Act 2000* and relevant Council policies to evidence the performance of their duties; and
- d) that specific attention is accorded to records which contribute to or impact upon decision-making activities.

4.9 Standard of Dress

4.9.1 The appearance and dress of Councillors and employees, whilst conducting City business, should be in accordance with the standards appropriate to their duties and the people with whom they are dealing, and compliant with the provisions of the City's Corporate Uniform Policy.

4.9.2 Management reserves the right to raise the issue of dress with individual employees.

5 COMMUNICATIONS AND PUBLIC RELATIONS

5.1 Authorised spokespeople

- 5.1.1 City of Karratha Media Policy outlines authorised spokespeople for the City.
- 5.1.2 When providing official Council positions and statements on social media, only authorised spokespeople may use official City of Karratha social media properties.

5.2 General Considerations

- 5.2.1 All aspects of communication by employees (including verbal written or personal), involving the Council's activities should reflect the status and objectives of the Council. Communications should be accurate, polite and professional.
- 5.2.2 Councillors, Committee Members and employees must:
 - a) not communicate information of a confidential nature until it is no longer treated as confidential;
 - b) comply with the Act by ensuring that information relating to decisions of Council are communicated in an official capacity only by;
 - (i) the Mayor or his/her representative; or
 - (ii) with the agreement of the Mayor, by the CEO or the CEO's representative;
 - c) accurately convey information regarding adopted policies, procedures and decisions of the City; and
 - d) unless on leave of absence or unavailable for other reasons, respond as soon as practicable in a professional manner to written, electronic and verbal enquiries directed to them, or arrange for another person to do so on their behalf.
- 5.2.3 Councillors, Committee Members and employees are to ensure that Council policies and internal guidelines are adhered to in relation to interacting with the media and the use of social media in an official or personal capacity.
- 5.2.4 As a representative of the community, Councillors need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so, Councillors should acknowledge that:
 - a) as a member of the Council, there is respect for the decision making processes of the Council, which are based on a decision of the majority of the Council;
 - b) information relating to decisions of the Council on approvals, permits etc. ought only to be communicated in an official capacity by designated officers of the Council such as the Mayor; and
 - c) information concerning adopted policies, procedures and decisions of the Council is to be conveyed accurately.

5.3 Media enquiries

- 5.3.1 Employees are to ensure all enquiries from media outlets are directed to and coordinated by Marketing and Communications.

5.4 Social media

- 5.4.1 Councillors, Committee Members and employees are free to make their own personal position known about any matter which is pertinent to the business of the City, including Council decisions, provided that they:

- a) respect the decisions of Council and clearly identify when personal views are being expressed;
- b) only disclose or discuss publicly available information;
- c) comply with internal processes and guidelines for customer service by referring customer enquiries to the City's official social media channels or to telephone, email or in-person customer service options; and
- d) ensure all content is accurate and complies with all relevant Council policies.

5.4.2 When using social media for personal purposes, employees must not:

- a) imply that they are authorised to speak as a representative of Council or give the impression that views expressed are those of Council;
- b) use a Council email address or any Council logos or insignia;
- c) use the identity or likeness of another employee, contractor or member of Council; or
- d) make comments or post any material that might cause damage to Council's reputation.

5.4.3 When using social media for personal purposes, Councillors, Committee Members and employees must refrain from publishing video, photographs, audio or hearsay statements of City employees unless approval has been provided or is implied.

6 QUASI-JUDICIAL ROLE AND PRINCIPLES

6.1 Role

- 6.1.1 'Quasi-judicial' functions are those which involve the making of a decision by the Council or an employee in the exercise of a discretionary power. The City performs quasi-judicial functions when deciding to approve or not approve applications for planning approval, and for other approvals, licences, consents and permits. Councillors and employees must therefore act in a judicial manner when performing quasi-judicial functions.

6.2 Principles

- 6.2.1 The community expects Councillors and employees to act in a quasi-judicial manner when exercising discretionary power. To act in a quasi-judicial manner, Councillors and employees must apply the principles of natural justice and without bias or conflict of interest, make decisions in a judicial manner based on:
- a) the law and Council policies as they exist; and
 - b) the facts and the merits of the case.
- 6.2.2 Applicants submitting approval documents may attempt to persuade individual Councillors or employees in favour of their proposals. Councillors and employees must remain objective and deal with applicants or affected persons impartially.
- 6.2.3 Decisions must be made on sound legislative rationale and not specific public perception.
- 6.2.4 Councillors are to have equal access to relevant information and the opportunity to participate effectively throughout the decision making process.

6.3 Non-compliance

- 6.3.1 Non-compliance with quasi-judicial principles could result in Council decisions being invalidated.
- 6.3.2 A Councillor acting when biased and without disclosing an interest affecting impartiality, may breach regulation 11 of the *Local Government (Rules of Conduct) Regulations 2007*.

6.4 Procedures for Councillors

- 6.4.1 When acting in a quasi-judicial role, Councillors shall not actively gather information independent of the official process by canvassing, liaising or initiating site visits with an applicant or affected person.
- 6.4.2 If contacted by an applicant or an affected person, Councillors will:
- a) listen and endeavour to understand the reason for the applicant or affected person making contact;
 - b) advise the applicant or affected person of the role and principles of a Councillor in the role of quasi-judicial decision maker [refer to clauses 6.1 and 6.2 above];
 - c) encourage the applicant or affected person to make their views known through the relevant formal City and statutory processes, such as through a Council Meeting Statement, Question Time, Deputations, public submission periods, in writing or direct to the City's administration; and
 - d) ensure that they do not commit their vote, or give an impression that they have committed their vote, on the matter. Councillors may offer support or otherwise, but are obliged to consider all relevant facts and have regard to the debate at the meeting, prior to making their decision.

- 6.4.3 Councillors will contact the CEO if they believe a site visit would be beneficial or if they have been requested by an applicant or an affected person to visit a site. Where appropriate, and if circumstances permit, site visits shall be arranged to facilitate the opportunity for all Councillors to attend as well as at least one employee. Councillors visiting sites shall ensure they comply with the principles set out in clause 6.2.
- 6.4.4 Where an applicant or affected person provides information to a Councillor which is substantive to the decision making process, the Councillor must communicate that information to all other Councillors and the Chief Executive Officer prior to the meeting where a decision is proposed on the matter.
- 6.4.5 If a Councillor believes that additional information is required to make an informed decision, such information shall be sought in a written request to the Chief Executive Officer or obtained by resolution of Council. Where requested, the Chief Executive Officer will consider requests for additional information in light of its relevancy to the decision and determine whether or not the information should be provided.

7 CONFLICTS OF INTEREST

7.1 Guiding Principles

- 7.1.1 The primary goal in managing conflicts of interest is to ensure that decisions are made, and seem to be made, in a transparent manner, on proper grounds, for legitimate reason, in good faith and in the best interests of both the Local Government and its stakeholders.
- 7.1.2 Councillors, Committee Members and employees must:
- a) ensure that there is no actual, potential or perceived conflict of interest between the impartial fulfilment of their public or professional duties and their personal interests or those of closely associated persons;
 - b) consider potential conflicts of interest when deciding whether or not to accept a gift from any person or organisation with a commercial relationship, or possible future commercial relationship, with the City;
 - c) disclose actual, potential or perceived conflicts of interest;
 - d) monitor and manage disclosed interests; and
 - e) be aware of the types of interests and the corresponding compliance requirements.
- 7.1.3 Where a Councillor, Committee Member, or employee has any doubt as to whether or not they have a conflict of interest, they should make a disclosure of their potential conflict of interest, seek appropriate advice, and act accordingly.

7.2 Identifying Conflicts

- 7.2.1 It is not wrong to have a conflict of interest, what matters is how you deal with it.
- 7.2.2 Actual, potential or perceived conflicts of interest may arise from a number of sources, including but not limited to friends, relatives, close associates, financial investments, place of residence, property ownership and past employment.
- 7.2.3 In identifying conflicts of interest, Councillors, Committee Members and employees should consider the following points known as the 6 P's:
- a) public duty versus private interests - *do I have personal or private interests that may conflict, or be perceived to conflict with my public duty?*
 - b) potentialities - *might there be benefits for me now, or in the future, that could cast doubt on my objectivity?*
 - c) perception - *how will my involvement in the decision/action be viewed by others? Are there risks associated for me/the City?*
 - d) proportionality - *does my involvement in the decision appear fair and reasonable in all the circumstances?*
 - e) presence of mind - *what are the consequences if I ignore a conflict of interest? What if my involvement was questioned publicly?*
 - f) promises - *have I made any promises or commitments in relation to the matter? Do I stand to gain or lose from the proposed action/decision?*

7.3 Monitoring and Managing Conflicts

- 7.3.1 Identified conflicts of interest must be appropriately disclosed and then managed on an ongoing basis by the discloser.
- 7.3.2 In managing conflicts of interest, Councillors, Committee Members and employees using the "6 R's" as follows:

- a) record/register - first disclose the interest in the appropriate form, and then if necessary:
 - (i) restrict your involvement in the matter;
 - (ii) recruit or involve an independent third party;
 - (iii) remove yourself from the matter;
 - (iv) relinquish the conflicting personal or private interest; or
 - (v) resign from your position.

7.4 Financial Interests

- 7.4.1 Financial interests are not just situations where money changes hands, but can also involve anything with a financial value, such as, owning property, business partnership, position in a company, election donations, shares, debts, hospitality and gifts.
- 7.4.2 A financial interest exists when it is reasonable to expect that the matter will, if dealt with by the Local Government, in any particular way, result in a financial gain, loss, benefit or detriment for the person or a close associate.

7.5 Proximity Interests

- 7.5.1 A person has a proximity interest in a matter if it concerns:
 - a) a change to a planning scheme, zoning or use affecting land; or
 - b) a proposed development of landthat adjoins land owned by the person, or in which the person has an interest.

7.6 Impartiality Interests

- 7.6.1 Regulation 34C of the *Local Government (Administration) Regulations 1996* defines an impartiality interest as 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.
- 7.6.2 Interests affecting impartiality may not have a financial component or value and are not limited to but may include:
 - a) family relationships;
 - b) friends and enemies;
 - c) religious and cultural obligations;
 - d) membership or holding office in clubs, associations, groups or organisations;
 - e) beliefs, values and attitudes;
 - f) volunteer commitments; and
 - g) reputation, power and influence.

7.7 Disclosure of financial and proximity interests

- 7.7.1 Councillors, Committee Members and employees must:
 - a) comply with the laws governing financial interests, including the disclosure of financial interests, as set out in the Act; and
 - b) disclose financial and proximity interests in accordance with the requirements for disclosure set out in sections 5.59 – 5.90 of the Act.
- 7.7.2 The onus is on Councillors, Committee Members and employees to identify possible financial or proximity interests and to determine whether an interest exists, and whether any of the statutory exemptions set out at s. 5.63 of the Act apply.

7.8 Disclosure of any interests at meetings

- 7.8.1 Council Members, Committee Members and employees, including persons under a contract for service who are:
- c) attending a Council or committee meeting; or
 - d) giving advice to a Council or committee meeting whether in person or in written form;
 - e) are required to disclose any interest they have in a matter to be discussed at the meeting that could give rise to a reasonable belief that the impartiality of the person having the interest would be affected.
- 7.8.2 Disclosure of an impartiality, financial or proximity interest is to be made:
- a) at the meeting immediately before the matter is discussed, or at the time the advice is given, and is to be recorded in the minutes of the meeting; or
 - b) in a written notice given to the CEO before the meeting.
- 7.8.3 Disclosures made to the CEO before a meeting must be:
- a) provided to the person who is to preside at the meeting prior to the meeting; and
 - b) brought by the presiding person to the attention of others in attendance at the meeting immediately before the matter that the disclosure relates to is discussed; and
 - c) recorded in the minutes of the meeting.
- 7.8.4 Unless otherwise agreed by the Minister or the members present at the meeting who are entitled to vote on the matter, a member who make a financial or proximity interest disclosure must not:
- a) preside at the part of the meeting relating to the matter; or
 - b) participate in or be present during any discussion or decision making relating to the matter.
- 7.8.5 In cases where a person is not aware of a perceived or potential conflict before debate commences, he or she shall disclose the interest as soon as they become aware.
- 7.8.6 An employee must disclose any interest they may have when providing advice or a report directly to Council or a Committee when giving the advice or report, and the disclosure is to be recorded in the minutes.
- 7.8.7 A person may be excused from the requirements of this section if:
- a) the person's failure to disclose occurs because the person did not know they had an interest in the matter; or
 - b) the person's failure to disclose occurs because the person did not know the matter in which they had an interest would be discussed at the meeting and the person discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.

7.9 Disclosure of information in primary and annual returns

- 7.9.1 Councillors and Designated employees must provide primary and annual returns that identify potential and actual conflicts of interest in accordance with Division 6 or Part 5 of the Act.

Section 5.74 of the Act defines designated employees as:

- (a) a CEO; and
- (b) an employee, other than the CEO, to whom any power or duty has been delegated under Part 5 Division 4; and
- (c) an employee who is a member of a committee comprising council members and employees; and
- (d) an employee nominated by the local government to be a designated employee.

7.10 Disclosure of personal associations

- 7.10.1 Employees who exercise a regulatory, recruitment, inspectorial, or other discretionary function must make disclosure in writing to the CEO or their relevant Director, or in the case of the CEO, to the Mayor, before dealing with relatives or close friends.
- 7.10.2 Whenever operationally possible, employees should disqualify themselves from dealing with those persons for any matter requiring a discretionary function.

7.11 Private work

- 7.11.1 For the purposes of this section private work includes secondary employment by an entity or individual other than the City, self-employment, and voluntary roles.
- 7.11.2 Employees, other than those employed on a casual basis, shall notify the CEO in writing and seek approval prior to engaging in work outside their employment with the City.
- 7.11.3 A casual employee must obtain CEO approval to engage in paid work outside of their employment with the City if the private work proposed to be undertaken by the employee involves:
- a) the provision of goods or services to the City;
 - b) work that may require a statutory approval by the City;
 - c) the delivery of services already provided by the City; or
 - d) work that may result in an actual or perceived conflict of interest between the employee's obligations to the City and the private work.
- 7.11.4 Employees will not engage in private work with or for any person or body with an interest in a proposed or current business dealing with the local government, without first making disclosure to the CEO, or in the case of the CEO, to the Mayor.
- 7.11.5 The CEO has the right to refuse approval, or to provide approval with conditions imposed where appropriate.
- 7.11.6 An employee engaging in approved private work, who identifies a potential conflict of interest, must request a CEO review of the interest and may be required to withdraw from the private work or have conditions imposed on the continuation of the private work.
- 7.11.7 Employees who are approved to undertake private works shall under no circumstances use City equipment, premises, time, resources or consumables to conduct or undertake activities associated with their private work.

- 7.11.8 Councillors and employees shall not undertake private work to assist external agencies in the development or lodgement of funding submissions that may compete with similar submissions by the City.
- 7.11.9 Disclosures of private work are recorded on the employee's personnel file, which is maintained by Human Resources.

7.12 Land Dealings and Personal Development Applications

- 7.12.1 Councillors and employees will lodge written notice with the CEO, or in the case of the CEO, to the Mayor, describing an intention to undertake a dealing in land within the City or which may otherwise be in conflict with the Council's functions (other than purchasing their principal place of residence, or a site for such a purpose).
- 7.12.2 Councillors who have lodged a development application with the City shall only discuss the matter with the CEO or relevant Director or, if approved by the CEO/Director, with a senior employee in staff-only areas of the City, or on the site that the application refers to.

8 PERSONAL BENEFIT

8.1 Use of Confidential Information

- 8.1.1 Councillors, Committee Members and employees shall not use confidential Council information to gain improper advantage for themselves, or for any other person or body.
- 8.1.2 All employees are expected to act in a manner consistent with their obligation to act impartially, and to not improperly use information that they have to cause harm or detriment to any person when representing the Council.

8.2 Improper or Undue Influence

- 8.2.1 Councillors, Committee Members and employees shall not take advantage of their position to improperly influence other Councillors, Committee Members or employees in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage, or gain benefit for themselves or for any other person or body.
- 8.2.2 Similarly, Councillors, Committee Members and employees shall not take advantage of their office or position to improperly disadvantage or cause detriment to the City or any other person.

8.3 Travel Contributions

- 8.3.1 Financial or other contributions with a commercial value over \$200 to any travel by Councillors, Committee Members and employees, regardless of the distance, mode or duration of that travel, are referred to as travel contributions.
- 8.3.2 A contribution to travel will be anything that facilitates a journey, including but not limited to use of vehicles, airfares, visa fees, baggage costs, travel insurance, taxi costs, and accommodation that is incidental to the journey such as overnight stopovers between connecting legs of a journey.
- 8.3.3 Councillors, Committee Members and employees must disclose travel contributions to [Governance](#) on the *Gift or Travel Contribution Declaration Form* within 10 days of receipt.
- 8.3.4 A travel contribution will not have to be disclosed where:
- a) the value of the contribution does not exceed \$200 at the time the contribution was made; or
 - b) if there are multiple contributions from the same donor in the immediately previous year, the cumulative value of those contributions does not exceed \$200; or
 - c) the contribution was made from Commonwealth, State or local government funds; or
 - d) the contribution was made by a relative as defined in section 5.74(1) of the Act; or
 - e) the contribution was made in the ordinary course of an occupation of the person which is not related to the person's duties as a Councillor or employee of the City of Karratha; or
 - f) the contribution was made by a political party of which the recipient is a member and the travel is undertaken for the purpose of political activity of that party, or to enable the recipient to represent the party.

8.38.4 Gifts and Benefits

8.3.18.4.1 A gift means any item of value which a person or organisation other than the City, presents to Councillors and employees of the City by means other than via will, without payment being required or inadequate payment being required, as a consequence of their employment or position with the City.

8.3.28.4.2 A gift does not include:

- a) complimentary events tickets to City of Karratha run events received by Councillors, Committee Members or employees in accordance with the terms of the City's Operational Policy on Allocation of Complimentary Events Tickets;
- b) any financial or other contribution to travel;
- c) a gift from a relative as defined in section 5.74(1) of the Act;
- d) a gift that must be disclosed under regulation 30B of the *Local Government (Elections Regulations 1997)*; or
- e) a gift from a statutory authority, government instrumentality or non-profit association for professional training.

8.3.38.4.3 A benefit is a non-tangible item of value that a person or organisation confers on Councillors and employees of the City.

8.3.48.4.4 Examples of gifts and benefits include tangible items such as books and bottles of wine, contributions towards accommodation, memberships or discounts on memberships, acts of hospitality such as event tickets or meals, and discounts on products.

8.3.58.4.5 Councillors and employees must:

- a) not seek gifts or benefits;
- b) refuse all offers of money, gift vouchers or items easily converted to money such as shares;
- c) refuse bribes and report bribery attempts to the CEO and to the West Australian Police;
- d) if unsure about how to respond to an offer of a gift, benefit or hospitality, seek advice from their Director or the CEO; and
- e) declare on a ~~'Gift Declaration Form'~~Gift or Travel Contribution Declaration Form all gifts and benefits that have a commercial value of \$50 or more ~~in the case of gifts of hospitality and \$10 or more in the case of other benefits and physical gifts.~~

8.48.5 Notifiable Hospitality Gifts between \$50 and \$300

8.4.1 ~~Gifts of hospitality with a commercial value between \$50 and \$300 are referred to as~~
~~N~~notifiable ~~H~~hospitality ~~G~~gifts.

8.4.2 ~~Gifts of hospitality~~Notifiable Hospitality Gifts include transfers, meals, and beverages, event tickets, and entry fees.

8.4.38.5.1 ~~Notifiable H~~ospitality G~~ifts~~ Gifts with a commercial value between \$50 and \$300 may be accepted by a Councillor or employee provided that:

- a) a ~~gift declaration form~~Gift or Travel Contribution Declaration Form is submitted to ~~Corporate Compli~~Governance within ~~103 working~~ days of accepting the gift or benefit; and
- b) ~~if it is believed that~~ the donor is not undertaking, or seek~~intending~~ to undertake, ~~or intends to undertake~~ an activity where it may be reasonable to expect involving a local government a discretion~~ary decision involving the recipient (i.e. an activity that cannot be undertaken without involvement by the City), that the recipient has~~

- ~~completed all relevant fields indicated this on the Gift Declaration Form Gift or Travel Contribution Declaration Form and notified the CEO; and~~
- ~~c) no objection to acceptance of the gift has been raised by the CEO or Corporate Compliance within 7 working days of submission of the Gift or Travel Contribution Declaration Form gift declaration form.~~

~~8.5.2 8.5.2~~ A gift valued between \$50 and \$300 includes a gift that is one of 2 or more gifts given to a Councillor, or employee by the same person or entity within the immediately previous 6 months that are worth between \$50 and \$300 in total.

~~;~~ and

- ~~e) the total commercial value of all gifts and benefits received from that organisation or person (if they're not representing an organisation) does not exceed \$300 in the previous 1 year (includes gifts received with a commercial value of less than \$50 in the case of hospitality and less than \$10 in the case of other benefits and physical gifts).~~

~~8.5~~ — Other Notifiable Gifts

~~8.5.1~~ Gifts and benefits other than hospitality Notifiable Hospitality Gifts with a commercial value between \$10 and \$300 are referred to as other Other Nnotifiable Ggifts.

~~8.5.2~~ Other Nnotifiable Ggifts may be accepted by a Councillor or employee provided that:

- ~~a) a gift declaration form Gift or Travel Contribution Declaration Form is submitted to Corporate Compliance within 103 working days of accepting the gift or benefit; and~~
- ~~b) if it is believed that the donor is undertaking, seeking to undertake, or intends to undertake an activity involving a local government discretion (i.e. an activity that cannot be undertaken without involvement by the City), that the recipient has completed all relevant fields indicated this on the Gift Declaration Form Gift or Travel Contribution Declaration Form and notified the CEO; and~~
- ~~e) no objection to acceptance of the gift or benefit has been raised by the CEO or Corporate Compliance within 7 working days of submission of the gift declaration form.; and~~
- ~~d) the total commercial value of all gifts and benefits received from that organisation or person (if they're not representing an organisation) does not exceed \$300 in the immediately previous 1 year (includes gifts received with a commercial value of less than \$50 in the case of hospitality and less than \$10 in the case of other benefits and gifts).~~

8.6 ~~Prohibited Gifts~~ valued at \$300 and above

~~A Councillor or employee must not accept a gift valued at \$300 and above from a person who if it is reasonably believed that the donor is undertaking, seeking to undertake, or intends to undertake an activity involving a local government discretion (i.e. an activity that cannot be undertaken without involvement by the City)~~

8.6.1 Gifts valued at \$300 and above may be accepted by a Councillor, Committee Member or employee provided that:

- a) a Gift or Travel Contribution Declaration Form is submitted to Governance within 10 days of accepting the gift or benefit;
~~the donor is not undertaking, or intending to undertake an activity where it may be reasonable to expect a discretionary decision involving the local government it is reasonably believed that there is no local government discretion required or sought by the donor of the gift at the point of acceptance or in the foreseeable future; and~~
- b) a Gift or Travel Contribution Declaration Form is submitted to Corporate Compliance within 10 days of accepting the gift or benefit; and
- c) no objection to acceptance of the gift has been raised within 7 working days of submission of the gift declaration form.

8.6.1 Aa gift worth \$300 or more valued at \$300 and above includes a gift that is one of 2 or more gifts given to a Councillor, Committee Member or employee by the same person or entity within the immediately previous 16 yearmonths that are worth \$300 or more in total.

~~A Councillor, Committee Member or employee should politely decline a prohibited gift unless:~~

- ~~8.6.2 the gift is of a civic nature and received from a visiting dignitary as part of civic/ceremonial protocols and/or customs; and~~
- ~~8.6.3 ownership of the gift is transferred to the City; and~~
- ~~8.6.4 the Councillor, Committee Member or employee submits a 'Gift Declaration Form' and evidence of Director or CEO's approval within 10 days of accepting the gift.~~

8.6.2

8.7 Acceptance and refusal of Gifts, ~~or~~ Benefits and Travel Contributions

8.7.1 The CEO reserves the right to require a Councillor or employee to return a gift, other than hospitality gifts, within 7 working days of submittingssion of a Gift and Travel Declaration Form.

8.7.2 Where a gift (other than a gift of hospitality) or travel contribution has been consumed or used prior to a request by the CEO for the recipient of a gift to return the gift under 8.7.4, the CEO reserves the right to request the recipient of the gift or travel contribution to reimburse the donor with the full declared value of the gift or travel contribution. It is therefore recommended that consumable gifts and travel contributions are not consumed or used until after 7 working days have passed from the date of declaration of the gift or travel contribution.

8.7.18.7.3 Councillors and employees may accept a gift, ~~or~~ benefit or travel contribution provided it is in compliance with the provisions of section 8 of this Code that are applicable to that type of gift, ~~or~~ benefit, or travel contribution, and the CEO has not requested refusal ~~of the gift.~~

8.7.4 Councillors, Committee Members and employees may accept a gift or benefit that has a commercial value of less than ~~\$10, or \$50 in the case of a gift of hospitality,~~ without declaring it. However, Councillors and employees are encouraged to submit a ~~gift declaration form~~ Gift or Travel Contribution Declaration Form voluntarily in such instances.

8.7.2

8.7.38.7.5 Nothing in this Code prevents a gift from being accepted and received on behalf of the City, where it is retained by the City and duly noted in the ~~Gifts Register~~ Gifts and Travel Contributions Register.

~~8.7.4~~ ~~The CEO reserves the right to require a Councillor or employee to return a notifiable gift, other than notifiable hospitality gifts, within 7 working days of submission of a gift declaration form.~~

8.7.58.7.6 ~~Where a gift (other than a gift of hospitality) has been consumed prior to a request by the CEO for the recipient of a gift to return the gift under 8.7.4, the CEO reserves the right to request the recipient of the gift to reimburse the donor with the full declared value of the gift. It is therefore recommended that consumable gifts are not consumed until after 7 working days have passed from the date of declaration of the gift.~~ The CEO reserves the right to waive the requirements of section 8 of the Code of Conduct relating to the gifts, benefits and travel contributions in certain circumstances, so long as the acceptance of the gift or travel contribution is compliant with the requirements of the Local Government Act 1995 and its subsidiary legislationregulations.

8.8 Roles and Responsibilities

8.8.1 The onus is on Councillors, Committee Members and Councillors to ensure that they have disclosed all gifts, ~~and~~ benefits and travel contributions accepted by them.

8.8.2 Perceived, actual or potential conflicts of interest arising from gifts, ~~or~~ benefits and travel contributions must be managed to ensure that decision making is transparent and free from the perception of bias. The CEO is responsible for managing perceived, actual or potential conflicts of interest arising from gifts, ~~or~~ benefits and travel contributions received by Councillors, Committee Members and employees.

8.8.3 In accordance with the requirements of the Local Government Act 1995 the CEO must ensure that the register of gift and travel contribution declarations is maintained. This is a public record and may be inspected by a member of the public on request.

8.8.4 As soon as practicable upon receipt of a Gift or Travel Contribution gift Declaration Form, ~~Corporate Compli~~Governance shall record all gifts and benefits declared by Councillors and employees into the Gifts and Travel Contributions Register, and arrange for its publication on the City of Karratha website where required by law.-

8.8.5 ~~Corporate Compli~~Governance shall provide the CEO and Directors with a quarterly report (or as otherwise demanded) of all gifts, ~~s, s and~~ benefits and travel contributions declared by employees, Committee Members and Councillors.

8.9 Monitoring

~~8.9.1~~ ~~Upon receipt of a gift declaration form, Corporate Compliance will check the total value of gifts and benefits from the donor in question declared by Councillors and employees in the previous twelve month period.~~

8.108.9 Disclosure of Election Campaign Contributions/Gifts

8.10.18.9.1 Gifts and campaign contributions with a value of \$200 or more, promised or received within a 6-month period before a local government election day, are required to be declared in accordance with the Act and the *Local Government (Elections) Regulations 1997*.

8.11.18.10 City Run Competitions

8.10.1 Councillors, employees and the spouse or partner of a Councillor or employee are not eligible to ~~benefit from~~enter into or benefit from wholly City run competitions that members of the public can enter into.

8.11.18.10.2 This does not apply to competitions involving the application of skill or ability, such as the Cossack Art Awards, sports, etc.

9 USE OF INFORMATION

9.1 Access to Information

- 9.1.1 Employees will ensure that Councillors are given access to all information necessary for them to properly perform their functions and comply with responsibilities as Councillors.
- 9.1.2 Councillors shall be provided access to information held by the City, subject to:
- a) a request for access to such information being made to the Chief Executive Officer in writing, detailing the information sought and purpose for which the information is required; and
 - b) the Chief Executive Officer being of the view the information sought is relevant in relation to the purpose of the Councillor's functions as prescribed by the Act; and
 - c) the information being used by the Councillor solely for the purpose for which it was provided.
- 9.1.3 Councillors will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.
- 9.1.4 Councillors, Committee Members and employees
- a) shall not use information, whether assigned confidential status or not, to gain improper advantage for themselves or for any other person or body; and
 - b) must protect and only release confidential information if he or she has the authority to do so.
- 9.1.5 Information that is available under Part 5 Division 7 of the Act is to be made available to all members of the public if so requested and the principles of the *Freedom of Information Act 1992* are to be observed for the release of all other information.

Section 5.94 of the Act provides a list of the types of information that is to be available for inspection by the public, free of charge, and regardless of whether or not the information is current at the time of inspection.

Section 5.95 of the Act sets out certain limits that apply to this public right of inspection.

9.2 Improper Use of information

- 9.2.1 Councillors, Committee Members and employees must not make improper use of any information acquired by them in the performance of their duties under the Act or any other written law.
- 9.2.2 Due discretion must be exercised by all those who have access to confidential or sensitive information. This applies not only to the proper disclosure of that information, but also to taking appropriate measure to ensure that the security of the information is not compromised.

Section 5.93 of the Act prohibits a Councillor, Committee Member or employee from making improper use of any information acquired in the performance by the person of their functions under the Act or any other written law:

- (a) to gain directly or indirectly an advantage for themselves or for any other person; or
- (b) to cause detriment to the City or any other person.

The penalty, on conviction, is a fine of \$10,000 or imprisonment for 2 years.

10 CITY RESOURCES

10.1 Use of City Resources

10.1.1 Councillors, Committee Members and employees must:

- a) be honest in their use of the City's resources (including but not limited to tangible property, money, intellectual property, official services, expertise and facilities) and not misuse or damage them, or permit their misuse (or the appearance of misuse) or damage by any other person or body;
- b) use the City's resources entrusted to them effectively and economically in the course of their duties;
- c) ensure the City's resources are utilised only for authorised activities;
- d) not use Council resources (including the services of City employees) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the CEO); and
- e) ensure that the City's information technology resources are used appropriately and not used to search for, access, download or communicate any inappropriate content as per the relevant Council policies and internal guidelines.

10.1.2 A Councillor, Committee Member, employee or other person should at all times be scrupulously honest in the use of the Council's resources of all kinds, both physical and human. Use of such resources, whether for official or authorised private purposes, should be in accordance with the Council's policy concerning payment of expenses, provision of facilities and any other relevant policy.

10.1.3 A Councillor, Committee Member or employee should not use their position to obtain access to City resources that would not otherwise be available.

10.2 Travelling and Sustenance expenses

10.2.1 Councillors, Committee Members and employees may 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 City in accordance with Council policy, guidelines or within the provisions of the Act.

10.3 Use of City property for election purposes

10.3.1 The interests of a Councillor in their re-election are considered to be a personal interest and as such the reimbursement of expenses incurred on election matters is not appropriate.

10.3.2 City of Karratha letterhead, logo and any other material that would give the impression that it is official City material must not be used for election campaigning purposes.

10.4 Intellectual Property

10.4.1 The title to Intellectual Property in all duties relating to City contracts of employment will be assigned to the City upon creation unless otherwise agreed to by separate contract.

11 MANAGING PERFORMANCE AND REPORTING BREACH

11.1 Resolving workplace issues

- 11.1.1 Any employee who requires discipline for work related issues should only be disciplined by their appropriate Line Supervisor or Manager in privacy. All such matters must be dealt with in accordance with the provisions of the City's Performance Management/Disciplinary Policy.
- 11.1.2 Any employee who needs to discuss work related problems or grievances with another employee will do so in accordance with the provisions of the City's Grievance Resolution Procedure.
- 11.1.3 Workplace grievances, performance issues, and discipline issues must be treated as confidential and only be discussed with individuals who are set out as appropriate for such purposes in the City's Grievance Resolution Procedure and Performance Management/Disciplinary Policy.
- 11.1.4 Any Line Supervisor witnessing harassment will address the situation immediately and appropriately.

11.2 Making a complaint regarding an employee

- 11.2.1 Complaints regarding breach or suspected breach of this Code by employees will be considered and dealt with as appropriate in accordance with the City's Performance Management/Disciplinary Policy, Grievance Resolution Procedure, any other applicable policy, procedures and practices of the City, and any applicable law.
- 11.2.2 A complaint alleging that an employee has breached this Code shall be made in writing to the City's Complaints Officer on the Complaints Form at Appendix A. Complaints regarding the CEO will be made on the same form to the Mayor.
- 11.2.3 The Complaints Officer will register the complaint and cause an investigation to be conducted.

Under s. 5.10 of the Act a Complaints Officer is to be designated by the City and must be a senior employee as designated under s. 5.37 of the Act, otherwise the CEO will perform this role.

11.3 Making a complaint regarding minor breach by a Councillor

- 11.3.1 A complaint regarding minor breach or suspected breach of this Code by a Councillor shall be made in writing on the Complaints Form at Appendix A, and submitted to the Complaints Officer.
- 11.3.2 Where a complaint is made relating to a minor breach by a Councillor under the Act, the Complaints Officer must, within 14 days of receipt of the complaint:
 - f) give the complainant a written acknowledgment of receipt of the complaint;
 - g) provide a copy of the complaint to the Council Member in question; and
 - h) inform the Standards Panel and provide full details of the complaint.
- 11.3.3 The Standards Panel do not investigate breaches that are solely breaches of the City's Code of Conduct, they are only concerned with legislative breaches relating to Councillor conduct. If the Standards Panel investigates and deems that the alleged breach is serious, they will refer the matter to the Corruption and Crime Commission via the *Public Interest Disclosure Act 2003*.

11.4 Making a complaint regarding serious breach by a Councillor

- 11.4.1 Where a complaint is made relating to a serious breach by a Councillor under the Act, a complaint should be sent to the Director General of the Department of Local Government.
- 11.4.2 Where the Complaints Officer feels that a complaint regarding a perceived minor breach actually discloses a serious breach they are required to send the complaint to the Director General of the Department of Local Government, and notify each of the parties.

11.5 Public Interest Disclosure

- 11.5.1 The *Public Interest Disclosure Act 2003* facilitates the reporting of public interest information and provides protection for those who report this information under that Act.
- 11.5.2 The City:
- a) does not tolerate corrupt or other improper conduct, including mismanagement of public resources, in the exercise of the public functions of the City, by its Councillors, Committee Members, employees or contractors;
 - b) is committed to the aims and objectives of the Public Interest Disclosure Act 2003;
 - c) strongly supports disclosures being made by Councillors, Committee Members or employees relating to corrupt or other improper conduct;
 - d) will take all reasonable steps to provide protection to Councillors, Committee Members and employees who make disclosures from any detrimental action in reprisal for the making of a public interest disclosure; and
 - e) does not tolerate any of its Councillors, Committee Members, employees or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures.
- 11.5.3 Council Members, Committee Members and employees who wish to make a public interest disclosure are encouraged to contact the City's nominated Public Interest Disclosure Officer in the first instance to seek guidance on making their disclosure.

11.6 Reporting alleged misconduct to PSC or CCC

- 11.6.1 The CEO is obliged to make an informed decision about whether or not a matter may constitute minor or serious misconduct as defined in the *Corruption, Crime and Misconduct Act 2003*, and notify either the Public Sector Commission or the Corruption and Crime Commission accordingly.
- 11.6.2 Minor misconduct or suspected minor misconduct by employees, Councillors or Committee Members gets reported to the Public Sector Commission in addition to being dealt with internally if appropriate.
- 11.6.3 Serious misconduct, or suspected serious misconduct by employees, Councillors or Committee Members, gets reported to the Corruption and Crime Commission in addition to being dealt with internally if appropriate.

- 11.6.4** Any Councillor, Committee Member, employee, or any other person may report directly to the Public Sector Commission any matter which that person suspects on reasonable grounds to involve minor misconduct, and to the Corruption and Crime Commission any matter which that person reasonably suspects to involve serious misconduct.

Section 4(d) of the *Corruption, Crime and Misconduct Act 2003* defines minor misconduct. Minor misconduct occurs if a public officer engages in conduct that:

- i. adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or
- ii. constitutes or involves the performance of his or her functions in a manner that is not honest or impartial; or
- iii. constitutes or involves a breach of trust placed in the public officer by reason of his or her office or employment as a public officer, or
- iv. involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person

and constitutes, or could constitute a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the *Public Sector Management Act 1994* (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).

12 REFERENCES

- *Local Government Act 1995;*
- *Local Government (Official Conduct) Amendment Act 2007;*
- *Local Government (Administration) Regulations 1996;*
- *Local Government (Rules of Conduct) Regulations 2007;*
- *Local Government (Elections) Regulations 1997;*
- *Corruption, Crime and Misconduct Act 2003;*
- *State Records Act 2000;*
- *Freedom of Information Act 1992;*
- *Public Interest Disclosure Act 2003;*
- *Public Sector Management Act 1994;*
- City of Karratha local laws, policies and guidelines;
- WALGA Model Code of Conduct.

13 APPENDIX A – Breach of Code of Conduct - Complaint Form**COMPLAINT FORM**

This form should be completed, dated and signed by the person making a complaint of a breach of the City's Code of Conduct and should be submitted to the Complaints Officer of the City of Karratha.

DETAILS OF PERSON MAKING THE COMPLAINT	
Name:	
Address:	
Telephone no (mobile):	Telephone no (work):
Email address:	

INCIDENT DETAILS (complete a separate form for each person involved)
Name of person alleged to have committed breach:
Date of alleged incident:
<p>Please provide details of the alleged breach of the City's Code of Conduct, including details of the act or omission that resulted in the breach and any additional information. Attach extra page(s) and any additional evidence (such as photos) if necessary.</p>

WITNESS DETAILS

Please state the details of any person(s) who witnessed the alleged breach, and who is/are willing to provide information in relation to the alleged breach.

WITNESS NUMBER 1

Name:

Address:

Telephone no (mobile):

Telephone no (work):

Email address:

WITNESS NUMBER 2

Name:

Address:

Telephone no (mobile):

Telephone no (work):

Email address:

SIGNING

I declare that, to the best of my knowledge and belief, the information I have provided in this complaint form is not false or misleading. I note that a person who makes a false or misleading complaint commits a statutory offence.

I further declare that I will keep the contents of this complaint confidential until any resulting investigation into it has concluded.

Complainant's Signature:

Date of signing: