

# City of Busselton Code of Conduct Council Members



Where environment, lifestyle and opportunity meet



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# Message from the Chief Executive Officer

The Code of Conduct outlines the standards of behaviour Council members, are required to follow in relation to their conduct as representatives of this local government organisation.

The City of Busselton is one of the fastest growing local government areas in the State of Western Australia. The City has seen significant change and growth over the past 10 years and we expect this to continue in the future. This rapid growth and changing demographic demands a 'go-ahead' approach and the City prides itself on being able to respond and adapt to the needs of its community quickly and professionally.



In this dynamic work environment, the City of Busselton Code of Conduct is a mainstay for personal interaction and good governance. It underpins our corporate values. It guides our behaviour and conduct as we work with the community to realise our shared vision for a vibrant and cohesive City.

There are five separate components of the Code, for which individual documents exist:

- A Consolidated Code
- **A Code for Council Members (this document)**
- A Code for Committee Members
- A Code for Employees; and
- A Code for Contractors

It is important that each class of person to whom the Code applies is familiar with the Code and the responsibilities outlined within it. The Code of Conduct has application across all facets of City of Busselton business and is relevant to all City representatives. The principles outlined in the Code of conduct underpin how we, in our capacity as public service providers, will interact with one another as well as with external stakeholders.

Regards  
Mike Archer  
CEO City of Busselton.

# Our Values

As representatives of the City, these core values will underpin what we do and how we do it:

## Pride in Performance

- Strive for Excellence to deliver good quality work
- 'Can Do' Attitude
- Meeting deadlines
- Recommending and actioning change

## Empowerment

- Develops People – providing opportunities to be accountable
- Being willing to take action and learn from mistakes
- Leads by being a positive role model and focuses on achieving good outcomes for the City

## Mutual Respect

- Treats others with respect
- Embraces diversity, tolerance and difference
- Shows good customer service to internal customers

## Strength as a team

- Shows strong support for others to achieve organisational goals
- Actively works to foster a sense of team
- Takes a whole of organisation approach

## Community focus

- Professional approach in all that we do
- Engages with the community to achieve outcomes
- Responsive and high quality customer service



# City of Busselton Code of Conduct

## 1. INTRODUCTION

The City of Busselton, in accordance with Section 5.103(1) of the Local Government Act 1995, is required to prepare, adopt and adhere to a Code of Conduct.

Adoption of the code demonstrates:

- a commitment to observe ethical and professional standards in the performance of duties and functions;
- instills respect between council members, employees and members of the public;
- strengthens community confidence in the integrity of their Local Government organisation.

## 2. SCOPE

There are five components of the Code of Conduct:

- ▶ A Consolidated Code;
- ▶ **A Code for Council Members;**
- ▶ A Code for Committee Members;
- ▶ A Code for Employees; and
- ▶ A Code for Contractors

This Code applies to all Council members of the City of Busselton.

The Code of Conduct contains matters as prescribed by the Local Government Act and Regulations made under the Act and makes further provision for expectations of council members. It is a statement of guidance for council members supplementary to the enforceable rules in the Local Government (Rules of Conduct) Regulations 2007.

Any provision in this Code of Conduct is of effect to the extent that it is not inconsistent with the Act and Regulations (Ref: Local Government Act 1995 Section 5.103(3)), and any other statutory power.

### 2.1 Definitions

**Council member** - Any person who holds the office of Councillor on the Council of the City of Busselton, including the Mayor and Deputy Mayor.

A Council member may also be a Committee member.

### 2.2 Obligation to Observe

#### Council members

The obligation to observe a Code of Conduct for Council members arises from Section 5.103 of the Local Government Act 1995 and a declaration that they have made to observe the Rules of Conduct Regulations, upon election to the Council at a swearing in ceremony before a Justice of the Peace or a person authorised by the Oaths, Affidavits and Statutory Declarations Act 2005 to take statutory declarations.

Further to that, aspects of the Code of Conduct are also linked to the Local Government Act 1995 and associated Rules of Conduct Regulations which are enforceable in their own right.

### 2.3 Breach of Certain Provisions

Where a requirement in the Code of Conduct is prescribed in an Act or Regulations, any alleged breach may be investigated by another statutory body, including but not limited to the Department of Local Government and Communities and the Corruption and Crime Commission.



## CONTENT

### 3. GUIDING STATEMENTS OF RESPONSIBILITY AND CONDUCT

#### 3.1 Principles

(a) In acting in the capacity of a Council member (or when acting as a Committee member) of the City of Busselton, all persons shall espouse the principles outlined in Regulation 3 of the Local Government (Rules of Conduct) Regulations 2007. Specifically, any person acting in that capacity shall:

- Act with reasonable care and diligence;
- Act with honesty and integrity;
- Act lawfully;
- Avoid damage to the reputation of the local government;
- Be open and accountable;
- Base decisions on relevant and factually correct information;
- Treat others with respect and fairness;
- Not be impaired by mind affecting substances.

(b) Additionally, all Council members shall:

- Provide relevant and factually correct information to decision-makers;
- Fulfil their public and professional duties in a manner that is ethical, impartial, objective, responsible and in the best interests of the local government uninfluenced by fear or favour;
- Act in accordance with their obligation of fidelity to the local government;

- Not use or attempt to use their positions for personal benefit or the personal benefit of others, either by influencing others, the improper use of information gained in the performance of their duties, or otherwise;
- Contribute to the good governance and strategic priorities of the City of Busselton in accordance with the adopted vision, values, plans and budget as amended by Council from time to time (ie, City of Busselton Strategic Community Plan, Corporate Business Plan and Annual Budget);
- Understand and be mindful of their role, responsibilities, empowerment and limitations and act within those parameters (Ref: Local Government Act 1995 Sections 2.7, 2.8, 2.9, 2.10, 5.41, Part 5 division 9 and generally; Local Government (Rules of Conduct) Regulations 2007 and Local Government (Administration) Regulations 1996 regulations 34B and 34C.
- Refrain from making allegations which are improper or derogatory;
- Refrain from any form of conduct in the performance of their official or professional duties which may cause any reasonable person unwarranted offence or embarrassment.

### 3.2 Achievement of Priorities

The local government framework of the Council, any Committees that the Council has resolved to constitute and the employee organisational structure is established to ensure the Council's corporate goals are achieved, its strategies are implemented and its statutory obligations met. The achievement of these requirements, in accordance with adopted plans and strategies, requires teamwork, cooperation and respect for the unique role of each component of that framework.



### 3.3 General

(a) It is the responsibility of all Council members to act in a manner that is lawful and in accordance with the Acts, Regulations, codes and other policies and procedures that are relevant to their particular position. Any omission of a specific requirement from this Code of Conduct does not negate a person's responsibility to observe and comply with provisions that are applicable to their position.

(b) Council members will comply with any lawful and reasonable instructions given by any person having authority to make or give such an instruction.

Any doubts as to the propriety of any such instruction shall be taken up with the superior of the person who gave the instruction and, if resolution cannot be achieved, with the Chief Executive Officer.

(c) Council members, noting that the CEO has the statutory authority to implement Council decisions, will recognise the lawful policies of the local government and/or have due regard for the lawful policies of the local government in decision-making, whether or not they agree with or approve of them.

### 3.4 Conflicts of interest

An important consideration for any Council Member is to ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their statutory or contracted civic or professional duties. This is a very detailed area and the relevant legislation should be read and understood by all persons to whom this Code relates to.

In addition to the statutory requirements referred to above, for the purpose of this Code, the City requires the following relating to Applications for Development approval to be observed.

(a) Any Council member intending to undertake a dealing in land within the local government area that involves an application for development or subdivision approval, an application for approval of a structure plan, local development or activity centre plan, or a proposal to rezone or otherwise amend the town planning scheme, or which may otherwise be in conflict with the City's functions, shall provide written notice of this intention to the Chief Executive Officer.

The notice shall be provided as soon as practicable in all circumstances, but where an application is to be lodged with the local government or another statutory body for approval, then no less than 7 days before the lodgement of that application. This requirement does not extend to the purchase of the principal place of residence.

(b) Where a relative (refer to section 3.7 of this code) of a Council member with that person's knowledge is intending to undertake a dealing in land within the local government area that involves an application for development or subdivision approval, or which may otherwise be in conflict with the City's functions, written notice shall also be provided in accordance with section 3.4 (a).

(c) When an application is made by a Council member or a relative of that person, the Council member has no greater or lesser rights than those of any other member of the public in relation to access to information and access to City officers. Council members shall observe the requirements of seeking information through the usual local government process for a member of the public and booking appointments in their own time to meet with officers of the City.

(d) In receiving a written notice on a matter referred to in (a) or (b) above, the Chief Executive Officer or the Mayor as the case may be, shall consult with the most senior officer within the directorate responsible for planning who is not otherwise the employee dealing in land as to the requirement or otherwise of an assessment of the application by a suitably qualified independent person and as to the appropriateness of determining the application under delegation or referring it to Council for a decision. The costs of referring applications to an independent person will be borne by the City.

The Chief Executive Officer or Mayor may, in some circumstances, determine that it would be appropriate to defer the decision until such time as the application has been assessed internally and/or, where necessary, until consultation has been completed. The purpose of deferring the decision in such circumstances would be to identify properly the extent and nature of discretion involved, and/or the level of community interest in the matter.

Nothing in section 3.4 of the Code negates or replaces the disclosure requirements of any person in accordance with Division 6 of the Local Government Act 1995 (Disclosure of Financial Interests); Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007 (Disclosure of Interest) or any other disclosure requirements in this code.

It is not the intention of this requirement to disadvantage any person due to their election to office or their employment. The requirement is to ensure there is minimum potential for perceptions of or actual undue influence, advantage or disadvantage for a Council member.



*The following sections of the Code of Conduct will address specific matters of conduct and, as necessary, provide specific direction on actions that must be taken when and as a matter arises by a person acting in a specific role.*

### 3.5 Council Members

Specific rules for Council members are contained in Part 2 of the Local Government (Rules of Conduct) Regulations 2007.

(a) Further to that, Council members are to recognise their role as distinguished from that served by employees of the City of Busselton, and the Council (ie in its convened state).

(b) Council members when interacting with employees of the City of Busselton in their capacity as a Council member shall observe the protocol of making requests for information and discussing the business of the Council with the relevant Director and/or the identified responding officer during any organised briefing session for a matter before the Council for consideration. The liaison between individual Council member and individual employee on matters of local government business shall be conducted in a respectful, courteous and honest manner.

It is important to note that Section 3.5 of the Code is in addition to requirements relating to interests referred to in the Local Government Act 1995 (in that a direct or indirect financial interest or a proximity interest must be disclosed in the manner described in Division 6 of Part 5 of that Act).



### 3.6 Gifts

#### Definitions

#### **“Activity involving a local government discretion”**

– Any activity that cannot be undertaken without an authorisation from the local government or by way of a commercial dealing with the local government.

**“Gift”** - Any disposition of property, or the conferral of any other financial benefit, made by one person in favour of another otherwise than by will (whether with or without an instrument in writing), without consideration in money or money’s worth passing from the person in whose favour it is made to the other, or with such consideration so passing if the consideration is not fully adequate, but does not include any financial or other contribution to travel (in that specific requirements for contributions to travel are covered in Section 5.83 of the Local Government Act 1995). This definition excludes:

- A gift from a relative;
- A gift that must be disclosed in accordance with regulation 30B of the Local Government (Elections) Regulations 1997;
- A gift from a statutory authority, government instrumentality or non-profit organisation for professional training.

**“Notifiable gift”** - A gift worth between \$50 and \$300 or a gift that is one of two or more gifts given by the same person within a period of six months that are in total worth between \$50 and \$300.

**“Prohibited gift”** - A gift worth \$300 or more or a gift that is one of two or more gifts given by the same person within a period of six months that are in total worth \$300 or more.

**“Relative”** - a parent, grandparent, brother, sister, uncle, aunt, nephew, niece or lineal descendent of the person or of the person’s spouse or de facto partner, the person’s spouse or de facto partner or the spouse or de facto partner of the other specified relatives, whether or not the relationship is traced through, or to, a person whose parents were not actually married to each other at the time of the person’s birth or subsequently, and whether the relationship is a natural relationship or a relationship established by written law.

- The notification of the acceptance of a notifiable gift is required to be in writing and include details of:
  - (i) The name of the person who gave the gift;
  - (ii) The date on which the gift was accepted;
  - (iii) A description and the estimated value of the gift;
  - (iv) The nature of the relationship between the employee and the person who gave the gift.
- If the gift is notifiable as it is one of two or more gifts given by the same person within a period of six months that are in total worth between \$50 and \$300, whether or not it is also notifiable as it is worth between \$50 and \$300 itself, the notification is required to include, in relation to each other gift accepted within the six month period from that person:
  - (i) A description;
  - (ii) The estimated value;
  - (iii) The date of acceptance.
- The CEO is to maintain a register of notifiable gifts and record in it the details of notifications given under this section.

### 3.7 Confidential information

Confidential information must only be disclosed to another person to the extent that is necessary to do so in the performance of duties.

For the purposes of section 3.7 confidential information is that which is discussed during a meeting or that part of a meeting that is closed to members of the public in accordance with the provisions of the Local Government Act 1995, or that is in a document of the local government that is marked confidential, or any other information obtained during the performance of duties that could reasonably be considered to be confidential or of a sensitive nature.

The handling of confidential or sensitive information is a significant responsibility for Council Members with authorised access to such information. Any imparting of such information must be undertaken in strict accordance with the requirements of this code. Where there is any doubt as to the requirement to impart confidential or sensitive information, caution is urged as any unauthorised disclosure of such information is considered a serious breach of responsibilities.



# Background

Code of Conduct approved by: Council in May 2017  
Review Frequency: As required, no statutory timeframe

Related Documents:

Local Government Act 1995

Local Government (Rules of Conduct) Regulations 2007

Local Government (Administration) Regulations 1996

## HISTORY

Council Resolution	Date	Information
	May, 2017	Policy cancelled; Codes adopted as suite of corporate documents.





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