



Employee Code of Conduct



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1. Preliminary

1.1. Title

This is the Shire of Exmouth Employee Code of Conduct (Code).

1.2. Commencement

This Code comes into operation on 14 May 2021.

1.3. Definitions

In this Code, unless the contrary intention appears:

- **“Act”** means *Local Government Act 1995*.
- **“bullying”** means, without limitation, repeated unreasonable or inappropriate behaviour directed towards a person or a group of persons and that creates a risk to physical or psychological health and safety. Bullying covers a range of behaviours which can be physical, verbal, written or online and can involve range of different behaviours over a period of time. Bullying is covered by legislation and Shire Policy and Procedures.
- **“Shire”** means Shire of Exmouth.
- **“CEO”** means the Chief Executive Officer of the Shire.
- **“committee”** means a committee established by the Council under the Act.
- **“committee member”** means a member of a committee who is appointed by the Shire under the Act.
- **“council”** means the council of the Shire.
- **“Council member”** has the same meaning as “member” in the Act.
- **“employee”** means a person employed by a local government under section 5.36 (1); or engaged by a local government under a contract for services, volunteer or ‘worker’ as defined under section 7 of the *Work Health Safety Act 2020*.
- **“policy”** means any policy or approved operating practice of the Shire.
- **“activity involving a local government discretion”** means an activity:
 - that cannot be undertaken without an authorisation from the Shire; or
 - by way of a commercial dealing with the Shire.
- **“associated person”** means a person who –
 - is undertaking or seeking to undertake an activity involving a local government discretion; or
 - it is reasonable to believe, is intending to undertake an activity involving local government discretion.
- **“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.
- **“gift”** has the meaning given to that term in section 5.57 of the Act except that it does not include:
 - a gift from a relative, a relative being defined in section 5.74(1) of the Act; or
 - a gift that must be disclosed under regulation 30B of the *Local Government (Elections) Regulations 1997*; or
 - a gift from a statutory authority, government instrumentality or non-profit association for professional training; or
 - a gift from WALGA, Australian Local Government Association Limited, Local Government Professionals Australia or the LG Professionals Australia.
- **“reportable gift”**, in relation to a person who is an employee, means:

- a gift worth more than \$50 but less than \$300; or
- a gift that is 1 of 2 or more gifts given to the employee by the same person within a period of one year that are in total worth more than \$50 but less than \$300;
- **“prohibited gift”**, in relation to a person who is an employee, means:
 - a gift worth the threshold amount (\$300) or more; or
 - a gift that is 1 of 2 or more gifts given to the employee by the same person within a period of one year that are in total worth the threshold amount (\$300) or more.
- **“threshold amount”** for a prohibited gift, means \$300.

1.4. Application

This Code applies to all Shire of Exmouth employees as defined under section 1.3 including the CEO and Executive Managers.

1.5. Requirement for this Code

This Code is prepared by the Shire of Exmouth as required by section 5.51A of the Act.

1.6. Previous Code

The Shire of Exmouth Code of Conduct for Employees, Council Members and Committee Members in operation immediately prior to this Code is replaced by this Code.

2. Obligations of Employees

2.1. General Principals

The local community and the public in general are entitled to expect that the following general principles should be used to guide employees in their behaviours:

- act with reasonable care and diligence;
- act with honesty and integrity;
- act lawfully;
- avoid damage to the reputation of the Shire of Exmouth;
- be open and accountable to the public;
- base decisions on relevant and factually correct information;
- treat others with respect and fairness; and
- not be impaired by mind affecting substances.

2.2. Vision and Goals

Conduct and behaviour will be consistent with the Shire’s vision and goals as adopted by the council from time to time.

The Shire’s vision and goals are as follows:

Vision - A globally recognised community of guardians for our unique environment and culture as we pursue innovations for sustainable growth.

Goals

- Social - Nurture a friendly, safe and inclusive community spirit
- Natural Environment - Embrace natural sensitivities and promote positive change

- Built Environment - Enable sustainable development and infrastructure that meets the needs of the community, visitors and industry
- Economy - Enhance a robust, resilient and diversified economy that champions innovation
- Governance and Leadership - Foster open, transparent & accountable leadership, working collaboratively and in partnership with our community and stakeholders

2.3. Shire of Exmouth Employee Values

The Shire's leadership team have adopted the following employee values.

➤ Integrity

We act with care and diligence - making decisions that are honest, impartial, timely and based on all relevant information.

➤ Accountability

We use Shire resources in a responsible and accountable manner that ensures the efficient, effective and appropriate use of resources and information.

➤ Respect

We treat people with dignity, fairness and recognise their interests and rights.

2.4. Demonstrating Leadership

Employees will observe the Shire of Exmouth values and apply them in all that they do and promote these values to others.

2.5. Personal Behaviour

The Shire is committed to creating a harmonious and productive work environment.

An employee will:

- conduct themselves in a manner that is safe and by their actions or inactions, not expose themselves or others to harm;
- contribute to a harmonious and productive workplace;
- treat members of the public and colleagues with courtesy, respect and dignity; free from harassment, discrimination and bullying;
- act honestly, with integrity and professionalism;
- make decisions fairly, impartially and promptly, considering all relevant available information;
- comply with all lawful and safe work instructions and directions; and
- ensure all instructions and directions given to others are lawful, ethical, clear, reasonable and not in breach of this Code.

2.6. Performance of Duties

An employee will:

- strive to ensure that his or her standard of work reflects favourably both on the employee and the Shire's business;
- strive to ensure that his or her standard of work is in accordance with the intent of any Service Delivery Standards;
- while on duty, give their whole time and attention to Shire business and ensure that their work is carried out efficiently, economically and effectively; and
- observe the respective roles of the Council, CEO and employees as set out in Attachment A.

2.7. Secondary Employment/Interests

Secondary employment or interests refers to a situation where a person works for the Shire but also engages in paid or unpaid work for another organisation (private or public) or voluntary work. It includes operating a private business and providing paid consultancy services as well as partnerships and directorships of companies.

Employees will carefully consider whether their secondary employment or interest with an organisation may adversely affect the performance of their Shire duties and responsibilities, the reputation of the Shire or may give rise to a conflict of interest.

On commencement of employment or prior to engaging in any secondary employment or interest an employee will obtain written approval from the CEO and comply with the Shire's Secondary Employment/Interests Policy as varied from time to time.

2.8. Standard of Dress

An employee is to adhere to neat, clean, professional dress standards or as advised and as appropriate to his or her position.

The Shire wishes to project a professional image to the public at all times. Employees are required to wear uniforms and Personal Protective Equipment (PPE) whenever prescribed. All employees should present at work, having attended to their personal hygiene, in clean, neat, professional clothing that is not offensive.

Where employees are in Shire uniform or are in a work car or in any other way are clearly identified as being employed by the Shire, then their conduct must be to the standard outlined in this Code even though it may be outside of work hours.

2.9. Conflict of Interest

A conflict of interest arises in a situation where there is an actual, perceived or potential private or personal interest (such as investments, political views, relationships, voluntary work, membership of other groups or private employment) in a matter sufficient to influence or appear to influence objectivity when exercising work related decisions or actions.

Employees should be impartial when performing all aspects of their duties. Having a conflict of interest is not wrong, but it needs to be managed in the interest of the Shire rather than the interests of the individual.

If an employee is unsure of whether a conflict of interest exists they should discuss it with their Leader as soon as they become aware that it may be an issue.

A conflict situation may change over time and may need ongoing monitoring.

Any employee who has a material personal interest in an issue they are dealing with must promptly advise their Leader of the interest.

Any future dealings on the matter, by the employee concerned, shall only be in accordance with their Leader's direction.

An employee who exercises a recruitment function will make a disclosure before taking part in any recruitment process in accordance with Shire procedures to avoid the perception of bias in the decision-making process.

Where an employee seeks information from the Shire that is publicly available, the employee must access that information through the public channel available to all people and not through avenues available because of his/her employment with the Shire.

Conflicts affecting financial and impartiality interests are the subject of strict statutory controls and penalties.

Certain categories of employees – in particular those with delegated authority or who are members of committees with delegated authority – are required to lodge annual or primary returns.

An employee's right to maintain political convictions or to be a member of a political party is respected.

However, all advice given by employees in the course of their employment must be given in such a way that is impartial and does not reflect any political association or desire.

Where employees are speaking or acting publicly in the exercise of their right to express their political convictions, they should ensure that it is clear that they are doing so in their personal capacity and not as a representative of the Shire.

2.10. Disclosure of Interests Affecting Impartiality

Employees are required to disclose any interest that could, or may, adversely influence their objectivity in exercising official duties for the Shire.

An interest could arise from family connections, associates, friendship, membership of an association, political views, voluntary work, private employment and/or investments.

2.11. Disclosure of interest at Council of Committee Meetings

Where an employee has an interest in any matter to be discussed at a Council or committee meeting, at which they will be present, they must disclose the nature of the interest, either in written notice to the CEO before the meeting or immediately before the matter is discussed at the meeting.

Alternatively, if an employee has given, or intends to give, advice in regard to any matter to be discussed at a Council meeting or Council endorsed committee meeting, at which they will not be present, they must disclose the nature of any interest they may have in writing to the CEO before the meeting or at the time the advice is given.

The written notice that is given to the CEO will then be passed onto the person presiding over the meeting.

This person must bring the notice and its contents to the attention of the persons present, immediately before the matter to which the disclosure is related, is discussed.

Employees are excused from the requirement to disclose an interest if they failed to disclose the interest as they did not know they had an interest in the matter.

Employees will also be excused if they failed to disclose an interest because they were not aware the matter in which they had an interest would be discussed at the meeting but then disclosed the interest as soon as they became aware that the matter would be discussed.

These disclosure requirements are in addition to an employee's requirement to disclose direct or indirect financial, property and other interests under the Act and Regulations.

The nature of the interest is to be recorded in the minutes of the meeting.

2.12. Communications and Public Relations

Employees acknowledge that, unless otherwise authorised, statements to the media on behalf of the Shire are only to be made by the Shire President or the CEO. All aspects of communications by employees involving the Shire's activities should be accurate, polite and professional and must reflect the status and objectives of the Shire. Employees acknowledge that the Shire is committed to the principle of building a sustainable and successful partnership with the community, of which community consultation is an integral component.

With Social Media having blurred the lines between people's personal and professional time and space it is important to understand that the impact of a person's social media presence can have repercussions in both their personal and professional lives.

While active Social Media interaction by staff in a personal capacity is accepted as a medium of advocacy and self-expression, it is important that the use of Social Media engagement does not harm the Shire of Exmouth as an organisation or its employee's reputations.

Employees must not publicly disclose any internal information via social media that may adversely affect the Shire's customer relations or public image.

It is important to note, that an employee found to have breached the provisions of this Code of Conduct (in addition to the Shire's policy or pertinent legislation) may be subject to disciplinary action.

2.13. Relationship between Employees, Committee Members and Council Members

Wherever possible employees must demonstrate professionalism and co-operate with other employees, Council Members, and committee members to achieve the Shire's goals and implement the Shire's strategies.

Employees will recognise that committee members and Council Member's views and opinions reflect viewpoints that should be considered in conjunction with professional opinion.

Employees will therefore make every effort to assist committee members and Council Members in the performance of their role, and to achieve the satisfactory resolution of issues that members may raise in the performance of their official role.

Employees should refrain from publicly criticising Council Members, committee members or employees in a way that casts aspersions on their professional competence and credibility.

Council Members have no authority to individually direct officers to carry out particular functions. A Councillor or committee member must not direct or attempt to direct an officer to do or not to do anything or attempt to influence an officer's conduct by means of a threat or the promise of a reward.

Employees must inform their leader if they receive any communication from a Councillor.

Officers must not communicate with Councillors on Shire business outside of a Council meeting or briefing session unless authorised in writing to do so by the CEO.

Communication between Councillors and employees is to be on a strictly Council business-related basis and conducted in a polite, professional manner.

2.14. Use of the Shire's resources

The Shire's resources must be used effectively and economically. Shire property, assets, funds, facilities and services must only be used for authorised purposes.

When using Shire assets, employees will:

- keep all items issued to them secure and in good order and not leave portable equipment visible in motor vehicles;
- not remove assets from the Shire's premises unless authorised;
- be scrupulously honest in their use;
- not misuse them or permit their misuse by another person;
- use them effectively and economically in the course of their duties;
- not use them for private purposes (unless authorised); and
- report immediately any damage, loss or faults.

2.15. Computer and other Electronic Communication Devices

Generally, the use of the Shire's computer or communications resources, such as telephones, by employees is restricted to employment related purposes. However, limited personal use of these facilities is also permitted, provided it does not interfere with the performance of an employee's duties and responsibilities and does not involve illegal or unethical use or behaviour.

Employees must take all due care to maintain the security and privacy of these resources including but not limited to:

- not sharing passwords;
- locking the computer when leaving the work station;
- not logging in to another employee's work email or account; and
- not forwarding emails containing inappropriate or offensive material.

2.16. Tendering and Contracts

The Shire is committed to 'best value for money' when procuring goods and services through any competitive process involving the calling of expressions of interest, public tenders and quotations. Employees engaged in procurement should ensure they obtain value for money and are accountable for their actions. Employees engaged in procurement requirements must seek advice from their Leader to ensure they meet the Shire's procurement requirements.

2.17. Gifts

(this section does NOT apply to the CEO)

There may be circumstances when an employee is offered a 'gift' from a person external to the Shire.

A gift includes but is not limited to an object, access to an event, hospitality or the provision of services.

While an employee should avoid accepting any gift, reward or benefit, if there is a perception that the purpose is to influence them in relation to the performance of their work at the Shire, there are clear provisions in legislation that allow the acceptance of what is referred to a 'reportable gift'. In understanding the obligations of employees, it is important to differentiate between 'prohibited gifts' and 'reportable gifts.

Prohibited Gift

A 'prohibited gift' is a gift worth the threshold amount (\$300) or more. In addition, where two or more gifts are given to an employee, by the same person, within a one-year period, and their total worth is the threshold amount (\$300) or more, this is also classified as a prohibited gift. Employees are not, under any circumstances, permitted to accept a prohibited gift from a person who:

- is undertaking or seeking to undertake an activity involving a local government discretion; or
- it is reasonable to believe, is intending to undertake an activity involving a local government discretion

Reportable Gift

A 'reportable gift is a gift worth more than \$50 but less than \$300. In addition, where two or more gifts are given to an employee, by the same person, within a one-year period, and their total worth is more than \$50 but less than \$300, this is also classified as a reportable gift.

An employee is permitted to accept a 'reportable gift' from a person who:

- is undertaking or seeking to undertake an activity involving a local government discretion; or
- it is reasonable to believe, is intending to undertake an activity involving a local government discretion;
- provided they notify the CEO in writing, within ten (10) days of accepting the gift.
- In notifying the CEO the employee must complete the Register of Gifts form, providing the following information:
 - the name of the person who gave the gift;
 - the date on which the gift was accepted;
 - a description, and estimated value, of the gift;
 - the nature of the relationship between the person who is a employee and the person who gave the gift; and
 - if the gift is one of two or more gifts received from the same person within a one-year period, and within the prescribed amount of more than \$50 but less than \$300, then a description, estimated value and date of acceptance of each gift is required.

This information is collated on a Register of Reportable Gifts which the CEO is to maintain. If the gift has a value of less than \$50, it is exempt for the purposes of this section.

Therefore, such a gift does not have to be reported and may be accepted by an employee.

2.18. Fraudulent or corrupt behaviour

Fraud is a dishonest activity that causes actual or potential financial loss to a person or organisation.

Corrupt conduct occurs when a Shire employee uses or attempts to use their position at the Shire for personal advantage or to cause detriment to others.

It usually involves a deliberate intent to act inappropriately.

Corrupt conduct includes conduct such as abuse of public office, blackmail, bribery, deliberately releasing confidential information, extortion, obtaining or offering a secret commission, fraud, theft, forgery or perverting the course of justice.

Employees:

- Must not engage in any fraudulent or corrupt behaviour; and
- Must report any information about actual or potential fraud, corrupt or illegal behaviour to the Public Interest Disclosure Officer (currently the Executive Manager Corporate Services or as otherwise nominated).

2.

2.19. Travel and sustenance expenses

Employees will only claim or accept travel and sustenance expenses arising out of travel-related matters which have a direct bearing on the services, policies or business of the Shire in accordance with Shire policies and the provisions of the Act.

2.20. Record Keeping

Employees will use all reasonable efforts to ensure that file notes are drafted and placed on record following discussions on issues of substance.

Employees will ensure all decisions made and actions taken as officers of the Shire are transparent and capable of review. All official records created by employees are to be registered, stored and disposed of in accordance with record-keeping legislation and policy as may be in force from time to time.

In particular Employees are expected to:

- record their actions and decisions to ensure transparency;
- ensure the secure storage of sensitive or confidential information;
- understand their recordkeeping responsibilities;
- understand records management procedures;
- be familiar with and follow the Shire's record keeping principles and practices;
- be aware of and follow the Shire's electronic recordkeeping advice; and
- understand that records may only be disposed of in accordance with approved disposal authorities and may not be removed from records systems or altered without authority.

2.21. Freedom of Information Act 1992

Employees should be aware that:

- the *Freedom of Information Act 1992* was introduced to facilitate public access to documents and an application can be made seeking access to any information held by the Shire;
- an object of the *Freedom of Information Act 1992* is to "make the persons and bodies that are responsible for State and local government more accountable to the public"; and
- an employee will assist the Shire's CEO and the Shire's freedom of information officers in locating documents relevant to an application made under the *Freedom of Information Act 1992*.

2.22. Harassment and discrimination

An employee will not harass, discriminate against (within the meaning of relevant legislation), or

support others who harass and discriminate against colleagues or members of the public.

2.23. Bullying

An employee will not engage in any conduct which amounts to bullying against an employee, Council member or committee member.

2.24. Corruption, Crime and Misconduct Act 2003

Employees should be aware that:

1. a main purpose of the *Corruption, Crime and Misconduct Act 2003* is "to continuously improve the integrity of, and reduce the incidence of misconduct in, public authorities";
2. the *Corruption, Crime and Misconduct Act 2003* gives the Public Sector Commissioner two main areas of responsibility:
 - (a) Firstly, misconduct prevention and education functions. Relevant provisions of the *Corruption, Crime and Misconduct Act 2003* gives the Commissioner a role to:
 - (i) help public authorities to prevent, and to identify and deal effectively and appropriately with misconduct, and
 - (ii) collect and analyse information gathered in relation to its broader functions.
 - (b) Secondly, a role to oversight minor misconduct by public officers. This includes:
 - (i) receiving and assessing notifications from principal officers in public authorities about minor misconduct allegations and minor misconduct allegation reports from persons (individuals),
 - (ii) monitoring the management of minor misconduct matters by public authorities, and
 - iii. potentially, to investigate cases of minor misconduct by public officers.
3. the CEO, as the "principal officer of a notifying authority" has a statutory obligation, under the *Corruption, Crime and Misconduct Act 2003*, to report to the Commission any matter "which that person suspects on reasonable grounds concerns or may concern minor or serious misconduct"; and
4. it is an offence under the *Corruption, Crime and Misconduct Act 2003* to threaten, intimidate or harass or to do any act that is likely to be to the detriment of any person because the person gave evidence to, or helped, the Commission.

2.25. Public Interest Disclosure Act 2003

Employees should be aware of the *Public Interest Disclosure Act 2003 (WA)*, which provides people ("whistleblowers") who make disclosures of public interest information with certain immunities, protections and remedies, as well as imposes certain responsibilities.

Anyone making a disclosure under the *Public Interest Disclosure Act 2003 (WA)* will not incur any civil or criminal liability for doing so and will not be liable for any disciplinary action under a written law.

2.26. Fitness for Work

Employees have a duty of care to take reasonable care not to expose themselves or others to unnecessary safety or health risks. An important part of this duty is the employee's responsibility to ensure that he or she is in a fit state to work. Fit for work means a state of physical, mental and emotional health that enables a person to perform work in a manner that does not pose a risk, compromise or threaten the safety and health of themselves or others.

2.27. Drugs and Alcohol

All employees will ensure that the consumption of alcohol or legally obtainable substances does not affect their work performance or working relationships, their personal safety or that of others, or impact on official conduct at any time and in accordance with Shire policies and procedures.

2.28. Smoking

Employees must familiarise themselves and comply with the Council Policy – Non-Smoking Workplace as varied from time to time. In addition, smoking is not permitted in any Shire owned machinery or vehicles.

2.29. Intellectual Property and Confidential Information

The Shire owns rights, titles and interests in any intellectual capital or property developed during the employee's service with the Shire.

Where an employee has left employment of the Shire, that employee is not permitted to take with them copies of computer programs, files, documents, or other information and records containing the Shire's information.

As a general rule, all work executed or created by an employee in the course of their employment, is the property of the Shire; that is, the Shire is the owner of the intellectual property.

Employees must not disclose verbally or otherwise information gleaned during the course of their employment by the Shire, other than information which is publicly available.

3. Breaches of the Code of Conduct

3.1. Employee's responsibilities

It is each employee's responsibility to ensure they are familiar with the Shire's policies, procedures, standards and relevant legislation.

Employees must ensure that they are aware of and adhere to, all Shire policies, including but not limited to those relating to health and safety, equal opportunity, workplace behaviour, privacy and disclosure of breaches which have the potential to put the safety of themselves or others at risk.

Failure to abide by and comply with any Shire policy, or lawful and reasonable instruction, may result in disciplinary action, including, but not limited to, counselling, verbal and written warnings or termination of employment.

3.2. Making a complaint

The Shire takes any alleged breaches of the Code seriously and encourages any person who has reasonable grounds to believe an employee of the Shire has committed a breach of this Code, to make a complaint.

Employees must not make a complaint or cause a complaint to be made under this code for an improper purpose.

A complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for an improper purpose.

Attachment A – Roles of Council, CEO and Employees

Role of the Council

In accordance with Local Government Act 1995, the role of the Council is to:

- governs the local government's affairs; and
- is responsible for the performance of the local government's functions.
- oversee the allocation of the local government's finances and resources;
- determine the local government's policies.

Role of the CEO

In accordance with applicable legislation, the role of the CEO is to:

- advise Council in relation to the functions of the Shire under the Act and other written laws;
- ensure that advice and information is available to the Council so that informed decisions can be made;
- implement Council decisions;
- manage the day to day operations of the Shire;
- liaise with the Shire President on the Shire's affairs and the performance of the Council's functions;
- speak on behalf of the Shire if the Shire President agrees;
- be responsible for the employment, management, direction and dismissal of Employees (subject to Council agreeing or rejecting the appointment or dismissal of Senior Employees);
- ensure that records and documents of the Shire are properly kept for the purposes of the Act and other written law; and
- perform any other function specified or delegated by the Council or imposed under the Act or any other written law as a function to be performed by the CEO.

Role of employees

The primary role of an employee is to:

- undertake the administrative and operational functions of Council;
- implement policies and directives;
- provide professional advice and expertise;
- stimulate innovation and strive toward best practice in the delivery of service to the community;
- provide objective, reliable and high-quality written reports containing sufficient information to assist Council members, committee members and Senior Officers to make informed decisions;
- in the conduct of his or her duties, an employee is encouraged to develop networks within the local government industry, to support and assist their peers and to promote goodwill between local governments; and
- Employees will at all times:
 - accept and respect the rights and obligations vested in Council members;
 - conduct themselves professionally in all dealings with Council members;
 - ensure that all issues are addressed with the highest level of proficiency and loyalty to the organisation;
 - ensure that they operate within the limitations of the delegations and authorities vested in them;
 - refrain from criticising a Council member, committee member or other officer/s in a manner that may discredit that Council member, committee member or officer's professional competence and reputation; and

Attachment B – Employee Acknowledgement

Shire of Exmouth Employee Code of Conduct Employee Acknowledgement:

I have received a copy of the Shire of Exmouth Code of Conduct and I agree to act in accordance with this code whilst working for the Shire of Exmouth.

.....
Print Name (*Employee*)

.....
Signature (*Employee*)

.....
Date

Scan this page only to: humanresources@exmouth.wa.gov.au