



CODE OF CONDUCT – DELEGATES OF COUNCIL AND MEMBERS OF COUNCIL COMMITTEES

COUNCIL POLICY

BACKGROUND

Council acknowledges the importance of high standards of behaviour in maintaining good governance and good reputation.

This Code of Conduct incorporates the Model Code of Conduct published by the Division of Local Government and contemporary best practice. This Code of Conduct applies to all Delegates of Council and members of Council Committees, who are required to comply with the standards set out in the Code of Conduct.

OBJECTIVE

To ensure that Delegates of Council and members of Council Committees adhere to the highest standards of conduct.

POLICY STATEMENT

This Code of Conduct reflects Council's determination to support the highest level of community confidence in the integrity of Council.

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PART 1: INTRODUCTION

This Code of Conduct is made for the purposes of section 440 of the Local Government Act 1993 (“the Act”). Section 440 of the Act requires every Council to adopt a Code of Conduct that incorporates the provisions of the Model Code published by the Division of Local Government. For the purposes of section 440 of the Act, the Model Code of Conduct comprises all parts of this document.

You must comply with the applicable provisions of Council’s Code of Conduct in carrying out your functions as Council officials. It is your personal responsibility to comply with the standards in the Code and to regularly review your personal circumstances with this in mind.

A better conduct guide has also been developed to assist Councils to review and enhance their Codes of Conduct. This guide supports this Code and provides further information on the provisions in this Code.

PART 2: DEFINITIONS

In this Code of Conduct the following definitions apply:

the Act - the Local Government Act 1993

act of disorder - see the definition in clause 256 of the *Local Government (General) Regulation 2005*

Committee - a Council Committee

conflict of interests - a conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty

Council Committee - a Committee established by resolution of Council including a Conduct Review Committee

Council Committee member - a person other than a Councillor or member of staff of a Council who is a member of a Council Committee

Council official - includes Councillors, members of staff of Council, Council Committee members, Conduct Reviewers and delegates of Council

Councillor - a person elected or appointed to civic office and includes a Lord Mayor

delegate of Council - a person (other than a Councillor or member of staff of a Council) or body, and the individual members of that body, to whom a function of the Council is delegated

designated person - see the definition in section 441 of the Act

personal information - information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion

the Regulation - the *Local Government (General) Regulation 2005*

The term “you” used in this Code of Conduct refers to delegates of Council and members of Council Committees.

The phrase “this Code” refers also to the procedures for the administration of the Code of Conduct prescribed under the Local Government (General) Regulation 2005.

PART 3: PURPOSE OF THE CODE OF CONDUCT

This Code of Conduct sets the minimum requirements of conduct for delegates of Council and members of Council Committees in carrying out their functions. This Code is prescribed by regulation.

This Code of Conduct has been developed to assist you to:

- understand the standards of conduct that are expected of you;
- enable you to fulfill your statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439);
- act in a way that enhances public confidence in the integrity of local government.

PART 4: KEY PRINCIPLES

Wollongong City Council has a set of Corporate Values to guide your conduct and which underpin this Code of Conduct. In everything we do, we will:

- maintain integrity and earn trust;
- treat customers as we want to be treated;
- use the community's money wisely;
- bring out the best in each other.

This Code of Conduct is based on a number of key principles. It sets out standards of conduct that meet these principles and statutory provisions applicable to local government activities. The principles underpin and guide these standards and may be used as an aid in interpreting the substantive provisions of this Code, but do not themselves constitute separate enforceable standards of conduct.

4.1 Integrity

You must not place yourself under any financial or other obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

4.2 Leadership

You have a duty to promote and support the key principles by leadership and example and to maintain and strengthen the public's trust and confidence in the integrity of the Council. This means promoting public duty to others in the Council and outside, by your own ethical behaviour.

4.3 Selflessness

You have a duty to make decisions in the public interest. You must not act in order to gain financial or other benefits for yourself, your family, friends or business interests. This means making decisions because they benefit the public, not because they benefit the decision maker.

4.4 Impartiality

You should make decisions on merit and in accordance with your statutory obligations when carrying out your duties. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits. This means fairness to all, impartial assessment, merit selection in recruitment and in procurement and sale of Council's resources, considering only relevant matters.

4.5 Accountability

You are accountable to the public for your decisions and actions and should consider issues on their merits, taking into account the views of others. This means recording reasons for decisions, submitting to public scrutiny, keeping proper records, establishing audit trails.

4.6 Openness

You have a duty to be as open as possible about your decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands. This means recording, giving and revealing reasons for decisions, revealing other avenues available to the customer, when authorised, offering all information, communicating clearly.

4.7 Honesty

You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in such a way that protects the public interest. This means obeying the law; following the letter and spirit of policies and procedures, observing this Code of Conduct, fully disclosing actual or potential conflict of interests and exercising any conferred power strictly for the purpose for which the power was conferred.

4.8 Respect

You must treat others with respect at all times. This means not using derogatory terms towards others, observing the rights of other people, treating people with courtesy and recognising the different roles others play in local government decision-making.

PART 5: GENERAL CONDUCT OBLIGATIONS

General Conduct

- 5.1 You must not conduct yourself in carrying out your functions in a manner that is likely to bring the Council or holders of civic office into disrepute. Specifically, you must not act in a way that:
- (a) contravenes the Act, associated regulations, Council's relevant administrative requirements and policies;
 - (b) is detrimental to the pursuit of the charter of a Council;
 - (c) is improper or unethical;
 - (d) is an abuse of power or otherwise amounts to misconduct;
 - (e) causes, comprises or involves intimidation, harassment or verbal abuse;
 - (f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment;
 - (g) causes, comprises or involves prejudice in the provision of a service to the community. (*Schedule 6A*)
- 5.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (section 439).
- 5.3 You must treat others with respect at all times.

Fairness and equity

- 5.4 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 5.5 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

Harassment and discrimination

- 5.6 Wollongong City Council is committed to providing a safe and harassment-free workplace. You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender, political affiliation or if a person has an infectious disease.

Drugs and Alcohol

- 5.7 You must not attend a Council workplace or event if you are under the influence of alcohol or other drugs that could impair your ability to perform your duties or cause danger to others or cause damage to material or equipment.

PART 6: CONFLICT OF INTERESTS

- 6.1 A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- 6.2 You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.
- 6.3 Any conflict of interests must be managed to uphold the probity of Council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.
- 6.4 Private interests can be of two types: pecuniary or non-pecuniary.

What is a pecuniary interest?

- 6.5 A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (section 442).
- 6.6 A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (section 443).
- 6.7 Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that members of Council Committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*section 451*)

What are non-pecuniary interests?

- 6.8 Non-pecuniary interests are private or personal interests the Council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

Managing non-pecuniary conflict of interests

- 6.9 Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.

- 6.10 If a disclosure is made at a Council or Committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 6.9.
- 6.11 How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.
- 6.12 As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:
- (a) a relationship between a Council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household;
 - (b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship;
 - (c) an affiliation between the Council official and an organisation, sporting body, club, corporation or association that is particularly strong.
- 6.13 If you are a Council official, other than a member of staff of Council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:
- (a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official; or
 - (b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply.
- 6.14 If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.

Personal dealings with Council

- 6.15 You may have reason to deal with your Council in your personal capacity (for example, as a ratepayer, recipient of a Council service or applicant for a consent granted by Council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

PART 7: PERSONAL BENEFIT

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

Gifts and benefits

- 7.1 You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the Council.
- 7.2 You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Token gifts and benefits

7.3 Generally speaking, token gifts and benefits include:

- (a) free or subsidised meals, beverages or refreshments provided in conjunction with:
 - (i) the discussion of official business;
 - (ii) Council work related events such as training, education sessions, workshops;
 - (iii) conferences;
 - (iv) Council functions or events;
 - (v) social functions organized by groups, such as Council Committees and community organisations;
- (b) invitations to and attendance at local social, cultural or sporting events;
- (c) gifts of single bottles of reasonably priced alcohol to individual Council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address);
- (d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers;
- (e) prizes of token value.

Gifts and benefits of value

7.4 Notwithstanding clause 7.3, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

How are offers of gifts and benefits to be dealt with?

7.5 You must not:

- (a) seek or accept a bribe or other improper inducement;
- (b) seek gifts or benefits of any kind;
- (c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty;
- (d) accept any gift or benefit of more than token value that cannot reasonably be refused or returned;
- (e) accept an offer of cash or a cash-like gift, regardless of the amount.

7.6 For the purposes of clause 7.5(e), a "cash-like gift" includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.

7.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to the Lord Mayor or the General Manager. The recipient, Lord Mayor or General Manager must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register. The gift or benefit must be surrendered to Council, unless the nature of the gift or benefit makes this impractical.

Improper and undue influence

7.8 You must not use your position to influence other Council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else.

7.9 You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for Council in order to obtain a private benefit for yourself or for any other person or body.

PART 8: RELATIONSHIP BETWEEN COUNCIL OFFICIALS

Obligations during meetings

- 8.1 You must act in accordance with Council's Code of Meeting Practice, if Council has adopted one, and the *Local Government (General) Regulation 2005* during Council and Committee meetings.
- 8.2 You must show respect to the Chair, other Council officials and any members of the public present during Council and Committee meetings or other formal proceedings of the Council.

PART 9: ACCESS TO INFORMATION AND COUNCIL RESOURCES

Use of certain Council information

- 9.1 In regard to information obtained in your capacity as a Council official, you must:
 - (a) only access Council information needed for Council business;
 - (b) not use that Council information for private purposes;
 - (c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have by virtue of your office or position with Council;
 - (d) only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

- 9.2 You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.
- 9.3 In addition to your general obligations relating to the use of Council information, you must:
 - (a) protect confidential information;
 - (b) only release confidential information if you have authority to do so;
 - (c) only use confidential information for the purpose it is intended to be used;
 - (d) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person;
 - (e) not use confidential information with the intention to cause harm or detriment to your Council or any other person or body;
 - (f) not disclose any information discussed during a confidential session of a Council meeting.

Personal information

- 9.4 When dealing with personal information you must comply with the:
 - (a) Privacy and Personal Information Protection Act 1998;
 - (b) Health Records and Information Privacy Act 2002;
 - (c) Information Protection Principles and Health Privacy Principles;
 - (d) Council's privacy management plan;
 - (e) Privacy Code of Practice for Local Government.

Use of Council resources

- 9.5 You must use Council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.
- 9.6 You must be scrupulous in your use of Council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.
- 9.7 You must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 9.8 You must not convert any property of the Council to your own use unless properly authorised.
- 9.9 You must not use Council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

PART 10: MAINTAINING THE INTEGRITY OF THIS CODE

- 10.1 You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this Code or its administration.

Complaints made for an improper purpose

- 10.2 You must not make a complaint or cause a complaint to be made under this Code for an improper purpose.
- 10.3 For the purposes of clause 10.2, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- (a) to intimidate or harass another Council official;
 - (b) to damage another Council official's reputation;
 - (c) to obtain a political advantage;
 - (d) to influence a Council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions;
 - (e) to influence the Council in the exercise of its functions or to prevent or disrupt the exercise of those functions;
 - (f) to avoid disciplinary action under this Code;
 - (g) to take reprisal action against a person for making a complaint under this Code except as may be otherwise specifically permitted under this Code;
 - (h) to take reprisal action against a person for exercising a function prescribed under the procedures for the administration of this Code except as may be otherwise specifically permitted under this Code;
 - (i) to prevent or disrupt the effective administration of this Code.

Detrimental action

- 10.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this Code except as may be otherwise specifically permitted under this Code.
- 10.5 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this Code except as may be otherwise specifically permitted under this Code.
- 10.6 For the purposes of clauses 10.4 and 10.5 detrimental action is an action causing, comprising or involving any of the following:
- (a) injury, damage or loss;
 - (b) intimidation or harassment;
 - (c) discrimination, disadvantage or adverse treatment in relation to employment;
 - (d) dismissal from, or prejudice in, employment;
 - (e) disciplinary proceedings.

Compliance with requirements under this Code

- 10.7 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this Code.
- 10.8 You must comply with a reasonable and lawful request made by a person exercising a function under this Code.
- 10.9 You must comply with a practice ruling made by the Division of Local Government.

Disclosure of information about the consideration of a matter under this Code

- 10.10 You must report breaches of this Code in accordance with the reporting requirements under this Code.
- 10.11 You must not make allegations of suspected breaches of this Code at Council meetings or in other public forums.
- 10.12 You must not disclose information about the consideration of a matter under this Code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted under this Code.

Complaints alleging a breach of this part

- 10.13 Complaints alleging a breach of this Part by other Council officials are to be made to the General Manager.

SUMMARY SHEET

RESPONSIBLE DIVISION	Governance and Information
DATE ADOPTED ON BEHALF OF COUNCIL	25 February 2013
DATE OF PREVIOUS ADOPTION(S)	28 June 2004, 28 February 2005, 16 October 2007, 23 July 2008, 1 February 2011
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PREPARED BY	Senior Legal and Governance Officer
AUTHORISED BY	Manager Governance and Information