

Kojonup



CODE OF CONDUCT FOR EMPLOYEES

INTRODUCTION

“The conduct of employees must not only be based upon the highest ethical principles, it must be seen to be consistent with those principles.”

In accordance with section 5.51A(1) of the *Local Government Act 1995 (Act)* the Chief Executive Officer (CEO) of every Western Australian local government is to prepare and adopt a Code of Conduct (Code) to be observed by employees.

Employees, Volunteers and Contractors of the Shire of Kojonup (Team Members) are custodians of public resources and trust. In order to continue the effective and efficient administration of this public institution, a set of standards is important to clearly outline the responsibilities and the high standard of professional conduct that needs to be observed to retain the good faith and trust of all parties involved.

This Code recognises local government duties, responsibilities and values in relation to access, equity, ethical decision making (individual and collective), and open and accountable government and ensures the roles and responsibilities of Team Members are understood.

AIM OF THE CODE

This Code aims to cultivate, advocate and develop within the local government an awareness of propriety within public administration. It aims to complement the principles adopted in the *Act* and Local Government (Administration) Regulations 1996 (Regulations) which incorporate four fundamental aims resulting in:

- a. better decision-making by local governments;
- b. greater community participation in the decisions and affairs of local governments;
- c. greater accountability of local governments to their communities; and
- d. more efficient and effective local government.

However, the Code does not establish a rule for every situation a Team Member may face while undertaking their duties on a daily basis.

The Code must be read in conjunction with the Shire’s Policies and Procedures, the *Act*, the Regulations, and other legislation that affect Team Members while performing their duties. Explicitly, the Code does not override or affect those provisions or legal obligations of Team Members in performing their duties. The provisions of the Code apply upon commencement of employment and for the duration of employment.

The Code, therefore, provides a *framework for behaviour* that must be observed in the wide range of interactions and scenarios experienced in the conduct of local government activities on a daily basis and aligns with the Shire’s values.

OUR VALUES

Integrity

We will act in an honest, professional, and accountable manner that maintains the community trust.

Care and Respect for People

We will treat people with respect in all of our interactions. We are committed to the safety and wellbeing of our community and Team Members, and will show care and empathy when addressing issues.

Responsible

We are mindful of our role as custodian of the community's assets, and will make decisions in a responsible manner. We will consider value for money in decision making and ensure that our operations and systems promote efficiency and good governance.

Open and Reliable

We will carry out our business in a transparent and approachable way, respecting diverse views and valuing the input and contributions from the community. We will act consistently and communicate clearly.

STATUTORY ENVIRONMENT

This Code observes statutory requirements in s. 5.51A of the *Act* (Codes of conduct for local government employees) and includes matters prescribed in Part4A of the Regulations.

Local Government Employees

The role of Local Government employees is determined by the functions of the CEO as set out in s. 5.41 of the *Act*:

'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);*
- 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.'*

For the purposes of the Code, the term **local government employee** means a person —

- (a) employed by a local government under s. 5.36(1) of the Act; or
- (b) engaged by a local government under a contract for services.

Section 5.36. of the Act states:

- (1) *A local government is to employ —*
 - (a) *a person to be the CEO of the local government; and*
 - (b) *such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.*

The following principles, set out in s. 5.40 of the Act, apply to the employment of local government employees:

- (a) employees are to be selected and promoted in accordance with the principles of merit and equity; and
- (b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage; and
- (c) employees are to be treated fairly and consistently; and
- (d) there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the *Equal Opportunity Act 1984* or on any other ground; and
- (e) employees are to be provided with safe and healthy working conditions in accordance with the *Work Health and Safety Act 2020*; and
- (f) such other principles, not inconsistent with this Division, as may be prescribed.

Role of Council

The Role of the Council is in accordance with s. 2.7 of the Act:

1. The council —
 - a) governs 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 —
 - a. oversee the allocation of the local government's finances and resources; and
 - b. determine the local government's policies.

PRINCIPLES AFFECTING THE EMPLOYMENT OF SHIRE OF KOJONUP TEAM MEMBERS

Accountable and ethical decision-making

The way Team Members conduct themselves impacts directly on maintaining a high level of community trust and confidence. Being accountable and ethical in all that Team Members do and the decisions they make, impacts positively on the level of community trust.

Accountable and ethical decision-making is about putting the public first, fulfilling public duty, making decisions and taking actions that can be justified and accurately explained.

In practice, putting public interest first and foremost means:

- ensuring actions and decisions are impartial and unbiased;
- acting fairly and justly, abiding by principles of due process and natural justice;
- being accountable and transparent;
- performing duties as effectively and efficiently as possible;
- behaving in accordance with legislation and this Code of Conduct; and
- declaring any potential conflicts of interest.

Making ethical and accountable decisions is based on the four guiding principles of honesty, transparency, diligence and consistency. In view of this, there are four key fundamental questions central to ethical and accountable decision making:

- Am I doing the right thing?
- How would others judge my actions?
- How could my actions impact on others?
- Should I discuss this with someone else?

Securing personal advantage or disadvantaging others

Team Members will ensure compliance with proper and reasonable administrative practices, conduct, and procedures.

A Team Member must not make improper use of any information acquired by the Team Member in the performance of their duties, as per s. 5.93 of the Act:

s. 5.93:

Prohibits a council member, committee member or employee from making improper use of any information acquired in the performance by the person of his or her functions under the Local Government Act 1995 or any other written law to:

- (a) gain directly or indirectly an advantage for themselves or for any other person; or*
- (b) cause detriment to the Shire or any other person.*
- (c) The penalty on conviction, is a fine of \$10,000 or imprisonment for 2 years.*

Conflict of Interest

r. 19AA of the Regulations:

In this clause of the Regulations ‘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.

s. 5.60A. of the Act - **Financial interest**

For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

s. 5.60B. of the Act - **Proximity interest**

(1) *For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —*

- (a) *a proposed change to a planning scheme affecting land that adjoins the person’s land; or*
- (b) *a proposed change to the zoning or use of land that adjoins the person’s land; or*
- (c) *a proposed development (as defined in section 5.63(5)) of land that adjoins the person’s land.*

(2) *In this section, land (the **proposal land**) adjoins a person’s land if —*

- (a) *the proposal land, not being a thoroughfare, has a common boundary with the person’s land; or*
- (b) *the proposal land, or any part of it, is directly across a thoroughfare from, the person’s land; or*
- (c) *the proposal land is that part of a thoroughfare that has a common boundary with the person’s land.*

(3) *In this section a reference to a person’s land is a reference to any land owned by the person or in which the person has any estate or interest.*

Team members declaring a financial or proximity interest must withdraw from the meeting while the item is under discussion (except for trivial interests/interests in common or if declaring an Impartiality Interest). Team members declaring an Impartiality Interest are not required to withdraw from the meeting but may be asked to.

Managing Conflict of Interest

1. Team Members will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties. This includes disclosing private relationships within the work place.
2. Team Members will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Local Government, without first making disclosure to the Chief Executive Officer. In this respect, it does not matter whether advantage is in fact obtained as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
3. Team Members will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the municipality which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).
4. Team Members who exercise recruitment or other discretionary functions will make disclosure before dealing with relatives or close friends and the CEO may disqualify them from dealing with those persons.
5. Team Members 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; this is supported by anti-discriminatory legislation.

The nature of the Shire's business is conducive to conflicts of interests arising between a Team Member's personal interests and the performance of their public or professional duties. Genuine or perceived conflicts of interests may arise from a number of sources including friends, relatives, close associates, financial investments, past employment and the like.

The Shire understands that in a rural and regional community many relationships do occur whether they are personal, with relatives, or otherwise, and it is recognised that relationships can be conducive toward the Shire's operations. However, the Shire requires that close personal relationships including but not limited to friends, relatives, close associates, financial investments, past employment and the like, be declared to the CEO and to the Council.

Although there is no specific way to identify a conflict of interest, a good starting point is to consider the following principles:

Public duty versus Private interests

Do I have personal or private interests that may conflict, or be perceived to conflict, with my public duty?

Potential

Could there be benefits for me now, or in the future, that could cast doubt on my objectivity?

Perception

How will my involvement in the decision/action be viewed by others? Are there risks associated for me/my organisation?

Proportion

Does my involvement in the decision appear fair and reasonable in all circumstances?

Presence of mind

What are the consequences if I ignore a conflict of interest? Would I be comfortable if the public questioned by involvement or my colleagues became aware of my association or connection with an individual or organisation? Would there be a later criticism of perceived undisclosed partiality if I were not to disclose?

Promises

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

It is important for Team Members to remain aware of their obligations and the directives that guide their conduct. These obligations are contained within employment contracts, common law and this Code, as well as other legislation that affects Team Members while performing their duties. If in doubt declare your interest or seek advice.

Disclosing an Interest

r. 19AD. of the Regulations - **Conflicts of Interest**

A Shire Team Member who has an interest in any matter to be discussed at a Council or Committee meeting or Briefing Session attended by the Team Member, that must be disclosed, must make that disclosure:

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

A local government employee is excused from a requirement to disclose the nature of an interest if the local government employee fails to disclose the nature of an interest because they did not know and could not reasonably be expected to know —

- (a) that they had an interest in the matter; or
- (b) that the matter in which they had an interest would be discussed at the meeting and they disclosed the nature of the interest as soon as possible after the discussion began.

Before a meeting the CEO must cause a written notice of disclosure to be given to the person who is to preside at the meeting. The person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed. The nature of the interest must be recorded in the minutes of the meeting.

Improper or Undue Influence

Team Members will not take advantage of their position to improperly influence others 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 or cause detriment to the Shire or any other person.

Gifts and Potential Bribery

Section 5.57 of the Act states the following:

'gift' means –

- (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;*
travel includes accommodation incidental to a journey; travel contribution means a financial or other contribution made by 1 person to travel undertaken by another person.

r. 19AA. – Terms used

'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.*

'Gift' does not include:

- *a gift from a 'relative':*
Section 5.74(1) of the Local Government Act 1995 states the following – relative, in relation to a relevant person, means any of the following
 - (a) a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant of the relevant person or of the relevant person's spouse or de facto partner;*
 - (b) the relevant person's spouse or de facto partner or the spouse or de facto partner of any relative specified in paragraph (a), whether or not the relationship is traced through, or to, a person whose parents were not actually married to each other at the time of the person's birth or subsequently, and whether the relationship is a natural relationship or a relationship established by a written law.*
- *a gift that must be disclosed under the Local Government (Elections) Regulations 1997 regulation 30B:*
- *a gift from a statutory authority, government instrumentality or non-profit association for professional training;*
- *or a gift from WALGA, the Australian Local Government Association Limited, the Local Government Professionals Australia WA or the LG Professionals Australia.*

Team Members [excluding the CEO as per r. 19AB. (1)] are not to accept a gift, other than a gift below the value of \$50, from a person who is undertaking, or is likely to undertake, business:

- (a) That requires the person to obtain any authorisation from the local government;
- (b) By way of contract between the person and the local government; or
- (c) By way of providing any service to the local government.

In accordance with r. 19AB. (2), a local government employee must also not accept a prohibited gift (a gift with a value of \$50 [the threshold amount] or more) from an associated person (r. 19AA.) or a gift that is 1 of 2 or more gifts given to a local government employee by the same person within a period of 1 year that are in total worth the threshold amount or more.

Team Members who accept a gift valued below \$50 from a person referred to above are to declare the gift to the CEO in writing (within 10 days after receipt of the gift); the CEO will record the details in a register of token gifts, as per s. 5.87C.:

- (a) *a description of the gift;*
- (b) *the name and address of the person who made the gift;*
- (c) *the date on which the gift was received;*
- (d) *the estimated value of the gift at the time it was made;*
- (e) *the nature of the relationship between the person who made the gift and the person who received the gift;*
- (f) *in the case of a travel contribution —*
 - (i) *a description of the travel; and*
 - (ii) *the date of the travel.*

unless the Local Government decided that the specified gifts were given by way of hospitality in which case the specified gifts need not be recorded.

The CEO must maintain the register of gifts in which details of notices received are recorded and publish that register on the Shire's website.

Public Interest Disclosure

A public interest disclosure is made when a person discloses, to a proper authority, information that tends to show past, present or proposed future improper conduct by a public body in the exercise of public functions. Once a disclosure of public interest information has been made, it cannot be withdrawn – a proper authority is required to investigate it and take action regardless of any subsequent attitude of the discloser.

Public interest information may relate to any departments, agencies, local governments or regional local governments, or bodies established under State law (or by the Governor or a Minister) for a public service. Public interest information may relate to members, officers and employees of public authorities (e.g.; local governments and regional local governments) and also to contractors engaged by public authorities for the supply of goods and services or the performance of public functions.

If it is suspected that a public officer has done something wrong (either in performing the duties of their job, or it affects their fitness to do their job), it should be reported. Reporting builds the integrity of government and is an important part of the accountability framework.

Generally, a disclosure is made, in the first instance, to the public authority concerned.

The *Public Interest Disclosure Act 2003 (PID Act)* facilitates the disclosure of public interest information and provides protection for those making such disclosures as well as those who are the subject of disclosures. The *PID Act* provides a system for the matters disclosed to be investigated and for appropriate action to be taken. The *PID Act* does not confer additional powers on public authorities to investigate or take action in relation to public interest disclosures; however, in some circumstances, may require a public authority to investigate and notify the person making the disclosure of the action taken. A claim cannot be made in relation to victimisation that occurred prior to the *PID Act* coming into effect on 1 July 2003.

Given that public interest information disclosure is a serious matter, the following should be fully considered by a discloser:

- Whether there are reasonable grounds to believe the information they are thinking of disclosing is or may be true;
- The information is something that is important to be disclosed because it is in the public interest;
- If proper advice has been sought; and
- If they fully understand their rights and responsibilities under the *PID Act* if they make a disclosure.

Improper conduct only applies where the conduct relates to the performance of the functions of a public authority, public officer or the performance of public functions. As an example, the *PID Act* would not apply to information that an employee has engaged in criminal behaviour unconnected with their employment. To be considered misconduct, public interest information must tend to show the involvement of a public body in:

- Improper conduct;
- An offence against State law;
- A substantial mismanagement of public resources;
- Conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment; or
- Conduct relating to matters of administration affecting someone in their personal capacity failing within the jurisdiction of the Ombudsman.

A public authority may refuse to instigate or continue an investigation where it considers that:

- The matter is trivial;
- The disclosure is vexatious or frivolous;
- There is no reasonable prospect of obtaining sufficient evidence due to the time that has elapsed since the occurrence of the matter; or
- The matter is being or has been adequately or properly investigated by another proper authority to which an appropriate disclosure of public interest information has been made.

Differences between a grievance and a public interest disclosure

Grievance	Public Interest Disclosure
Aims to resolve a complaint or dispute	Does not aim to resolve a grievance or dispute
Aims to deal with the complaint as close to the source as possible i.e.; to resolve differences directly between the parties concerned	This principle is not relevant to the handling of a public interest disclosure
Usually a dispute between an employee and management, or between two parties	More than a dispute between two parties – relates to a matter of public interest
A complainant generally 'owns' the complaint and can withdraw it at any stage	The discloser doesn't 'own' the disclosure once it has been made and cannot withdraw it
Generally can be resolved by agreement between the parties	The aim is not to resolve the issue between two or more parties

The Shire of Kojonup has a Public Interest Disclosure Procedure (PID Procedure) outlining the process to be followed when a Public Interest Disclosure arises that falls within the sphere of responsibility of the Shire of Kojonup. The Shire of Kojonup's PID Procedure, to be followed by the Public Interest Disclosure Officer, was adopted by Council in August 2018.

The Public Interest Disclosure Officer currently assigned to receive Public Interest Disclosures is the officer fulfilling the Executive Assistant role. Team members should refer all disclosers of public interest information to the team member fulfilling the Executive Assistant role.

Principal Officers (Shire of Kojonup Chief Executive Officer) are required to notify the Public Sector Commissioner in writing of all reasonable suspicions of minor misconduct. Principal Officers are required to notify all reasonable suspicions of serious misconduct to the Corruption and Crime Commission.

Further information is available within the PID Procedure.

CONDUCT OF TEAM MEMBERS

Personal Behaviour

Team Members will:

1. Act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
2. Act in good faith (i.e.; honestly, for the proper purpose, and without exceeding their powers) in the interests of the Local Government and the community;
3. Always act in accordance with their obligation of fidelity to the Local Government;
4. Act in accordance with the trust placed in them as a Team Member of the Shire;
5. When making recommendations, and determinations on behalf of the Shire, apply due diligence in the collation and assessment of relevant information; and
6. Communicate in a polite, professional and accurate manner.

Honesty and Integrity

Team Members will:

1. Observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
2. Be respectful and honest in their official dealings with each other, elected members and with the broader community;
3. Perform their duties impartially and in the best interests of the Local Government uninfluenced by fear or favour;
4. Bring to the notice of your Manager and/or CEO any dishonesty on the part of any other Team member;
5. Act with reasonable care and diligence;
6. Treat others with respect and fairness;
7. Avoid damage to the reputation of the Shire.

Relationships with others

A Team Member should –

- (a) respect and value diversity and inclusion while employed at the Shire and in the community;
- (b) maintain and contribute to a harmonious, safe and productive work environment.
- (c) be familiar with and adhere to Equal Employment Opportunity requirements and complaint procedures;
- (d) report any form of bullying or harassment to their managers or to the Chief Executive Officer (CEO); and
- (e) assist in ensuring that reasonable steps are taken to eliminate any bullying, harassment and victimisation.

A Team Member must not –

- (a) bully or harass another person in any way;
- (b) use offensive or derogatory language when referring to another person;
- (c) disparage the character of another Team Member in connection with the performance of their official duties;
- (d) impute dishonest or unethical motives to another Team Member in connection with the performance of their official duties; or

- (e) make any allegations which are improper or derogatory and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any person unwarranted offence or embarrassment.

Respect for Elected Members

Team Members are expected to address elected members as Councillor on formal occasions. In all other instances, the use of formal titles is encouraged unless the individual Councillor advises otherwise.

CORPORATE OBLIGATIONS

Access to and Use of Information

Team Members will, through the CEO, ensure that other team and Council members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities as Team and Council Members.

In this Code:

- 1) 'closed meeting' means a Council or Committee Meeting or Briefing Session, or a part of a Council or Committee meeting or Briefing Session, that is closed to members of the public under section 5.23(2) of the Act;
- 2) 'confidential document' means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;
- 3) 'document' includes a part of a document;
- 4) 'non-confidential document' means a document that is not a confidential document.

A Team Member must not disclose information that the Team Member -

- (a) derived from a confidential document;
- (b) acquired at a closed meeting, other than information derived from a non-confidential document; or
- (c) has come to be aware of through the performance of the Team Member's duties, where that information (written or oral) is obtained by them in confidence and is considered confidential by the Shire.

Record Keeping

Team Members will comply with the record keeping obligations of the Shire and follow all necessary procedures to protect the information and data the Shire collects, in accordance with the Shire's Record Keeping Plan.

Team Members must ensure that information created in the course of their employment is trustworthy and accurate, is recorded accurately, and is stored consistently with relevant laws and the Shire's Record Keeping Plan and associated procedures.

Travel and Sustenance Expenses

Team Members will only claim or accept travelling and sustenance expenses arising from out of hours business travel related matters which have a direct bearing on the services, policies

or business of the Shire in accordance with policy 2.2.3 *Employee Conferences, Seminars & Workshops*, and the provision of the *Work Health and Safety Act 2020*.

Other employment and appointments to groups

Other employment includes paid employment with another person, organisation or body (not being the Shire), applies to all full-time and part-time employees and includes –

- (a) running a self-owned business or other small business;
- (b) maintaining a professional practice or consultancy;
- (c) a directorship of a company or board; or
- (d) voluntary activities where those activities have the potential to affect a person's employment at the Shire.

The Shire, as part of its recruitment process, is to identify other employment being undertaken or likely to be undertaken by a person selected as a prospective employee.

Any employee considering outside employment (including during leave periods) must seek written approval from the CEO before doing so.

Performance of Duties and Accountability

A Team Member should –

- (a) base all decisions on relevant and factually correct information;
- (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness;
- (c) be open and accountable to the Shire and the community;
- (d) give their whole working time and attention to the Local Government'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 Local Government;
- (e) When making recommendations, and determinations on behalf of the Shire, apply due diligence in the collation and assessment of relevant information; and
- (f) Report to the workplace 'fit for work', which includes not being impaired by alcohol or drugs in the performance of their duties.

Standard of Dress

Staff are expected to report to the workplace appropriately attired and reflecting a positive image of the Shire including utilising and wearing appropriate personal protective equipment (where required and issued to them for the performance of their duties).

Team Members will comply with neat and responsible dress standards at all times. Management reserves the right to raise the issue of dress with individual Team Members.

Communication and Public Relations

All aspects of communication by Team Members (including verbal, written or personal) involving local government activities should reflect the status and objectives of the Shire.

Media and External Communications

All media and external communications should be referred to the CEO for commentary. Team Members must respect the decision-making processes at the Shire which are based on a decision of the majority and comply with the *Act* whereby information relating to the decisions of Council are to be communicated in an official capacity only by:

- (a) the President; or
- (b) with the agreement of the President, by the CEO (or Team Member authorised by the CEO).

Team Members must exercise caution when participating as private citizens in public debate, forums and commentary so as not to be perceived as representing the Shire.

A Team Member must refrain from commenting publicly or on social media platforms where it can potentially affect the impartial performance of their duties or affect the positive image of the Shire.

Legal Representation and Costs Indemnification

Team Members may become involved in legal action in the course of performing their official duties and functions. In such circumstances there may arise a need for legal representation and Council has adopted a policy to provide assistance where the circumstances warrant it (Policy 3.23 – Legal Representation Costs Indemnification).

Use of Local Government Resources

Team Members will:

- (1) Be scrupulously honest in their use of the Shire of Kojonup's resources (including financial) and shall not misuse them or permit their misuse by any other person or body;
- (2) Use those resources entrusted to them effectively, efficiently and economically in the course of their duties; and
- (3) Not use those resources for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so in accordance with policy *4.9 Private Use of Council Plant and Equipment Policy*.

Intellectual Property

The title to Intellectual Property in all duties is owned by the Shire upon its creation unless otherwise agreed by separate contract.

COMPLIANCE WITH LAWFUL ORDERS

Team Members will:

- (1) Act, and be seen to act, properly and in accordance with the trust placed in them as a Team Member and in compliance with requirements of the law and this Code; that is, to act lawfully and in good faith;
- (2) Comply with any lawful order given by any person having authority to make or give such an order. Any doubts as to the propriety of an order shall be taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the Chief Executive Officer;

- (3) Always act in accordance with their employment obligations to the Shire and give effect to the lawful policies of the Local Government, whether or not they agree with or approve of them;
- (4) Comply with all local laws, policies, procedures and protocols of the Shire and give effect to any lawful direction or reasonable management direction in the performance of their duties;
- (5) Act in line and in accordance with any delegations of authority or powers given to them as a Team Member;
- (6) Comply with all resolutions of the Council and put them into effect when directed.

BULLYING, HARASSMENT AND DISCRIMINATION

This component of the Code is to be read in conjunction with Council's *Policy 2.2.2 – Elimination of Harassment in the Workplace* (which references the Employee Manual) and *Policy 2.2.15 – Grievances, Investigation and Resolution Policy*.

The Shire of Kojonup values its Team Members and believes in conducting the organisation in such a way that it ensures fair, equitable and non-discriminatory employment and operational practices. It is the Shire's aim to provide a safe work environment that is free from inappropriate behaviour and will take all reasonable steps to minimise and eliminate any form of workplace bullying, harassment and victimisation and to treat people with equity and dignity.

This Code applies to any form of harassment on the grounds of disability, gender, marital status, sexual orientation, age, creed, race, religion or national origin.

The Shire will ensure:

- (1) all reasonable steps are conducted to prevent bullying, harassment and victimisation;
- (2) complaints are responded to and investigated in a timely and confidential manner; and
- (3) support is provided, if desired, through the Employee Assistance Program (provided by Local Government Insurance Services) for those who have been bullied or harassed.

It is important to note that this Code is not limited to the Shire's workplace or a Team Member's ordinary working hours.

The Shire retains the legal right to direct and control how work is done. It is management's responsibility to monitor workflow and manage performance and it is important Team Members differentiate between a person's legitimate authority at work and abuse or bullying.

Performance management and asking targeted questions about performance are not deemed bullying, harassment nor vilification or victimisation.

The Shire expects and empowers Team Members to hold each other accountable for performance and behaviours with all due respect.

GRIEVANCES AND DISPUTE RESOLUTION

Complaints Procedure

The Shire will ensure:

- **Impartiality** – All sides have a chance to tell their side of the story. No assumptions will be made and no action will be taken until all relevant information has been collected and considered.
- **Freedom from repercussions** – No action will be taken against anyone for making a valid, truthful complaint or helping someone in making a valid, truthful complaint.
- **No victimisation** – The Shire will take all necessary steps to ensure that no victimisation occurs against anyone who makes a complaint.
- **Timeliness** – All complaints will be dealt with as effectively and efficiently as possible.
- **Complete confidentiality** – Team Members can feel secure that if they do make a complaint under this complaints procedure, it will remain as confidential as possible. The only people who will have access to information about the complaint will be the Team Member making the complaint (complainant), the investigators, and, where necessary, the person whom the complaint is about (respondent) and their support person. In some situations, details of a complaint will also have to be told to potential witnesses. Only the people directly involved in making or investigating a complaint will have access to information about the complaint.

Individuals involved in any way with an investigatory process (including complainants, alleged offenders or witnesses) who breach confidentiality requirements explained to them at any time prior to, during or after the investigation process, will face disciplinary consequences for their actions including potential termination of employment.

Facing the Issue

Where possible it is suggested that aggrieved persons speak directly with the person concerned to try and resolve the issue, in the first instance. The stakeholder should explain to the person involved that the behaviour is offensive and that it is unwelcome and should stop. Should the aggrieved person not feel comfortable to have this discussion, then the CEO or Direct Manager should be contacted to report the issue.

How to report the Issue

The complainant should approach their Manager or the CEO, whichever role is their responsible Manager.

This person will either undertake the formal or informal complaint procedure depending upon the nature of the complaint and the desired outcome of the complainant.

Team Members who are victims of bullying or harassment are encouraged to keep a detailed record (e.g. place, date, time, and incident) of any unacceptable behaviour witnessed or experienced firsthand.

The information recorded may be useful later; particularly, if formal steps need to be taken. It may also help to establish whether the behaviour is actually bullying and to keep things in perspective.

Each person who is involved in the investigation process or who is part of a complaint will be requested to sign a non-disclosure form to protect everyone in the process.

Team Members are encouraged to try to resolve a workplace complaint informally unless they believe serious misconduct or a breach of the law has occurred.

A Team Member will not be penalised or victimised for making a complaint. Wherever possible, the Shire will make every effort to maintain confidentiality of any complaint with only those persons who need to know about the actual complaint being privy to the nature of the complaint.

Should a Team Member make a complaint, the Shire will make every effort to deal with the complaint and, where necessary, investigate the nature of the complaint in a prompt and impartial manner. Management reserves the right to alter the order of the complaint procedure and reserves the right not to follow the above sequence where deemed necessary by the Shire in individual circumstances.

Breaches of the Code - Reporting and Management of Suspected Breaches of the Code

The following sets out the mechanism for dealing with alleged breaches of the conduct requirements of this Code and other reporting mechanisms relating to the conduct of Team Members.

Reporting suspected code breaches

- (1) Any person who has reason to believe an employee (other than the CEO) breaches the conduct requirements set out within this Code, may refer the matter to the offending employee's immediate supervisor (if known) or Senior Manager or the CEO.
- (2) Where a matter is raised with the employee's supervisor, the employee's supervisor or the CEO will consider the matter and manage it in accordance with the applicable Shire process and any applicable law relating to employees.
- (3) Any person who has reason to believe the CEO breaches the conduct requirements set out in this Code, may refer the matter to the Manager Corporate and Financial Services and, if this role is vacant, then the Shire President.
- (4) Where a matter is raised with the Manager Corporate and Financial Services, they will consider the matter and manage it in accordance with the applicable Shire process and any applicable law.
- (5) All suspected breaches raised are to be dealt with quickly and fairly in accordance with the principles of procedural fairness.

Other reporting mechanisms

- (1) Under section 45H of the *Corruption, Crime and Misconduct Act 2003*, the CEO is required to notify the Public Sector Commission of all reasonable suspicions of minor misconduct by Team Members.
- (2) Under section 28 of the *Corruption, Crime and Misconduct Act 2003*, the CEO is required to notify the Corruption and Crime Commission of all reasonable suspicions of serious misconduct by Team Members.
- (3) Under the *Corruption, Crime and Misconduct Act 2003*, any person can report any reasonable suspicion of minor misconduct involving a public officer to the Public Sector Commission or, alternatively, any reasonable suspicion of serious misconduct to the Corruption and Crime Commission.
- (4) In accordance with the *Public Interest Disclosure Act 2003*, a person can report any of the following activities of possible breach activities of a Team Member to the Shire's appointed Public Interest Disclosure officer –
 - (a) improper conduct;
 - (b) an act or omission that constitutes an offence under State law, including corruption;
 - (c) substantial unauthorised or irregular use of, or substantial mismanagement of, Shire resources;
 - (d) conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment; or
 - (e) a matter of administration that can be investigated under s. 14 of the *Parliamentary Commissioner Act 1971*.

Note:

Section 4 of the Corruption, Crime and Misconduct Act 2003 defines the instances when 'misconduct' occurs. Term used: 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; or

(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 another person, or to cause a detriment to any person; or

(c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years' imprisonment; or

(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; or

(ii) constitutes or involves the performance of his or her functions in a manner that is not honest or impartial; or

(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; or

(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) 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 3 of the Corruption, Crime and Misconduct Act 2003 defines 'serious misconduct' as misconduct of a kind described in section 4(a), (b) or (c) of the Corruption, Crime and Misconduct Act 2003.