



# Code of Conduct

For Employees

Adopted 7 July 2021

## Acknowledgement of Country

The Shire of Capel acknowledges the Traditional Custodians, the Wardandi people, and their continuing connection to the land, waters and community. We pay our respects to members of all communities and their cultures; and to Elders, past, present and emerging.

The Shire of Capel is committed to our vision to achieve genuine reconciliation in our communities through strong relationships, recognition of traditional landowners and celebration of our rich cultural diversity and history.

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## Message from the A/Chief Executive Officer

This Code of Conduct sets out behavioural standards and professional conduct expectations of employees of the Shire of Capel. The Code provides guidance and a basis of expectation for sound governance and integrity within the Shire of Capel.

The Shire of Capel has adopted the following set of values which underpin the building of professional relationships and the conduct obligations outlined in this code.



### Respect

We are respectful in all that we do, and all interactions we have, while being inclusive and mindful of differences.



### Teamwork

We are cooperative, collaborative and united while working towards common goals of our Shire.



### Empathy

We are kind and show understanding of peoples circumstances, perspectives and differences.



### Accountability

We are transparent in all that we do, and stay true to our word by taking responsibility for our actions.



### Honesty

We are truthful, trustworthy and genuine in all that we say and do.

In working towards the achievement of the Shire of Capel's vision and strategic objectives this Code sets out the ethical and accountable responsibilities of all employees and how as representatives of the Shire we should conduct ourselves in line with our values when dealing with the community, our Councillors and each other.

All employees are expected to read and be familiar with their accountabilities under the code and to seek clarification if they are unsure of anything. If further clarification is required, please speak with your Supervisor or a member of the Human Resources team.

Together we can achieve positive social, environmental and economic outcomes, whilst ensuring we have a strong and resilient community now and in the future.

A/ Chief Executive Officer

Robert Stewart

## 1. Introduction

- 1.1. The Shire of Capel's (the Shire) Code of Conduct (Code) has been established pursuant to the *Local Government Act 1995* (LG Act) and is consistent with the requirements of *The Local Government (Administration) Regulations 1996* (Regulations) and other applicable laws.
- 1.2. For the purposes of this Code an employee means a person:
  - a. employed by the Shire under section 5.36(1) of the Act; or
  - b. engaged by the Shire under a contract for services.
- 1.3. This code details requirements and expectations of employees in relation to:
  - a. professional conduct and behavior.
  - b. use of Shire resources and information.
  - c. conflict of interest.
  - d. management of gifts and benefits.
  - e. reporting suspected breaches of this code.
- 1.4. The code serves to:
  - a. commit to ethical and professional standards of employees in the performance of their duties and functions.
  - b. outline required behaviors and conduct which provide for respectful and cooperative relationships between employees, Council members and members of the public.
  - c. strengthen community confidence in the integrity of the Shire of Capel.
- 1.5. This code forms part of the terms and conditions of employment with the Shire of Capel.

## 2. Professional Conduct and Behaviour

- 2.1 It is the responsibility of all employees to act in a manner that is lawful and in accordance with the Act, Regulations, their employment contract, codes and other policies and corporate guidelines relevant to their employment.
- 2.2 Employees as representatives of the Shire, are required to:
- a. act with reasonable care and diligence.
  - b. act with honesty and integrity.
  - c. act lawfully.
  - d. avoid damage to the reputation of the Shire.
  - e. be open and accountable to the public.
  - f. base decisions on relevant and factually correct information.
  - g. be polite and treat others with respect and fairness.
  - h. present for work fit to undertake your role. Fit means that the employee is in a state (physical, mental and emotional) which enables the employee to safely fulfill their duties.

### Compliance with Lawful and Reasonable Directions, Decisions and Policies

- 2.3 Employees will comply with any lawful and reasonable direction given by any person having authority to make or give such an order, including but not limited to their Supervisor, Manager, Director or the CEO.
- 2.4 Employees will give effect to the lawful decisions and policies of the Shire, whether they agree or approve of them or otherwise.

### Secondary Employment

- 2.5 Any full and part time employees must not engage in secondary employment (including paid and unpaid work) without receiving the prior written approval of the CEO.

## 3. Relationship between Employees, Council Members and Committee Members

- 3.1. Wherever possible employees must demonstrate professionalism and behaviors in accordance with the Shire's values in their interactions with other employees, council members, committee members and the broader community to achieve the Shire's corporate goals and implement strategies.
- 3.2. Council members have been advised to direct requests for information to the CEO and Directors in accordance with the Shire's Protocol for Councillor / Staff Contact. Employees are justified in requesting council members adhere to this process.

## 4. Use of Shire Resources and Finances

- 4.1. Employees are expected to perform their duties efficiently and use Shire resources responsibly and with care in accordance with the professional conduct and behavior as set out in this code.
- 4.2. Employees shall:

- a. effectively, economically and honestly manage and make use of Shire resources.
- b. comply with applicable legislation, and Shire policies and procedures when using or committing Shire resources.
- c. use Shire finances as authorised by the Shire in accordance with applicable policies and corporate guidelines.
- d. operate, maintain and securely store equipment and property of the Shire.
- e. report any damage to, or loss of, property or equipment immediately to management.

## 5. Information Management

- 5.1. Local governments deal with a large amount of information, some of which is intended to be available to assist and inform the public, and some of which is confidential.
- 5.2. Employees are to ensure that information obtained or created in the course of their employment is trustworthy and accurate.
- 5.3. Information which employees base their advice and decisions on must be accurate and reliable.
- 5.4. Employees must not use local government information for personal, commercial, or political gain for themselves or others or improperly to the detriment of others.

### Confidential Information

- 5.5. Confidential information includes but is not limited to, all confidential information that may have come to an employee's knowledge during or because of an employee's employment or other information that has been disclosed to the Shire in confidence either written or orally.
- 5.6. During employment and upon ceasing employment with the Shire, employees must not:
  - a. disclose to another person, written or oral information that is provided to them, or obtained by them, in confidence, or derived from a confidential document.
  - b. remove from the Shire's care and control resources such as documents, materials, manuals or other information or equipment.
- 5.7. Confidential information may only be disclosed by an employee to another person to the extent that it is necessary for the employee to do so in the performance of their duties, or as required by law.

### Record Keeping

- 5.8. To ensure the integrity and security of Shire information employees are expected to ensure that information is accurately recorded and stored consistently with relevant laws and the Shire's Record Management Policy and corporate guidelines as amended or replaced.
- 5.9. Employees are expected to:
  - a. record their actions and decisions to ensure transparency.
  - b. ensure the secure storage of sensitive or confidential information.
  - c. understand their record keeping responsibilities as a Shire employee.
  - d. understand that records may only be disposed of in accordance with approved disposal authorities and may not be removed from records systems or altered without authority.

## Personal Communications and Social Media

- 5.10 Personal communications and statements made privately in conversation, written, recorded, messaged, emailed or posted in personal social media, have the potential to be made public, whether intended or not.
- 5.11 Employees must not, unless undertaking a duty in accordance with their employment, disclose information, make comments, or engage in communication activities about or on behalf of the Shire, Council Members, employees or contractors, which breach this Code.
- 5.12 Employee comments which become public and breach the Code of Conduct, or any other operational policy or procedure, may constitute a disciplinary matter.

## 6. Intellectual Property

- 6.1. The title to intellectual property in all duties relating to contracts of employment will be assigned to the Shire upon its creation unless otherwise agreed by a separate contract.

## 7. Conflicts of Interest

- 7.1 A **conflict of interest** is a conflict between an employee's personal interests (whether financial or due to kinship, friendship, or association) and the impartial fulfilment of their personal duties. It may be:
  - a. **Actual** – where a direct conflict exists between an officer's duties and a competing interest or third party.
  - b. **Perceived** – where it could reasonably be perceived or give the appearance that a competing interest could improperly influence an officer in the performance of duties.
  - c. **Potential** - where a staff member has an interest or obligation that could conflict at some stage in the future with duties and responsibilities at the Shire.
- 7.2 Employees are to ensure there is no actual, perceived or potential conflict of interest between their personal interests and the impartial fulfilment of their duties.
- 7.3 Where there is a potential that an employee could be influenced by a personal interest in carrying out their professional duties, employees are to disclose this conflict to the CEO. Any identified implications regarding the disclosure of interest will be discussed further with the disclosing employee.
- 7.4 To assist employees assess whether they have an interest (actual, perceived or potential) that they are required to disclose, the following '6P's' questions should help guide them:
  - a. **Public duty vs private interest**  
Do I have personal or private interests that may conflict or be perceived to conflict with my public duty?
  - b. **Potential**  
Could there be benefits for me now or in the future that could cast doubt on my objectivity?
  - c. **Perception**  
Remembering that perception is important, how will my involvement in the decision or action be viewed by others? Are there risks associated for me or my organisation?
  - d. **Proportion**  
Does my involvement in the decision appear fair and reasonable in all the circumstances?
  - e. **Presence of mind**  
What are the consequences if I ignore a conflict of interest? What if my involvement was questioned publicly?



f. **Promises**

Have I made any promises or commitments in relation to the matter? Do I stand to gain or lose from the proposed action or decision?

- 7.5 Disclosures will be registered with governance and a copy of any resulting employment conditions (if any) communicated in writing to the disclosing employee.

## Financial Interest

- 7.6 **A relevant person** means:

- a. an employee who provides advice or a report on a matter directly to the council or a committee; or
- b. an employee who under Division 4 of the Act, has been delegated a power or duty relating to a matter.

- 7.7 As detailed in Part 5, Division 6 of the Act, a relevant person who has a financial interest (direct, indirect or proximity) must disclose this interest in accordance with section 5.70 and 5.71 of the Act. The Governance team will provide additional information to applicable employees.

## Disclosure of Interests affecting impartiality

- 7.8 An **interest** referred to in this sub-part means:

- a. any association that could, or could reasonably be perceived to, adversely affect the impartiality of the employee, and
- b. includes an interest which may arise from any kinship, friendship or membership of an association.

- 7.9 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:

- a. in a written notice given to the CEO before the meeting; and/or
- b. at the meeting immediately before the matter is discussed.

- 7.10 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 the interest:

- a. in a written notice to the CEO before the meeting; and/or
- b. at the time the advice is given.

- 7.11 If an employee makes a disclosure in a written notice to the CEO before a meeting, then:

- a. before the meeting the CEO is to ensure the notice is given to the person who is to preside at the meeting; and
- b. before any matter is discussed at the meeting which relates to the employee's interest, the person presiding is to bring the disclosure of interest to the attention of all people present.

- 7.12 If a matter is raised at a meeting which an employee has an interest in; and

- a. it is realised that the employee has an interest in the matter during a meeting and they were not aware it was going to be discussed, they must immediately disclose their interest; and
- b. the presiding member should bring this disclosure to the attention of those present at the meeting; and
- c. the nature of the interest is to be recorded in the minutes of the meeting.

- 7.13 An employee is excused from the requirement to disclose an interest if:

- a. the employee did not know that they had an interest in the matter; or
- b. the employee did not know the matter in which they had an interest would be discussed at the meeting; and

- c. the employee discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter.

7.14 Point 7.11 and 7.12 do not apply to an interest referred to in section 5.60 of the Act.

## 8. Gifts

- 8.1 A gift is defined in accordance with s.5.57 of the Act as:
- a. a conferral of a financial benefit (including a disposition of property) made by 1 person in favour of another person unless adequate consideration in money or money's worth passes from the person in whose favour the conferral is made to the person who makes the conferral; or
  - b. a travel contribution
    - i. **travel** includes accommodation incidental to a journey.
    - ii. **travel** contribution means a financial or other contribution made by 1 person to travel undertaken by another person.
  - c. but does not include:
    - i. a gift from a relative, relative being defined in section 5.74(1) of the Act; or
    - ii. a gift that must be disclosed under regulation 30B of the Local Government (Elections) Regulations 1997; or
    - iii. a gift from a statutory authority, government instrumentality or non-profit association for professional training.
    - iv. a gift from WALGA, the Australian Local Government Association Limited or the Local Government Professionals Australia WA.
- 8.2 A **prohibited gift**, in relation to an employee is:
- a. a gift worth \$300 or more; or
  - b. a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth \$300 or more.
- 8.3 A **notifiable gift**, in relation to an employee is:
- a. a gift worth between \$50 and \$300; or
  - b. a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth between \$50 and \$300.
- 8.4 An **activity involving a local government discretion** means an activity:
- a. that cannot be undertaken without an authorisation from the local government; or
  - b. by way of a commercial dealing with the local government.
- 8.5 An **associated person** means a person who:
- a. is undertaking or seeking to undertake an activity involving a local government discretion; or
  - b. it is reasonable to believe, is intending to undertake an activity involving a local government discretion.
- 8.6 Employees must not accept a prohibited gift from an associated person.
- 8.7 An employee is required to notify the CEO of the acceptance of a notifiable gift from an associated person within 10 days of accepting the gift.
- 8.8 Notification of the acceptance of a notifiable gift is required to be in writing and include details of:
- a. the name of the person who gave the gift;
  - b. the date on which the gift was accepted;
  - c. a description and the estimated value of the gift;
  - d. the nature of the relationship between the employee and the person who gave the gift.

- 8.9 Notification of a notifiable gift that 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:
- a. a description;
  - b. the estimated value;
  - c. the date of acceptance.
- 8.10 The Shire recommends employees disclose the acceptance of gifts valued under \$50 ('token gifts') at the time they receive them. This allows the Shire to track token gifts and assist employees to meet their obligations under this Code. The obligation however remains with the employee.
- 8.11 For further information employees should refer to the 'Disclosure of Receipt of Gift – Employees' form or consult with Governance.
- 8.12 The Shire will maintain a register of notifiable gifts and record in it the details of the notifications given under this section. This will be made available on the Shire's website.

## 9. Breaches of this Code

- 9.1 Any person who has reason to believe that an employee has breached the standards of conduct set out in this Code, or otherwise suspects fraudulent, dishonest, illegal or corrupt behaviour by an employee, must refer the matter to the employee's Manager, Director, the CEO or Human Resources. The matter will then be considered and dealt with in accordance with relevant Shire policies, corporate guidelines and applicable legislation.
- 9.2 Any person who has reason to believe that the CEO has breached the standards of conduct set out in this Code, or otherwise suspects fraudulent, dishonest, illegal or corrupt behaviour, must refer the matter to the Director Community and Corporate Services, Human Resources or the Shire President. The matter will then be considered and dealt with in accordance with relevant Shire policies, corporate guidelines and applicable legislation.
- 9.3 Each report of a breach is to be dealt with in accordance with the principles of procedural fairness.
- 9.4 Employees who report unacceptable or illegal behaviour will not in any way be disadvantaged or victimised because of their report.
- 9.5 Employees who make false complaints which are determined to be frivolous, vexatious or not made in good faith may themselves face disciplinary action.
- 9.6 The Shire is obligated to report misconduct and public interest matters to the Public Sector Commission and the Corruption and Crime Commission as detailed in the Corruption, Crime and Misconduct Act 2003. The Shire may also be required to report to the Department of Local Government, Sport and Cultural Industries.

## 10. CEO Endorsement

Approved by:	EMT
Approval date:	7 July 2021
Review date:	7 July 2022
Signature:	