
OPERATIONAL POLICIES

Employee Code of Conduct



Policy Number:	O8
Relevant Delegation:	Not Applicable
Adoption Details:	22 February 2016
Last Review Details:	6 May 2021

POLICY OBJECTIVE:

To set out the expected standards for the behaviour of local government employees in the discharge of their roles and responsibilities.

POLICY SCOPE:

This policy applies to all employees, volunteers and contractors of the Shire of York.

The obligation for employees to observe a Code of Conduct arises from –

- The Local Government Act 1995, section 5.51A – Code of Conduct for Employees
- The Local Government (Administration) Regulations 1996, sections 19AA & 19AF
- The terms and conditions of employment with the Shire

POLICY STATEMENT:

INTRODUCTION

The Chief Executive Officer (CEO) must prepare and implement a code of conduct to be observed by employees of the local government. The CEO is responsible for the code and must ensure that it is published on the local government's official website.

The Code is intended to give effect to the objectives adopted in the Local Government Act 1995 (and regulations) which are to achieve:

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

A central focus of the Code is on probity and accountability and the nature and quality of interactions with Employees and the community.

The Code encourages a commitment to ethical and professional behaviour for all employees.

PRINCIPLES

This Code of Conduct is based on a set of principles set out below.

Employees:

- (a) are committed to giving effect to the requirements of the Local Government in all aspects of their roles. These are:
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- acting with reasonable care and diligence
 - acting with honesty and integrity
 - acting lawfully
 - avoiding damage to the reputation of local government
 - being open and accountable to the public
 - basing decisions on relevant and factually correct information
 - treating others with respect and fairness
 - not being impaired by mind affecting substances
- (b) do not place themselves under any financial or other obligation to any individual or organisation that might reasonably be thought to influence them in the performance of their duties;
- (c) make decisions solely on the basis of public interest, merit and in accordance with statutory obligations. This includes the making of appointments, awarding of contracts or recommending individuals for awards or benefits.
- (d) are open and transparent about their decisions and actions, and the reason for them.
- (e) always act honestly. They will declare private interests that may be relevant to their public duties and take steps to resolve any conflicts in such a way that protects the public interest.
- (f) treat each-other and members of the community with respect at all times. People are treated fairly and without discrimination or bias.
- (g) lead by promoting the involvement of people in local government processes and in developing trust between the Shire and the community.

PROVISIONS

1. STATUTORY FRAMEWORK

The Code of Conduct observes statutory requirements of the *Local Government Act 1995* (s5.51A – Code of Conduct for Employees), *Local Government (Administration) Regulations 1996* and *Corruption, Crime and Misconduct Act 2003*.

2. ROLE OF THE CEO AND EMPLOYEES

- 2.1 The role of employees is determined by the functions of the Chief Executive Officer as set out in s5.41 of the Local Government Act 1995:
- 2.2 The functions of the CEO are to:
- (a) advise the council in relation to the functions of a local government under this Act and other written laws.
 - (b) ensure that advice and information is available to the council so that informed decisions can be made.
 - (c) cause council decisions to be implemented.
 - (d) manage the day to day operations of the local government.
 - (e) liaise with the president on the local government's affairs and the performance of the local government's functions.
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- (f) speak on behalf of the local government if the president agrees.
 - (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees).
 - (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law.
 - (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

The CEO is responsible for the effective and efficient implementation of Council decisions and in turn all employees of the Shire are subject to the direction of the CEO.

- 2.3 Employees enable the functions of the Shire and the Shire of York to be performed, and they have an obligation to:
- (a) give their attention to the business of the Shire of York while on duty.
 - (b) ensure that their work is carried out efficiently, economically and effectively.
 - (c) carry out lawful directions given by any person having authority to give such directions.
 - (d) give effect to the lawful directions given by any person having authority to give such directions.
 - (e) give effect to the lawful policies, decisions and practices of the Shire of York, whether or not the employee agrees or approves of them.

3. GENERAL CONDUCT OBLIGATIONS

Employees:

- 3.1 acknowledge that they are subject to the provisions of the Local Government Act 1995 and in addition they will act in accordance with their obligation of fidelity to the Shire: to act honestly, in good faith and to the best of their abilities in the interest of the Shire.
- 3.2 will comply with the requirements of the *Local Government Act 1995* and other applicable written law.
- 3.3 will perform their roles impartially and in the public interest and act in good faith.
- 3.4 will make clear in any forum whether they are representing the Shire or whether they are acting on an individual basis. If they are acting as an individual they cannot speak on behalf of the Shire.
- 3.5 will be as informed as possible about the functions of the Shire of York and be familiar with all Council Agenda reports and associated documents prior to a meeting where the items are to be considered.

4. INTERACTIONS WITH COUNCILLORS

The CEO is responsible for advising the Councillors and implementing the decisions made by the Council. In undertaking these functions employees:

- 4.1 will comply with all relevant Shire of York Policies, codes and resolutions of which they have been made aware, relevant to their particular role.
 - 4.2 provide accurate information to the Council and the public at all times.
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- 4.3 will take all reasonable steps to ensure that the information upon which employees make decisions or actions are based is factually correct and that all information has been obtained and is considered.
 - 4.4 will not release or divulge information that the Council or Chief Executive Officer has ordered to be kept confidential, or that the employee should reasonably know is information that is confidential.
 - 4.5 will not make improper use of information, including confidential information, acquired by virtue of their position.
 - 4.6 will ensure that relationships with external parties do not amount to interference by improper influence, affecting judgement, decisions and/or actions.
 - 4.7 will comply with all lawful and reasonable directions given by a person with authority to give such directions.
 - 4.8 will only make public comment in relation to their duties when specifically authorized so to do.
 - 4.9 will not make any public criticism of a personal nature of fellow Shire of York employees or Councillors.

5. CONFLICTS OF INTEREST: AVOIDANCE AND DISCLOSURE

Conflicts of Interest are dealt with in the Local Government Act 1995 and the Local Government (Administration) Regulations 1996.

5.1 Avoiding Conflicts of Interest

Employees will ensure that there is no real or perceived conflict of interest between their personal interests and the impartial fulfilment of their public duties. The onus for identifying and disclosing a conflict of interest rests with the individual.

- 5.2 Employees will lodge a written notice on the appropriate form with the Chief Executive Officer describing their conflict of interest.

5.3 Disclosure of Interests

Employees must comply with disclosure of interest obligations prescribed in the Local Government Act 1995 (Division 6, Subdivision 1, Sections 5.59-5.90).

These disclosure obligations are in addition to the disclosure obligations outlined in clauses 5.4 and 5.5 of this Code of Conduct [Admin.r.19AD(3)].

- 5.4 In addition, Employees have obligations to disclose interests that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and this includes; an interest arising from kinship, friendship or membership of an association.

Where an employee has an impartiality interest in any matter to be discussed at a Council or Committee meeting attended by the employee then that employee is required to disclose the nature of the interest:

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

[Admin.r.19AD(1)]

- 5.5 Where an employee has an impartiality interest in any matter on which the employee has given, or will give, advice in respect of any matter to be discussed at a Council or Committee meeting,
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whether or NOT the meeting will be attended by the employee, then that employee is required to disclose the nature of any interest:

- (a) in a written notice given to the CEO before the meeting; or
- (b) at the time the advice is given.

[Admin.r.19AD(2)]

5.6 Employees are excused from the requirement to disclose impartiality interests under clauses 5.4 and 5.5 if the employee has failed to disclose an impartiality interest because they did not know and could not reasonably be expected to know:

- (a) that they had an interest in the matter; or
- (b) that the matter in which they had an interest would be discussed at the meeting and they disclosed the nature of the interest as soon as possible after the discussion began.

[Admin.r.19AD(4)]

5.7 Where Employee disclosures of impartiality interests under clauses 5.4 and 5.5 have been provided in writing before a meeting to the CEO, then:

- (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the Person Presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.

[Admin.r.19AD(5)]

5.8 Employees will not engage in any additional business or employment outside of the Shire of York, whether paid or voluntary, without the prior written approval of the CEO.

5.9 It is recognised that employees lead full lives in a small community and from time to time they will have occasion to submit applications to the Shire for lawful activities. In some instances approvals (or not) may require the exercise of a discretion by another officer. Where such an application is received the CEO is to be advised by the applicant employee and the officer handling the application. The CEO will determine any additional review process that may be required to ensure appropriate levels of probity and transparency.

6. PERSONAL BENEFIT¹:

6.1 Gifts, and Contributions to Travel

Extract from the Local Government (Administration) Regulations 1996

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

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

threshold amount, for a prohibited gift, means \$300 or a lesser amount determined under regulation 19AF.

¹ NOTE: the legal requirements for 'Gifts' and 'Contributions to travel' are complex. This section of the Code provides a summary of the requirements. A person described in 6.1 who is offered a gift or contribution to travel is strongly encouraged to seek advice on their obligations.

19AB. Prohibited gifts

- (1) In this regulation —
local government employee does not include the CEO.
- (2) A code of conduct must contain a requirement that a local government employee not accept a prohibited gift from an associated person.

[Regulation 19AB inserted: SL 2021/16 r. 4.]

19AC. Recording, storing, disclosure and use of information relating to gifts

- (1) In this regulation —
local government employee does not include the CEO.
- (2) A code of conduct must contain requirements relating to the recording, storing, disclosure and use of information relating to gifts that, under a code of conduct, may be accepted by local government employees from associated persons.

[Regulation 19AC inserted: SL 2021/16 r. 4.]

19AF. Determination of threshold amount

- (1) The CEO may determine an amount (which may be nil) for the purposes of the definition of *threshold amount* in regulation 19AA.
- (2) A determination under subregulation (1) must be published on the local government's official website.

Receipt of Gifts

In regard to employees (other than the CEO) the requirements of Admin.r.19AB and r.19AC now apply, employees are required to disclose gifts that are received in their capacity as an employee of the Shire of York and –

- (a) are valued over \$300; or
- (b) are of a cumulative value that exceeds \$300 where the gifts are received from the same donor in a 12-month period.

Excluded Gifts

The CEO has applied the following exclusions to gift disclosure requirements and the following situations are specifically excluded from the interest provisions:

- (a) where the gift (or gifts over a 12-month period from the one donor) do not exceed \$300 in value;
 - (b) where the gift is a ticket to, or otherwise relates to attendance at an event and the local government approves the person's attendance in accordance with their Attendance at Events policy;
 - (c) or where the gift is received from one of the following organisations:
 - WALGA (but not LGIS)
 - Local Government Professionals Australia (WA)
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- Australian Local Government Association
 - A department of the public service
 - A government department of another State, a Territory or the Commonwealth
 - A local government or regional local government.

6.2 Acceptance of a notifiable gift must be notified to the Chief Executive Officer within 10 days of accepting the gift. The notification must include:

- (a) the name of the person who gave the gift.
- (b) the date on which the gift was accepted.
- (c) a description, and the estimated value, of the gift.
- (d) the nature of the relationship between the person who is a council member and the person who gave the gift.

6.3 Acceptance of contributions to travel must be notified to the Chief Executive Officer within 10 days of accepting the contribution. The notification must include:

- (a) description of the contribution to travel.
- (b) the name and address of the person who made the contribution to travel.
- (c) the date on which the contribution to travel was received.
- (d) The estimated value of the contribution to travel at the time it was made.
- (e) the nature of the relationship between the person receiving the contribution and the person who made the contribution.
- (f) a description of the travel undertaken.
- (g) date of the travel undertaken.

6.4 The Chief Executive Officer will maintain a Register of disclosures in which details of notices of gifts and contributions to travel received are to be recorded.

The register is to be published on the Council's official website as well as made available for public inspection at the Council offices.

In addition to the statutory requirements the following policies apply.

6.5 Gifts of token value may be accepted by an Employee provided that the gift does not create a real or perceived sense of obligation that may lead to a perception of preferential service as a result of the gift. The following should be used as a guide for an Employee in determining whether to accept token gifts. Such gifts may be accepted only when the following have been considered:

- (a) such a gift is offered in an open or public forum and refusal would be obviously discourteous.
 - (b) acceptance would not cause any potential perceived or actual compromise or conflict of interest.
 - (c) the gift does not have a significant monetary value (as a guide, less than \$10).
 - (d) the gift is not offered on a regular basis.
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- 6.6 Any gift over \$10 in value must be registered (note that this value threshold is lower than the relevant Regulation and was inserted by the Council in the interests of Transparency. – CEO’s decision
- 6.7 Employees must not solicit demand or request gifts or any personal benefit for themselves or another person by virtue of their position and must not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence them to act in particular way (including making a particular decision).
- 6.8 A person or organisation wishing to demonstrate their appreciation for services received from Shire of York should not present a gift or provide a benefit. Acceptable alternatives may include a letter of thanks or a thank-you card, as these are considered less likely to result in a situation that may compromise or be perceived to compromise either party.
- 6.9 Employees will from time to time receive invitations of hospitality to attend various functions and events. Associated with their role as a Shire employee. Where hospitality is only modest in nature and provides an opportunity to network or undertake business of a common purpose, it may be appropriate to accept such invitations.

Where there is benefit to the organization issuing the invitation in having a Shire representative in attendance at the function or event this may constitute a ‘consideration’ in that the Shire is contributing the cost in time and travel of the attendance of the Shire representative thus negating the value of the hospitality. In such situations there is no disclosable gift.

In other cases, the hospitality may constitute a gift and should be disclosed in accordance with the provisions of the Code of Conduct. Such hospitality should be disclosed on the basis of a reasonable calculation or assessment of value of attendance as a member of the ‘paying public’.

- 6.10 If acceptance of the hospitality is likely to create the impression that an attempt is being made to compromise the impartiality of the Employee, or could be perceived as a conflict of interest, the offer of hospitality should be politely declined and recorded. Where possible any offer of hospitality made to an Employee should be declared and approved by the designated Senior Officer prior to the event.
- 6.11 Use of Shire Resources
- Employees will:
- be scrupulously honest in their use of the Shire of York’s resources and finances and shall not misuse them or permit the misuse (or the appearance of misuse) by any other person or body.
 - use the resources and finances entrusted to them effectively and economically in the course of their duties.
 - not use the Shire of York’s finances resources or equipment (including the services of 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 Chief Executive Officer).

6.12 Travel and Sustenance

Employees will only claim or accept travelling and sustenance expenses arising out of travel related matters which have a direct bearing on the services, policies or business of the Shire

of York in accordance with Council policy and the provisions of the Local Government Act 1995.

6.13 Employees shall be diligent in ensuring that the expenses claimed in accordance with Council policy relate to their functions and responsibilities and are appropriately acquitted.

6.14 Use of Confidential Information

Employees will not use confidential information to gain improper advantage for themselves or for or any other person or body.

7. ENFORCEMENT OF THE CODE

Employees will be required to confirm that they understand and will abide by the Code of Conduct. Any breach of the Code of Conduct will be dealt with by the CEO in accordance with the organisation's human resources disciplinary processes.

PENALTIES:

Not applicable.

KEY TERMS/DEFINITIONS:

Not applicable.

Responsible Officer: Chief Executive Officer

Contact Officer: Chief Executive Officer

Relevant Legislation: Local Government Act 1995 (Section 5.51A – Code of Conduct) for Employees & (Division 6, Subdivision 1, Sections 5.58-5.90)
Local Government (Administration) Regulations 1996, Sections 19AA & 19AF

Review History:

Extracted from the former Shire of York Policy G1.1 Code of Conduct: Councillors, Committee Members and Employees and approved by the Chief Executive Officer on the 6 May 2021.

This document now only applies to employees in accordance with changes to the *local Government Act 1995*.

A new Employee Code of Conduct is being developed by Administration and (in accordance with the Employee Code Regulations) will be approved and implemented by the CEO.

A Model Employee Code of Conduct is being released by WALGA and will be available on the 14 May 2021.

Until such time this Code of Conduct will apply and must be observed by the CEO, employees and contractors.

Date Review Adopted:	Resolution Number
Adopted – 22 February 2016	
Reviewed – 24 October 2016	
Reviewed – 25 November 2019	
Authorised (CEO) – 6 May 2021	
Former Policy No:	G1.1
