

# SHIRE OF KOJONUP

## Code of Conduct

*for Council Members, Committee Members and Candidates*

Adopted pursuant to s.5.104 of the Local Government Act 1995 (WA)

Incorporating the Local Government (Model Code of Conduct) Regulations 2021

As amended by the Local Government Amendment Act 2023 and Local Government Amendment Act 2024

<b>Document Title</b>	Code of Conduct for Council Members, Committee Members and Candidates
<b>Local Government</b>	Shire of Kojonup
<b>Legislation</b>	Local Government Act 1995 (WA) s.5.104
<b>Model Code Authority</b>	Local Government (Model Code of Conduct) Regulations 2021
<b>Amendment Acts</b>	Local Government Amendment Acts 2023 and 2024
<b>Date of Effect</b>	7 December 2024 (latest amendments in force)
<b>Review Date</b>	Within 12 months of each ordinary election
<b>Applies To</b>	All Council Members, Committee Members and Candidates

### 1. Introduction and Purpose

The Shire of Kojonup is committed to serving the community with integrity, transparency and accountability. This Code of Conduct ('the Code') sets out the standards of behaviour expected of all Council Members, Committee Members and Candidates in performing their roles on behalf of the Shire.

This Code has been adopted by the Shire of Kojonup pursuant to section 5.104 of the Local Government Act 1995 (WA) ('the Act') and incorporates the mandatory requirements of the Local Government (Model Code of Conduct) Regulations 2021 ('the Regulations'). It has been updated to reflect amendments introduced by the Local Government Amendment Act 2023 and the Local Government Amendment Act 2024, the latter of which came substantially into force on 7 December 2024.

All Council Members, Committee Members and Candidates are required to observe this Code at all times in the performance of their official duties.

## 2. Legislative Framework

This Code is established under, and must be read in conjunction with, the following legislation and instruments:

Legislation / Instrument	Relevance
<b>Local Government Act 1995 (WA)</b>	Primary governing legislation for all WA local governments. Establishes councillor roles, responsibilities, conduct framework and disciplinary processes.
<b>Local Government (Model Code of Conduct) Regulations 2021</b>	Prescribes the mandatory model code of conduct containing general principles, behavioural requirements and rules of conduct. Came into effect 3 February 2021.
<b>Local Government Amendment Act 2023</b>	First tranche of major WA local government reforms, implementing changes to elections, representation and governance.
<b>Local Government Amendment Act 2024 (No.47 of 2024)</b>	Second and most significant tranche of reforms since 1995. Came substantially into force 7 December 2024. Introduces the Local Government Inspector, revised councillor role definitions, strengthened CEO protections and updated conduct framework.
<b>Work Health and Safety Act 2020 (WA)</b>	Imposes due diligence obligations on Council Members as officers of a PCBU in relation to workplace health and safety.
<b>Local Government Legislation Amendment Act 2019</b>	Introduced mandatory code of conduct requirements and modernised the standards panel system.
<b>The Criminal Code (WA)</b>	Provides for serious criminal offences relevant to public officers including corruption (s.83).

### Key Reform — Local Government Amendment Act 2024

*The Local Government Amendment Act 2024 (No. 47 of 2024) represents the most significant changes to local government in WA in over 25 years. Effective 7 December 2024, it introduced the new independent Local Government Inspector with broad oversight and early intervention powers, clarified the roles and duties of Councillors and CEOs, and overhauled the complaints and conduct system. Council Members must be familiar with these changes as they directly affect the obligations set out in this Code.*

## 3. Application of This Code

### 3.1 Who This Code Applies To

This Code applies to:

- All elected Council Members of the Shire of Kojonup
- All Committee Members (whether or not they are Council Members)
- All Candidates for election as a Council Member

In accordance with clause 16(2) of Schedule 1 of the Regulations, a reference to a 'council member' in the Rules of Conduct (Division 4) includes a council member acting as a committee member.

### 3.2 When This Code Applies

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This Code applies to all conduct undertaken in connection with the performance of a person's role as a Council Member, Committee Member or Candidate, including:

- Attendance at Council and committee meetings
- Participation in workshops, briefings and other official Shire events
- Use of social media and other communications in connection with their official role
- Interactions with other Council Members, Shire employees, residents and the general public in their official capacity
- Any conduct that could reasonably reflect on the Shire or on the office of Councillor

### 3.3 Oath of Office

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Upon taking office, each Council Member is required to declare, in the form prescribed by the Local Government (Constitution) Regulations 1998, that they will duly, faithfully, honestly and with integrity fulfil the duties of their office and will observe this Code of Conduct.

## 4. Role and Responsibilities of Councillors

The role of a Councillor is defined in section 2.10 of the Local Government Act 1995, as amended by the Local Government Amendment Act 2024 (effective 7 December 2024). A Councillor:

- Represents the interests of the electors, ratepayers and residents of the district and takes account of the interests of other persons who work in, or visit, the district
- Participates in the deliberation and decision-making of the local government at Council and committee meetings
- Facilitates communication with the community about Council decisions
- Facilitates and maintains good working relationships with other councillors, the President and the CEO
- Acts consistently with section 2.7(3) to (5) of the Act (the governing role of Council)
- Maintains and develops the requisite skills to perform their role effectively

#### 4.1 Role of Council (s.2.7 as amended)

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Under the amended section 2.7 of the Act, Council (as a whole):

- Governs the local government's affairs
- Is responsible for the performance of the local government's functions
- Must have regard to the separation between the Council's governing role and the CEO's executive/administrative role
- Must support the respectful and fair treatment of employees by the local government

#### 4.2 What is NOT the Role of a Councillor

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Critically, the role of a Councillor does NOT include the performance of any responsibilities or functions of the Chief Executive Officer. Council Members must not:

- Direct or attempt to direct Shire employees to perform or not perform any act in their capacity as employees

- Seek to involve themselves in the day-to-day administration or operations of the Shire
- Attempt to use their position to influence individual decisions made in the administration of the Shire

## 5. General Principles

Division 2 of Schedule 1 of the Regulations sets out general principles to guide the behaviour of all Council Members, Committee Members and Candidates. While these principles do not constitute enforceable rules of conduct, they reflect the standard of conduct to which all persons subject to this Code should aspire.

### 5.1 Personal Integrity

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A Council Member, Committee Member or Candidate should:

- Act with reasonable care and diligence
- Act with honesty and integrity
- Act lawfully
- Identify and appropriately manage any conflict of interest
- Avoid damage to the reputation of the Shire

In addition, a Council Member or Committee Member should:

- Act in accordance with the trust placed in Council Members and Committee Members
- Participate in decision-making in an honest, fair, impartial and timely manner
- Actively seek out and engage in training and development opportunities to improve their performance
- Attend and participate in briefings, workshops and training sessions provided or arranged by the Shire

### 5.2 Relationship with Others

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A Council Member, Committee Member or Candidate should:

- Treat others with respect, courtesy and fairness
- Respect and value diversity in the community

A Council Member or Committee Member should also maintain and contribute to a harmonious, safe and productive work environment.

### 5.3 Accountability

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A Council Member or Committee Member should:

- Base decisions on relevant and factually correct information.
- Make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness.
- Read all agenda papers given to them in relation to Council or committee meetings.
- Be open and accountable to, and represent, the community in the Shire of Kojonup.

## 6. Behavioural Requirements (Division 3)

Division 3 of Schedule 1 of the Regulations sets out mandatory behavioural requirements. A breach of a behavioural requirement is dealt with by the Shire in accordance with the complaint process set out at Section 9 of this Code.

### 6.1 Personal Integrity — Behavioural Requirements

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A Council Member, Committee Member or Candidate:

- Must ensure that their use of social media and all other forms of communication complies with this Code.
- Must only publish material that is factually correct.

In addition, a Council Member or Committee Member:

- Must not be impaired by alcohol or drugs in the performance of their official duties.
- Must comply with all policies, procedures and resolutions of the Shire.

### 6.2 Relationship with Others — Behavioural Requirements

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A Council Member, Committee Member or Candidate:

- Must not bully or harass another person in any way.
- Must deal with the media in a positive and appropriate manner and in accordance with the Shire's media policy.
- Must not use offensive or derogatory language when referring to another person.
- Must not disparage the character of another Council Member, Committee Member, Candidate or Shire employee in connection with the performance of their official duties.
- Must not impute dishonest or unethical motives to another Council Member, Committee Member, Candidate or Shire employee in connection with the performance of their official duties.

### 6.3 Council and Committee Meetings — Behavioural Requirements

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When attending a Council or committee meeting, a Council Member, Committee Member or Candidate:

- Must not act in an abusive or threatening manner towards another person.
- Must not make a statement that they know, or could reasonably be expected to know, is false or misleading.
- Must not repeatedly disrupt the meeting.
- Must comply with any requirements of a local law of the Shire relating to the procedures and conduct of Council or committee meetings.
- Must comply with any direction given by the person presiding at the meeting.
- Must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.

## 7. Rules of Conduct (Division 4) — Minor Breach Provisions

### **Important — Legal Consequences**

*Contravention of a Rule of Conduct constitutes a 'minor breach' under section 5.105(1) of the Local Government Act 1995. Minor breaches are determined by the Standards Panel. A councillor who accumulates three or more minor breach findings within a three-year period may be suspended or disqualified from office (section 2.25A, as inserted by the Local Government Amendment Act 2024).*

## **7.1 Misuse of Local Government Resources (Clause 17)**

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A Council Member must not, directly or indirectly, use the resources of the Shire for an electoral purpose or any other purpose unless authorised to do so under the Act, or by the Shire or the CEO.

'Resources of a local government' includes Shire property and services provided or paid for by the Shire. 'Electoral purpose' means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the Electoral Act 1907 or the Commonwealth Electoral Act 1918.

## **7.2 Securing Personal Advantage or Disadvantaging Others (Clause 18)**

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A Council Member must not make improper use of their office:

- To gain, directly or indirectly, an advantage for the Council Member or any other person.
- To cause detriment to the Shire or any other person.

Note: This rule does not apply to conduct that contravenes section 5.93 of the Act or section 83 of The Criminal Code, as those provisions impose separate criminal liability.

## **7.3 Prohibition Against Involvement in Administration (Clause 19)**

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A Council Member must not undertake a task that contributes to the administration of the Shire unless authorised by the Shire or the CEO to undertake that task.

This prohibition does not apply to anything a Council Member does as part of the deliberations at a Council or committee meeting.

## **7.4 Relationship with Shire Employees (Clause 20)**

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A Council Member or Candidate must not:

- Direct or attempt to direct a Shire employee to do or not do anything in their capacity as an employee.
- Attempt to influence, by means of a threat or the promise of a reward, the conduct of a Shire employee in their capacity as an employee.
- Act in an abusive or threatening manner towards a Shire employee.

When attending a Council or committee meeting or other organised event (including briefings or workshops), a Council Member or Candidate must not orally, in writing or by any other means:

- Make a statement that a Shire employee is incompetent or dishonest.
- Use an offensive or objectionable expression when referring to a Shire employee.

Note: The prohibition on giving directions does not apply to anything a Council Member does as part of the deliberations at a Council or committee meeting.

## **7.5 Disclosure of Confidential Information (Clause 21)**

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A Council Member must not disclose information that they:

- Derived from a confidential document (a document marked by the CEO not to be disclosed).
- Acquired at a closed meeting (a meeting or part thereof closed to the public under s.5.23(2) of the Act), other than information from a non-confidential document.

This prohibition does not prevent disclosure:

- At a closed meeting
- To the extent specified by Council and subject to conditions it determines
- Of information already in the public domain
- To an officer of the Department of Local Government, Sport and Cultural Industries
- To the Minister for Local Government
- To a legal practitioner for the purpose of obtaining legal advice
- Where disclosure is required or permitted by law

## 7.6 Disclosure of Interests (Clause 22)

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A Council Member who has an interest in any matter to be discussed at a Council or committee meeting must disclose the nature of that interest:

- In a written notice given to the CEO before the meeting, or
- At the meeting, immediately before the matter is discussed

An 'interest' for this purpose means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person — including interests arising from kinship, friendship or membership of an association.

Where an interest is disclosed at or before a meeting, the nature of the interest must be recorded in the minutes of the meeting. Note: This obligation is separate from the financial interest disclosure obligations under Division 6 of Part 5 of the Act (s.5.60 and related provisions), which impose additional requirements.

## 7.7 Compliance with Behavioural Improvement Plan (Clause 23)

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If a plan addressing a Council Member's behaviour has been prepared under the complaint process (see Section 9) and includes a requirement for the Council Member to take specified action (such as mediation, counselling or training), the Council Member must comply with that requirement.

# 8. Conflicts of Interest

## 8.1 Financial and Proximity Interests

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In addition to the disclosure obligations under Clause 22 of this Code (see Section 7.6 above), Council Members are subject to the financial and proximity interest provisions of Division 6 of Part 5 of the Local Government Act 1995. These provisions apply when a Council Member has a direct or indirect financial interest, or a proximity interest, in a matter before the Council.

## 8.2 Identifying and Managing Conflicts

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A Council Member should take proactive steps to identify potential conflicts of interest. Where a conflict arises, a Council Member should:

- Declare the conflict at the earliest practicable opportunity

- Disclose the nature of the conflict honestly and fully
- Consider whether they should withdraw from discussion and voting on the matter
- Seek advice from the CEO or Shire solicitor where uncertain

### 8.3 Impartiality Interest

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Even where a Council Member does not hold a financial or proximity interest that triggers mandatory disclosure under the Act, a Council Member should be mindful of any interest that may give rise to an apprehension of bias in the eyes of a reasonable, informed observer. The disclosure of interests obligation under Clause 22 of this Code (Section 7.6) applies to all such interests.

## 9. Complaint Process

### 9.1 Behavioural Requirement Complaints

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A person may make a complaint alleging a breach of the behavioural requirements set out in Division 3 of Schedule 1 (see Section 6 of this Code). Such a complaint must be:

- Made in writing in the form approved by the Shire
- Submitted to a person authorised by the Shire to receive complaints (under subclause (3))
- Made within one (1) month after the occurrence of the alleged breach

The Shire must, in writing, authorise one or more persons to receive complaints and withdrawals of complaints.

### 9.2 Dealing with Behavioural Complaints

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After receiving and considering a complaint, the Shire must (unless it dismisses the complaint or it is withdrawn) under clause 13 or the complaint is withdrawn under clause 14(1), make a finding as to whether the alleged breach occurred. Before making a finding, the Shire must give the person to whom the complaint relates a reasonable opportunity to be heard. A finding that a breach has occurred must be based on evidence establishing, on the balance of probabilities, that the breach is more likely to have occurred than not.

If the Shire finds that a breach has occurred, it may:

- Take no further action, or
- Prepare and implement a plan to address the Council Member's behaviour, when preparing a plan under subclause (4) (b) (consulting with the Council Member in preparing the plan)

A behavioural improvement plan may require the Council Member to:

- Engage in mediation
- Undertake counselling
- Undertake training
- Take any other action the Shire considers appropriate

The Shire must provide written notice of its finding and decision (including reasons) to both the complainant and the person to whom the complaint relates.

### 9.3 Dismissal of Complaints

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The Shire must dismiss a complaint if it is satisfied that:

- The behaviour occurred at a Council or committee meeting, and

- Either the behaviour was dealt with by the person presiding at the meeting, or the person responsible took remedial action in accordance with the Shire's local laws on meeting procedures

If a complaint is dismissed, the Shire must provide written notice of the decision and reasons to the complainant and the person to whom the complaint related.

#### 9.4 Withdrawal of Complaints

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A complainant may withdraw their complaint at any time before the Shire makes a finding. A withdrawal must be in writing and given to an authorised person ( Under subclause 11(3)).

#### 9.5 Candidates

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A complaint alleging a breach by a Candidate cannot be dealt with unless the Candidate has subsequently been elected as a Council Member.

#### 9.6 Minor Breach — Rules of Conduct

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Breaches of the Rules of Conduct in Division 4 (Section 7 of this Code) are 'minor breaches' under section 5.105(1) of the Act and are referred to and determined by the Local Government Standards Panel under section 5.110 of the Act. The Shire does not determine minor breach complaints — these are matters for the Standards Panel.

## 10. Disciplinary Framework and Local Government Inspector

### 10.1 Minor Breach System

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Under the minor breach system, the Local Government Standards Panel determines whether a Council Member has committed a minor breach (contravention of a rule of conduct). If the Standards Panel makes three or more minor breach findings against a Council Member within a three-year period, the Council Member may face suspension or disqualification from office under section 2.25A of the Act (inserted by the Local Government Amendment Act 2024).

### 10.2 Serious Breach

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Serious breaches of the Act, including corrupt conduct and other criminal offences, are dealt with through separate processes including investigation by the Corruption and Crime Commission, the Police or, for Local Government Act breaches, the Local Government Inspector.

### 10.3 Local Government Inspector (New — Effective December 2024)

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The Local Government Amendment Act 2024 established the independent Local Government Inspector, appointed by the Governor of Western Australia. The Inspector's role includes:

- Overseeing all 139 WA local governments with early intervention powers to ensure compliance
- Assigning monitors to work proactively within local governments to resolve dysfunction
- Receiving, investigating and handling complaints about potential breaches of the Act or its regulations
- Taking enforcement actions where breaches of the Act are identified

Council Members should be aware that the Inspector represents a significant new oversight mechanism and that the Inspector may intervene in matters involving Council conduct.

#### 10.4 Obligation to Cooperate

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All Council Members, Committee Members and Candidates are obliged to cooperate fully with any investigation or inquiry conducted by the Local Government Standards Panel, the Local Government Inspector or any other lawful authority exercising oversight functions in relation to local government conduct.

### 11. Mandatory Training

The Local Government Amendment Act 2024 introduced a requirement for new Council Members to undertake mandatory training. Council Members who fail to complete mandatory training may be prevented from receiving their councillor allowances.

The Shire of Kojonup will:

- Arrange mandatory training for all new Council Members in accordance with the Act and associated regulations
- Facilitate and encourage ongoing professional development for all Council Members
- Maintain records of Council Member training and development activities

All Council Members are encouraged to actively seek out training and development opportunities to improve their performance in the role, in accordance with Clause 4(2)(c) of Schedule 1 of the Regulations.

### 12. Work Health and Safety Obligations

Under the Work Health and Safety Act 2020 (WA), the Shire of Kojonup is a 'person conducting a business or undertaking' (PCBU). Council Members who are 'officers' for the purposes of the WHS Act have ongoing due diligence obligations to ensure the Shire complies with its work health and safety duties.

Officer due diligence is a personal, non-delegable duty. Council Members who are officers must:

- Acquire and keep up to date knowledge of work health and safety matters relevant to the Shire
- Understand the nature of the Shire's operations and the associated WHS hazards and risks
- Ensure the Shire has appropriate resources and processes to eliminate or minimise WHS risks
- Ensure the Shire has appropriate processes for receiving and considering WHS information and responding in a timely way
- Ensure the Shire has, and implements, processes for complying with its WHS duties and obligations

Council Members who are uncertain whether they are 'officers' for the purposes of the WHS Act should seek advice from the CEO or the Shire's legal advisors.

### 13. Gifts, Benefits and Contributions

Section 5.100A of the Local Government Act 1995 and associated regulations govern the receipt of gifts by Council Members. Council Members must:

- Not seek or accept gifts or benefits that could create a conflict of interest or give rise to a perception of bias or improper conduct
- Comply with any Shire policy on the receipt of gifts and benefits
- Disclose any gift received in accordance with the requirements of the Act and Shire policy

The receipt of any gift or benefit that could reasonably be perceived to influence a Council Member's decision-making must be avoided. Where a gift is received, it must be declared and recorded in the Shire's gift register.

### 14. Social Media and Communications

Council Members, Committee Members and Candidates must ensure that their use of social media and all other forms of communication complies with this Code. This obligation applies to all platforms and all forms of electronic and non-electronic communication, whether or not used in an expressly 'official' capacity, where the communication relates to or may affect the Council Member's role or the Shire.

Key obligations include:

- Publishing only material that is factually correct (Clause 8(1)(b) of Schedule 1)
- Not using offensive or derogatory language when referring to another person
- Not disparaging the character of another Council Member, Committee Member, Candidate or Shire employee in connection with their official duties
- Not imputing dishonest or unethical motives to others in connection with their official duties
- Complying with all relevant Shire policies on media and communications

Council Members should be aware that posts, comments and other communications made on personal social media accounts can still constitute a breach of this Code if they relate to the Council Member's role or to Shire matters.

### 15. Review and Amendment

This Code must be reviewed and, if necessary, amended periodically. In accordance with section 5.104 of the Act:

- The Code must be reviewed at least once in every term of Council
- Any review must be conducted within 12 months of an ordinary election
- Council may, by resolution of an absolute majority, amend this Code at any time, provided the amended Code complies with the mandatory requirements of the Regulations
- Any amendments that remove or restrict prescribed provisions require the approval of the Minister for Local Government

The Code, as adopted and as amended from time to time, must be published on the Shire of Kojonup's official website, as required by section 5.104(7) of the Act.

## 16. Quick Reference — Key Obligations

Obligation	Requirement	Authority
<b>Conflict of Interest</b>	Disclose before discussion at meeting or in writing to CEO beforehand	Clause 22, Schedule 1; LGA s.5.60
<b>Conduct at Meetings</b>	No threatening behaviour; no false statements; no disruption; follow presiding member	Clause 10, Schedule 1
<b>Shire Resources</b>	No use for electoral or personal purposes without authorisation	Clause 17, Schedule 1
<b>Shire Staff</b>	No directing, influencing or threatening Shire employees	Clause 20, Schedule 1
<b>Confidential Information</b>	Do not disclose confidential documents or information from closed meetings	Clause 21, Schedule 1
<b>Social Media</b>	Only publish factually correct material; comply with Code requirements in all communications	Clause 8, Schedule 1
<b>Mandatory Training</b>	Complete mandatory training; failure may result in loss of allowances	LGA Amendment Act 2024

## 17. Declaration of Adoption

This Code of Conduct for Council Members, Committee Members and Candidates was adopted by the Shire of Kojonup at a duly constituted meeting of the Council.

Resolution No.

10/26

Date of Adoption

24 February 2026

Signed — Deputy Shire President

  
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 08.03.2026.

Signed — Chief Executive Officer

  
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