



Code of Conduct

for Elected Members, Committees,
Staff and Volunteers 2016

City of Armadale
7 Orchard Avenue
Armadale WA 6112

9394 5000
www.armadale.wa.gov.au
info@armadale.wa.gov.au

Contents



1	Introduction	4
2	Statutory Framework	5
3	Roles and Responsibilities	6
3.1	Role of Council	6
3.2	Role of the Mayor	6
3.3	Role of the Councillors	6
3.4	Role of Committee Members	7
3.5	Role of the CEO and Staff	7
3.6	Relationships between Councillors and Staff	8
3.7	Team Effort	8
4	Conflicts and Disclosure of Interest	9
4.1	Conflict of Interest	9
4.2	Financial Interest	9
4.3	Disclosure of Interest – Impartiality (Councillors, Staff and Committee Members)	9
5	Personal Benefit	11
5.1	Use of Confidential Information (Rules of Conduct – Reg 6 refers)	11
5.2	Intellectual Property	11
5.3	Improper or Undue Influence (Rules of Conduct – Reg 7 refers)	11
6	Gifts and Travel Contributions	12
6.1	Gifts (LGA s.5.82)	12
6.2	Notifiable Gifts (LGA Admin Reg. 34B and Rules of Conduct Reg. 12)	12
6.3	Travel Contributions (LGA s.5.83)	13
6.4	Gifts during Local Government Elections (LGA s 4.59 and LG Election Reg 30B)	13
7	Conduct of Councillors, Committee Members Staff and Volunteers	14
7.1	Personal Behaviour	14
7.2	Honesty and Integrity	14
7.3	Discrimination	14
7.4	Performance of Duties	15
7.5	Compliance with Lawful Orders	15
7.6	Administrative and Management Practices	15
7.7	Corporate Obligations	15
7.8	Appointments to Committees	17
7.9	Observers at Committee Meetings	17
8	Dealing With Council Property	18
8.1	Use of Local Government Resources (Rules of Conduct – Reg. 8 refers)	18
8.2	Travelling and Sustenance Expenses	18
8.3	Access to Information	18
8.4	Freedom of Information	18
9	Breaches and Misconduct	19
9.1	Employees and Volunteers	19
9.2	Councillors	19
9.3	Misconduct	19
9.4	Public Interest Disclosure	19
10	Glossary of Terms	20



Introduction



This Code of Conduct provides Councillors, Committee Members, staff and volunteers of the City of Armadale with consistent guidelines for an acceptable standard of professional conduct. The Code addresses, in a concise manner, the broader issue of ethical responsibility and encourages greater Local Government transparency and accountability.

This Code is complementary to the principles adopted in the *Local Government Act 1995* and associated regulations which incorporate four fundamental aims to result in:

- a. Better decision-making by the City of Armadale.
- b. Greater community participation in the decisions and affairs of the City.
- c. Greater accountability of the City to its community.
- d. More efficient and effective Local Government.

This Code provides a guide and a basis of expectations for Councillors, Committee Members, staff and volunteers. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

Of particular note for Councillors is that some parts of this Code are also Rules of Conduct which are enforceable at law (a suspected minor breach of a rule of conduct may be the subject of a complaint that will be heard and determined by a standards panel appointed under Schedule 5.1 clause 2 of the *Local Government Act 1995*. A suspected serious breach may be the subject of a complaint that is to be forwarded to the Departmental CEO).

This Code, unless otherwise stated, applies equally to Councillors, persons appointed to Council established committees (referred to in this Code as 'Committee Members'), staff and registered volunteers.



Statutory Framework



This Code of Conduct observes statutory requirements of the *Local Government Act 1995* (s5.103 – Codes of Conduct) and the *Local Government (Administration) Regulations 1996* (Regs 34B - 34G).

Councillors acknowledge that their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed Rules of Conduct as described in the *Local Government Act 1995* and *Local Government (Rules of Conduct) Regulations 2007*.

Officers acknowledge that they are subject to the provisions of the Code upon their acceptance of employment and whilst they remain employed by the City.

Volunteers acknowledge that they are subject to the provisions of the Code upon registering as a volunteer and whilst they remain a registered volunteer for the City.



Roles and Responsibilities

3.1 Role of Council

The Council is the governing body of the City of Armadale and consists of elected Councillors. The offices of Council are the Mayor, Deputy Mayor and Councillors.

The role of the Council is set out in s.2.7 of the *Local Government Act 1995* as follows:

“(1) The council

- a. directs and controls the local government’s affairs; and*
- b. is responsible for the performance of the local government’s functions.*

(2) Without limiting subsection (1), the council is to —

- c. oversee the allocation of the local government’s finances and resources; and*
- d. determine the local government’s policies.”*

The City of Armadale conducts its business and decision making using a ‘committee’ system. The City has two (2) types of committees:

- ones that are made up solely of Councillors (often referred to as ‘Standing Committees’)
- those made up of persons appointed by Council (such persons may be Councillors, staff, community members or a mix of the three).

These Committees make recommendations to the Council and the Council makes a final decision on the matter.

3.2 Role of the Mayor

In addition to the role of a Councillor the role of the Mayor is set out in s.2.8(1) of the *Local Government Act 1995* as follows:

“(1) The mayor or president —

- e. Presides at meetings in accordance with this Act; and*
- f. Provides leadership and guidance to the community in the district; and*
- g. Carries out civic and ceremonial duties on behalf of the local government; and*
- h. Speaks on behalf of the local government; and*
- i. Performs such other functions as are given to the mayor or president by this Act or any other written law; and*
- j. Liaises with the CEO on the local government’s affairs and the performance of its functions.”*

The Deputy Mayor assumes the above role in absences of the Mayor where the Deputy Mayor would ordinarily act as the Mayor.

3.3 Role of the Councillors

The primary role of a Councillor is to represent the community. The effective translation of the community’s needs and aspirations into a direction and future for the City will be the focus of a Councillor’s public life.

The role of a Councillor is set out in s.2.10 of the *Local Government Act 1995* as follows:

“A Councillor —

- a. Represents the interests of electors, ratepayers and residents of the district;*
- b. Provides leadership and guidance to the community in the district;*
- c. Facilitates communication between the community and the council;*
- d. Participates in the local government’s decision-making processes at council and committee meetings; and*
- e. Performs such other functions as are given to a Councillor by this Act or any other written law.”*



Roles and Responsibilities *(cont.)*

Councillors are the decision makers responsible for:

- a. The development of Council policy.
- b. The direction and control of the City.
- c. Making decisions on project priorities and the plans to achieve them.
- d. The periodical review of Council's programs and performance.

A Councillor is part of the team in which the community has placed its trust to make decisions on its behalf. Therefore, the community is entitled to expect high standards of conduct from its elected representatives. In fulfilling the various roles, Councillor's activities will focus on:

- a. Achieving a balance in the diversity of community views to develop an overall strategy for the future of the community.
- b. Achieving sound financial management and accountability in relation to the City's finances.
- c. Ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns.
- d. Working with other governments and organisations to achieve benefits for the community at both a local and regional level.
- e. Having an awareness of the statutory obligations imposed on Councillors and on the City.

In carrying out its functions, the City is to use its best endeavours to meet the needs of current and future generations through integration of environmental protection, social advancement and economic prosperity.

3.4 Role of Committee Members

From time to time, Council will establish committees to assist in its decision making.

Committees can comprise of:

- a. Councillors only.
- b. Councillors and staff.
- c. Councillors, staff and other persons.
- d. Councillors and other persons.

- e. Staff and other persons.
- f. Other persons only.

The role of Committees is generally to deliberate upon matters within their authority as determined by Council, and to give advice and/or make recommendations to Council. With very few exceptions, committees of Council do not have decision making powers. However, Council can, and does occasionally, delegate such powers as and when necessary.

3.5 Role of the CEO and Staff

The CEO is appointed by Council and is the communication link between Councillors and staff. All other Council staff are responsible to the CEO.

The CEO is responsible to the Council for the implementation of Council policies, decisions and budgeted works, the provision of accurate and timely advice to Council and the efficient administration of the Council.

The role of staff is determined by the functions of the CEO which are set out in s.5.41 of the *Local Government Act 1995* as follows:

"The CEO's functions are to —

- a. advise the council in relation to the functions of a local government under this Act and other written laws;*
- b. ensure that advice and information is available to the council so that informed decisions can be made;*
- c. cause council decisions to be implemented;*
- d. manage the day to day operations of the local government;*
- e. liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;*
- f. speak on behalf of the local government if the mayor or president agrees;*
- g. be responsible for the employment, management supervision, direction and dismissal of other employees (subject to S 5.37(2) in relation to senior employees);*



Roles and Responsibilities *(cont.)*

- h. ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- i. perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO."*

3.6 Relationships between Councillors and Staff

An effective Councillor will work as part of the Council team with the CEO and other members of staff. That teamwork will only occur if Councillors and staff have a mutual respect and co-operate with each other to achieve the Council's corporate goals and implement the Council's strategies. To achieve that position, Councillors need to observe their statutory obligations, which include, but are not limited to, the following:

- a. Accept that their role is a leadership role, not a management or administrative one **(Rule of Conduct – Reg 9 refers).**
- b. Acknowledge that they have no capacity to individually direct members of staff to carry out particular functions **(Rule of Conduct – Reg 10 refers).**

- c. Refrain from publicly criticising staff in a way that casts aspersions on their professional competence and credibility **(Rule of Conduct – Reg 10 refers).**

3.7 Team Effort

For the City of Armadale to perform to its maximum capability and potential, it is very important that a team effort prevail between Councillors, CEO, staff, volunteers and other persons appointed to Council committees.

There is an inherent inter-relational dependency between all involved and it is essential that Councillors, CEO, staff, volunteers and other persons appointed to committees not only understand and respect each other's roles, but commit themselves to working together as a team.

This Code is designed to engender that team spirit and encourage productive working relationships for the good of the Armadale community.





Conflicts and Disclosure of Interest

4.1 Conflict of Interest

- a. Councillors, Committee Members, staff and volunteers will ensure that there is no actual (or perceived) conflict of interest between their personal interests, including those of their immediate family, business partners or close associates, and the impartial fulfilment of their professional duties.
- b. Staff will not engage in private work with or for any person or body with an interest in a proposed or current contract with the City without first making disclosure to the CEO. In this respect, it does not matter whether advantage is in fact obtained as any appearance that a private dealing could conflict with performance of duties must be scrupulously avoided.
- c. Councillors, Committee Members and staff will lodge a written notice with the CEO describing an intention to undertake a dealing in land within the City of Armadale area or which may otherwise be in conflict with the Council's functions (other than purchasing their principal place of residence).
- d. Councillors, Committee Members and staff who exercise a recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- e. Staff will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity. An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti-discriminatory legislation.

4.2 Financial Interest

Councillors, Committee Members and staff will adopt the principles of disclosure of financial interest as contained within sections 5.59 - 5.90 of the *Local Government Act 1995*.

4.3 Disclosure of Interest – Impartiality (Councillors, Staff and Committee Members)

In this clause, -

“interest” means an 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.

- a. A person who is a Councillor or an employee and who has an interest in any matter to be discussed at a council or committee meeting attended by the person is required to disclose the nature of the interest:
 - i. In a written notice given to the CEO before the meeting.
 - ii. At the meeting immediately before the matter is discussed.
- b. A person who is an employee and 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 person is required to disclose the nature of any interest the person has in the matter:
 - i. In a written notice given to the CEO before the meeting.
 - ii. At the time the advice is given.



Conflicts and Disclosure of Interest *(cont.)*

- c. A requirement described under items (a) and (b) excludes an interest referred to in s.5.60 of the *Local Government Act 1995*.
- d. A person who is a Councillor or an employee is excused from a requirement made under items (a) or (b) to disclose the nature of an interest if:
 - i. The person's failure to disclose occurs because the person did not know he or she had an interest in the matter.
 - ii. The person's failure to disclose occurs because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.
- e. If a person who is a Councillor or an employee makes a disclosure in a written notice given to the CEO before a meeting to comply with requirements of items (a) or (b), then:
 - i. Before the 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.
- f. If:
 - i. To comply with a requirement made under item (a), the nature of a person's interest in a matter is disclosed at a meeting.
 - ii. A disclosure is made as described in item (d)(ii) at a meeting.
 - iii. To comply with a requirement made under item (e)(ii), a notice disclosing the nature of a person's interest in a matter is brought to the attention of the persons present at a meeting, the nature of the interest is to be recorded in the minutes of the meeting.

The following sample disclosure is provided as a guide to Councillors, Committee Members and staff wishing to make an interest disclosure of an impartiality nature.

With regard to (the matter under discussion)..... , I disclose that I have an association with (applicant or person/organisation under discussion) As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will set aside this association, consider the matter on its merits and vote accordingly.



Personal Benefit

5.1 Use of Confidential Information (Rules of Conduct – Reg 6 refers)

Councillors, Committee Members, staff and volunteers will not use confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially and in good faith, or to improperly cause harm or detriment to any person or organisation.

5.2 Intellectual Property

The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the City upon its creation unless otherwise agreed by separate contract.

5.3 Improper or Undue Influence (Rules of Conduct – Reg 7 refers)

Councillors, staff and volunteers will not take advantage of their position to improperly influence other Councillors or staff in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body. Similarly, Councillors, Committee Members, staff and volunteers will not take advantage of their position to the detriment of Council, the City or other persons.





Gifts and Travel Contributions

Under the *Local Government Act 1995* there is a requirement to declare gifts and travel contributions to the CEO within ten (10) days of receipt, or promise of receipt (whichever comes first).

6.1 Gifts (LGA s.5.82)

All **Councillors and Designated employees** (s.5.74) must declare all gifts that are valued at **\$200 or more** and includes:

“any disposition of property, or conferral of any other financial benefit, made by one person in favour of another otherwise than by will, 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”.

The only time Councillors and designated employees don’t need to declare a gift is when:

- a. The amount of the gift did not exceed the prescribed amount (\$200) unless:
 - i. The gift was one of two or more gifts made by one person at any time during the return period.
 - ii. The sum of those two or more gifts exceeded the prescribed amount.
- b. The donor was a relative of the person.

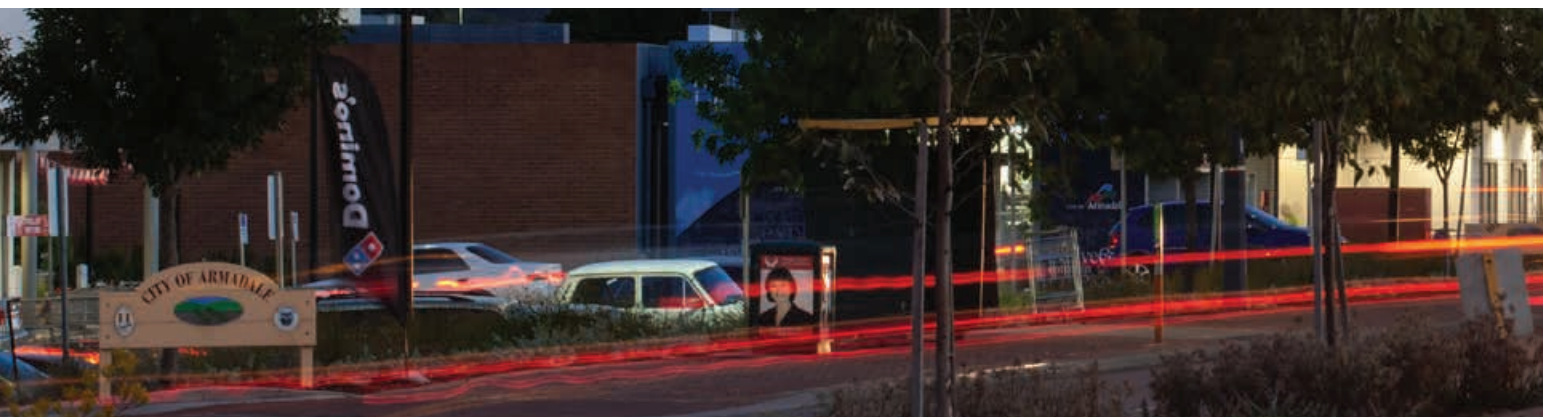
6.2 Notifiable Gifts (LGA Admin Reg. 34B and Rules of Conduct Reg. 12)

All **Councillors** (Refer Reg.12 Rules of Conduct) and **all employees** must declare all gifts from anyone undertaking or seeking to undertake an activity involving local government discretion; or it is reasonable to believe is intending to undertake an activity involving local government discretion and includes:

- a. A gift worth between \$50 and \$300.
- b. A gift that is one or two or more gifts given to the Council Member or employee by the same person within a period of six (6) months that are in total worth between \$50 and \$300.
- c. Gifts worth \$300 or more are ‘prohibited gifts’ and simply cannot be accepted.

Councillors and employees do not have to declare a notifiable gift if it is:

- a. Less than \$50.
- b. Received from a relative as defined by 5.74(1) of the Local Government Act 1995.
- c. A gift that must be disclosed under regulation 30B of the Local Government (Elections) Regulations 1997.
- d. A gift from a statutory authority, government instrumentality or non-profit association for professional training.





Gifts and Travel Contributions *(cont.)*

6.3 Travel Contributions (LGA s.5.83)

All **Councillors and Designated employees** must declare **any contribution towards travel** and **includes accommodation** incidental to a journey.

You do not need to declare a travel contribution when:

- a. The contribution was made from Commonwealth, State or Local Government funds.
- b. The contribution was made by a relative of the person.
- c. The contribution was made in the ordinary course of an occupation of the person which is not related to his or her duties as a Council Member or employee.
- d. The amount of the contribution did not exceed the prescribed amount (\$200) unless:
 - i. The contribution was one of two or more contributions made by one person at any time during the return period.
 - ii. The sum of those two or more contributions exceeded the prescribed amount.
- e. The contribution was made by a political party of which the person was a member and the travel was undertaken for the purpose of political activity of the party, or to enable the person to represent the party.

6.4 Gifts during Local Government Elections (LGA s 4.59 and LG Election Reg 30B)

This requirement relates to **Candidates** and involves gifts that are valued at **\$200 or more** and includes:

“any disposition of property, or the conferral of any financial benefit, made by one person in favour of another”

- a. During the disclosure period of the Local Government election process (as defined by regulation 30C of the Local Government (Elections) Regulations 1997), candidates must:
 - i. Within three days of the making, receipt or promise of a gift, disclose to the CEO the receipt or promise of such a gift.
 - ii. Not receive or accept gifts from a donor whose name and address is not known to the candidate.
- b. A candidate does not commit an offence under regulation 30B(4) of the Local Government (Elections) Regulations 1997 if the candidate cannot provide some or all of the information required in regulation 30F(1) of the Local Government (Elections) Regulations 1997 and on the Disclosure form of an Election Gift if:
 - i. The candidate provides as much of the information as is available to the candidate.
 - ii. Indicates what required information is not provided.
 - iii. Provides reasons for not being able to provide the information.

All Councillors and employees who accept a gift shall declare them through the Attain software system.





Conduct of Councillors, Committee Members, Staff and Volunteers

7.1 Personal Behaviour

- a. Councillors, Committee Members, staff and volunteers will:
 - i. Act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code.
 - ii. Perform their duties impartially and in the best interests of the City, uninfluenced by fear or favour.
 - iii. Act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the City and the community and shall be particularly mindful to avoid interference in commercial relationships between developers and objectors or between developers competing for the right to develop.
 - iv. Make no allegations which are improper or derogatory (unless true and in the public interest) and 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.
 - v. Always act in accordance with their obligation of fidelity and loyalty to the City and not publicly reflect adversely upon any decision of the Council or Council's management.
- b. Councillors will represent and promote the interests of the City, while recognising their special duty to their own constituents.

7.2 Honesty and Integrity

Councillors, Committee Members, staff and volunteers will:

- a. Observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards.
- b. Bring to the notice of the Mayor any dishonesty or possible dishonesty on the part of any other Councillor, or, in the case of an employee, to the CEO, or in the case of a volunteer to the employee who is responsible for overseeing their activities.
- c. Be frank and honest in their official dealing with each other.
- d. Endeavour to resolve serious conflict through initial discussion facilitated by the Mayor or CEO or, in the event that the Mayor or CEO are too closely involved, an independent impartial person or peer group.

7.3 Discrimination

Councillors, Committee Members, staff and volunteers are required to treat each other and members of the community with respect and observe the requirements of Discrimination and Equal Opportunity legislation by:

- a. Ensuring the workplace is free from any form of discrimination.
- b. Applying the philosophy and principles of EEO at all levels of the organisation.
- c. Ensuring they do not engage in unlawful harassment or bullying in the workplace.



Conduct of Councillors, Committee Members, Staff and Volunteers *(cont.)*

7.4 Performance of Duties

- a. While on duty, staff will give their whole time and attention to the City's business and ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably both on them and on the City.
- b. Councillors and Committee Members will at all times exercise reasonable care and diligence in the performance of their duties. Councillors and Committee Members will be as informed as possible about the functions of the Council, and treat all members of the community honestly and fairly.
- c. Councillors when considering matters that may affect a person's rights and interest are obligated to bring an open mind to those matters, free from bias and open to persuasion at the time of determining the matter as a decision maker. Council decisions run the risk of being overturned if a court finds that a Councillor involved in the relevant decision had prejudged the matter, and was not open to persuasion at the time of determining the matter as a decision maker.
- d. Staff have an obligation to be independent in judgement and actions and to take all reasonable steps to ensure that all relevant matters are considered when presenting information.

7.5 Compliance with Lawful Orders

- a. Councillors, Committee Members, staff and volunteers will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the CEO.
- b. Councillors, Committee Members, staff and volunteers will give effect to the lawful policies of the City, whether or not they agree with or approve of them.

7.6 Administrative and Management Practices

Councillors, Committee Members, staff and volunteers will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

7.7 Corporate Obligations

a. Standard of Dress

Councillors, Committee Members and staff are expected to comply with neat and responsible dress standards at all times. Accordingly:

- i. Councillors and Committee Members will dress in a manner appropriate to their position, in particular when attending meetings or representing the City in an official capacity.
- ii. Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual staff.

b. Communication and Public Relations

- i. All aspects of communication by staff (including verbal, written or personal), involving the City's activities should reflect the standards and objectives of the City. Communications should be accurate, polite and professional.
- ii. As a representative of the community, Councillors need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so, Councillors should acknowledge that:
 - » As a member of the Council, there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council.
 - » Information of a confidential nature ought not be communicated until it is no longer treated as confidential.
(Rule of Conduct – Reg 6 refers)



Conduct of Councillors, Committee Members, Staff and Volunteers *(cont.)*

- » Information relating to decisions of the Council on approvals, permits and so on ought only be communicated in an official capacity by a designated officer of the Council.
 - » Information concerning adopted policies, procedures and decisions of the Council is conveyed accurately.
 - » While they will have their own opinions on matters referred to Council, once Council has made a decision, irrespective of those opinions, they are expected to recognise their fiduciary duty and support that decision.
 - » Committee Members accept and acknowledge it is their responsibility to observe any direction the City may adopt in terms of advancing and promoting the objectives of the Committee to which they have been appointed.
- iii. Statements to the press on behalf of the City will only be made by the Mayor or the CEO.

c. Communications with Developers and Interest Groups

Councillors and Committee Members should be mindful that meetings with developers could compromise their impartiality in the decision making process and should at all times have an employee of the City present, if such a meeting is considered necessary. To further protect Councillors from any suggestion of inappropriate behaviour, especially when dealing with matters of a controversial nature, written advice on the proforma at **Attachment A** should be recorded, ideally within 48 hours, with the Mayor and CEO giving details of such meetings.

The Local Government Operational Guidelines No. 12 titled Elected Members Relationship with Developers provides further guidance on this matter.

d. Communication between Councillors

Councillors will represent and promote the interests of their community as a whole, while recognising their particular duty to their own constituents.

At the same time, Councillors and staff should be mindful of the important role of ward Councillors when dealing with issues relevant to a specific ward and should use their best endeavours to inform ward Councillors of such matters.

To further support the above philosophy, it should be recognised that:

- i. Councillors share responsibility and legal liability for the entire City and that Council allocates resources, on a strategic needs basis, guided by the professional and technical advice provided by an employee of the City.
- ii. To maintain a good working relationship, it is appropriate that, in matters of a contentious nature, Councillors seek to communicate with the relevant ward Councillors when contacted by an elector from another ward.
- iii. In communicating with constituents, ward Councillors should always be mindful of clause 7.7(b)(ii) of this Code. Communication from individual Councillors should very clearly state where it is the Councillor's personal opinion and advise that he/she is not able to act or speak on behalf of Council as a whole.

e. Communication between Councillors and Staff

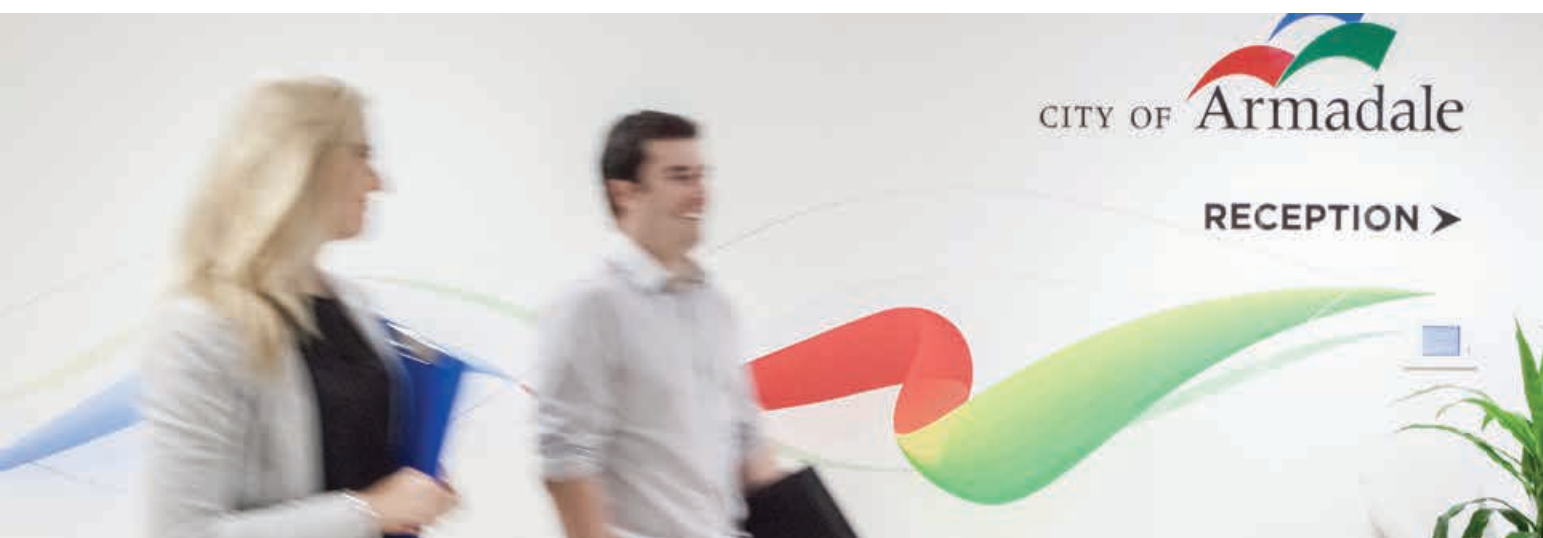
Councillors shall ensure that no restrictions or undue influence is placed on the ability of employees to give professional advice to the Council.

(Rules of Conduct – Reg. 10 refers)

At the same time, staff should recognise that Councillors views and opinions often reflect valid community viewpoints that should be considered in conjunction with professional opinion. Staff should therefore make every effort to assist Councillors in



Conduct of Councillors, Committee Members, Staff and Volunteers *(cont.)*



the performance of their role and to achieve the satisfactory resolution of issues they may raise in performing their official role.

It shall be incumbent on staff when referring a member of the community to their local Councillor over issues that the officer cannot resolve due to current Council policy, that the officer notify the ward Councillors of the referral and any information that may assist in resolving the issue.

7.8 Appointments to Committees

As part of their representative role, Councillors and staff are often asked to represent the Council on external organisations. It is important that Councillors and staff:

- a. Clearly understand the basis of their appointment.
- b. Provide regular reports on the activities of the organisation.
- c. Make every endeavour to personally notify their deputies when they are not able to attend.

7.9 Observers at Committee Meetings

Councillors and staff wishing to attend a meeting of a Committee of which he/she is not a member shall be seated in the area set aside for persons observing and shall not participate in any Committee discussion unless invited to do so by the presiding member of that Committee.

Councillors and staff attending a meeting of a Committee of which they are not a member shall observe the same legislative requirements regarding disclosure of interests (including the requirement to leave the room and not participate) as members of the Committee.



Dealing with Council Property

8.1 Use of Local Government Resources (Rules of Conduct – Reg. 8 refers)

Councillors, staff and volunteers will:

- a. Be scrupulously honest in their use of the City's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body.
- b. Use the City's resources entrusted to them effectively and economically in the course of their duties.
- c. Not use the City's resources (including the services of Council staff) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the CEO).
- d. Not use Council vehicles for private use unless authorised to do so.
- e. Foster an awareness of the community's ownership of the City's natural and built environment.

8.2 Travelling and Sustenance Expenses

Councillors, Committee Members and staff will only claim or accept travelling and sustenance expenses arising out of travel related matters which have a direct bearing on the services, policies or business of the City in accordance with Council's policy and the provisions of the *Local Government Act 1995*.

8.3 Access to Information

- a. Staff will ensure that Councillors are given access to all information necessary for them to properly perform their functions and comply with their responsibilities.
- b. Councillors will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.

(Rule of Conduct – Reg. 6 refers)

8.4 Freedom of Information

Councillors, Committee Members, staff and volunteers acknowledge that:

- a. The *Freedom of Information Act 1992* (FOI Act) was introduced to facilitate public access to documents and an application can be made seeking access to any information held by the City.
- b. An object of the FOI Act is to 'make the persons and bodies that are responsible for State and local government more accountable to the public'.
- c. They are obligated to assist the City's CEO and the City's Freedom of Information officers in locating documents relevant to an application made under the FOI Act.



Breaches and Misconduct

Complaints regarding a breach of this Code or of misconduct will be dealt with quickly and fairly in accordance with the principles of procedural fairness and natural justice.

9.1 Employees and Volunteers

A complaint alleging that an employee or volunteer has breached this Code shall be made in writing. Complaints regarding:

- a. An employee are to be made to the employee's relevant Director or in the case of a volunteer to the employee who is responsible for overseeing their activities.
- b. A Director are to be made to the Chief Executive Officer.
- c. The Chief Executive Officer is to be made to the Mayor.

The complaint will be investigated in a manner that is in accordance with the City's Complaint Handling Procedure, the City's Human Resource Disciplinary Procedures, Public Interest Disclosure Procedures and the principles of natural justice.

9.2 Councillors

A complaint alleging that a Councillor has committed a breach of this Code shall be made in writing to the CEO (Complaints Officer), for minor breach, in the form of Official Conduct Form 1 at **Attachment B** or for a serious breach in the form of the Official Conduct Form 2 at **Attachment C**.

Complaints will be managed in accordance with the *Local Government (Rules of Conduct) Regulations 2007*.

9.3 Misconduct

For the purposes of this Code, misconduct is defined in accordance with section 4 of the *Corruption, Crime and Misconduct Act 2003*.

The Chief Executive Officer has a statutory obligation to report to the Corruption and Crime Commission allegations of suspected serious misconduct.

Allegations of suspected minor misconduct are dealt with by the Public Sector Commission.

9.4 Public Interest Disclosure

The City has a public interest disclosure procedure that provides confidential mechanisms for reporting and investigating misconduct allegations or improper conduct and other public interest information in accordance with the *Public Interest Disclosure Act 2003*.



Glossary of Terms

Misconduct

Misconduct occurs if:

- a. A public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment.
- b. A public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person.
- c. A public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by two or more years' imprisonment.
- d. A public officer engages in conduct that:
 - i. Adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct.
 - ii. Constitutes or involves the performance of his or her functions in a manner that is not honest or impartial.
 - iii. Constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer.
 - iv. Involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person, and constitutes or could constitute.

v. Deleted.

- vi. A disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the *Public Sector Management Act 1994* (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).

(Section 4 *Corruption, Crime and Misconduct Act 2003*)

Minor Misconduct

Means misconduct of a kind described in section 4(d) (*Refer above*) that is not any of the following:

- a. Police misconduct.
- b. Conduct engaged in by a member of a House of Parliament or the Clerk of a House of Parliament.
- c. Conduct engaged in by a member of a Local Government or Council of a Local Government.

(Section 3 *Corruption, Crime and Misconduct Act 2003*)

Serious Misconduct

Means:

- a. Misconduct of a kind described in section 4(a), (b) or (*Refer above*) by a public officer.
- b. Police misconduct.

(Section 3 *Corruption, Crime and Misconduct Act 2003*)



Minor Breach

- a. A council member commits a minor breach if he or she contravenes —
 - i. A rule of conduct under section 5.104(1).
 - ii. A local law under this Act, contravention of which the regulations specify to be a minor breach.
- b. A minor breach is a recurrent breach if it occurs after the council member has been found under this Division to have committed two or more other minor breaches.

(Section 5.105(1) *Local Government Act 1995*)

Serious Breach

A Council Member who commits any offence under a written law, other than a local law made under this Act, of which it is an element that the offender is a council member or is a person of a description that specifically includes a council member commits a serious breach.

(Section 5.105(3) *Local Government Act 1995*)

Gift

Any disposition of property, or conferral of any other financial benefit, made by one person in favour of another otherwise than by will, 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.

Designated Employee

Means:

- a. A CEO.
- b. An employee, other than the CEO, to whom any power or duty has been delegated under Division 4.
- c. An employee who is a member of a committee comprising council members and employees.
- d. An employee nominated by the local government to be a designated employee.

(Section 5.74 *Local Government Act 1995*)



Communication with Developers and Interest Groups Disclosure Form

Clause 7.7 (c) of the City of Armadale Code of Conduct requires Council Members and Committee Members to provide written advice in the prescribed form which details discussions had at meetings held with developers and interest groups.

Date of Meeting:	
Place of Meeting:	
Attendees:	
Topic of Discussion:	
Details of Discussion	

I _____ declare that all information and details provided in this form are true and correct, and no known, relevant information is omitted.

SELECT OPTION 1: ☐ Handwritten Signature

Signed: _____ Date: ____ / ____ / ____

Once signed please send through to the Executive Assistant to the Chief Executive Officer.

SELECT OPTION 2: ☐ Electronic Signature

This form can be sent by email to the Executive Assistant to the Chief Executive Officer provided the email is sent by the person making the disclosure from their work or personal (e.g. Councillors) email account.

Complaint of Minor Breach Form

NOTE: A person who includes information in a complaint knowing it to be false or misleading in a material particular commits an offence (maximum penalty \$5000). If this complaint is made during the campaign period for a local government election (that is, during the period from the opening of nominations to the Election Day), the fact of making the complaint and its details must be kept confidential during that period (maximum penalty \$5000).

Name: _____

Given Name(s) _____ Family Name _____

NAME OF COUNCIL MEMBER/S ALLEGED TO HAVE COMMITTED BREACH:

- ☐ Regulation 4 – Breach of local law relating to conduct at meetings
- ☐ Regulation 6 – Improper disclosure of information
- ☐ Regulation 7 – Securing personal advantage or disadvantaging others
- ☐ Regulation 8 – Misuse of Local Government resources
- ☐ Regulation 9 – Prohibition against involvement in administration
- ☐ Regulation 10 – Relations with Local Government employees
- ☐ Regulations 11 – Non-disclosure of interest adverse to impartially
- ☐ Regulation 12 – Acceptance of gifts

DATE OF INCIDENT: / / 20

WHAT HAPPENED? What are the details of the contravention that is alleged to have resulted in the breach?
[Attach further information if insufficient space]

SIGNED:

Complainant's Signature: _____ **Date:** ____ / ____ / ____

Complaint of Serious Breach Form

NOTE: A person who includes information in a complaint knowing it to be false or misleading in a material particular commits an offence (maximum penalty \$5000). If this complaint is made during the campaign period for a local government election (that is, during the period from the opening of nominations to the Election Day), the fact of making the complaint and its details must be kept confidential during that period (maximum penalty \$5000).

NAME OF PERSON WHO IS MAKING THE COMPLAINT:	
Name: _____	
Given Name(s)	Family Name

NAME OF LOCAL GOVERNMENT (CITY, TOWN, SHIRE) CONCERNED:
NAME OF COUNCIL MEMBER/S ALLEGED TO HAVE COMMITTED BREACH:
DATE OF INCIDENT: ____ / ____ / ____

WHAT IS YOUR COMPLAINT: State the type of your complaint by ticking the appropriate box, and include full details of what happened in that section on the next page

SECTION OF LG ACT	SECTION OF LG ACT
☐ s.5.21 – Member failed to vote on a matter at a Council meeting or a delegated Committee meeting.	☐ s. 5.78 - Non-compliance by Member with the requirements of Sections 5.79, 5.80, 5.81, 5.82. 5.83,5,84, 5,85 and 5.86 In relation to the disclosure of information in a return.
☐ s. 5.65 - Member failed to disclose a disclosable or non-exempted direct or indirect financial interest or a proximity interest In a matter discussed at a Council or Committee meeting.	☐ s. 5.89 - In relation to a disclosure under section 5.65, or a return lodged under section 5.75 or 5.76, Member provided Information in written or oral form that he or she knew to be false or misleading in a material particular or likely to deceive in a material way.

☐ s. 5.67 - After disclosing a Direct or Indirect Financial Interest or a Proximity Interest in a matter before a Council or Committee meeting, Member remained in the meeting or participated in the discussion or decision-making process on the matter without being allowed to do so under s. 5.68 or s. 5.69 of the LG Act.	☐ s. 5.90 - Member published information, derived from register of Financial Interests, without it being a fair or accurate report or summary of the information contained in the register, and without it being published in good faith.
☐ s. 5.69 - Member, with a Direct or Indirect Financial Interest or a Proximity Interest in a matter at Council or any Committee meeting, contravened a condition imposed by the Minister under s. 5.69 of the LG Act allowing the member to participate etc. in the meeting.	☐ s. 5.90 - Member published comment on the facts in register of Financial Interests, without comment being fair and published in good faith.
☐ s. 5.75 - Member failed to lodge a Primary Return when due.	☐ s. 5.93 - Member made improper use of information acquired in the performance of his or her functions under the LG Act or any other written law: (a) to gain directly or indirectly a [financial] advantage for the member or any other person; or (b) to cause [financial] detriment to the Local Government or any other person.
☐ s. 5.76 - Member failed to lodge an Annual Return when due.	
☐ Other (specify section and Act, as applicable):	

WHAT HAPPENED? What are the details of the contravention that is alleged to have resulted in the breach?
[Attach further information if insufficient space]

SIGNED:

Complainant's Signature: _____ **Date:** ____ / ____ / ____



www.armadale.wa.gov.au

