

## **Council Policy**

# **Code of conduct for Council staff**

Version 7 - DRAFT

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## 1 Introduction

- 1.1 This Code of Conduct applies to members of Council staff, including the Chief Executive Officer. It is based on the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct), which has been prescribed under the Local Government (General) Regulation 2005 (the Regulation).
- 1.2 Parts of this document, drawn from the Model Code of Conduct, refer to conduct requirements for Councillors, but must be included in this document to achieve compliance with the regulation.
- 1.3 Section 440 of the *Local Government Act 1993* ("the LG Act") requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. A council's or joint organisation's adopted code of conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "Council officials" for the purposes of the Model Code of Conduct (e.g. volunteers, contractors and members of wholly advisory committees).
- 1.4 The Model Code of Conduct sets the minimum standards of conduct for Council Officials. It is prescribed by the Regulations to assist Council Officials to:
  - a) understand and comply with the standards of conduct that are expected of them;
  - b) enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439 of the LG Act); and
  - c) act in a way that enhances public confidence in local government.
- 1.5 Councillors, Administrators, members of staff of councils, delegates of councils, (including members of council committees that are delegates of a council) and any other person a council's adopted code of conduct applies to, must comply with the applicable provisions of their council's code of conduct. It is the personal responsibility of Council Officials to comply with the standards in the code and to regularly review their personal circumstances and conduct with this in mind.
- 1.6 Failure by a member of staff to comply with a Council's Code of Conduct may give rise to disciplinary action.

### **Objectives**

- 1.7 Council's objectives for establishing this Code are to:
  - a) comply with Regulation
  - b) achieve consistency with other councils through the adoption of the Model Code of Conduct
  - c) promote ethics, honesty and professionalism within Council and among Council staff.

### **Values**

- 1.8 Lake Macquarie City Council has a set of organisational values that guide conduct and underpin this Code:
  - a) Leading at all levels
  - b) Working together
  - c) Shaping our future.

## 2 Definitions

In this Code, the following terms have the following meanings.

Term	Meaning
administrator	an administrator of a council appointed under the <i>Local Government Act 1992</i> and its successors other than an administrator appointed under section 66 of the <i>Local Government Act 1993</i> and its successors
committee	see the definition of 'council committee'
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures
conduct	includes acts and omissions
conflict of interest	a conflict of interest refers to a situation where a conflict arises for an individual between two competing interests. This refers to reasonably perceived, potential, or actual conflict of interest
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council's audit, risk and improvement committee
council committee member	a person, other than a councillor or member of staff of a council, who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council's audit, risk and improvement committee
council official	includes councillors, member of staff of a council, administrators, council committee members, delegates of council and council advisers
councillor	any person elected or appointed to civic office, including the mayor, and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause <del>5.85-84-8</del>
election campaign	includes council, state and federal election campaigns
chief executive officer	council's chief executive officer, also known as the 'general manager' in other State Government documents and legislation

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the GIPA Act	the <i>Government Information (Public Access) Act 2009</i> and its successors
joint organisation	a joint organisation established under section 400O of the <i>Local Government Act 1993</i> and its successors
the LG Act	the <i>Local Government Act 1993</i> and its successors
mayor	includes the chairperson of a country council or a joint organisation
members of staff of a Council	includes members of staff of county councils and joint organisations
the Model Code of Conduct	the Model Code of Conduct for Local Councils in NSW
the OLG	the Office of Local Government
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the <i>Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW</i> prescribed under the Regulation
the Public Officer	a person appointed under Chapter 11 of the <i>Local Government Act 1993</i> and its successors
the Records Act	the <i>State Records Act 1998</i> and its successors
the Regulation	the Local Government (General) Regulation 2005 and its successors
wholly advisory committee	a council committee that the council has not delegated any functions to
the WHS Act	the <i>Work Health and Safety Act 2011</i> and its successors

### **3 General conduct obligations**

#### **General conduct**

- 3.1 You must not conduct yourself in a manner that:
- a) is likely to bring the Council or other Council Officials into disrepute
  - b) is contrary to statutory requirements or the Council's administrative requirements or policies
  - c) is improper or unethical
  - d) is an abuse of power
  - e) causes, comprises or involves intimidation or verbal abuse
  - f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
  - g) involves the misuse of your position to obtain a private benefit
  - h) constitutes harassment or bullying behaviour under this Code, or is unlawfully discriminatory.
- 3.2 You must act lawfully and honestly, and exercise a reasonable degree of care and diligence in carrying out your functions under the LG Act any other Act (refer to section 439 of the LG Act).

#### **Fairness and equity**

- 3.3 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.4 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.
- 3.5 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 3.3 or 3.4.

#### **Harassment and discrimination**

- 3.6 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.
- 3.7 For the purposes of this Code, "harassment" is any form of behaviour towards a person that:
- a) is not wanted by the person
  - b) offends, humiliates or intimidates the person, and
  - c) creates a hostile environment.

**Bullying**

- 3.8 You must not engage in bullying behaviour towards others.
- 3.9 For the purposes of this Code, “bullying behaviour” is any behaviour in which:
- a) a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons, and
  - b) the behaviour creates a risk to health and safety.
- 3.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- a) aggressive, threatening or intimidating conduct
  - b) belittling or humiliating comments
  - c) spreading malicious rumours
  - d) teasing, practical jokes or ‘initiation ceremonies’
  - e) exclusion from work-related events
  - f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
  - g) displaying offensive material
  - h) pressure to behave in an inappropriate manner.
- 3.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this Code. Examples of reasonable management action may include, but are not limited to:
- a) performance management processes
  - b) disciplinary action for misconduct
  - c) informing a worker about unsatisfactory work performance or inappropriate work behaviour
  - d) directing a worker to perform duties in keeping with their job
  - e) maintaining reasonable workplace goals and standards
  - f) legitimately exercising a regulatory function
  - g) legitimately implementing a council policy or administrative processes.

**Work health and safety**

- 3.12 All Council Officials, including Councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WHS Act). You must comply with your duties under the WHS Act and your responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety. Specifically, you must:
- a) take reasonable care for your own health and safety
  - b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
  - c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WHS Act and any policies or procedures adopted by the Council to ensure workplace health and safety

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- d) cooperate with any reasonable policy or procedure of the Council relating to workplace health or safety that has been notified to Council staff
- e) report accidents, incidents, near misses, to the Chief Executive Officer or such other staff member nominated by the Chief Executive Officer, and take part in any incident investigations
- f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WHS Act in relation to the same matter.

### **Land use planning, development assessment and other regulatory functions**

- 3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.
- 3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

### **Obligations in relation to meetings**

- 3.15 You must comply with rulings by the chair at Council and committee meetings or other proceedings of the Council unless a motion dissenting from the ruling is passed.
- 3.16 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other Council Officials or any members of the public present during Council or committee meetings or other proceedings of the Council (such as, but not limited to, workshops and briefing sessions).
- 3.17 You must not engage in conduct that disrupts Council or committee meetings or other proceedings of the Council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.

### **Protecting and supporting Children**

- 3.18 [Council fully supports the aims and objectives of child protection legislation and associated provisions. Child protection is everyone's responsibility and you have an obligation to protect children from abuse and to report any suspected reportable allegations of Council employees, Councillors and contractors engaged in child related work, to your supervisor, People Support or directly to the CEO.](#)

### **What is reportable Conduct**

- 3.19 [The Children's Guardian Act 2019 defines reportable conduct as:](#)

- [A sexual offence, for example, sexual touching of a child, a child grooming offence, production, dissemination or possession of child abuse material.](#)
- [Sexual misconduct, for example, conduct that is sexual in nature towards or in the presence of a child such as descriptions of sexual acts without legitimate reasons to provide the descriptions, sexual comments, conversations or communications.](#)
- [Ill-treatment of a child, for example, conduct that is seriously inappropriate, improper, inhumane or cruel such as excessive or degrading demands of a child, a pattern of hostility towards a child or using inappropriate forms of behaviour management towards a child.](#)

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- Neglect of a child, for example, significant failure to provide adequate and proper food, supervision, nursing, clothing, or medical aid for a child in your care whilst engaged in Council duties.
- An assault against a child, meaning intentional or reckless application of physical force without lawful justification or excuse, including, hitting, striking, kicking, punching, dragging or threatening to physically harm a child.
- An offence under s 43B (failure to protect a child) or s 316A (failure to report child abuse) of the Crimes Act 1900
- Behaviour that causes significant emotional or psychological harm to a child, for example conduct that is intentional and reckless which results in significant harm or trauma to a child. This might be an unreasonable act or a series of acts which results in evidence of psychological harm such as regressive behaviour in the child, distress, anxiety and other physical symptoms.

### 3.20 As a Council employee you must:

- Treat children with respect and value their ideas and opinions
- Listen to children and respond to them appropriately
- Report any conflicts of interest (such as an outside relationship with a child for whom you are caring)
- Take all reasonable steps to protect children from abuse
- Welcome children and their families to participate in programs, services and provide feedback
- Respect the privacy of children and their families by keeping information about child protection concerns confidential in accordance with the law
- Take a child seriously if they disclose harm or abuse
- Uphold the rights of the child and prioritise their needs, safety and wellbeing
- Report any misconduct or inappropriate behaviour in relation to children, to your supervisor, People support or the CEO
- Contact the police if a child is at immediate risk of abuse – phone 000

### 3.21 ~~3.36~~ As a Council employee you must not:

- Shame, humiliate, oppress, belittle or degrade children
- Use hurtful, discriminatory or offensive behaviour or language with children
- Engage in unwarranted and inappropriate touching involving a child
- Be alone with a child unnecessarily and for more than a very short time
- Arrange contact, including online contact, with children, outside of Council's services, programs and activities
- Photograph or video an individual child without the consent of the child and their parent/s or guardian
- Work with children while impaired by alcohol or illegal drugs
- Engage in discussions of a sexual nature in the presence of children or show children pornographic images.

Failure to adhere to these standards of behaviour may result in a reportable allegation to the Office of Children's Guardian and / or disciplinary action.

## **Fitness for duty (drugs and alcohol)**

~~3.18~~**3.22** Council is committed to providing a safe work environment. You have a duty to take reasonable care of yourself and others to comply with any reasonable directions, policies and initiatives from Council in relation to the consumption of drugs and alcohol.

## **Public comment**

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~~3.193.23~~ Only Council staff who are delegated by the Chief Executive Officer may make public comment about council matters.

### **Dealings with Council on termination of employment**

~~3.203.24~~ Prior to ceasing your employment with Council, you must return all council property, documents and other items and not make public or otherwise use confidential information obtained during the time of your involvement with Council.

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## **5 Pecuniary interests**

### **What is a pecuniary interest?**

- 5.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause ~~5.35-34.3~~.
- 5.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause ~~5.65-64.6~~.
- 5.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
  - a) your interest, or
  - b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
  - c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 5.4 For the purposes of clause ~~5.35-34.3~~:
  - a) Your “relative” is any of the following:
    - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - ii) your spouse’s or de facto partner’s parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
  - b) “de facto partner” has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 5.5 You will not have a pecuniary interest in relation to a person referred to in subclauses ~~5.35-34.3~~b) or c):
  - a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
  - b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
  - c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

**What interests do not have to be disclosed?**

5.6 You do not have to disclose the following interests for the purposes of this Part:

- a) your interest as an elector
- b) your interest as a ratepayer or person liable to pay a charge
- c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this Code
- d) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this Code
- e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
- f) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
- g) an interest you have arising from the proposed making by the Council of an agreement between the Council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
- h) an interest you have arising from the making by the Council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the Council in respect of similar matters with other residents of the area:
  - i) the performance by the Council at the expense of your relative of any work or service in connection with roads or sanitation
  - ii) security for damage to footpaths or roads
  - iii) any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council, or by or under any contract.
- i) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
- j) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a council committee member.

5.7 For the purposes of clause [5.65-64.6](#), “relative” has the same meaning as in clause [5.45-44.4](#), but includes your spouse or de facto partner.

**What disclosures must be made by a designated person?**

5.8 Designated persons include:

- a) the Chief Executive Officer
- b) other senior staff of the Council for the purposes of section 332 of the LG Act

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- c) a person (other than a member of the senior staff of the Council) who is a member of staff of the Council or a delegate of the Council and who holds a position identified by the Council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
- d) a person (other than a member of the senior staff of the Council) who is a member of a committee of the Council identified by the Council as a committee whose members are designated persons because the functions of the committee involve the exercise of the Council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

### 5.9 A designated person:

- a) must prepare and submit written returns of interests in accordance with clause ~~5.185-184.18~~, and
- b) must disclose pecuniary interests in accordance with clause ~~5.105-104.10~~.

5.10 A designated person must disclose in writing to the Chief Executive Officer (or if the person is the Chief Executive Officer, to the Council) the nature of any pecuniary interest the person has in any council matter with which the person is dealing as soon as practicable after becoming aware of the interest.

5.11 Clause ~~5.105-104.10~~ does not require a designated person who is a member of staff of the Council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.

5.12 The Chief Executive Officer must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.

5.13 A disclosure by the Chief Executive Officer must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the Council and the Council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

### **What disclosures must be made by Council staff other than designated persons?**

5.14 A member of staff of Council, other than a designated person, must disclose in writing to their manager or the Chief Executive Officer the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.

5.15 The staff member's manager or the Chief Executive Officer must, on receiving a disclosure under clause ~~5.145-144.14~~, deal with the matter to which the disclosure relates or refer it to another person to deal with.

### **What disclosures must be made by a Council Committee member?**

5.16 A council committee member must disclose pecuniary interests in accordance with clause ~~5.255-254.25~~ and comply with clause ~~5.265-264.26~~.

5.17 For the purposes of clause ~~5.165-164.16~~, a "council committee member" includes a member of staff of Council who is a member of the committee.

**Disclosure of interests in written returns**

- 5.18 A designated person must make and lodge with the Chief Executive Officer a return in the form set out in Schedule 2 to this Code, disclosing the designated person's interests as specified in [Schedule 1](#) to this Code within 3 months after:
- a) becoming a designated person, and
  - b) 30 June of each year, and
  - c) the designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs a) or b).
- 5.19 A person need not make and lodge a return under clause [5.185-184.18](#), paragraphs a) and b) if:
- a) they made and lodged a return under that clause in the preceding 3 months, or
  - b) they have ceased to be a designated person in the preceding 3 months.
- 5.20 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 5.21 The Chief Executive Officer must keep a register of returns required to be made and lodged with the Chief Executive Officer.
- 5.22 Returns required to be lodged with the Chief Executive Officer under clause [5.185-184.18](#) a) and b) must be tabled at the first meeting of the Council after the last day the return is required to be lodged.
- 5.23 Returns required to be lodged with the Chief Executive Officer under clause [5.185-184.18](#) c) must be tabled at the next Council meeting after the return is lodged.
- 5.24 Information contained in returns made and lodged under clause [5.185-184.18](#) is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009* (the GIPA Act), the Government Information (Public Access) Regulation 2009 (the GIPA Regulations) and any guidelines issued by the Information Commissioner.

**Disclosure of pecuniary interests at meetings**

- 5.25 A council committee member who has a pecuniary interest in any matter with which the Council is concerned, and who is present at a meeting of the committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 5.26 The council committee member must not be present at, or in sight of, the meeting of the committee:
- a) at any time during which the matter is being considered or discussed by the committee, or
  - b) at any time during which the committee is voting on any question in relation to the matter.
- 5.27 A disclosure made at a meeting of a council committee must be recorded in the minutes of the meeting.
- 5.28 A general notice may be given to the Chief Executive Officer in writing by a council committee member to the effect that the council committee member, or the council committee member's spouse, de facto partner or relative, is:

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- a) a member of, or in the employment of, a specified company or other body, or
- b) a partner of, or in the employment of, a specified person.

Such a notice is, unless and until the notice is withdrawn or until the end of the term of the Council in which it is given (whichever is the sooner), sufficient disclosure of the council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council committee after the date of the notice.

- 5.29 A council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the council committee member has an interest in the matter of a kind referred to in clause [5.65-64.6](#).
- 5.30 A person does not breach clauses [5.255-254.25](#) or [5.265-264.26](#) if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 5.31 The Minister for Local Government may, conditionally or unconditionally, allow a council committee member who has a pecuniary interest in a matter with which the Council is concerned to be present at a meeting of the committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion that it is in the interests of the electors for the area to do so.
- 5.32 A council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause [5.315-314.31](#), must still disclose the interest they have in the matter in accordance with clause [5.255-254.25](#).

Note: For the purpose of clauses [5.255-254.25](#) to [5.325-324.32](#), a "council committee member" includes a member of staff of Council who is a member of a council committee.

## 6 Non-pecuniary conflicts of interest

### What is a non-pecuniary conflict of interest?

- 6.1 Non-pecuniary interests are private or personal interests a Council Official has that do not amount to a pecuniary interest as defined in clause [5.15-14.1](#) of this Code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 6.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 6.3 The personal or political views of a Council Official do not constitute a private interest for the purposes of clause [6.26-25.2](#).
- 6.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this Code.

- 6.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

### **Managing non-pecuniary conflicts of interest**

- 6.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause [6.26-25-2](#), you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of Council staff other than the Chief Executive Officer, such a disclosure is to be made to the staff member's manager. In the case of the Chief Executive Officer, such a disclosure is to be made to the Mayor.
- 6.7 If a disclosure is made at a committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause [6.66-65-6](#).
- 6.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 6.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause [5.15-14-1](#), but it involves:
- a) a relationship between a Council Official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause [5.45-44-4](#) or another person from the Council Official's extended family that the Council Official has a close personal relationship with, or another person living in the same household
  - b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
  - c) an affiliation between the Council Official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a Council Official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation
  - d) membership, as the Council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the Council and the organisation are potentially in conflict in relation to the particular matter;
  - e) a financial interest (other than an interest of a type referred to in clause [5.65-64-6](#)) that is not a pecuniary interest for the purposes of clause [5.15-14-1](#)
  - f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.
- 6.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:
- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or

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- b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses [5.255-254-25](#) and [5.265-264-26](#).

- 6.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.
- 6.12 If you are a member of staff of Council other than the Chief Executive Officer, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the Chief Executive Officer, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the Mayor.

### **Loss of quorum as a result of compliance with this Part**

- 6.13 The Minister for Local Government may, conditionally or unconditionally, allow a Council Committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion that it is in the interests of the electors for the area to do so.
- 6.14 Where the Minister exempts a committee member from complying with a requirement under this Part under clause [6.136-135-13](#), the committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause [6.66-65-6](#).

Note: For the purpose of clauses [6.136-135-13](#) and [6.146-145-14](#), a council committee member” includes a member of staff of Council who is a member of a council committee.

### **Other business or employment**

- 6.15 The Chief Executive Officer must not engage, for remuneration, in private employment, contract work or other business outside the service of the Council without the approval of the Council.
- 6.16 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the Council that relates to the business of the Council or that might conflict with the staff member’s council duties unless they have notified the Chief Executive Officer in writing of the employment, work or business and the Chief Executive Officer has given their written approval for the staff member to engage in the employment, work or business.
- 6.17 The Chief Executive Officer may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the Council that relates to the business of the Council, or that might conflict with the staff member’s council duties.
- 6.18 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the Council if prohibited from doing so.
- 6.19 Members of staff must ensure that any outside employment, work or business they engage in will not:
  - a) conflict with their official duties

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- b) involve using confidential information or council resources obtained through their work with the Council including where private use is permitted
- c) require them to work while on council duty
- d) discredit or disadvantage the Council
- e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

### **Personal dealings with Council**

- 6.20 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a development consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.
- 6.21 You must undertake any personal dealings you have with the Council in a manner that is consistent with the way other members of the community deal with the Council. You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this Code.

## **7 Personal benefit**

- 7.1 For the purposes of this Part, a gift or a benefit is something offered to or received by a Council Official or someone personally associated with them for their personal use and enjoyment.
- 7.2 A reference to a gift or benefit in this Part does not include:
- a) Items with a value of \$10 or less
  - b) a political donation for the purposes of the *Electoral Funding Act 2018*
  - c) a gift provided to the Council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual Council Official or someone personally associated with them
  - d) a benefit or facility provided by the council to an employee or councillor
  - e) attendance by a Council Official at a work-related event or function for the purposes of performing their official duties
  - f) free or subsidised meals, beverages or refreshments provided to Council Officials in conjunction with the performance of their official duties such as, but not limited to:
    - iv) the discussion of official business
    - v) work-related events such as Council-sponsored or community events, training, education sessions or workshops
    - vi) conferences
    - vii) Council functions or events
    - viii) social functions organised by groups, such as council committees and community organisations.

### **Gifts and benefits**

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- 7.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the Council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.
- 7.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.

### **How are offers of gifts and benefits to be dealt with?**

- 7.5 You should be aware that accepting gifts or benefits may be appropriate in some situations, but other situations may constitute corrupt conduct, or be perceived to constitute corrupt conduct. Each situation must be carefully assessed on its own merits.
- 7.6 You must not:
- a) seek or accept a bribe or other improper inducement
  - b) seek gifts or benefits of any kind
  - c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
  - d) subject to clause ~~7.87-86-8~~, accept any gift or benefit of more than token value as defined by clause ~~7.127-126-12~~
  - e) accept an offer of cash or a cash-like gift as defined by clause ~~7.167-166-16~~, regardless of the amount
  - f) accept gifts and benefits of a token value, where they are offered by the same donor on more than one occasion
  - g) accept lucky door prizes or raffle prizes while attending events, functions, conferences or training seminars paid for by the Council or while engaging in other official duties
  - h) participate in competitions for prizes where eligibility is based on the Council being in or entering into a customer-supplier relationship with the competition organiser
  - i) personally benefit from reward points programs when purchasing on behalf of the Council.
- 7.7 Where you receive a gift or benefit of any value other than one referred to in clause ~~7.27-26-2~~, you must disclose this promptly to your manager or the Chief Executive Officer in writing. The recipient, manager, or Chief Executive Officer must ensure that, at a minimum, the following details are recorded in the Council's gift register:
- a) the nature of the gift or benefit
  - b) the estimated monetary value of the gift or benefit
  - c) the name of the person who provided the gift or benefit, and
  - d) the date on which the gift or benefit was received.
- 7.8 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the Council, unless the nature of the gift or benefit makes this impractical.

### **Gifts and benefits of token value**

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- 7.9 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$50. They include, but are not limited to:
- a) free or subsidised meals of a modest nature and/or beverages provided in connection with the discussion of official business
  - b) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$50
  - c) gifts of alcohol that do not exceed a value of \$50
  - d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
  - e) prizes or awards that do not exceed \$50 in value.
- 7.10 It may be difficult to determine the true value of a gift or benefit. You must use your best judgement and adopt the approach of 'if in doubt, refuse the gift or benefit'.
- 7.11 A series of token value gifts or benefits (i.e. up to \$50.00) offered by one donor to you, may pose the same risks of real or apparent compromise as accepting one gift or benefit, which alone exceeds the \$50 token value amount. You must therefore be cautious of such serial gift giving.

### **Gifts and benefits of more than token value**

- 7.12 Gifts or benefits that exceed \$50 in value are gifts or benefits of more than token value for the purposes of clause [7.67-66.6e](#)) and, subject to clause [7.87-86.8](#), must not be accepted.
- 7.13 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$50, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.
- 7.14 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$50 in value.
- 7.15 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

### **"Cash-like gifts"**

- 7.16 For the purposes of clause [7.67-66.6e](#)), "cash-like gifts" include but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

### **Improper and undue influence**

- 7.17 You must not use your position to influence other Council Officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else.

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- 7.18 You must not take advantage (or seek to take advantage) of your status or position with council, or of functions you perform for council, in order to obtain a private benefit for yourself or for any other person or body.

### **Receiving a prohibited gift or benefit**

- 7.19 Gifts that are prohibited under this Code should be refused at the time the offer is made.
- 7.20 Where you receive a gift or benefit prohibited under this Code:
- a) that cannot be reasonably refused, or
  - b) where the nature of the gift or benefit is not known at the time (i.e. a wrapped gift provided as a thank you for making a presentation, or a card with a voucher inside, or the like).
- 8 You must surrender the gift or benefit to the Council and promptly record the details using the Gifts and Benefits Declaration Form. The completed form must be provided to Council's Internal Auditor.
- 8.1 Council's Internal Auditor must ensure that any gifts or benefits are recorded in the Gifts and Benefits Register and disposed of in accordance with Council procedures and guidelines.
- 8.2 Any kind of bribe, attempted bribe or offer of a gift or benefit that could be perceived by a reasonable person as an attempt to influence your behaviour in your official capacity, must not be accepted and must be reported to the Internal Auditor immediately. The Chief Executive Officer will consider whether to make a Section 11 report to the Independent Commission Against Corruption.

## **9 Relationships between Council Officials**

### **Obligations of Councillors and administrators**

- 9.1 Each council is a body politic. The Councillors or Administrator/s are the governing body of the Council. Under section 223 of the LG Act, the role of the governing body of the Council includes the development and endorsement of the strategic plans, programs, strategies and policies of the Council, including those relating to workforce policy, and to keep the performance of the Council under review.
- 9.2 Councillors or Administrators must not:
- a) direct Council staff other than by giving appropriate direction to the Chief Executive Officer by way of Council or committee resolution, or by the Mayor or Administrator exercising their functions under section 226 of the LG Act
  - b) in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the Council in the exercise of the functions of the staff member
  - c) contact a member of the staff of the Council on Council-related business unless in accordance with the policy and procedures governing the interaction of Councillors and Council staff that have been authorised by the Council and the Chief Executive Officer.

### **Obligations of staff**

- 9.3 Under section 335 of the LG Act, the role of the Chief Executive Officer includes conducting the day-to-day management of the Council in accordance with the strategic plans, programs, strategies and policies of the Council, implementing without undue delay, lawful decisions of the Council and ensuring that the Mayor and other Councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.
- 9.4 Members of staff of Council must:

- a) give their attention to the business of the Council while on duty
- b) ensure that their work is carried out ethically, efficiently, economically and effectively
- c) carry out reasonable and lawful directions given by any person having authority to give such directions
- d) give effect to the lawful decisions, policies and procedures of the Council, whether or not the staff member agrees with or approves of them
- e) ensure that any participation in political activities outside the service of the Council does not interfere with the performance of their official duties.

### **Inappropriate interactions**

9.5 You must not engage in any of the following inappropriate interactions:

- a) Councillors and Administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- b) Council staff approaching Councillors and Administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- c) subject to clause [10.640-68-6](#), Council staff refusing to give information that is available to other Councillors to a particular Councillor
- d) Councillors and Administrators who have lodged an application with the Council, discussing the matter with Council staff in staff-only areas of the Council
- e) Councillors and Administrators being overbearing or threatening to Council staff
- f) Council staff being overbearing or threatening to Councillors or Administrators
- g) Councillors and Administrators making personal attacks on Council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this Code in public forums including social media
- h) Councillors and Administrators directing or pressuring Council staff in the performance of their work, or recommendations they should make
- i) Council staff providing ad hoc advice to Councillors and Administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- j) Council staff meeting with applicants or objectors alone and outside office hours to discuss planning applications or proposals.

## **10 Access to information and council resources**

### **Councillor and administrator access to information**

10.1 The Chief Executive Officer is responsible for ensuring that Councillors and Administrators can access information necessary for the performance of their official functions. The Chief Executive Officer and Public Officer are also responsible for ensuring that members of the public can access publicly available Council information under the GIPA Act.

10.2 The Chief Executive Officer must provide Councillors and Administrators with the information necessary to effectively discharge their official functions.

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- 10.3 Members of staff of Council must provide full and timely information to Councillors and Administrators sufficient to enable them to exercise their official functions and in accordance with Council procedures.
- 10.4 Members of staff of Council who provide any information to a particular Councillor in the performance of their official functions must also make it available to any other Councillor who requests it and in accordance with council procedures.
- 10.5 Councillors and Administrators who have a private interest only in council information have the same rights of access as any member of the public.
- 10.6 Despite clause [10.410-48-4](#), Councillors and Administrators who are precluded from participating in the consideration of a matter under this Code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public, or the Council has determined to make the information available under the GIPA Act.

### **Refusal of access to information**

- 10.7 Where the Chief Executive Officer or public officer determine to refuse access to information requested by a Councillor or Administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the Councillor or Administrator to perform their official functions (see clause [10.210-28-2](#)) and whether they have disclosed a conflict of interest in the matter the information relates to that would preclude their participation in consideration of the matter (see clause [10.610-68-6](#)). The Chief Executive Officer or Public Officer must state the reasons for the decision if access is refused.

### **Use of certain Council information**

- 10.8 In regard to information obtained in your capacity as a Council Official, you must:
- subject to clause [10.1310-138-13](#), only access council information needed for council business
  - not use that council information for private purposes
  - not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your position with council
  - only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

### **Use and security of confidential information**

- 10.9 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.
- 10.10 In addition to your general obligations relating to the use of council information, you must:
- only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
  - protect confidential information
  - only release confidential information if you have authority to do so

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- d) only use confidential information for the purpose for which it is intended to be used
- e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- f) not use confidential information with the intention to cause harm or detriment to the Council or any other person or body
- g) not disclose any confidential information discussed during a confidential session of a council or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

### **Personal information**

10.11 When dealing with personal information you must comply with:

- a) the *Privacy and Personal Information Protection Act 1998*
- b) the *Health Records and Information Privacy Act 2002*
- c) the Information Protection Principles and Health Privacy Principles
- d) the Council's privacy management plan
- e) the Privacy Code of Practice for Local Government.

### **Use of Council resources**

10.12 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.

10.13 Union delegates and consultative committee members may have reasonable access to council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:

- a) the representation of members with respect to disciplinary matters
- b) the representation of employees with respect to grievances and disputes
- c) functions associated with the role of the local consultative committee.

10.14 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.

10.15 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

10.16 You must not use council resources (including Council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.

10.17 You must not use the Council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material:

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- a) for the purpose of assisting your election campaign or the election campaign of others, or
- b) for other non-official purposes.

10.18 You must not convert any property of the Council to your own use unless properly authorised.

### **Internet access**

10.19 You must not use council's computer resources or mobile or other devices to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, or that could otherwise lead to criminal penalty or civil liability and/or damage the Council's reputation.

### **Use of social media**

10.20 Activities on social media platforms should be considered public activities. Despite the availability of private functions on social media platforms, the possibility exists for content to be shared beyond the intended recipients. It should be noted that online content is often essentially permanent and usually becomes the property of the site on which it is posted.

10.21 You must separate corporate and personal use of social media. Corporate and personal use must not be mixed in a way that is likely to bring the Council into disrepute.

### **Council record keeping**

10.22 You must comply with the requirements of the *State Records Act 1998* (the Records Act) and the Council's records management policy.

10.23 All information created, sent and received in your official capacity is a council record and must be managed in accordance with the requirements of the Records Act and the Council's approved records management policies and practices.

10.24 All information stored in either soft or hard copy on council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the Council and will be treated as council records, regardless of whether the original intention was to create the information for personal purposes.

10.25 You must not destroy, alter, or dispose of council information or records, unless authorised to do so. If you need to alter or dispose of council information or records, you must do so in consultation with the Council's records manager and comply with the requirements of the Records Act.

### **Councillor access to Council buildings**

10.26 Councillors and Administrators must not enter staff-only areas of council buildings without the approval of the Chief Executive Officer (or their delegate) or as provided for in the procedures governing the interaction of Councillors and Council staff.

10.27 Councillors and Administrators must ensure that when they are within a staff only area they refrain from conduct that could be perceived to improperly influence Council staff decisions.

## 11 Maintaining the integrity of this Code

### Complaints made for an improper purpose

- 11.1 You must not make or threaten to make a complaint or cause a complaint to be made alleging a breach of this Code for an improper purpose.
- 11.2 For the purposes of clause ~~11.111.19.4~~, 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 one or more of the following purposes:
- a) to bully, intimidate or harass another Council Official
  - b) to damage another Council Official's reputation
  - c) to obtain a political advantage
  - d) to influence a Council Official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
  - e) to influence the Council in the exercise of its functions or to prevent or disrupt the exercise of those functions
  - f) to avoid disciplinary action under the Procedures
  - g) to take reprisal action against a person for making a complaint alleging a breach of this Code
  - h) to take reprisal action against a person for exercising a function prescribed under the Procedures
  - i) to prevent or disrupt the effective administration of this Code under the Procedures.

### Detrimental action

- 11.3 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this Code.
- 11.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under the Procedures.
- 11.5 For the purposes of clauses ~~11.311.39.3~~ and ~~11.411.49.4~~, a detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
  - b) intimidation or harassment
  - c) discrimination, disadvantage or adverse treatment in relation to employment
  - d) dismissal from, or prejudice in, employment
  - e) disciplinary proceedings.

### Compliance with requirements under the Procedures

- 11.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.

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11.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.

11.8 You must comply with a practice ruling made by the OLG under the Procedures.

### **Disclosure of information about the consideration of a matter under the Procedures**

11.9 All allegations of breaches of this Code must be dealt with under and in accordance with the Procedures.

11.10 You must not allege breaches of this Code other than by way of a complaint made or initiated under the Procedures.

11.11 You must not make allegations about, or disclose information about, suspected breaches of this Code at Council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.

11.12 You must not disclose information about a complaint you have made alleging a breach of this Code or a matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.

11.13 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the *Public Interest Disclosures Act 1994*.

### **Complaints alleging a breach of this Part**

11.14 Complaints alleging a breach of this Part by the Chief Executive Officer are to be managed by the OLG. This clause does not prevent the OLG from referring an alleged breach of this Part back to the Council for consideration in accordance with the Procedures.

11.15 Complaints alleging a breach of this Part by other Council Officials are to be managed by the Chief Executive Officer in accordance with the Procedures.

## Disclosures of interests and other matters in written returns submitted under Clause 4.18

### Part 1 - Preliminary

#### Definitions

1. For the purposes of the schedules to this code, the following definitions apply:

**address** means:

- a) in relation to a person other than a corporation, the last residential or business address of the person known to the Councillor or designated person disclosing the address, or
- b) in relation to a corporation, the address of the registered office of the corporation in New South Wales or, if there is no such office, the address of the principal office of the corporation in the place where it is registered, or
- c) in relation to any real property, the street address of the property.

**de facto partner** has the same meaning as defined in section 21C of the *Interpretation Act 1987*.

**disposition of property** means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following:

- a) the allotment of shares in a company
- b) the creation of a trust in respect of property
- c) the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property
- d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property
- e) the exercise by a person of a general power of appointment over property in favour of another person
- f) a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

**gift** means a disposition of property made otherwise than by will (whether or not by instrument in writing) without consideration, or with inadequate consideration, in money or money's worth passing from the person to whom the disposition was made to the person who made the disposition, but does not include a financial or other contribution to travel.

**interest** means:

- a) in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or
- b) in relation to a corporation, a relevant interest (within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth) in securities issued or made available by the corporation.

**listed company** means a company that is listed within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth.

**occupation** includes trade, profession and vocation.

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**professional or business association** means an incorporated or unincorporated body or organisation having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

**property** includes money.

**return date** means:

- a) in the case of a return made under clause [5.185-184-18a](#)), the date on which a person became a councillor or designated person
- b) in the case of a return made under clause [5.185-184-18b](#)), 30 June of the year in which the return is made
- c) in the case of a return made under clause [5.185-184-18c](#)), the date on which the councillor or designated person became aware of the interest to be disclosed.

**relative** includes any of the following:

- a) a person's spouse or de facto partner
- b) a person's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- c) a person's spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- d) the spouse or de facto partner of a person referred to in paragraphs (b) and (c).

**travel** includes accommodation incidental to a journey.

### Matters relating to the interests that must be included in returns

- 2. *Interests etc. outside New South Wales:* A reference in this Schedule or in Schedule 2 to a disclosure concerning a corporation or other thing includes any reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.
- 3. *References to interests in real property:* A reference in this Schedule or in Schedule 2 to real property in which a Councillor or designated person has an interest includes a reference to any real property situated in Australia in which the designated person has an interest.
- 4. *Gifts, loans etc. from related corporations:* For the purposes of this Schedule and Schedule 2, gifts or contributions to travel given, loans made, or goods or services supplied, to a designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.

### Part 2: Pecuniary interests to be disclosed in returns

#### Real property

- 5. A person making a return under clause [5.185-184-18](#) of this Code must disclose:
  - a) the street address of each parcel of real property in which they had an interest on the return date, and
  - b) the street address of each parcel of real property in which they had an interest in the period since 30 June of the previous financial year, and
  - c) the nature of the interest.
- 6. An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:

## Policy - external Code of conduct for Council staff

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- a) as executor of the will, or administrator of the estate, of a deceased person and not as a beneficiary under the will or intestacy, or
  - b) as a trustee, if the interest was acquired in the ordinary course of an occupation not related to their duties as the holder of a position required to make a return.
7. An interest in a parcel of real property need not be disclosed in a return if the person ceased to hold the interest prior to becoming a councillor or designated person.
8. For the purposes of clause 5 of this Schedule, “interest” includes an option to purchase.

### Gifts

9. A person making a return under clause ~~5.185-184.18~~ of this Code must disclose:
- a) a description of each gift received in the period since 30 June of the previous financial year, and
  - b) the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
- a) it did not exceed \$500, unless it was among gifts totalling more than \$500 made by the same person during a period of 12 months or less, or
  - b) it was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
  - c) the donor was a relative of the donee, or
  - d) subject to paragraph (a), it was received prior to the person becoming a Councillor or designated person.
11. For the purposes of clause 10 of this Schedule, the amount of a gift other than money is an amount equal to the value of the property given.

### Contributions to travel

12. A person making a return under clause ~~5.185-184.18~~ of this Code must disclose:
- a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
  - b) the dates on which the travel was undertaken, and
  - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.
13. A financial or other contribution to any travel need not be disclosed under this clause if it:
- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
  - b) was made by a relative of the traveller, or
  - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
  - d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
  - e) was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or

## Policy - external Code of conduct for Council staff

- f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
  - g) subject to paragraph (d) it was received prior to the person becoming a Councillor or designated person.
14. For the purposes of clause 13 of this Schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

### Interests and positions in corporations

15. A person making a return under clause ~~5.185-184.18~~ of this Code must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
  - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
  - c) the nature of the interest, or the position held, in each of the corporations, and
  - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
  - b) required to apply its profits or other income in promoting its objects, and
  - c) prohibited from paying any dividend to its members.
17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a Councillor or designated person.

### Interests as a property developer or a close associate of a property developer

19. A person making a return under clause ~~5.185-184.18~~ of this Code must disclose whether they were a property developer, or a close associate of a corporation that, or an individual who, is a property developer, on the return date.
20. For the purposes of clause 19 of this Schedule:
- close associate**, in relation to a corporation or an individual, has the same meaning as it has in section 53 of the *Electoral Funding Act 2018*.
- property developer** has the same meaning as it has in Division 7 of Part 3 of the *Electoral Funding Act 2018*.

### Positions in trade unions and professional or business associations

21. A person making a return under clause ~~5.185-184.18~~ of the code must disclose:
- a) the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and
  - b) the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and

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c) a description of the position held in each of the unions and associations.

22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a councillor or designated person.

### Dispositions of real property

23. A person making a return under clause 4.18 of this Code must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.

24. A person making a return under clause [5.185-184.18](#) of this Code must disclose particulars of each disposition of real property to another person (including the street address of the affected property) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.

25. A disposition of real property need not be disclosed if it was made prior to a person becoming a designated person.

### Sources of income

26. A person making a return under clause [5.185-184.18](#) of this Code must disclose:

- a) each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
- b) each source of income received by the person in the period since 30 June of the previous financial year.

27. A reference in clause 26 of this Schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:

- a) in relation to income from an occupation of the person:
  - i) a description of the occupation, and
  - ii) if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and
  - iii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
- b) in relation to income from a trust, the name and address of the settlor and the trustee, or
- c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.

28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.

29. The source of any income received by the person that they ceased to receive prior to becoming a designated person need not be disclosed.

### Debts

30. A person making a return under clause [5.185-184.18](#) of this Code must disclose the name and address of each person to whom the person was liable to pay any debt:

- a) on the return date, and
- b) at any time in the period since 30 June of the previous financial year.

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31. A liability to pay a debt must be disclosed by a person in a return made under clause ~~5.185.184.18~~ whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
32. A liability to pay a debt need not be disclosed by a person in a return if:
- a) the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:
    - i) the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
    - ii) the amounts to be paid exceeded, in the aggregate, \$500, or
  - b) the person was liable to pay the debt to a relative, or
  - c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
  - d) in the case of a debt arising from the supply of goods or services:
    - i) the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
    - ii) the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
  - e) subject to paragraph (a), the debt was discharged prior to the person becoming a designated person.

**Discretionary disclosures**

33. A person may voluntarily disclose in a return any interest, benefit, advantage or liability, whether pecuniary or not, that is not required to be disclosed under another provision of this Schedule.

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### Form of written return of interests submitted under clause 4.18

#### 'Disclosures by Councillors and designated persons' return

1. The pecuniary interests and other matters to be disclosed in this return are prescribed by [00Schedule 1](#) of the Model Code of Conduct for Local Councils in NSW.
2. If this is the first return you have been required to lodge with the Chief Executive Officer after becoming a Councillor or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a Councillor or designated person.
3. If you have previously lodged a return with the Chief Executive Officer and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the Chief Executive Officer, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year or the date on which you became a designated person (whichever is the later date) to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
4. If you have previously lodged a return with the Chief Executive Officer and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.
6. If there is insufficient space for all the information you are required to disclose, you must attach an appendix, which is to be properly identified and signed by you.
7. If there are no pecuniary interests or other matters of the kind required to be disclosed under a heading in this form, the word "NIL" is to be placed in an appropriate space under that heading.

#### Important information

This information is being collected for the purpose of complying with clause [5.185-184.18](#) of the Code of Conduct.

You must not lodge a return that you know or ought reasonably to know is false or misleading in a material particular (see clause [5.205-204.20](#) of the Code of Conduct). Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Council, the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

The information collected on this form will be kept by the Chief Executive Officer in a register of returns. The Chief Executive Officer is required to table all returns at a Council meeting.

Information contained in returns made and lodged under clause [5.185-184.18](#) is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

You have an obligation to keep the information contained in this return up to date. If you become aware of a new interest that must be disclosed in this return, or an interest that you have previously failed to disclose, you must submit an updated return within three months of becoming aware of the previously undisclosed interest.

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Disclosure of pecuniary interests and other matters by *[full name of designated person]*

as at *[return date]*

in respect of the period from *[date]* to *[date]*

*[designated person's signature]*

*[date]*

<b>A. Real Property</b>		
Street address of each parcel of real property in which I had an interest at the return date/at any time since 30 June		Nature of interest
<b>B. Sources of income</b>		
1. Sources of income I reasonably expect to receive from an occupation in the period commencing on the first day after the return date and ending on the following 30 June		
Sources of income I received from an occupation at any time since 30 June		
Description of occupation	Name and address of employer or description of office held (if applicable)	Name under which partnership conducted (if applicable)
2. Sources of income I reasonably expect to receive from a trust in the period commencing on the first day after the return date and ending on the following 30 June		
Sources of income I received from a trust since 30 June		
Name and address of settlor		Name and address of trustee
3. Sources of other income I reasonably expect to receive in the period commencing on the first day after the return date and ending on the following 30 June		
Sources of other income I received at any time since 30 June		
<i>[Include description sufficient to identify the person from whom, or the circumstances in which, that income was received]</i>		
<b>C. Gifts</b>		

## Policy - external Code of conduct for Council staff

Description of each gift I received at any time since 30 June	Name and address of donor		
<b>D. Contributions to travel</b>			
Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time since 30 June	Dates on which travel was undertaken	Name of States, Territories of the Commonwealth and overseas countries in which travel was undertaken	
<b>E. Interests and positions in corporations</b>			
Name and address of each corporation in which I had an interest or held a position at the return date/at any time since 30 June	Nature of interest (if any)	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)
<b>F. Were you a property developer or a close associate of a property developer on the return date? (Y/N)</b>			
<b>G. Positions in trade unions and professional or business associations</b>			
Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) at the return date/at any time since 30 June	Description of position		
<b>H. Debts</b>			
Name and address of each person to whom I was liable to pay any debt at the return date/at any time since 30 June			
<b>I. Dispositions of property</b>			
1. Particulars of each disposition of real property by me (including the street address of the affected property) at any time since 30 June as a result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time			

## Policy - external Code of conduct for Council staff

2. Particulars of each disposition of property to a person by any other person under arrangements made by me (including the street address of the affected property), being dispositions made at any time since 30 June, as a result of which I obtained, either wholly or in part, the use and benefit of the property
<b>J. Discretionary disclosures</b>

## Policy - external Code of conduct for Council staff

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### Review and Evaluation

Section 440 of the *Local Government Act 1993* requires Council to adopt a code of conduct that incorporates the provisions of the model code, within 12 months after an ordinary election of councillors. The adopted code may include provisions that supplement the model code.

## Policy - external Code of conduct for Council staff

# Controlled Document Information

### Authorisation Details

<b>Folder No:</b>	F2006/02120	<b>TRIM Record No:</b>	D10615422
<b>Audience:</b>	External, Council staff		
<b>Department:</b>	Communications & Corporate Strategy	<b>Officer:</b>	Council Liaison Officer - Shinead Taylor
<b>Key focus area(s):</b>	Shared Decision Making		
<b>Review Timeframe:</b> Max < 4 years	4 years (within 12 months of an ordinary election)	<b>Next Scheduled Review Date:</b>	26 April 2025
<b>Authorisation:</b>	Adopted by Council - 26 April 2022		
<b>Authorisation - Council Adoption Date:</b>	26 April 2022		

### Related Document Information, Standards & References

<b>Related Legislation:</b>	(Legislation Name) <ul style="list-style-type: none"> <li>Corporations Act 2001 (Cwlth)</li> <li>Electoral Funding Act 2018</li> <li>Government Information (Public Access) Act 2009</li> <li>Government Information (Public Access) Regulation 2018</li> <li>Health Records and Information Privacy Act 2002</li> <li>Independent Commission Against Corruption Act 1988</li> <li>Interpretation Act 1987</li> <li>Local Government Act 1993</li> <li>Local Government (General) Regulation 2021</li> <li>Public Interest Disclosures Act 1994</li> <li>Privacy and Personal Information Protection Act 1998</li> <li>Work Health and Safety Act 2011</li> <li><a href="#">Children's Guardian Act 2019</a></li> </ul>	(Relationship/Context) Governing and guiding legislation
<b>Related Policies:</b>	(Policy Name) <ul style="list-style-type: none"> <li>Model Code of Conduct for Local Councils in NSW</li> <li>Information Protection Principles and Health Privacy Principles</li> <li><a href="#">Privacy Code of Practice for Local Government</a></li> <li><a href="#">Child Safe Policy</a></li> </ul>	(Relationship/Context) <ul style="list-style-type: none"> <li>Model policy document</li> <li>Information protection principles</li> <li>Code of Practice</li> </ul>
<b>Related Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements:</b>	(Document Name) <ul style="list-style-type: none"> <li>Bullying and Harassment Internal Policy and Procedure</li> <li>Business Ethics Council Policy</li> <li>Code of Meeting Practice</li> <li>Feedback Management Policy</li> <li>Equal Employment Opportunity and Diversity Management Plan 2019-2022</li> <li>Fitness for Duty (Drug and Alcohol) Internal Policy and Procedure</li> </ul>	(Relationship/Context) <ul style="list-style-type: none"> <li>Supports the administration of the Code of Conduct</li> </ul>

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	<ul style="list-style-type: none"> <li>Internet Access Internal Policy</li> <li>Privacy Management Plan</li> <li>Reportable conduct and supporting and protecting children and young people – Procedure (<a href="#">internal</a>)</li> <li>Records Management Policy</li> <li>Secondary Employment Internal Policy and Procedure</li> <li>Social Media Internal Policy and Procedure</li> <li>Telephone and Voicemail Internal Policy</li> <li>Work Health and Safety Policy</li> <li>Working with Children Check Internal Procedure</li> </ul>	
<b>Standards, COP's &amp; Other References</b>	(Standard, COP or Other References)	(Relationship/Context)

### Consultation (update for each version created)

<b>Key Departments, Teams, Positions, Meetings:</b>	<p>Councillors</p> <p><a href="#">Executive Directors and Managers on behalf of their Clusters/Departments</a></p> <p><a href="#">Legal</a></p> <p>Council's Consultative Committee</p> <p>People, Culture and Risk Department</p> <p>Communications and Corporate Strategy Section</p>
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### Version History

Version No	Date Changed	Modified By	Details and Comments
1	April 2015	Governance Coordinator – Riarna Hamilton	Model Code of Conduct document split into two – a Code of Conduct for Council Officials, and a Code of Conduct for Staff.
2	February 2016	Internal Auditor – Sharlene Boules Director Operations – Amanda Colbey	Code of Conduct – Council Officials has had clarifications to the policy language intended to enhance the policy's understanding and application. Other changes were made in response to the release in November 2015 of the Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015. Additional information added in relation to Council's WHS Policy Removal of Gifts and Benefits Declaration Form Conflicts of Interests Declaration form as appendixes as these are now stand alone forms
3	July 2017	Governance Coordinator Katherine McNaughton	Change of title -Chief Executive Officer (General Manager) Change of policy name from Complaints and Compliments to Feedback Management policy
3.1	09/04/19	D. Hughes	First draft
3.2	15/04/19	D. Hughes	Draft for consultation
3.3	30/04/19	D. Hughes	For consideration by Organisational Services Standing Committee
4	27/05/19	Council	Approved by Council
5	5/11/20	Coordinator Council Liaison – S. Taylor	Updates mandated by Model Code of Conduct for Local Councils in NSW 2020 prescribed under the <i>Local Government (General) Regulation 2005</i> . Failure to comply with a council resolution requiring action in relation to a code of conduct breach has been removed as a breach. Language used to describe the various heads of discrimination has been updated to reflect more contemporary standards. Definitions of a council committee and council committee members have

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			been updated to include audit, risk and improvement committees (ARICs). Clarifications regarding exclusions to gifts and benefits provisions.
6	23/03/22	Coordinator Council Liaison – S. Taylor	Administrative review after December 2021 election. Updated related legislation/policy/procedure titles. Addition of review and evaluation section. No changes to content.
7	19/1/2023	Jess Salvador	<a href="#">Updated protecting and supporting children and young people in line with current legislation</a>