City of Busselton
Code of Conduct
Consolidated Code

Where environment, lifestyle and opportunity meet
Message from the Chief Executive Officer

The Code of Conduct outlines the standards of behaviour Council members, Committee members, employees and City of Busselton contractors 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 four separate additional components of the Code, for which individual documents exist:

- A Consolidated Code (this document)
- A Code for Council Members
- 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:

<table>
<thead>
<tr>
<th>Pride in Performance</th>
<th>Empowerment</th>
<th>Mutual Respect</th>
<th>Strength as a team</th>
<th>Community focus</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Strive for Excellence to deliver good quality work</td>
<td>• 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</td>
<td>• Treats others with respect• Embraces diversity, tolerance and difference• Shows good customer service to internal customers</td>
<td>• Shows strong support for others to achieve organisational goals• Actively works to foster a sense of team• Takes a whole of organisation approach</td>
<td>• Professional approach in all that we do• Engages with the community to achieve outcomes• Responsive and high quality customer service</td>
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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 is an over-arching document and individual Codes apply to each of the groups identified above.

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 and employees.

It is a statement of guidance for council members supplementary to the enforceable rules in the Local Government (Rules of Conduct) Regulations 2007. The Code of Conduct is also a statement of guidance and specific requirements to be observed by individuals appointed to a Council committee and employees of the City of Busselton including contractors.

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.

Committee member - Any member appointed to a Committee constituted by Council in accordance with Section 5.8 of the Local Government Act 1995 by virtue of Section 5.10 of that Act, whether a Council member or not.

Employee - Any person who is employed by the City of Busselton.

Contractor - Includes a person who under a contract for services with the local government will provide advice or a report on a matter. This generally relates to professional persons such as Town Planners, Urban Designers and Economic Advisors who provide advice to Officers and Council in relation to growth, town planning and development options, but is not limited to these professions.
2.2 Obligation to Observe

2.2.1 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.

2.2.2 Committee members

The obligation for Committee members (that are not also Council members) to observe a Code of Conduct arises from the requirement in Section 5.103 of the Local Government Act 1995. Committee members are appointed to their positions by the Council in accordance with Section 5.10 of that Act and can also be removed from the office by the local government in accordance with Section 5.11(2)c of the Act.

2.2.3 Employees

The obligation for employees to observe a Code of Conduct arises from Section 5.103 of the Local Government Act 1995, the Local Government (Administration) Regulations 1996 (Ref: Administration Regulations 34B and 34C) and the terms and conditions of their employment with the City of Busselton.

The observance of Council policies and operational practices and procedures is a key responsibility of any contractor and any breach of those responsibilities could incur disciplinary action, including termination of employment.

2.2.4 Contractors

The obligation to certain contractors to observe the Code of Conduct arises from the need to adopt a 'best practice' approach to decision making and increase transparency.

Professional contractors should immediately disclose any conflict of interest or perceived conflict of interest they have when offered an assignment to conduct work on behalf of the City and should make full disclosure in any written material presented to the City.

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 the City, or by another statutory body, including but not limited to the Department of Local Government and Communities and the Corruption and Crime Commission.
3. GUIDING STATEMENTS OF RESPONSIBILITY AND CONDUCT

3.1 Principles

(a) In acting in the capacity of a Council member, Committee member, employee or contractor 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, Committee members, employees and contractors 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; Local Government (Administration) Regulations 1996 regulations 34B and 34C; Committee Terms of Reference; Employee Position Descriptions and Delegations Register).
- 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, Committee members, employees and contractors 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, Committee members, employees and contractors will comply with any lawful and reasonable instruction 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), Committee members, employees and contractors 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, Committee Member, employee or contractor 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, Committee member, employee or contractor 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 3.9 of this code) of a Council member, Committee member, employee or contractor 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) Where it is the Chief Executive Officer or a relative of the Chief Executive Officer intending to undertake a dealing in land in accordance with this section, the written notification required is to be provided to the Mayor.

(d) When an application is made by a Council member, Committee member, employee, contractor, or a relative of any of those persons, the person 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, Committee members, employees or contractors 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.

(e) 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 if the matter involves the CEO) 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, Committee member, employee or contractor.
3.5 Council Members


(a) 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.

c) A Council member must not disclose confidential information obtained in the performance of their duties to any other person outside of the Council or relevant Local Government employees.

For the purposes of section 3.5 (c) of the Code 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.

3.6 Committee Members

a) Disclosure of interest
The disclosure of any interest that could, or could reasonably be perceived to, affect the impartiality of a Committee member carrying out their role shall be made, insofar as the provisions can relate to Committee members, in accordance with the requirements for employees in 3.7 of this Code of Conduct.

b) Gifts
If a Committee member is offered a gift of any description in connection with the performance of their role as a Committee member, the member shall seek advice in relation to that offer from the CEO of the City of Busselton, or his nominated representative, before accepting any gift.

The advice provided shall be in accordance with the requirements for Council members and employees.

c) Confidential information
A Committee member must not disclose confidential information obtained in the performance of their duties to any other person outside of the Committee or relevant Local Government employees.

For the purposes of section 3.6 (c) of the Code 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.

d) Use of local government resources
A Committee member shall make proper use of the local government’s resources as allocated to the Committee, including but not limited to assistance from employees, stationary, access to the office and meeting rooms of the local government, and only for the purposes of advancing the work and requirements of the Committee in accordance with its Terms of Reference.
e) Relationships with the local government

- Committee members shall not direct or attempt to direct any local government employee to do or not to do anything.

- Employees of the local government will be allocated where and as necessary to assist a Committee with its required tasks. It is expected that Committee members and employees with any responsibility in relation to that Committee will work together with a spirit of cooperation and understanding.

- A Committee or Committee member shall not undertake tasks that contribute to the administration of the local government, except those tasks that are the direct responsibility of the Committee in accordance with its Terms of Reference and Council policies relating to Committees. It is noted that Council considers members of its Management and Advisory Committees as working members and thus they are to contribute to the body of work required to be done by the Committee.

3.7 Employees

a) Disclosure of interest

“Interest” - Any 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.

- An employee who has an interest in any matter to be discussed at a Council or Committee meeting attended by the employee is required to disclose the nature of the interest:
  (i) in a written notice to the CEO before the meeting; and/or
  (ii) at the meeting immediately before the matter is discussed.

- An employee who has given, or will give, advice in respect of any matter to be discussed at a Council or Committee meeting not attended by the employee is required to disclose the nature of any interest the employee has in the matter:
  (i) in a written notice given to the CEO before the meeting; and/or
  (ii) at the time the advice is given.

- If in order to comply with the requirements of this clause an employee makes a disclosure in a written notice given to the CEO before a meeting, then:
  (i) before that meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting;
  (ii) immediately before a matter to which the disclosure relates is discussed at the meeting, the person presiding is to bring the notice and its contents to the attention of the persons present.

- If in order to comply with the requirements of this clause an employee declares an interest in a matter at a meeting; or
  (i) a disclosure is made at a meeting if it is realised that an employee has an interest in a matter that they had not previously realised was for discussion at that meeting; or
  (ii) the presiding member brings to the attention of those present at the meeting a written disclosure;
  then the nature of the interest is to be recorded in the minutes of the meeting.
It is important to note that Section 3.7 of the Code 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).

An employee is excused from a requirement under 3.7 (a) to disclose the nature of an interest if:
(i) the employee’s failure to disclose occurs because they did not know that he or she had an interest in the matter; or
(ii) the employee’s failure to disclose occurs because the employee did not know the matter in which he or she had an interest would be discussed at the meeting and the employee discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.

Any interest that arises for an employee on a matter before the Council or a Committee for determination is required to be disclosed in the manner specified in 3.7 (a). However, in recognition of the requirements discharged by employees during the course of their employment, including but not limited to the exercise of delegated authority, purchasing and tender evaluation, recruitment and selection, inspection and regulation, interests shall also be disclosed in other circumstances. Disclosures are required to be made to the CEO of the City of Busselton in these circumstances.

If during the course of discharging the requirements of their employment, an employee becomes aware of an interest or a potential interest, that interest or potential interest is to be disclosed in a prompt and full manner to the CEO and direction sought on the ability to continue to discharge the requirements of their employment in this case.

- If an employee is intending to engage in private work outside of their employment with the City of Busselton, either with a person or body with an interest in a proposed or current contract with the local government, or if the arrangement could, or could reasonably be perceived to, either immediately or in the future, result in an interest for the employee arising in their employment with the City of Busselton, the intention to engage in this work shall be disclosed in a prompt and full manner to the CEO and direction sought on the appropriateness of the arrangement.

### 3.8 Contractors

**a) Disclosure of interest**
The disclosure of any interest that could, or could reasonably be perceived to, affect the impartiality of a contractor carrying out their role shall be made, insofar as the provisions can relate to contractors.

**b) Gifts**
If a contractor is offered a gift of any description in connection with the performance of their role as a contractor, the member shall seek advice in relation to that offer from the CEO of the City of Busselton, or his nominated representative, before accepting any gift.

**c) Confidential information**
A contractor must not disclose confidential information obtained in the performance of their duties to any other person outside of the contract or relevant Local Government employees.
3.9 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.

Employees are required to refrain from accepting a prohibited gift from a person who:
(i) is undertaking or seeking to undertake an activity involving a local government discretion; or
(ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion.

An employee who accepts a notifiable gift from a person who:
(i) is undertaking or seeking to undertake an activity involving a local government discretion; or
(ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion;

- is required to notify the CEO of the acceptance within 10 days of accepting the gift.
- 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.

The CEO is to maintain a register of notifiable gifts and record in it the details of notifications given under this section.
3.10 Confidential information

Confidential information must only be disclosed by an employee to another person to the extent that is necessary for the employee to do so in the performance of his or her duties.

For the purposes of section 3.10 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.

Nothing in this section enables the disclosure of any confidential or sensitive information to any Council member or Committee member if the information does not directly relate to a confidential matter that is on the agenda for a meeting of the Council or the Committee, nor to any employee who is not empowered or required by virtue of their position in the organisation to have that information.

The handling of confidential or sensitive information is a significant responsibility for employees 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 the employee’s responsibilities.

3.11 Use of local government resources

An employee shall make proper use of the local government’s resources and shall not use them for personal or private purposes, unless the use is otherwise provided for in a contract of employment, or authorised by the CEO by some other means.

It is acknowledged that minor incidental (not primary and not majority) use of certain resources will be provided for in operational requirements.

(An example of this would be to conduct an internet search or check a personal email account on a City computer during a designated break. This type of minor incidental use is provided for in the City’s email and internet practice, whereby it is stated these facilities are for almost exclusive business use).

3.12 Relationships with Council members and Committee members

Employees are employed by and responsible to the CEO of the City of Busselton. While their direction, supervision and management is the sole responsibility of the CEO in accordance with Section 5.41(g) of the Local Government Act 1995, it is also recognised that the Chief Executive Officer has a responsibility to the Council of the City of Busselton to ensure employees provide it with relevant and quality advice.

Employees shall therefore be aware of their duty to, via the Chief Executive Officer, provide relevant and quality advice to the Council and Committees. They shall also act courteously and with due respect during their dealings with the Council, any Committee, any Council member or Committee member. It is expected that employees will deal with each other, Council members and Committee members in an honest and respectful manner.

3.13 Administrative practices

As an overarching principle of employment, employees, in attending to their duties for the City of Busselton in their required and normal hours of employment including approved overtime, shall give their full attention to their duties and requirements throughout that time to ensure that their work is carried out efficiently and effectively. Employees shall comply with any lawful and reasonable order given by any person having the authority to make or give such an order, (noting the restrictions on Councillors or Committee members in relation to directing local government employees). They will also give effect to the lawful decisions of the Council in a prompt and effective manner.
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**

<table>
<thead>
<tr>
<th>Council Resolution</th>
<th>Date</th>
<th>Information</th>
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<tbody>
<tr>
<td></td>
<td>May, 2017</td>
<td>Policy cancelled; Codes adopted as suite of corporate documents.</td>
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