City of Busselton
Code of Conduct
Contractors

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

The Code of Conduct outlines the standards of behaviour 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
- A Code for Council Members
- A Code for Committee Members
- A Code for Employees; and

- **A Code for Contractors (this document)**

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
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 contractors of the City of Busselton.

The Code of Conduct for contractors is based on matters prescribed by the Local Government Act and Regulations for expectations of council members and employees.

Any provision in this Code of Conduct is to the extent that it is not inconsistent with the Act and Regulations.

2.1 Definition of Contractor

**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

**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 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 City 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 City 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 (Ref: City of Busselton Strategic Community Plan, Corporate Business Plan and Annual Budget et al);
- Understand and be mindful of their role, responsibilities, empowerment and limitations and act within those parameters; relevant legislative provisions; operational practices and procedures; and contractual documentation.
- 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 City 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) City 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.

3.4 Conflicts of interest
An important consideration for any City 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 City contractor at the time of performing work for the City 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;

   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 City 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).

(d) When an application is made by a Contractor, or a relative, the Contractor 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 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 shall consult with the most senior officer within the directorate responsible for the engagement of the contractor, regarding the need and/or otherwise to assess 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 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 position or status. The requirement is to ensure there is minimum potential for perceptions of or actual undue influence, advantage or disadvantage for a City Contractor.
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 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.

• A Contractor who has an interest in any matter to be discussed at a Council or Committee meeting 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.

• If in order to comply with the requirements of this clause a contractor 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.

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.
3.6 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.

- 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.

• If the gift is notifiable as it is one of two or more gifts given to the employee 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 Relationships with Council members and Employees

Contractors 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.

The Chief Executive Officer has a responsibility to the Council of the City of Busselton to ensure contractors provide it with relevant and quality advice.

Contractors once appointed to their requirement, shall therefore be aware to, via the Chief Executive Officer, provide relevant and quality advice to the City, Council and Committees. They shall also act courteously and with due respect during their dealings with City Officers, the Council, any Committee, any Council member or Committee member. It is expected that contractors will deal with each other, City staff, Council members and Committee members in an honest and respectful 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

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