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INTRODUCTION

Often Councillors and employees are approached by the media seeking comment on behalf of Council on a particular matter. *It is important that Council's point of view/decision be clearly conveyed only by a person authorised and qualified to express that view.*

OBJECTIVE

To clarify when persons other than those authorised under the *Local Government Act 1995* (the Act) are permitted to speak on behalf of Council to the media, in public and on social media.

POLICY STATEMENT

1. The President and Deputy President (if the President is not available or is unable or unwilling to speak) are authorised to speak on behalf of Council by the Act (2.8(d) and 5.34).
2. The Chief Executive Officer (CEO) is only permitted to speak on behalf of Council if the President agrees and has provided written approval. This approval can be withdrawn at any time at the discretion of the President.
3. The CEO is permitted to authorise other employees (Executive Managers and/or Managers, and possibly other staff) to speak on behalf of Council on specific matters related to their area of responsibility.
4. If a Councillor or employee is approached by the press to answer questions or make a comment on council business or a council decision, the press should be referred to the President or CEO (if authorised) for a response.
5. Nothing in this policy shall prevent a Councillor expressing his/her personal opinion to the media. However, as a general principle, Councillors approached by a representative from any form of media to make a statement or private comment on a matter of Council business, should have regard to any resolutions of the Council affecting the matter in question.

POLICY APPLICATION

This policy is applicable to all Elected Members during their terms of office as Councillors and all employees whilst employed by the Shire of Capel.

Procedure:	
Originating Section: CEO's Division	Relevant Legislation: <i>Local Government Act 1995</i>
Reviewer: CEO	Delegated Authority:
Adopted: Minute SC0122, 19.01.99	Other References:
Amended: Minute OC1220 13.12.06 Minute OC0204, 19.02.14 Minute OC0903, 27.08.17	
Review Date: December 2019	
Amended 27.08.17 Completely re-written, additional clarity provided and relevant references to Act included.	

INTRODUCTION

The *Local Government Act 1995* (s2.10) indicates that the role of Councillors is to:

- represent the interest of electors, ratepayers and residents;
- provide leadership and guidance to the community;
- facilitate communication between the community and Council;
- participate in decision making processes at Council and Committee meetings; and
- perform other functions given to a Councillor by the *Local Government Act 1995* or any other written law.

In order to carry out this role it is important that Councillors have ongoing access to documentation outlining Council's policy and strategic direction.

This Policy seeks to outline documents that will assist Councillors to gather this information.

OBJECTIVE

To assist Councillors in the performance of their roles and responsibilities with the provision of appropriate written documentation.

POLICY STATEMENT

1. Mandatory Documents

Councillors shall receive the following documents electronically or in hard copy. Most of the documents listed below are available on the Shire of Capel website (WS).

Plans

- Strategic Community Plan 2013 - 2031 (WS)
- Corporate Business Plan 2016 - 2020 (WS)
- Long Term Financial Plan 2016 - 2026 (WS)

Department of Local Government Operational Guidelines

- Guideline 01 - 'Disclosure of Interests Affecting Impartiality'
- Guideline 12 - 'Elected Members' Relationship with Developers'
- Guideline 20 - 'Disclosure of Financial Interests at Meetings'
- Guideline 21 - 'Disclosure of Financial Interests in Returns'

Minutes

- Previous 3 Council Meetings (WS)
- Previous 3 Committee meetings (if relevant)

Budget

- Annual Budget for current financial year (WS)

Other

- *Shire of Capel Standing Orders Local Law 2016*
- *Local Government (Rules of Conduct) Regulations 2007*
- Policy Manual Section 1 – Councillors
- Annual Report (most recent)
- Code of Conduct
- Staff – Councillor Protocol

2. Discretionary Documents

Councillors may also request electronic or hardcopy versions of the following documents. Many of these documents are available on the Shire of Capel website (WS).

- Disability Access & Inclusion Plan (WS)
- Sports & Recreation Strategic Plan (WS)
- Sustainability Strategy 2013 - 18 (WS)
- Capel Townsite Strategy (WS)
- Boyanup Townsite Strategy (WS)
- Peppermint Grove Beach Land Use Strategy (WS)
- *Local Government Act 1995*
- All Council Local Laws (WS)
- Planning Scheme No's 3 & 7 (WS)
- Delegations Register
- Such other Acts as required e.g. *Bush Fires Act 1954* (WS)
- Policy Manual (WS)

An annual diary will be provided on request.

POLICY APPLICATION

The policy is applicable to all current elected members during their term of office as Councillors of the Shire of Capel.

Procedure:	
Originating Section: CEO's Division	Relevant Legislation: <i>Local Government Act 1995</i>
Reviewer: CEO	Delegated Authority:
Adopted: Minute SC1022, 19.01.99	Other References:
Amended: Minute OC1220, 13.12.06 Minute OC0204, 19.02.14 Minute OC0304, 23.03.16 Minute OC0903, 27.09.17	
Review Date: December 2019	
Amendment 27.09.17 Some dated documents removed, new documents added, addition location details provided (for example, availability on the website).	

INTRODUCTION

In the course of performing their duties, Councillors incur many expenses. Some of these are readily apparent while others, such as vehicle usage are less obvious. No person serving on Council should be financially disadvantaged in their role as a Councillor, as such a situation may preclude members of the community from seeking public office.

OBJECTIVE

To establish the basis upon which Council will reimburse travel expenses to Councillors under Section 5.98 of the *Local Government Act 1995* (Discretionary Expenses).

POLICY STATEMENT

1 Council will reimburse travel expenses where Councillors attend:

- Annual, Special and General meetings of Electors;
- Annual Community Forums of Electors;
- Officially convened Council Civic receptions;
- Visits by Federal or State Government Ministers;
- Council authorised meetings with government agencies and other councils;
- Conferences approved by Council, through a resolution duly passed at a Council meeting;
- Seminars, workshops and training courses approved by the Chief Executive Officer (CEO);
- Meetings attended as a consequence of an appointment to a committee, organisation or board, through a nomination by Council, where no travel allowance is paid by that committee, organisation or board;
- Meetings attended as a delegate or authorised representative of Council;
- Commemorative Ceremony functions (ANZAC service, Australia Day etc.) as a nominated Council representative. The President will be deemed to be the 'nominated Council representative', unless the President requests another Councillor to attend in his/her absence;
- Private Citizenship Ceremonies as a nominated Council representative. The President will be deemed to be the 'nominated Council representative' unless the President requests another Councillor to attend in his/her absence; and
- The President or nominee attending the annual dinners of other Councils.

2 Reimbursement of travel expenses *will not be paid* where Councillors attend:

- Social engagements (sporting clubs, community groups and other organisations' functions);
- Meetings, functions etc. where they are not the 'nominated Council representative'; or
- Road inspections that have not been convened by a resolution of Council.

- 3 Where acting as a Council representative, and travel by motor vehicle to a destination outside the Shire of Capel is required, travel should be undertaken by Council vehicle where available and appropriate, otherwise private vehicle use is allowed.
- 4 Where appropriate, travel will be provided by air and will normally be at economy rates, but may be upgraded to business class in recognition of any physical disability of the attendee.
- 5 Councillors using private vehicles in accordance with this policy may claim for reimbursement of expenses at the rate contained in the *Local Government Industry Award 2010* applicable at the date of travel.
6. Councillors travelling to a destination to which air travel would normally be appropriate may choose to use private vehicles in accordance with this Policy. The amount claimed in reimbursement is not to exceed to cost of a normal full economy airfare.
- 7 Costs of vehicle hire, taxi fares and parking which are reasonably required and incurred in attending conferences, seminars, training courses, meetings and functions, will be reimbursed by the Council on production of a receipt and completion of an appropriate Shire claim form.
- 8 Reimbursement of travel expenses are to be paid only on receipt of a formal claim from a Councillor and will be calculated on the number of kilometres between the Councillor's principal place of residence or work within the Shire to the venue and return.

A suitable claim form will be provided by the Executive Manager Corporate Services upon request.

POLICY APPLICATION

The policy is applicable to all current elected members during their term of office as Councillors on the Shire of Capel.

Procedure:	
Originating Section: CEO's Division	Relevant Legislation: <i>Local Government Act 1995</i> <i>Local Government Industry Award 2010</i>
Reviewer: CEO	Delegated Authority:
Adopted: Minute SC0722, 27.07.99	Other References:
Amended: Minute OC1220, 13.12.06 Minute OC0204, 19.02.14 Minute OC0903, 27.09.17	
Review Date: December 2019	
Amendment 27.09.17 Policy Statement 4 – Distance and traveling time no longer factor into a possible upgrade in air travel Policy Statement 6 – Added to improve clarity Policy statement 7 - Reimbursement of expenses will only occur after production of receipts and appropriate claim forms.	

Rescinded 26.07.17 OC0703, replaced by new Code of Conduct

Procedure:	
Originating Section: CEO's Division	Relevant Legislation: Local Government Act 1995 Local Government (Rules of Conduct) Regulations 2007
Reviewer: CEO	Delegated Authority:
Adopted: Minute OC0842, 30.08.96	Other References:
Amended: Minute OC1212, 12.12.07 Minute OC0204, 19.02.14 Minute OC0304, 23.03.16	
Rescinded: Minute OC0703, 26.07.17	
Review Date:	

Policy 1.5

Legal Representation Costs & Indemnification Councillors and Employees

INTRODUCTION

In recent times there have been occasions involving other Councils where Councillors and employees have been involved in legal proceedings arising from their involvement with Council.

In today's society there is an increased risk of legal action being taken or threatened against individual Councillors and employees. Councillors and employees may require legal advice and representation and expect their local government to provide financial assistance to meet the costs of the advice or representation.

OBJECTIVE

This policy is designed to protect the interests of current or former Councillors and employees where they become involved in civil legal proceedings because of their official functions. In most situations the Shire of Capel may assist the individual by meeting reasonable expenses and any liabilities incurred in relation to those proceedings.

In each case it will be necessary to determine whether assistance with legal costs and other liabilities is justified for the good government of the district.

DEFINITIONS

Approved lawyer is to be –

- (a) a 'certified practitioner' under the *Legal Profession Act 2008* (as amended); and
- (b) approved in writing by the Council or the CEO under delegated authority.

Councillor or employee means a current or former Councillor or employee of the Shire of Capel.

Legal proceedings may be civil, criminal or investigative.

Legal representation is the provision of legal services, to or on behalf of a Councillor or employee, by an approved lawyer.

Legal representation costs are the costs, including fees and disbursements, properly incurred in providing legal representation.

Legal services includes advice, representation or documentation that is provided by an approved lawyer.

Payment by the Shire of Capel of legal representation costs may be either by:

- (a) direct payment to the approved lawyer (or the relevant firm); or
- (b) reimbursement to the Councillor or employee.

POLICY STATEMENT

1. Payment Criteria

The following criteria will be used in determining whether the Shire will pay legal representation costs for a Councillor or employee:

- (a) the legal representation costs must relate to a matter that arises from the performance by the Councillor or employee of their functions;
- (b) the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced;
- (c) in performing the function to which the legal representation relates, the Councillor or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

2. Examples of costs that may be approved

If the criteria in Policy Statement 1 are satisfied, the Shire may approve the payment of legal representation costs.

2.1 The local government may provide financial assistance to Councillors and employees in connection with the performance of their duties provided that the Councillor or employee has acted reasonably and has not acted illegally, dishonestly, against the interests of the local government or otherwise in bad faith.

2.2 The local government may provide such assistance in the following types of legal proceedings.

- a. To enable proceedings to be commenced and/or maintained by a Councillor or employee to permit them to carry out their functions (e.g. where a Councillor or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the Councillor or employee)
- b. Where proceedings are brought against a Councillor or employee in connection with their functions (e.g. an action for defamation or negligence arising out of a decision made or action taken by the Councillor or employee).

- c. The Shire will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a Councillor or employee.

2.3 The local government will not support any defamation actions seeking the payment of damages for individual Councillors or employees in regard to comments or criticisms levelled at their conduct in their respective roles. Councillors and employees are not precluded, however, from taking their own private action. Further, the local government may seek its own advice on any aspect relating to such comments and criticisms of relevance to it.

2.4 The legal services relating to this policy would usually be provided by the local government's solicitors. Where this is not appropriate for practical reasons or because of a conflict of interest, then the service may be provided by other solicitors approved by the local government.

3. Application for Payment

3.1 A Councillor or employee who seeks assistance under this policy is to make an application(s), in writing, to the Council or the Chief Executive Officer (CEO). The written request for payment of legal representation costs is to describe:

- (a) the matter for which legal representation is sought;
- (b) how that matter relates to the functions of the Councillor or employee making the application;
- (c) the lawyer (or law firm) to be asked to provide the legal representation;
- (d) the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);
- (e) an estimated cost of the legal representation; and
- (f) why it is in the interests of the Shire for payment to be made.

3.2 The application is to be accompanied by a signed written statement by the applicant that they:

- (a) have read and understand the terms of this Policy;
- (b) acknowledge that any approval of legal representation costs is conditional on the repayment provisions and any other conditions to which the approval is subject; and
- (c) undertake to repay to the Shire any legal representation costs in accordance with the provisions of Policy Statement 9 of this policy.

- 3.3 The application is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in the matter.
- 3.4 As far as possible, the application is to be made before the commencement of the legal representation to which the application relates.
- 3.5 An application is also to be accompanied by a report prepared by the CEO or where the CEO is the applicant, by an appropriate employee.

4. Legal Representation Costs – Limit

In approving an application in accordance with this policy, Council shall set a limit on the costs to be paid. A Councillor or employee may make a further application to the council in respect of the same matter.

5. Decision Process and Conditions

The Council may refuse, grant or grant subject to conditions an application for payment of legal representation costs.

Conditions may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment and repayment of legal representation costs.

In assessing an application, the Council may have regard to any insurance benefits that may be available to the applicant under the Shire's policies.

6. Revocation and Variation

- 6.1 The Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.
- 6.2 Subject to the principles of natural justice, Council may determine that a Councillor or employee whose application has been approved has, in respect of the matter for which the approval was made –
 - (a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
 - (b) given false or misleading information in respect of the application and require the repayment by the Council Councillor or employee of the legal representation costs paid by the Shire.
- 6.3 A determination under clause 6.2 may be made by the Council only on the basis of and consistent with, the findings of a court, tribunal or inquiry.
- 6.4 Where the Council makes a determination under clause 6.2 the legal representation costs paid by the Shire are to be repaid by the Councillor or employee in accordance with Policy Statement 9. The Council may take action to recover any such costs in a court of competent jurisdiction.

7. Financial Interest provisions

A Councillor or employee requesting financial support for legal services, or any other person who might have a financial interest in the matter, should take care to ensure compliance with the financial interest provisions of the *Local Government Act 1995*.

8. Delegation to Chief Executive Officer

In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the Council, the powers of the Council under Policy Statement 5 to determine the application and set conditions, to a maximum of \$10,000 in respect of each application.

An application approved by the CEO under this clause is to be submitted to the next ordinary meeting of the Council. Council may exercise any of its powers under this Policy, including its powers under clause 6.1.

Where it is the CEO who is seeking urgent financial support for legal services the Council shall deal with the application.

9. Repayment of Legal Representation Costs

A Councillor or employee whose legal representation costs have been paid by the Shire is to repay the Shire:

- (a) all or part of those costs in accordance with a determination by the Council under clause 6.4;
- (b) as much of those costs as are available to be paid by way of set-off where the Councillor or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the Shire paid legal representation costs.

Any amount recovered by a Councillor or employee in proceedings, whether for costs or damages, will be offset against any monies paid or payable by the local government.

Assistance will be withdrawn where the Council determines, upon legal advice, that a Councillor or employee has acted unreasonably, illegally, dishonestly, against the interests of the local government or otherwise in bad faith; or where information from that person is shown to have been false or misleading.

Where assistance is so withdrawn, the Councillor or employee who obtained financial support is to repay any monies already provided. The Council make take action to recover any such monies in court of competent jurisdiction.

POLICY APPLICATION

This policy applies to any current or former Councillor or employee of the Shire of Capel, subject to meeting the criteria set out in the policy.

Procedure:	
Originating Section: CEO's Division	Relevant Legislation: Legal Profession Act 2008
Reviewer: CEO	Delegated Authority: 151
Adopted: Minute OC1124, 08.11.00	Other References:
Amended: Minute OC1220, 13.12.06 Minute OC0204, 19.02.14 Minute OC0304, 23.03.16 Minute OC0903, 27.09.17	
Review Date: December 2019	
Amendment 27.09.17 Minor editorial changes, the words ' <i>Council Member</i> ' replaced with ' <i>Councillor</i> '. Duplicated text removed References to internal clause numbers corrected	

INTRODUCTION

It is important that Councillors, as part of their roles and responsibilities participate in professional development by attendance at conferences, seminars and development programs.

Such attendance assists them to be more informed and be better able to fulfil the duties of office.

The intention of this policy is to ensure that Councillors are given the opportunity to participate in professional development and are not financially disadvantaged.

OBJECTIVE

To provide the opportunity for Councillors to maintain skills and knowledge and participate in ongoing professional development relevant to their role as a representative of the Shire of Capel.

DEFINITIONS

Conferences and training means conferences, seminars, congresses, forums, workshops, courses, deputations, information and training sessions and events held in Australia and related to the industry of local government.

POLICY STATEMENT

1. Approval

Subject to the clause for overseas travel, Councillors may attend conferences and training following:

- (a) Approval by the Council through a resolution passed at a Council meeting for attendance at conferences and all other events outside of Western Australia; and
- (b) Approval of the Chief Executive Officer (CEO) for training, seminars, forums, workshops, courses, information and trainings sessions and events held within Western Australia. Where the CEO cannot support a Councillor request, a report is to be prepared for the next Ordinary Council Meeting for a decision. If the matter is urgent and cannot wait for the next Ordinary Council Meeting, the CEO shall consult with the President.

2. Conferences and training that may be attended

The conferences and training to which this policy applies shall generally be limited to:

- Events organised by the Western Australian Local Government Association (WALGA), Australian Local Government Association (ALGA) and Australian Local Government's Women's Association (ALGWA);
- Special 'one off' conferences called or sponsored by or for WALGA and/or SWZWALGA on important issues;
- Annual conferences of the major professions in local government;
- Conferences, seminars or training courses which advance the development of Councillors in their roles; or
- Any meetings or conferences of organisations or bodies on which a Councillor of the Council may be elected, or appointed to be a delegate or member by Council or WALGA.

Generally, no more than two Councillors may attend a particular conference or training event outside of Western Australia at the same time. Council may however approve attendance by more than two Councillors if a particular purpose or need arises.

3. Payment of conference and training costs

Conference and training expenses will only be paid or reimbursed when:

- The attendance is authorised by the CEO, or by Council through a resolution passed at a Council meeting; and
- The attendance and expenses incurred comply with the requirements of this Policy and Policy 1.3 Travelling Expenses; or if
- Due to exceptional circumstances, Council approves a reimbursement (though a resolution passed at a Council meeting) of conference and training expenses incurred that have not been approved by Council prior to attendance.

The following shall apply for Councillors authorised and/or appointed as delegates under this policy to attend conferences or training.

4. Expenses

4.1 Reimbursement

Costs of vehicle hire, taxi fares, parking and meal expenses which are reasonably required and incurred in attending conferences, will be reimbursed by the Council on provision of receipts and completion of a Shire claim form.

4.2 Meals for others

Council will generally not meet the costs of meals or refreshments for other persons (other than partners). The main exception is where it is indicated on the claim form that the meal or refreshments provided is in response to a meal or refreshments previously received from that person or that person's local government.

4.3 Booking Arrangements

Registration, travel and accommodation for Councillors will be arranged by the CEO's Executive Assistant. In general all costs including airfares, registration fees and accommodation will be paid direct and in advance by the Shire. Where this is not appropriate or possible, a cash allowance or cheque may be paid in advance to the attendee for payment to the appropriate party.

4.4 Registration

The Council will pay all normal registration costs for Councillors charged by organisers, including those relating to official luncheons, dinners and tours or inspections which are relevant to the interests of Council.

4.5 Accommodation

The Council will pay reasonable double room or twin share accommodation costs for Councillors including the night before and/or after the conference where this is necessary because of travel and/or conference timetables which make it impossible to arrive at or return home in normal working hours.

Where available, accommodation shall normally be booked at the venue of the conference.

4.6 Travel

All reasonable travel costs for Councillors to and from the conference location and venue will be met by the Council. Where appropriate, travel will be provided by air and will normally be at economy rates but may be upgraded to business class in recognition of any physical disability of the attendee.

Councillors using private vehicles in accordance with this Policy may claim 'kilometre' allowance at the date of travel as per Policy Statements 5 and 6 of Policy 1.

4.7 Accompanying Persons

The partners of Councillors are entitled to attend authorised conferences (as outlined in Policy Statement 2 of this Policy) as an accompanying person with Council meeting conference program and meal expenses where the conference is within Western Australia. Expenses in relation to partners' tours, sporting activities and other such activities shall be the responsibility of the Councillor.

Where a Councillor is accompanied at a conference outside Western Australia, all costs for or incurred by the accompanying person, including travel, meals, registration and/or participation in any conference program, are to be borne by the Councillor and not by the Council. The accompanying

person's registration and any program fees will be paid by the Shire at the time of registration with the Councillor reimbursing the Shire when requested.

4.6 Reimbursement of Expenses

Councillors attending conference and training events are entitled to be reimbursed for 'normally accepted' living costs while travelling. Such costs would include but are not limited to:

- (a) Taxi fares to and from the airport and to and from the venue if the accommodation used is a substantial distance from the venue;
- (b) Meals for the Councillor;
- (c) Refreshments for the Councillor (to a maximum of \$30 per day); and
- (d) Vehicle hire, petrol and parking.

Expenses will generally be reimbursed from the time a Councillor leaves home to attend a conference or training to the time the Councillor returns home.

Should the Councillor extend a visit by leaving prior to the time necessary to arrive at the conference/training or returning after the time at which the Councillor could have returned following the conference/training, reimbursements will be paid for the:

- (a) days of the conference and training; and
- (b) the cost of travel from the airport directly to the accommodation to be used for the conference and training and also vice versa, from accommodation to the airport.

Where a Councillor attending an approved conference or training program requiring overnight accommodation elects to stay with relatives or friends at private accommodation, Council will pay an allowance of \$100 per night to offset meals and other expenses. Councillors wishing to claim this allowance shall complete the 'Councillor Expenses Reimbursement' form.

Where a Councillor attending an approved conference, training or development program incurs child care expenses, Council will reimburse these expenses to a maximum of \$80 per day on provision of receipts and an appropriate claim form.

Where Councillors attend conferences, seminars, fact finding tours, or training and development, they shall be entitled to a daily allowance of \$25 for sundry expenses in addition to other expenses allowed under this policy. The daily allowance can be paid either prior to, or at the conclusion of attending conferences etc as part of a reimbursement claim.

4.7 Attendance at Overseas Conferences

Attendance by a Councillor at any conference, seminar, congress, forum, workshop, course, meeting, deputation, information or training sessions, events etc. related to the industry of local government which are held overseas, must be authorised prior to departure by specific resolution of the Council and such resolution shall specify and detail the conditions of attendance.

4.8 Fact Finding Tours

A fact finding tour is designed to enable Councillors and employees to travel intrastate, interstate and/or overseas to research, study and lobby for specific issues confronting Council.

Details of tours are to be arranged in advance so that suitable provision can be made on each year's budget. When no details of tours have been arranged or arrangements are incomplete, an appropriate amount is to be included on the budget to cover the cost of an annual fact finding tour.

Council may approve attendance at fact finding tours but shall apply the following guidelines:

- The maximum attendance at any tour is to be two Councillors and two employees;
- Attendance at a tour shall only take place where there are appropriate funds provided for in the annual budget; and
- A detailed report on the tour is to be submitted to Council.

POLICY APPLICATION

The policy is applicable to all current Councillors during their term of office at the Shire of Capel.

Procedure:	
Originating Section: CEO's Division	Relevant Legislation:
Reviewer: CEP	Delegated Authority:
Adopted: Minute OC0458, 26.04.01	Other References:
Amended: Minute OC1220, 13.12.06 Minute OC0204, 19.02.14 Minute OC0903, 27.09.17	
Review Date: December 2019	
Amendment 27.09.17 Policy Statement 1 – additional information provided on management of an urgent claim unsupported by CEO. Policy Statement 3 – duplicated text removed. Policy Statement 4 – Renumbered. Addition notes requiring provision of receipts and claim forms prior to reimbursement. Removal of a sentence implying flight seat upgrades may be possible on long flights. Duplicate text removed.	

Policy 1.7 Disruptive Behaviour at Council Meetings

INTRODUCTION

The *Local Government Act 1995* seeks to promote participation of the community in Council meetings through public question time and observation of the decision making process being conducted in an open and transparent way.

It is important that Council meetings are conducted in an atmosphere of inclusiveness and openness to foster productive relationships with the community. The general conduct of a Council meeting, particularly during public question time depends upon mutual respect and good faith between Councillors and the public.

Disruptive behaviour makes the conduct of Council meetings more difficult and stressful, reducing the efficiency and effectiveness of the meeting. Disruptive behaviour also denies other members of the public the opportunity to participate in and observe Council proceedings.

OBJECTIVE

The objective of this policy is to establish examples of behaviour which are considered disruptive or unacceptable, and to provide guidance for how such situations shall be handled by the Presiding Member and Chief Executive Officer (CEO).

POLICY STATEMENT

The following are examples of disruptive behaviour:

- Constant interjection, particularly when the Presiding Member, Councillors or staff present at the meeting are speaking;
- Members of the public calling for points of order;
- Booming individual Councillors or the Council;
- Contemptuous laughter or derisive comments at decisions or during debate;
- Refusal to give up the floor to allow other members of the public to ask questions or demanding to ask questions before others in contradiction of an order from the Presiding Member;
- Refusal to accede to a Presiding Member's instructions, particularly when asked to desist from disruptive behaviour;
- Use of abusive and/or inflammatory language when addressing Council with a question or making a statement;
- Unnecessarily repetitive questioning; and
- Aggressive/threatening behaviour towards Councillors, Council employees or members of the public.

The following procedure shall be implemented when dealing with behaviour considered by the Presiding Member to be disruptive.

1. The Presiding Member will attempt to ignore the interjection and move on with the business of the day.
2. If the disruptive behaviour continues the Presiding Member shall ask the offending party(s) to cease.
3. If the disruptive behaviour does not cease, the Presiding Member shall adjourn the meeting for a specific time. During this adjournment the CEO should discuss the situation with the offending party(s) and ask them to behave appropriately in a place of government.
4. Upon resumption of the meeting, the Presiding Member shall issue a warning that further continuation of the disruptive behaviour will lead to stronger action.
5. If after the resumption of the meeting the disruptive behaviour continues, the Presiding Member shall again adjourn the meeting and instruct the CEO to ask the offending person or persons to leave the building and the local government property. The CEO would advise the person(s) that they are requested to leave and that if they remain they will be committing the offence of trespass under Section 70A of the Criminal Code and could be prosecuted.
6. Should the person refuse to leave, the CEO shall advise the offending party(s) that the Police will be called to apprehend them and the Council will instigate legal proceedings.
7. At all stages of adjournment, the Presiding Member and Councillors should retain the dignity of their office by not interacting with the offending party(s).
8. Nothing in this policy removes the right of the Presiding Member, having regard to the nature and intensity of the disruptive behaviour to issue additional warnings before asking the CEO to request that the person(s) leave or the Police being called.

POLICY APPLICATION

The policy is applicable to all persons, including staff, (excluding Councillors) who attend Council or Committee meetings.

Procedure:	
Originating Section: CEO's Division	Relevant Legislation: Local Government Act 1995 s5.41(d) Criminal Code s70A
Reviewer: CEO	Delegated Authority:
Adopted: Minute OC1220 13.12.06	Other References: Local Government Operational Guidelines No 6
Amended: Minute OC0204 19.02.14 Minute OC0903, 27.09.17	
Review Date: December 2019	
Amendment 27.09.17 Minor editorial changes only	

INTRODUCTION

The Shire of Capel recognises that from time to time members of the community demonstrate outstanding commitment and contribution to the Shire's community and that this contribution should be acknowledged.

The Shire will achieve this by awarding an individual the title of "*Honorary Freeman of the Shire of Capel*". This honour will be awarded on rare and exceptional occasions and recipients will be selected according to the criteria within this Policy.

OBJECTIVE

To provide a framework for recognising significant achievements by individuals within the Shire of Capel.

POLICY STATEMENT

The process for nomination and selection of a person for the award of the title will be as follows.

1. Eligibility

Nominees for selection must ordinarily be a resident of the Shire of Capel and must have given distinguished service to the community, preferably in more than one capacity.

A serving Councillor cannot be nominated for the award.

2. Selection Criteria

Nominees will be judged on their record of service to the community on the basis of the following criteria:

- (a) Length of service in a field (or fields) of activity;
- (b) Level of commitment to the field (or fields) of activity;
- (c) Personal leadership qualities;
- (d) Benefits to the community of the Shire of Capel but including more broadly to the State of Western Australia or to the nation resulting from the nominee's work; and
- (e) Special achievements of the nominee.

3. Nomination Procedure

- (a) Nominations for the Award may be made by individuals or organisations but must be sponsored by a Councillor of the Shire of Capel. Nominations must be submitted in writing to the Chief Executive Officer (CEO) or the President.
- (b) Nominations must be made in the strictest confidence without the knowledge of the nominee.
- (c) On receipt of a nomination the CEO will circulate a copy of the nomination and any supporting information to all Councillors.
- (d) On receipt of the nomination and supporting information, Councillors must have at least two weeks to consider the proposal. If a Councillor is in support of the nomination then they may make a written submission outlining the reasons for their support of the nomination.

If a Councillor is not in favour of the proposal then the Councillor must lodge a written submission to the CEO, outlining reasons why the nomination should not be supported. The CEO will provide a copy of the submission to all Councillors.

- (e) Councillors who do not formally respond by lodging a written submission to the CEO are presumed not to object to the nomination.
- (f) No record of the nominee's name shall be recorded in the Council or Committee minutes whether supported or not by Council.

4. Confidentiality

The nomination and consideration of proposals to award the title of Honorary Freeman of the Shire shall be dealt with in strictest confidence. Any decision of Council to adopt a recommendation requires an absolute majority. When Council meets to consider the recommendation it may close the meeting to members of the public and reports concerning the nomination procedure shall be deemed to be confidential items pursuant to section 5.95(3) of the *Local Government Act 1995*.

5. Awarding the Title

Once a nomination has been accepted by Council, the nominee shall be contacted by the CEO on a confidential basis to determine whether the award will be accepted. Should a nominee decline to accept the Award all Councillors will be informed and the matter will lapse. On confirmation of this acceptance any person or organisation involved in the nomination procedure shall be informed of the decision and a suitable media statement may be prepared for release under the President's name.

Conferral of the title shall be carried out at a formal Council function. The CEO, in consultation with the President, will decide the occasion and format of the conferral ceremony.

6. Entitlements

Any person declared an '*Honorary Freeman of the Shire of Capel*' may designate themselves '*Honorary Freeman of the Shire of Capel*'.

The conferring of the title of '*Honorary Freeman of the Shire of Capel*' does not grant to that person any right or privilege other than that of permitting that person to designate themselves by the title so conferred.

POLICY APPLICATION

The policy will apply throughout the Shire of Capel and any person wishing to nominate a person as a Freeman of the Shire will be required to follow these guidelines.

Procedure:	
Originating Section: CEOs Division	Relevant Legislation: Local Government Act 1995
Reviewer: CEO	Delegated Authority:
Adopted: Minute OC0204, 19.02.14	Other References:
Amended: Minute OC0903, 27.09.17	
Review Date: December 2019	
Amendment 27.09.18 Minor editorial changes only	

INTRODUCTION

Members of the community who choose to nominate and become elected as Councillors do so with the knowledge that there is no substantial monetary consideration and that the role of Councillor is undertaken on the basis of service to the local community.

Councillors undertake the role because they 'want to make a difference' in their community and this will involve many hours of their time in representing the interests of electors, ratepayers and residents of the district.

OBJECTIVE

To outline a monetary value regarding gifts that can be provided to Councillors on their retirement from Council in order to recognise their contributions to the community.

POLICY STATEMENT

1. Councillors who have completed one term of Office shall be presented with:
 - (a) Councillor name plaque; and
 - (b) Most recent Councillor/Executive Management Team photo (A4 size).
2. Councillors who have completed two terms of Office shall be presented with:
 - (a) Councillor name plaque;
 - (b) Most recent Councillor/Executive Management Team photo (A4 size); and
 - (c) A gift up to the value of \$100 at the discretion of the President.
3. Councillors who have completed more than two terms of Office shall be presented with:
 - (a) Councillor name plaque;
 - (b) Most recent Councillor/Executive Management Team photo (A4 size); and
 - (c) Gift to the value of up to \$300 at the discretion of the President.

POLICY APPLICATION

The policy is applicable to all current and future Councillors of the Shire of Capel.

Procedure:	
Originating Section: CEO's Division	Relevant Legislation:
Reviewer: CEO	Delegated Authority:
Adopted: Minute OC0204, 19.12.14	Other References:
Amended: Minute OC0903, 27.03.17	
Review Date: December 2019	
Amendment 27.09.17 Statements 1 and 2 were previously in reverse order. Amended to improve clarity.	

Procedure:	
Originating Section: CEO's Division	Relevant Legislation: Local Government Act 1995
Reviewer: CEO	Delegated Authority:
Adopted: Minute SC0122, 19.01.99	Other References:
Amended: Minute OC0426, 24.04.07 Minute OC0204, 19.02.14 Minute OC1204, 17.12.14 Minute OC0903, 27.09.17	
Review Date: December 2019	
Amendment 27.09.17 Moved to Section 3 Staff Policies from Section 1 Councillor Policies. Renumbered as 3.26 from 10.1	

INTRODUCTION

When holding Council functions and events it is important that all relevant dignitaries and other persons receive invitations in a timely manner and in a professional way that reflect positively on the Shire of Capel.

OBJECTIVE

To ensure that all relevant dignitaries are invited to Council functions and events, that invitations are issued in a timely manner and that a standard invitation format is used.

POLICY STATEMENT

1. Invitations to all Council functions and events should be issued to the relevant persons no later than six weeks prior to the event.
2. Invitations shall be on Council letterhead or other suitable format that reflects professionally on the Shire of Capel and shall be in a standard format provided by the Executive Assistant – Chief Executive Officer.
3. Dignitaries and other persons who are to be invited to Shire of Capel events and functions are as follows (but not limited to):

3.1 Australia Day Event

- Federal Minister for Immigration and Border Protection or representative;
- Local Members of WA State Parliament (MLA and MLC) and partners;
- Local Federal Member of Parliament and partner;
- Freemen of the Shire of Capel and partners;
- Councillors of the Shire of Capel and partners;
- Australia Day Council representative;
- Chief Executive Officer, Shire of Capel and partner; and
- Local Indigenous Representative.

3.2 Volunteer's Events

- Local Members of WA State Parliament (MLA and MLC) and partners;
- Freemen of the Shire of Capel and partners;
- Councillors of the Shire of Capel and partners;
- Chief Executive Officer, Shire of Capel and partner; and
- Chief Executive Officer, Local Organisation and partner, where funding is provided.

3.3 Australian Citizenship Ceremonies

- Federal Minister for Immigration and Border Protection or representative;
- Local Members of WA State Parliament (MLA and MLC) and partners;
- Freemen of the Shire of Capel and partners;
- Councillors of the Shire of Capel and partners; and
- Chief Executive Officer, Shire of Capel and partner.

3.4 Official Openings - Council buildings and facilities

- WA State Minister and partner, where State Government funding is provided;
- Chief Executive Officer – State Government Department and partner where State Government funding is provided;
- Federal Government Minister and partner where Federal Government funding is provided;
- Local Members of WA State Parliament (MLA and MLC) and partners;
- Local Federal Member of Parliament and partner;
- Freemen of the Shire of Capel and partners;
- Councillors of the Shire of Capel and partners;
- Chief Executive Officer, Shire of Capel and partner;
- Executive Managers, Shire of Capel and partners;
- Mayor/Presidents and CEOs, Bunbury Wellington Group of Councils and partners;
- Regional Manager, State Government Department and partner (i.e. Department of Sport and Recreation), where State Government funding is provided;
- Chief Executive Officer, Local Organisation and partner, where funding is provided; and
- Benefactor and partner or family representative/s where funding has been provided by an individual.

POLICY APPLICATION

The policy will be applicable to all events that fall within the categories listed above.

Procedure:	
Originating Section: CEO's Division	Relevant Legislation:
Reviewer: CEO	Delegated Authority:
Adopted: Minute OC0303, 19.03.14	Other References:
Amended: Minute OC0903, 27.09.17	
Review Date: December 2019	
Amendment – minor editorial corrections	