



BALONNE SHIRE COUNCIL EMPLOYEE CODE OF CONDUCT

CEO's foreword

Balonne Shire Council is focussed on providing exceptional service to the community. This means, amongst other things, we ensure our day-to-day conduct is of a high standard - in keeping with the trust held in us by the community. This Code provides a clear outline of minimum standards of behaviour required of all employees of Council, regardless of employment status. I expect that all employees will take responsibility to uphold this Code of Conduct. The public has a right to expect the same high ethical behaviours from all council staff, no matter what job we perform.

1. THE OBJECTIVE

A Code of Conduct is a set of standards and behaviours related to the way we do our work. It puts a responsibility on each of us to use sound ethical judgement while at work.

It aims to deliver best practice by ensuring those standards are clear and guided by sound ethics. By consistently applying these standards, we enhance public trust and confidence in each of us. Nothing in this Code interferes with your rights as a private citizen.

The Code does not cover every situation. However, the values, ethics, standards and behaviours it outlines are a reference point to help make decisions in situations it does not cover. If you act in good faith and in keeping with the spirit of the Code, you can expect to be supported by your colleagues, your team leader/supervisor/manager and by Council.

A 'Guide for ethical decision-making' is included at Appendix B to help you in situations not covered by the Code.

2. COUNCIL STATEMENT

Council conducts its business with integrity, honesty and fairness and complies with all relevant laws, regulations, codes and corporate standards.

Everyone working for Council must follow the highest standards of behaviour when dealing with customers and each other. Our leaders must encourage a culture where ethical conduct is recognised, valued and followed at all levels. Our ethical culture in council starts with our Chief Executive Officer and is demonstrated through our senior leaders and all employees.

Council actively supports, encourages and develops its employees to work safely, be customer focused, use technology and Council assets effectively, adapt to changes and improve their own capabilities and contribute to Council's Community, Corporate and Operational Plans.

3. LEGISLATIVE PRINCIPLES & CORPORATE VALUES

The *Public Sector Ethics Act 1994* identifies four ethics principles fundamental to good public administration that guides our behaviour as Public Officials and form the basis for a local government Code of Conduct. The four principles are:

- (a) integrity and impartiality;
- (b) promoting the public good;
- (c) commitment to the system of government; and
- (d) accountability and transparency.

The *Local Government Act 2009* sets out the way in which a local government is constituted and the nature and extent of its responsibilities and powers. The Act requires Council's actions are consistent with the following local government principles:

- (a) *transparent and effective processes, and decision-making in the public interest; and*
- (b) *sustainable development and management of assets and infrastructure, and delivery of effective services; and*
- (c) *democratic representation, social inclusion and meaningful community engagement; and*
- (d) *good governance of, and by, local government; and*
- (e) *ethical and legal behaviour of councillors and local government employees.*

These legislated principles, together with Council's corporate values, form the basis of this Code of Conduct. They apply to all employees and guide our thinking, actions and decision-making.

The values we share as employees of Council are:

RESPECT

We value respect for the system of government, laws, people and environment

TEAMWORK

We value teamwork, trust and loyalty in a collaborative effort to deliver the best possible service to our customers

ACCOUNTABILITY

We accept responsibility to our community for our decisions, our successes and our failures

INNOVATION

We embrace continuous improvement and encourage new ideas and innovation

EMPOWERMENT

We seek to develop the capacity of our communities to achieve self determination

We value our staff and are committed to their ongoing training and development

4. TO WHOM DOES THE CODE APPLY?

All Council employees (regardless of their employment status, role or position – e.g. permanent, temporary, casual or part-time employees, managers, supervisors, team leaders, team members or individuals), contractors and volunteers must be familiar with and follow the spirit and content of the Code of Conduct.

5. WHEN DOES THE CODE APPLY?

The Code applies at all times when we are performing official duties including when we are representing council at conferences, training events, on business trips and attending work related social events. We will ensure our private conduct maintains the integrity of council and our ability to perform our duties.

6. ETHICAL PRINCIPLES, VALUES AND CONDUCT

6.1 The First Principle – Integrity and impartiality

Public Sector Ethics Act 1994 section 6 states:

“In recognition that public office involves a public trust, public service agencies, public sector entities and Public Officials seek to promote public confidence in the integrity of the public sector and—

- (a) are committed to the highest ethical standards; and*
- (b) accept and value their duty to provide advice which is objective, independent, apolitical and impartial; and*
- (c) show respect towards all persons, including employees, clients and the general public; and*
- (d) acknowledge the primacy of the public interest and undertake that any Conflict of Interest issue will be resolved or appropriately managed in favour of the public interest; and*
- (e) are committed to honest, fair and respectful engagement with the community.”*

Operationally, for you this requires the following workplace standards :

(a) Conflict of Interest

When making decisions, you must declare any conflicts of interest that could affect your objectivity in carrying out your duties.

A Conflict of Interest involves a conflict between your official duties and responsibilities in serving the public interest and your private interests. A Conflict of Interest can arise from avoiding personal losses as well as gaining personal advantage – whether financial or otherwise. This includes advantages to relatives and friends. For further information on Conflict of Interest - Refer Appendix A for definitions.

If you believe you have a Conflict of Interest, whether real, potential or perceived, you must tell your team leader/supervisor/manager promptly. Your team leader/supervisor/manager will then provide further direction on how to resolve the matter in the public interest.

Until the matter is resolved, you must make sure you are not part of any decision-making process related to the matter.

If you feel you have a Conflict of Interest between professional and corporate values, discuss it with your team leader/supervisor/manager. You should also refer to

Council's Staff Induction Handbook on how to report and manage a Conflict of Interest.

Where required by the Local Government Regulation 2012, you may be required to supply details of interests to the CEO or Mayor to be included in a Register of Interests and ensure particulars contained in a Register of Interests remain current and correct.

(b) Influences on decision-making

You must not influence any person in an improper way with the aim to obtain personal advantage or favours. This means that you cannot bribe, intimidate, threaten, victimise or take any form of reprisal action to obtain something that you would not be entitled to or that places you in a position that is more advantageous than any other person.

All decisions need to be, and be seen to be, fair and transparent. This can be achieved in a number of ways, including clear record-keeping, showing how decisions were made.

Appendix B has more information about how to undertake ethical decision making: see 'A guide to ethical decision-making'.

You must ensure that any contact with lobbyists complies with any Policy of Council and the requirements of the *Integrity Act 2009* (as outlined at Appendix C).

(c) Accepting Gifts and Benefits

Occasionally you may be offered gifts or benefits from people with whom you do business.

Pursuant to section 199(3) of the *Local Government Act 2009* (QLD), it is an offence for an employee to ask for, or accept, a fee or other benefit for doing something as a local government employee. However, section 199(3) does not apply to remuneration paid by Council or a benefit that has only a nominal value.

The acceptance of Gifts or Benefits of a nominal value may be permitted in limited circumstances, however as a rule you must not accept any gifts or benefits if there is a possibility that in doing so, you could create a real, potential or perceived Conflict of Interest or could be seen to be being influenced by receiving a gift or benefit. .

The test to apply is whether you could be (not whether you are) influenced by your private interests in carrying out your official duties, or whether people are likely to perceive that you could be influenced.

For example, ask yourself if accepting the gift or benefit could suggest that the giver may, or would, or could be seen to be receiving favourable treatment.

Where required by the Local Government Regulation 2012, senior staff (including the CEO and Councillors) must ensure that gifts are recorded in their Register of Interests.

(d) Employment outside Council

It is not Council's intention to stop people from holding secondary employment over and above your official duties as a Council employee. Approval for secondary employment is automatically granted for you to undertake private employment outside of your normal working hours as long as the following requirements are met:

- That no Conflict of Interest exists or develops, or could be perceived, between your private employment and your official duties.
- That your private employment has no effect on the performance of your official duties. This includes effects from a safety/fatigue management perspective.
- That your private employment does not involve use of Council resources (physical, technological or intellectual); and
- You must ensure that your work outside Council continues to meet the requirements at (a); (b) and (c) previously; and
- Pursuant to section 198 of the *Local Government Act 2009*, where you seek to be employed by more than 1 local government at the same time, approval of each of the local governments is required prior to you being appointed to the second position.
- Although you do not need written approval, if you undertake voluntary work or a hobby you also need to ensure that these activities meet the above requirements. If you are unsure, you should discuss this with your team leader/supervisor/manager.

(e) Public Comments on Council Business

As a general rule, Councillors' comment publicly on Council business. Council business can be topical, sensitive and controversial and there is a process to be followed when making public comments.

If you are asked to comment on any Council matter via the media or other public relations firms, you should first refer to Council's policy and/or talk to your supervisor/manager.

You must also ensure that to the extent you collect, handle or give access to personal information, you comply with the Privacy Principles outlined under the *Information Privacy Act 2009*. A copy of the Privacy Principles as applying to Council is outlined at Appendix D.

If you comment publicly in connection with external activities, you must make a clear distinction that your opinion is being offered as a member of the external organisation, and not as a Council employee.

(f) Advice given to Elected Officials

Communication between Councillors and employees must be in accordance with the CEO's Guidelines (Appendix E) on requests to employees for advice to help a Councillor make a decision. Council employees must give elected members (Councillors) advice that is thorough, responsive, objective, independent, apolitical and impartial so that Councillors can make decisions and carry out their community responsibilities.

If you believe there is conflict between a request from an elected official and Council policies, you must discuss this with your team leader/supervisor/manager.

(g) External Activities

Council supports and is committed to ensuring all staff are free to engage in trade union, party-political, professional, interest group or charity activities of their choosing. However, you must make sure that your participation in such activities does not cause either a Conflict of Interest, and/or unduly restricts the performance of your official duties with Council.

You must not allow your involvement in any external organisation to intrude upon your duty, as a Council employee, to give sound advice to Council that is objective, independent, apolitical and impartial.

You are not to take part in political affairs whilst on duty. Council's IT systems, including internet access and email, Council newsletters and workplaces must not be used for political messages or circulating defamatory or disparaging remarks against individuals or groups.

If you comment publicly in connection with external activities, you must make a clear distinction between your opinion as a member of the external organisation, and your opinion as a Council employee.

You must not use your role in Council, Council information or information gained in the course of your official duties as a Council employee, to advance your position or

standing within an external organisation, nor for the benefit or promotion of an external organisation. You must not provide Council information to members of other groups or related persons, except where this information is publicly available.

As a member of an external organisation you need to be aware that participating in activities in the public arena, where you may be identified as a Council employee, can give rise to a perception of Conflict of Interest in some circumstances. Where such a situation arises, you must declare and manage the conflict in accordance with this Code of Conduct.

(h) Behaviour Towards Each Other

We must all treat others with trust, respect, honesty, fairness, sensitivity and dignity. Employees who supervise or manage other employees have a special responsibility to model this kind of behaviour, and to ensure that the people they supervise understand the standard of performance and behaviour that is expected of them at work and when dealing with ratepayers and the public generally.

Council values diversity, and expects all its employees, contractors and volunteers to accommodate and respect different opinions and perspectives, and to manage interpersonal disagreements by rational debate. You must not behave towards any other person in a way that could be perceived as intimidating, overbearing or bullying, or that may constitute unwelcome conduct of a sexual nature. This includes assault as defined in the Queensland Criminal Code (see section 245), and Stalking (see section 359B).

This section of the Code also covers teamwork. Effective teamwork is an essential part of a productive workplace culture. Each team member needs to work co-operatively with fellow employees and actively and willingly take part in team activities (e.g. meetings).

(i) Non-discriminatory workplace

Council is an equal opportunity employer and as such is proactive in ensuring that its workplace is free from discrimination and harassment. Council has adopted Policies to regulate Anti-Discrimination, Bullying and Harassment and Equal Employment Opportunity principles. All staff are to familiarise themselves and work within the Policy guidelines.

6.2 The Second Principle – Promoting the Public Good

Public Sector Ethics Act 1994 section 7 states:

“In recognition that the public sector is the mechanism through which the elected representatives deliver programs and services for the benefit of the people of Queensland, public service agencies, public sector entities and Public officials –

- (a) accept and value their duty to be responsive to both the requirements of government and to the public interest; and*
- (b) accept and value their duty to engage the community in developing and effecting official public sector priorities, policies and decisions; and*
- (c) accept and value their duty to manage public resources effectively, efficiently and economically; and*
- (d) value and seek to achieve excellence in service delivery; and*
- (e) value and seek to achieve enhanced integration of services to better service clients.”*

Operationally, for you this requires the following workplace standards:

(a) Customer service

As a Council employee it is expected that you will strive to provide excellent customer service. You must treat members of the public equitably and with honesty, fairness, sensitivity and dignity.

All Council employees serve ratepayers directly or indirectly. If your role in Council involves regular contact with the public, it is important to know how to deal comfortably and calmly with difficult situations and difficult people.

You are expected to treat complaints from customers, ratepayers, and the community or fellow employees seriously and respond to constructive feedback as an opportunity for improvement.

Customers have a right to complain or criticise Council. Council expects its employees to show respect towards complainants. While you must make all reasonable efforts to help customers lodge complaints, if you think a situation is threatening or intimidating, you are entitled to withdraw. If in doubt, ask for help from a more experienced colleague, or a team leader/supervisor/manager. Council will support any employee who believes they are under threat from a member of the public

(b) Fairness to suppliers

Council's contracting activities are regulated pursuant to the *Local Government Act* 2009 (QLD). Further, Council has established procedures and delegations of authority for various stages of procurement of goods and services which reflect the content of the *Local Government Act* (LGA) 2009 (QLD). You must comply with the provisions of the LGA and Council procedures when seeking suppliers for goods or services as outlined in the Staff Induction Manual.

If you have been approved to be involved in offering contracts or buying goods and services from outside Council, you must be sure you have taken reasonable, fair and consistent steps to allow all potential suppliers to bid for work.

(c) Public money

You must maintain high standards of accountability if you collect and use public money.

You are not to borrow or use Council money for private purposes. This also applies to items such as taxi vouchers or other vouchers.

Officers using Council monies for the purpose of entertainment and/or hospitality expenditure on Council's behalf must do so strictly in accordance with Council's Staff Induction Manual and Entertainment and Hospitality Policy.

(d) Intellectual property

Council expects its employees to ensure that their actions do not breach or infringe the *Copyright Act 1968*, by unlawfully using the intellectual property of any individual or organisation.

You must respect the copyrights, trademarks and patents of suppliers and other organisations outside Council and includes that you do not reproduce or quote suppliers' material unless your license specifically allows it. Similarly you must not store or copy audio, video or image files, printed media and software on Council assets without an appropriate license or approval. Where this is unclear you must seek written approval before arranging to publish, disclose or reproduce any articles or materials as part of your official duties.

Any original work, invention or product you have contributed to in association with your official duties as a Council employee remains the property of Council. Similarly, you must not publish or disclose any matters relating to Council's intellectual property

without appropriate authority. This does not stop you from sharing with other organisations information relating to your official duties. However, if you do, and if you are unaware of whether such action may breach this Code, you must first seek clarification/approval from your supervisor/manager.

(e) Concern for the environment

We all share the responsibility to protect our natural environment, creating healthy surroundings for our community, and for managing the impacts of air, water, land and noise pollution. This includes individual responsibility for our own actions (e.g. taking care in disposing of waste and using and storing chemicals, reducing energy consumption and waste in our work spaces where we can, and applying high standards of environmental protection across the region).

In performing your duties at Council, you must ensure that you comply with your general environmental duty and where applicable, your duty to notify of environmental harm: Refer to Chapter 7, Part 1 of the *Environmental Protection Act 1994*.

6.3 The Third Principle – Commitment to the system of government

Public Sector Ethics Act 1994 section 8 states:

(a) *In recognition that the public sector has a duty to uphold the system of government and the laws of the State, Commonwealth and local government, public service agencies, public sector entities and Public officials -*

(i) *accept and value their duty to uphold the system of government and the laws of the state, the Commonwealth and local government; and*

(ii) *are committed to effecting official public sector priorities, policies and decisions professionally and impartially; and*

(iii) *accept and value their duty to operate within the framework of Ministerial responsibility to government, the Parliament and the community.*

(a) *Subsection (1) does not limit the responsibility of a public service agency, public sector entity or Public official to act independently of government if the independence of the agency, entity or official is required by legislation or government policy, or is a customary feature of the work of the agency, entity or official*

Operationally, for you this requires the following workplace standards:

(a) Acting within the law

As an employee of Council, you are expected to comply with applicable legislation, awards, certified agreements, Council policies and local laws.

You have the right and responsibility to respectfully question how you do your work, particularly if you think there is an imminent risk to the safety to yourself or others, or there is a better way of doing something, or if you think that a direction may be in breach of the law. When you have recorded your suggestion or concern you are required to work as directed by your team leader/supervisor/manager, except where there is an imminent risk to safety. If the matter cannot be resolved within the workgroup, it should be immediately referred to your manager.

If you are charged with having committed any indictable offence, are subject to an indictable offence conviction, or are subject to a summary conviction, you should immediately report the circumstances to your divisional manager. Such disclosure shall be treated as confidential.

We will comply with legislative and/or policy obligations to report employee criminal charges or convictions.

(b) Acting in accordance with delegations and signing documents on behalf of Council

If you are requested to undertake an action on behalf of the CEO or Council, prior to exercising any power on behalf of the Chief Executive Officer you must ensure there exists an appropriate delegation pursuant to State or Federal legislation that allows you to exercise the power. Refer to Council's delegations register. The following persons are the only persons who may sign a document on behalf of Council, consistent with S236 of the *Local Government Act 2009 (QLD)* (LGA):-

(1) The following persons may sign a document on behalf of a local government—

(a) the head of the local government;

(b) a delegate of the local government;

(c) a councillor or local government employee who is authorised by the head of the local government, in writing, to sign documents.

So the Mayor or CEO sign documents on behalf of Council.

(c) Raising concerns

You have the right to comment on or raise concerns with your team leader/supervisor/manager about Council policies, practices or priorities where they impact on your employment. However, you must do this in a reasonable and constructive way and take responsibility for your comments and views. Further, you must accept that Council has the right to determine its policy, practices and priorities

and that you must comply with all reasonable and lawful instructions, whether or not you personally agree with a given policy direction.

When raising complaints or grievances, employees are expected to act with honesty and in good faith. Complaints that are considered vexatious or frivolous will not be progressed, and such complaints may be managed as acts of misconduct in accordance with the Council's Performance and Misconduct and/or Disciplinary Policy as outlined in the Staff Induction Manual.

(d) Privacy

Council maintains information about individuals, businesses and commercial issues which is private and sensitive and which could be harmful to a person's interest if released. Employees should only access personal information and records they require to perform their official Council duties.

Employees must ensure that the collection, storage and use of personal information is done so in accordance with the Privacy Principles outlined pursuant to the Information *Privacy Act 2009*. A copy of the Privacy Principles is outlined at Appendix D.

6.4 The Fourth Principle – Accountability and transparency

Public Sector Ethics Act 1994 section 9 states:

In recognition that public trust in public office requires high standards of public administration, public service agencies, public sector entities and public officials -

- (a) are committed to exercising proper diligence, care and attention; and*
- (b) are committed to using public resources in an effective and accountable way; and*
- (c) are committed to managing information as openly as practicable within the legal framework; and*
- (d) value and seek to achieve high standards of public administration; and*
- (e) value and seek to innovate and continuously improve performance; and*
- (f) value and seek to operate within a framework of mutual obligation and shared responsibility between public services agencies, public sector entities and public officials.*

Operationally, for you this requires the following workplace standards:

- (a) Using Council assets

Council's assets include property, plant, equipment, information systems, computing resources, goods, products and/or valuables (this includes surplus material, waste material and off-cuts). All employees share the responsibility for looking after them.

If you are in charge of assets you must take good care of them while they are in your possession or use, and ensure they are used economically and efficiently. It is an offence to misuse or allow anyone else to misuse Council assets. You must make sure assets are secured against theft and properly stored, maintained and repaired.

You must ensure that you use Council assets only for official Council business, unless written approval has been granted by your manager.

You must not store personal files on Council's IT assets. Any files stored on, or information accessed using Council assets, are discoverable by Council.

You can use telephones on a limited basis for local calls that you cannot make conveniently outside working hours.

If you use Council vehicles or a Council issued mobile telephone for non-official purposes, you must ensure that your use is in accordance with Council policy.

Council allows limited personal use of electronic mail and internet browsing, subject to and in accordance with Council Policy. Limited personal use means use that is infrequent and brief, and is performed during your non-paid time, that is, before and after work or during meal breaks. Please refer to the definition of Limited Personal Use (Electronic Mail and internet) for more information on what is allowed.

Upon your employment terminating with Council, you must return all Council property and work-related documents immediately.

(b) Diligence, care and attention

Council aims to conduct its business with integrity, honesty and fairness, to achieve the highest standards in service delivery. You contribute to this aim by carrying out your duties honestly, responsibly, in a conscientious manner and to the best of your ability. This includes:

- maintaining punctuality and not being absent from your work station/location during work time without reason;
- giving priority to official duties over personal activities during work time;
- ensuring you do not undertake personal work during work time;
- not wasting time chatting about personal matters and interrupting other staff;

- helping Council achieve its mission and goals by contributing to improve systems and practices;
- conducting yourself in a way so others gain confidence and trust in the way Council does business;
- not allowing conduct to distract or prevent others from working;
- not exposing Council to a judgment for damages against it, as a result of your negligence or breach of any law or policy.

Managers and supervisors must also ensure that:

- they model the values and principles outlined in this Code and ensure that employees within their area of responsibility understand and comply with the Code;
- they do not come under a financial obligation to any employee they supervise or manage;
- their work and the work of those they supervise contribute to the achievement of Council's goals;
- employee performance is monitored and individuals are given constructive and regular feedback on their performance in line with procedures;
- where practicable, employees are given training opportunities to assist them in developing their careers;
- employees are provided with information that is vital for effective work performance;
- the opinions of employees are respected and considered;
- workloads are fairly distributed;
- resourcing for a work team is neither excessive nor inadequate for the job;
- employees who collect, handle or disburse public money are properly supervised;
- employee work times, overtime, allowances and absences are correctly recorded on time/flex sheets and pay summary reports;
- appropriate action is taken if breaches of this Code occur.

(c) Attendance at and absence from duty

Staff are expected to follow Council employment and working arrangements, agreements and rulings on attendance at work and leave. This includes not being absent without approval and accurately and truthfully recording work and leave periods.

(d) Self-development

All Local Government employees have an obligation to be proactive in the continual improvement of all aspects of their work performance: refer to section 13 of the *Local Government Act 2009 (QLD)*. You should aim to maintain and improve your work performance and that of your work unit in the delivery of customer service. You have a continuing responsibility to maintain and enhance your skills and expertise and keep up to date the knowledge associated with your area of work.

(e) Workplace health and safety

As Council employees we are all committed to zero harm in the way we conduct our business and Council activities.

Council will endeavour to ensure that persons are free from:-

- death, injury or illness caused by the workplace, relevant workplace area, work activities, or plant or substances for use at work; and
- the risk of death, injury or illness caused by the workplace, relevant workplace area, work activities, or plant or substances for use at work.

You must take reasonable steps to ensure your own safety, health and welfare in the workplace. You also have a duty of care to both fellow employees and members of the public.

For more information refer to Council's Workplace Health and Safety Policy and Staff Induction Manual.

BREACHES OF THE CODE

Council expects all employees whilst engaged in official duties, to ensure they demonstrate the standards of acceptable conduct as enshrined in this Code. All employees have the responsibility to comply with this Code of Conduct and all other Council policies.

A breach of the Code of Conduct may damage business effectiveness, public perception of Council or interpersonal work relationships. Any action or lack of action by an employee of

Council that contravenes this Code may result in Council taking disciplinary action against that employee, and which may include dismissal. All suspected breaches will be dealt with on a case by case basis.

Reasonably suspected corrupt conduct must be referred to Council's Chief Executive Officer (refer Council's Policies and Procedures for Reporting and Investigating Misconduct), and the Chief Executive Officer has a duty to notify the Crime and Corruption Commission (CCC) via statutory notice.

Please refer to section 15 of the *Crime and Corruption Act 2001* QLD for a definition of "corrupt conduct".

Other misconduct breaches are the responsibility of Council.

In cases where a suspected breach of this Code is under investigation, and if the Chief Executive Officer deems it appropriate, any employee suspected of a breach of this Code may be suspended from duty on full pay until such time as the investigation has been completed.

All disciplinary action taken by Council against an employee for found breaches of this Code will be in accordance with Council's disciplinary policy as outlined in the Staff Induction Manual and in compliance with Council's obligations pursuant to Sections 197, 259, 278, 279, 280, 281, 282 and 282 of the *Local Government Act 2009*(QLD).

7. OBLIGATION TO REPORT WRONGDOING

The *Public Interest Disclosure Act 2010* and the *Public Sector Ethics Act 1994* aim to create a work environment where public sector employees understand and maintain appropriate standards of conduct.

Where you honestly believe on reasonable grounds that you possess information about another Council Officer's conduct that relates to:

- corrupt conduct; or
- maladministration that adversely affects a person's interests; or
- a substantial misuse of public resources, other than an alleged misuse based on mere disagreement over policy that may properly be adopted about amounts, purposes or priorities of expenditure; or
- a substantial and specific danger to public health or safety; or
- a substantial and specific danger to the environment

you have an obligation to report the matter.

Council will support employees who report genuine concerns of wrongdoing and manage any reports of suspected wrongdoing in a fair, transparent and consistent manner.

You have the right to make a Public Interest Disclosure to a proper authority subject to, and in accordance with, the *Public Interest Disclosure Act 2010*.

Should you wish to make such a disclosure, please contact:

- internal channels, Director of Corporate and Financial Services; or
- other external channels (e.g. Crime and Corruption Commission, Qld Ombudsman, Anti-Discrimination Commission etc.); remembering the 1 July 2014 changes to the CCC now require that the complaint is made by statutory declaration.

8. REVIEW

This Code will be reviewed on 31/01/2016.

9. PUBLICATION

In accordance with the requirements of section 20 of the *Public Sector Ethics Act 1994*, the Chief Executive Officer will keep a printed copy of the Code available for inspection in the Executive Office and Council will publish the Code on its Intranet site for all employees to access.

10. TRAINING

Education and training about public sector ethics will be offered at induction and as frequently as the Chief Executive Officer determines.

11. AUTHORITY

In accordance with Section 16 of the *Public Sector Ethics Act 1994*, the following consultation process was followed in development of this Code:

Staff were given the opportunity to make comment and have input and the draft code was presented to applicable unions, union delegates, Crime & Corruption Commission and Queensland Ombudsman as part of the consultation process in preparing the Code.

This Code was approved by the Chief Executive Officer in accordance with Section 17 of the *Public Sector Ethics Act 1994*.

12. DOCUMENT OWNER

Chief Executive Officer

13. FURTHER ASSISTANCE

If you read the Code and are still unsure of how it applies to you, it is important that you discuss this with your manager, team leader or divisional manager. If you have concerns about approaching any of these people, contact the next most senior person in your area.

Alternatively you might wish to contact one of the following:

- Director of Corporate and Financial Services (4620 8888)
- HR & Administration Manager (4620 8827)

Related information

- Anti-discrimination and Equal Opportunity Policy
- Workplace Harassment Policy
- Policies and Procedures for Reporting and Investigating Official Misconduct
- Staff Induction Manual

Adopted

- 21st November 2014

Replaces

- Code of Conduct Dated February 1997
- Consultation Draft dated August 2014

APPENDIX A - Definitions

Benefit – means something that is similar to a Gift in that it is of value to the recipient, but it is less tangible in nature (e.g. a new job or promotion, preferential treatment, or access to confidential information).

Conflict of Interest – means a conflict between a Council employee's work responsibilities and their personal or private interests. A Conflict of Interest can arise from either gaining a personal advantage or avoiding a personal loss. Conflicts of interest can be real (actual) or perceived (apparent).

- A real Conflict of Interest is a conflict between the employee's duties and their private interests. For example Ron is on a recruitment and selection panel and his sister is applying for a position to be decided by that panel.
- A perceived Conflict of Interest arises where a person is likely to believe an employee's private interests could improperly influence them at work. Such a perception is judged having regard to what a fair and reasonable member of the public could be expected to believe. For example Frida works for Council as a community grants funding program manager. On the weekend she plays tennis with the director of a community organisation applying for funding through the funding program Frida is managing. A reasonable person is likely to believe that Frida could be improperly influenced by the relationship she has developed with the director at tennis.

Types of interests – interests can be financial, non-financial, personal, private, family or business.

- A financial interest is when the employee could gain a personal financial benefit including having shares, receiving gifts, benefits or bribes or receiving hospitality or travel. For example Kim's partner owns a company which is tendering for work with Council.
- Some examples of non-financial interests are below.
 - (a) You work in the strategic procurement area and one of your regular fishing friends asks you to keep an eye on his tender application.
 - (b) You work in the funding application area and you are also president of a local group applying for funding from Council.
 - (c) You work in the development applications area and your children's school will be affected by a new development and the development proposal has been submitted to Council for approval.

Gift – means an item of value – money, voucher, entertainment, hospitality, travel, commodity, property – that one person gives to another. Gifts may be offered as an expression of gratitude with no obligation to repay, or given to create a feeling of obligation.

Impaired by the effects of alcohol or drugs means:

- for employees operating/driving heavy vehicles and buses, a blood alcohol content greater than 0.00% (consistent with Queensland Transport Regulations);
- for employees driving light vehicles or operating mechanical tools or equipment, a blood alcohol content greater than 0.05% (consistent with Queensland Transport Regulations);
- for all employees – a positive drug test result in excess of the cut-off levels specified in Australian Standard AS 4308; and/or physical or mental condition and/or behaviour which limits the employee's ability to undertake work in a safe and effective manner.

Indictable offence – means a crime or misdemeanour for which an offender cannot, unless otherwise expressly allowed, be prosecuted or convicted except upon indictment.

Indictable offence conviction – means a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded, in relation to an Indictable offence.

Limited Personal Use (Electronic Mail and Internet) – means the following:

- Use that is infrequent and brief and is performed during the employee's non-paid time. That is, before and after work or during meal breaks.
- Use that does not breach this Code of Conduct, Council policy, Public Sector Ethics Act 1994 (Qld), Local Government Act 2009 (including Regulations) (Qld), Crime and Misconduct Act 2001 (Qld) or related State and Federal legislation and regulations.
- Personal use is activity conducted for purposes other than undertaking official business, professional duties, and/or professional development.
- Personal use refers to personal related activities which do not interfere with the operations of the Council.
- Examples of permitted limited personal use of the internet include:
 - (a) internet access that is incidental to employment or personal business transactions such as accessing government information sites and online banking and bill paying;
 - (b) participation in approved online training or personal development programs;

- (c) sending or receiving infrequent personal messages by email, providing the content of the message does not breach Council's Code of Conduct or Corporate Policies.
- Examples of limited personal use of the internet that is NOT permitted (not an exhaustive list) include:
 - (a) gambling (including gaming, online betting, bookmaker odds, lottery pages, bingo, football tipping);
 - (b) games (including traditional board games, card games and role playing games, for example, Solitaire and World of Warcraft);
 - (c) participation in online auctions (including eBay);
 - (d) dating (including the use of online dating services);
 - (e) downloading and storage of music, video files and pictures (including the use of YouTube, iTunes, Napster, BitTorrent and similar sites/programs);
 - (f) accessing social networking sites (including Facebook, Twitter, MySpace and similar sites) unless the use is directly connected with your duties, is for the purpose of communicating approved Council publications and/or media releases and has been approved by your team leader/supervisor/manager;
 - (g) accessing, downloading, storing or sending racially and/or sexually offensive, obscene and/or other threatening, belligerent or libellous electronic communications.

Official Misconduct – means wrongdoing by a public sector official (including police) in carrying out their official duties or exercising their powers. It must involve one of the following:

- (a) dishonesty or lack of impartiality;
- (b) a breach of the trust put in a person by virtue of their position; or
- (c) a misuse of officially obtained information.

It must also be a criminal offence or serious enough to justify dismissal of the person from their position.

Public official – means an employee of Council.

Summary conviction – means a summary conviction of an Indictable offence by a Magistrates Court.

APPENDIX B - A guide to ethical decision-making

The following guide is designed to help you reach an ethical decision based on the relevant facts and circumstances of a situation.

Step 1: assess the situation.

- What is your aim?
- What are the facts and circumstances?
- Does it break the law or go against Council policy?
- Is it in line with the Code's principles?
- What principles does it relate to? Why?
- Who is affected? What rights do they have?
- What are your obligations or responsibilities?

Step 2: look at the situation from Council's viewpoint.

- As a Public official, what should you do?
- What are the relevant laws, rules and guidelines?
- Who else should you consult?

Step 3: how would others see your actions?

- Would a reasonable person think you used your powers or position improperly?
- Would the public see your action or decision as honest and impartial?
- Do you have a Conflict of Interest?
- Will your decision or action stand up to public scrutiny?

Step 4: consider the options.

- Ask your team leader/supervisor/manager, or any person who is able to give sound, relevant advice.
- What options and consequences are consistent with Council's values, the five local government principles, the four ethics principles fundamental to good public administration and your obligations?
- What are the costs and long-term consequences of each option?

- How would the public view each option?
- What will be the outcome for Council, your colleagues, others and you?

Step 5: choose your course of action.

Make sure your actions are:

- within your power to take, legal and in line with policy and this Code;
- fair and justifiable to your manager and the public;
- documented so a statement of reasons can be supplied;
- consistent with Council's mission, goals and values; and
- backed by advice from Council specialists, if this is appropriate.

APPENDIX C – Contact with Lobbyists

The following guide is designed to help you deal with lobbyists appropriately and in compliance with provisions of the Integrity Act 2009.

1. Contact by Registered Lobbyists

The Integrity Act 2009 – Section 41 defines who is a registered lobbyist and who is not a professional lobbyist. Legally the lobbyist must be a third party carrying out lobbying activity for a third party client or contractors carrying out lobbying activity for a third party client. “Third party client” means an entity that engages another entity to provide services via a fee that is agreed to before the service is provided.

Councillors and Council employees who receive contact from a lobbyist must establish whether the lobbyist is registered. The Lobbyist Register may be viewed at:

<http://lobbyists.integrity.qld.gov.au/who-is-on-the-register.aspx>

Councillors and Council employees who receive contact by a registered lobbyist must create a record of that contact and forward the following core information to the Chief Executive Officer

- Date of Contact
- Name and title of Councillors and Council employees present
- Name and title of Lobbyist/s present
- Name and title of Lobbyist’s clients/s present
- Method of contact (e.g. telephone call)
- Purpose of contact (e.g. follow up of progress with application)
- Brief description of issue
- Outcome of contact

2. Contact by Unregistered Lobbyists

Councillors and Council employees must not engage in lobbying activity with unregistered lobbyists. If you reasonably believe someone is an unregistered lobbyist and undertaking a lobbying activity, please follow the below steps:

- Advise the person (in a professional manner) that you believe that:-
 - (a) This contact may be a "lobbying activity" under the Integrity Act 2009;

- (b) You are required under that Act to seek some clarification as to the person's standing as a unregistered lobbyist under the Integrity Act 2009;
 - (c) You can no longer discuss with this person any lobbying activity matters, but you can assist with any "unrelated lobbying activity" discussions.
- Make a note of the person's details and circumstances of the lobbying activity (i.e. time, date and place of incident, who were the people involved in the incident and how you believe this was a "lobbying activity");
 - Report the matter (including a copy of your notes of the incident) to Coordinator Governance and Policy; and
 - Discontinue contact with the person on any "lobbying activity", until the matter is resolved. This does not mean you cannot assist the person with other "unrelated lobbying activity" matters.

APPENDIX D – Information Privacy Principals

Collection of personal information (lawful and fair)

(1) An agency must not collect personal information for inclusion in a document or generally available publication unless--

(a) the information is collected for a lawful purpose directly related to a function or activity of the agency; and

(b) the collection of the information is necessary to fulfil the purpose or is directly related to fulfilling the purpose.

(2) An agency must not collect personal information in a way that is unfair or unlawful.

2 IPP 2--Collection of personal information (requested from individual)

(1) This section applies to the collection by an agency of personal information for inclusion in a document or generally available publication.

(2) However, this section applies only if the agency asks the individual the subject of the personal information for either--

(a) the personal information; or

(b) information of a type that would include the personal information.

(3) The agency must take all reasonable steps to ensure that the individual is generally aware of--

(a) the purpose of the collection; and

(b) if the collection of the personal information is authorised or required under a law—

(i) the fact that the collection of the information is authorised or required under a law; and

(ii) the law authorising or requiring the collection; and

(c) if it is the agency's usual practice to disclose personal information of the type collected to any entity (the first entity)--the identity of the first entity; and

(d) if the agency is aware that it is the usual practice of the first entity to pass on information of the type collected to another entity (the second entity)--the identity of the second entity.

(4) The agency must take the reasonable steps required under subsection (3)--

(a) if practicable--before the personal information is collected; or

(b) otherwise--as soon as practicable after the personal information is collected.

(5) However, the agency is not required to act under subsection (3) if--

(a) the personal information is collected in the context of the delivery of an emergency service; and

Example--

personal information collected during a triple 0 emergency call or during the giving of treatment or assistance to a person in need of an emergency service

(b) the agency reasonably believes there would be little practical benefit to the individual in complying with subsection (3) in the circumstances; and

(c) the individual would not reasonably expect to be made aware of the matters mentioned in subsection (3).

3 IPP 3--Collection of personal information (relevance etc.)

(1) This section applies to the collection by an agency of personal information for inclusion in a document or generally available publication.

(2) However, this section applies to personal information only if the agency asks for the personal information from any person.

(3) The agency must take all reasonable steps to ensure that--

(a) the personal information collected is--

(i) relevant to the purpose for which it is collected; and

(ii) complete and up to date; and

(b) the extent to which personal information is collected from the individual the subject of it, and the way personal information is collected, are not an unreasonable intrusion into the personal affairs of the individual.

4 IPP 4--Storage and security of personal information

(1) An agency having control of a document containing personal information must ensure that--

(a) the document is protected against--

(i) loss; and

(ii) unauthorised access, use, modification or disclosure; and

(iii) any other misuse; and

(b) if it is necessary for the document to be given to a person in connection with the provision of a service to the agency, the agency takes all reasonable steps to prevent unauthorised use or disclosure of the personal information by the person.

(2) Protection under subsection (1) must include the security safeguards adequate to provide the level of protection that can reasonably be expected to be provided.

5 IPP 5--Providing information about documents containing personal information

(1) An agency having control of documents containing personal information must take all reasonable steps to ensure that a person can find out--

(a) whether the agency has control of any documents containing personal information; and

(b) the type of personal information contained in the documents; and

(c) the main purposes for which personal information included in the documents is used; and

(d) what an individual should do to obtain access to a document containing personal information about the individual.

(2) An agency is not required to give a person information under subsection (1) if, under an access law, the agency is authorised or required to refuse to give that information to the person.

6 IPP 6--Access to documents containing personal information

(1) An agency having control of a document containing personal information must give an individual the subject of the personal information access to the document if the individual asks for access.

(2) An agency is not required to give an individual access to a document under subsection (1) if--

(a) the agency is authorised or required under an access law to refuse to give the access to the individual; or

(b) the document is expressly excluded from the operation of an access law.

7 IPP 7--Amendment of documents containing personal information

(1) An agency having control of a document containing personal information must take all reasonable steps, including by the making of an appropriate amendment, to ensure the personal information--

(a) is accurate; and

(b) having regard to the purpose for which it was collected or is to be used and to any purpose directly related to fulfilling the purpose, is relevant, complete, up to date and not misleading.

(2) Subsection (1) applies subject to any limitation in a law of the State providing for the amendment of personal information held by the agency.

(3) Subsection (4) applies if--

(a) an agency considers it is not required to amend personal information included in a document under the agency's control in a way asked for by the individual the subject of the personal information; and

(b) no decision or recommendation to the effect that the document should be amended wholly or partly in the way asked for has been made under a law mentioned in subsection (2).

(4) The agency must, if the individual asks, take all reasonable steps to attach to the document any statement provided by the individual of the amendment asked for.

8 IPP 8--Checking of accuracy etc. of personal information before use by agency

Before an agency uses personal information contained in a document under its control, the agency must take all reasonable steps to ensure that, having regard to the purpose for which the information is proposed to be used, the information is accurate, complete and up to date.

9 IPP 9--Use of personal information only for relevant purpose

(1) This section applies if an agency having control of a document containing personal information proposes to use the information for a particular purpose.

(2) The agency must use only the parts of the personal information that are directly relevant to fulfilling the particular purpose.

10 IPP 10--Limits on use of personal information

(1) An agency having control of a document containing personal information that was obtained for a particular purpose must not use the information for another purpose unless--

(a) the individual the subject of the personal information has expressly or impliedly agreed to the use of the information for the other purpose; or

(b) the agency is satisfied on reasonable grounds that use of the information for the other purpose is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or

(c) use of the information for the other purpose is authorised or required under a law;
or

(d) the agency is satisfied on reasonable grounds that use of the information for the other purpose is necessary for 1 or more of the following by or for a law enforcement agency--

(i) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;

(ii) the enforcement of laws relating to the confiscation of the proceeds of crime;

(iii) the protection of the public revenue;

(iv) the prevention, detection, investigation or remedying of seriously improper conduct;

(v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal; or

(e) the other purpose is directly related to the purpose for which the information was obtained; or

Examples for paragraph (e)—

1 An agency collects personal information for staff administration purposes. A new system of staff administration is introduced into the agency, with much greater functionality. Under this paragraph, it would be appropriate to transfer the personal information into the new system.

2 An agency uses personal information, obtained for the purposes of operating core services, for the purposes of planning and delivering improvements to the core services.

(f) all of the following apply--

(i) the use is necessary for research, or the compilation or analysis of statistics, in the public interest;

(ii) the use does not involve the publication of all or any of the personal information in a form that identifies any particular individual the subject of the personal information;

(iii) it is not practicable to obtain the express or implied agreement of each individual the subject of the personal information before the use.

(2) If the agency uses the personal information under subsection (1)(d), the agency must include with the document a note of the use.

11 IPP 11--Limits on disclosure

(1) An agency having control of a document containing an individual's personal information must not disclose the personal information to an entity (the relevant entity), other than the individual the subject of the personal information, unless--

(a) the individual is reasonably likely to have been aware, or to have been made aware, under IPP 2 or under a policy or other arrangement in operation before the commencement of this schedule, that it is the agency's usual practice to disclose that type of personal information to the relevant entity; or

(b) the individual has expressly or impliedly agreed to the disclosure; or

(c) the agency is satisfied on reasonable grounds that the disclosure is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or

(d) the disclosure is authorised or required under a law; or

(e) the agency is satisfied on reasonable grounds that the disclosure of the information is necessary for 1 or more of the following by or for a law enforcement agency--

(i) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;

(ii) the enforcement of laws relating to the confiscation of the proceeds of crime;

(iii) the protection of the public revenue;

(iv) the prevention, detection, investigation or remedying of seriously improper conduct;

(v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal; or

(f) all of the following apply--

(i) the disclosure is necessary for research, or the compilation or analysis of statistics, in the public interest;

(ii) the disclosure does not involve the publication of all or any of the personal information in a form that identifies the individual;

(iii) it is not practicable to obtain the express or implied agreement of the individual before the disclosure;

(iv) the agency is satisfied on reasonable grounds that the relevant entity will not disclose the personal information to another entity.

(2) If the agency discloses the personal information under subsection (1)(e), the agency must include with the document a note of the disclosure.

(3) If the agency discloses personal information under subsection (1), it must take all reasonable steps to ensure that the relevant entity will not use or disclose the information for a purpose other than the purpose for which the information was disclosed to the agency.

(4) The agency may disclose the personal information under subsection (1) if the information may be used for a commercial purpose involving the relevant entity's marketing of anything to the individual only if, without limiting subsection (3), the agency is satisfied on reasonable grounds that--

(a) it is impracticable for the relevant entity to seek the consent of the individual before the personal information is used for the purposes of the marketing; and

(b) the relevant entity will not charge the individual for giving effect to a request from the individual to the entity that the individual not receive any marketing communications; and

(c) the individual has not made a request mentioned in paragraph (b); and

(d) in each marketing communication with the individual, the relevant entity will draw to the individual's attention, or prominently display a notice, that the individual may ask not to receive any further marketing communications; and

(e) each written marketing communication from the relevant entity to the individual, up to and including the communication that involves the use, will state the relevant entity's business address and telephone number and, if the communication with the individual is made by fax, or other electronic means, a number or address at which the relevant entity can be directly contacted electronically.

APPENDIX E – CEO’s Guideline for Councillors requests for advice or help from staff

Balonne Shire Council Acceptable Requests Guidelines

Adopted by resolution of Council pursuant to section 170A of the Local Government Act 2009 15th March 2013

Introduction:

Section 13(3)(f) of the Local Government Act 2009 provides that the chief executive officer has, inter alia, the following responsibilities: -

- (f) complying with requests from councillors under section 170A—
 - (i) for advice to assist the councillor carry out his or her role as a councillor; or
 - (ii) for information, that the local government has access to, relating to the local government.

Section 170A of the Local Government Act 2009 provides as follows:–

- (1) A councillor may ask a local government employee provide advice to assist the councillor carry out his or her responsibilities under this Act.
- (2) A councillor may, subject to any limits prescribed under a regulation, ask the chief executive officer to provide information, that the local government has access to, relating to the local government.

Example of a limit prescribed under a regulation—

A regulation may prescribe the maximum cost to a local government of providing information to a councillor.

- (3) Subsection (2) does not apply to information—
 - (a) that is a record of the regional conduct review panel or the tribunal; or
 - (b) if disclosure of the information to the councillor would be contrary to an order of a court or tribunal; or
 - (c) that would be privileged from production in a legal proceeding on the ground of legal professional privilege.
- (4) A request of a councillor under subsection (1) or (2) is of no effect if the request does not comply with the acceptable requests guidelines.
- (5) Subsection (4) does not apply to—
 - (a) the mayor; or
 - (b) the chairperson of a committee of the council if the request relates to the role of the chairperson.
- (6) The acceptable requests guidelines are guidelines, adopted by resolution of the local government, about—

(a) the way in which a councillor may ask a local government employee for advice to help the councillor carry out his or her responsibilities under this Act; and

(b) reasonable limits on requests that a councillor may make.

(7) In this section a local government employee includes a person prescribed under a regulation.

(8) The chief executive officer must make all reasonable endeavours to comply with a request under subsection (2).

Maximum penalty for subsection (8)—10 penalty units.

The requirement to direct all councillor requests for advice or information through the chief executive officer is impractical. Section 170A enables the Council to prepare guidelines for this necessary councillor/employee interaction.

These guidelines enable interaction to occur by establishing rules for dealing with councillor requests for advice.

PART A - REQUIREMENTS - ADVICE TO ASSIST THE COUNCILLOR CARRY OUT HIS OR HER ROLE AS A COUNCILLOR

Councillors may request advice to assist them carry out their roles, from the following employees:-

Department	Position
Planning and Environment	Director of Community and Environmental Sustainability
Corporate Services	Director of Corporate and Financial Sustainability
Infrastructure Services	Director of Infrastructure Services

Councillor's request for advice to assist them carry out their roles, must be made in accordance with the following: -

- Councillors' requests for advice must be made in writing (e.g. letter, memo, facsimile or email) unless the Director receiving the request agrees to accept the request orally.
- Councillors' requests for advice must not take the form of an attempt to direct or pressure a Director to prepare a response in a certain manner.
- Councillors must forward a copy of all requests for advice under these guidelines to the chief executive officer.
- Councillors must inform the chief executive officer if they believe a Director has not appropriately responded to a request for advice.

PART B – REQUIREMENTS – ACCESS TO INFORMATION

Council officers to provide councillors with information

The following Council officers are to deal with councillors' request for provision of information: -

Department	Position
Planning and Environment	Director of Community and Environmental Sustainability
Corporate Services	Director of Corporate and Financial Sustainability
Infrastructure Services	Director of Infrastructure Services

Councillor requests for provision of information

Councillors may request information in accordance with the following: -

- A “Councillor Access to Information” request form is to be completed and given to the appropriate officer identified in the above table. A copy of that request must also be forwarded to the office of the CEO.
- In completing the request form, the councillor will indicate the information required and the reason for seeking access.
- Where a councillor is unsure as to what information to request, he or she should contact the appropriate officer for assistance.
- Upon receipt of the request, the appropriate officer must determine if the councillor has a right to access the information (see section 170A(3) of the Local Government Act 2009).
- If it is appropriate to provide access, the appropriate officer must:
 - record the information to which access is available on the Councillor Access to Information request form;
 - ensure that the requesting Councillor is provided with access to all relevant information;
 - explain any issues in the information which relate to confidentiality or other sensitive matters;
 - if appropriate, provide any other information necessary to place the information being accessed, in context.
- The appropriate officer may direct another officer to provide the requested advice to Councillors. No ongoing authority shall be conferred by such referrals and a separate request in accordance with this policy shall be submitted in relation to further requests for advice.
- If it is not appropriate to provide access, the officer must advise the councillor as to the reasons for this decision and record these reasons on the Councillor Access to Information request form.
- Completed “Councillor Access to Information” request forms must be forwarded to the Records Officer for filing.

- In accessing the information, councillors are reminded of their obligations under: -
 - Section 171 of the Local Government Act 2009, and any confidentiality policy made by Council under section 171(3). Section 171 provides: -

171 Use of information by councillors

(1) A person who is, or has been, a councillor must not use information that was acquired as a councillor to—

- (a) gain, directly or indirectly, a financial advantage for the person or someone else; or
- (b) cause detriment to the local government.

Maximum penalty—100 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply to information that is lawfully available to the public.

(3) A councillor must not release information that the councillor knows, or should reasonably know, is information that is confidential to the local government.

Note—

A contravention of subsection (3) is misconduct that is dealt with by the tribunal.

- Section 171A of the Local Government Act 2009, which provides: -

171A Prohibited conduct by councillor in possession of inside information

(1) This section applies to a person (the insider) who is, or has been, a councillor if the insider

- (a) acquired inside information as a councillor; and
- (b) knows, or ought reasonably to know, that the inside information is not generally available to the public.

(2) The insider must not cause the purchase or sale of an asset if knowledge of the inside information would be likely to influence a reasonable person in deciding whether or not to buy or sell the asset.

Maximum penalty—1000 penalty units or 2 years imprisonment.

(3) The insider must not cause the inside information to be provided to another person the insider knows, or ought reasonably to know, may use the information in deciding whether or not to buy or sell an asset.

Maximum penalty—1000 penalty units or 2 years imprisonment

(4) In this section—

cause, in relation to an action, includes the following—

- (a) carry out the action;
- (b) instigate the action;
- (c) direct, or otherwise influence, another person to carry out or instigate the action.

corporate entity means a corporation that is owned by the local government.

inside information, in relation to a local government, means information about any of the following—

- (a) the operations or finances of the local government (including any business activity of the local government) or any of its corporate entities;
- (b) a proposed policy of the local government (including proposed changes to an existing policy);
- (c) a contract entered into, or proposed to be entered into, by the local government or any of its corporate entities;
- (d) a tender process being conducted by or for the local government or any of its corporate entities;
- (e) a decision, or proposed decision, of the local government or any of its committees;
- (f) the exercise of a power, under a Local Government Act, by the local government, a councillor or a local government employee;
- (g) the exercise of a power, under an Act, by the State, a Minister, a statutory body or an employee of the State or statutory body, that affects the local government, any of its corporate entities or land or infrastructure within the local government's area;
- (h) any legal or financial advice created for the local government, any of its committees or any of its corporate entities.