

# Model Code of Conduct Training

## Committee Members and Delegates



Office of  
Local Government



# Overview

- General conduct
- Submitting returns of interest
- Conflicts of interest
- Gifts and benefits
- Use of council information and resources
- Code of conduct complaints



# What is the code of conduct?

- A council's code of conduct sets the minimum standards of conduct for all council officials.
- Every council and joint organisation must adopt a code of conduct that incorporates the provisions of the Model Code of Conduct.
- It is important that the local community has confidence in the council and you.



# General Conduct





# General Conduct

you must...

## You **must**:

- act lawfully and honestly and exercise care and diligence
- consider matters consistently, promptly and fairly and in accordance with procedures
- ensure regulatory decisions are properly made and that all parties are dealt with fairly
- take care of your own and others' health and safety



# General Conduct

you must not...

You **must not** conduct yourself in a way that:

- will bring the council into disrepute
- is contrary to law and council policies
- is improper, unethical or an abuse of power
- involves misuse of your position for personal benefit
- constitutes harassment or bullying or is unlawfully discriminatory
- is intimidating or verbally abusive.



# Returns of Interests





# Returns of interests

## disclosures by “designated persons”

- People who exercise council functions that may give rise to conflicts of interest (ie “designated persons”) are required to disclose their personal interests in publicly available returns of interests.
- “Designated persons” must complete and submit returns of their interests to the general manager.
- A return of interest must be submitted:
  - within 3 months of appointment and then annually
  - within 3 months of becoming aware of any new interest.



# Returns of interests

## What interests do I need to disclose?

A designated person is required to disclose:

- interests in real property
- gifts
- contributions to travel
- interests and positions in corporations
- whether you are a property developer or a close associate of a property developer
- positions in trade unions and professional or business associations
- dispositions of real property
- sources of income
- debts



# Conflicts of Interest





# Conflicts of Interest

- There are two types of conflicts of interest:
  - pecuniary and
  - non-pecuniary.
- Your obligations to disclose and manage conflicts of interest will depend on what type of conflict of interest you have.



# Conflicts of Interest

## What is a pecuniary interest?

You will have a **pecuniary interest** in a matter where there is a reasonable likelihood or expectation that you or a related person will gain or lose financially as a result of any decision made in relation to that matter.





# Conflicts of interest

## managing pecuniary interests

- Where you have a pecuniary interest in a matter you are dealing with, you must disclose it as soon as you become aware of it in writing to the general manager.
- The general manager will decide how the matter will be dealt with.
- If you are a member of a committee, you must disclose any pecuniary interest you have in any matter being dealt with by the committee at each committee meeting that the matter arises and leave the meeting while it is being considered and voted on.



# Conflicts of Interest

## What is a non-pecuniary interest?

- **Non-pecuniary interests** are private or personal interests that are not pecuniary interests.
- You will have a non-pecuniary conflict of interest in a matter you are dealing with if a reasonable and informed person would perceive that you could be influenced by a private interest that you have in that matter.
- How you deal with a non-pecuniary conflict of interest will depend on whether it is **significant**.



# Conflicts of Interest

significant non-pecuniary conflicts of interest

You will have a **significant non-pecuniary conflict of interest** in a matter where you have:

- a close relationship (including a business relationship) with a person who will be affected by a decision
- a strong affiliation with an organisation that will be affected by a decision
- a financial interest in the matter that is not a pecuniary interest, or you otherwise stand to gain or lose a personal benefit as a result of a decision



# Conflicts of Interest

managing significant non-pecuniary conflicts of interest

- Disclose it in writing to the general manager as soon as possible,
- disclose it on each occasion the matter arises, and
- do not participate in any consideration of the matter.
- If you are a member of a council committee you must also disclose your interest at each committee meeting that the matter arises and leave the meeting while the matter is being considered and voted on.



# Conflicts of Interest

managing non-pecuniary conflicts of interest that are not significant

- A **non-pecuniary conflict of interest will not be significant** where it arises from a relationship or affiliation that is not particularly strong.
- You must still disclose your interest in writing to the general manager as soon as possible and explain why you believe it is not significant. They will help you decide how to manage it.
- If you are a member of a committee, you must also disclose your interest at each committee meeting the matter arises and explain why you believe it is not significant and no further action is necessary to manage it.



# Conflicts of Interest

## What if I am not sure?

- The onus is on you to identify and disclose any potential conflict of interest you may have in a matter you are dealing with and to manage it appropriately.
- If you are not sure, always err on the side of caution. Disclose the interest in writing to the general manager and discuss it with them.



# Conflicts of Interest

## dealing with council as a resident

- You should deal with the council in the same way as other members of the public.
- You should not expect or seek any preferential treatment.
- You must not use your position to obtain a private benefit for yourself or for someone else or to influence others to obtain a private benefit for yourself or for someone else.



# Gifts and Benefits





# Gifts and Benefits

- **A gift or benefit is** something offered to or received by you, or someone closely associated with you, for personal use or enjoyment.
- Key principles:
  - You must not benefit personally from your work other than through the remuneration and any other benefits you receive as a delegate or committee member.
  - You must not be influenced or be seen to be influenced as a result of the receipt of a gift or personal benefit.



# Gifts and Benefits

## What is not a gift or a benefit?

Gifts and benefits **do not** include:

- items with a value of \$10 or less
- a gift or benefit provided to the council as part of a cultural exchange or sister city relationship
- attendance at a work-related event for the purpose of undertaking your council duties
- meals, beverages or refreshments that are provided to you while you are carrying out your council duties.





# Gifts and Benefits

## you must not...

### You **must not**:

- seek or accept bribes
- seek gifts or benefits of any kind
- accept any gift or benefit that may create a sense of obligation, or that may be perceived as intended or likely to influence you
- accept any gift or benefit that is worth more than \$100
- accept tickets to major sporting or cultural events with a ticket value of over \$100 or corporate hospitality at such events
- accept cash or cash-like gifts of any amount
- participate in competitions for prizes where eligibility is based on the council being a customer of the competition organiser
- personally benefit from reward points programs when purchasing on behalf of council.





# Gifts and Benefits

What if you can't refuse?

If you are offered a gift or benefit that is worth more than \$100 that cannot be reasonably refused, you must surrender it to the council.





# Gifts and Benefits

## What you can accept?

- You can accept gifts valued under \$100.
- **But**, if the same person, or someone associated with them, offers you another gift in the next 12 months, which, if added to the value of the first gift, has a value that exceeds \$100, you must refuse to accept the additional gift.
- You must promptly disclose any gift of any value over \$10 to the general manager in writing for entry into council's gift register.



# Use of Council Resources





# Use of Council Resources

- Council resources are public resources.
- You must use council resources ethically, effectively, efficiently and carefully when performing your duties.
- You must not use council resources for private purposes, or convert council property for your own use unless you are authorised to do so.



# Use of Council Resources

## What records should be kept?

- All information created, sent or received in your official capacity and any information stored on council resources is considered to be a council record and must be kept in accordance with the *State Records Act 1998* and the council's records management policy.
- Do not destroy, alter or dispose of records unless authorised to do so.



# Use of Council Resources

## using council information

- You can only access and use council information for council business.
- You must not use council information for private purposes.
- You must not seek to privately benefit from any council information you have obtained in your role.
- You must only release council information in accordance with council policies and procedures and in compliance with relevant legislation.



# Use of Council Resources

## protecting council information

You must maintain the integrity and security of any confidential or personal information you have access to. In particular, **you must:**

- only access confidential or personal information that you have been authorised to access and only for the purposes of performing your functions
- protect confidential and personal information
- only use confidential or personal information for the purpose for which it is intended to be used
- only release confidential or personal information if authorised



# Use of Council Resources

## protecting council information

### **You must not:**

- use confidential or personal information to obtain a private benefit for you or for someone else
- use confidential or personal information to cause harm to the council or anyone else
- disclose confidential information discussed during a closed session of a council or committee meeting or any other confidential forum.



# Use of Council Resources

## using council devices

You **must not** use council's computer or mobile devices to access, download or communicate any material that is:

- offensive
- obscene
- pornographic
- threatening
- abusive or defamatory
- could lead to civil or criminal liability and/or damage council's reputation.





# Code of Conduct Complaints





# Code of Conduct Complaints

- The council's code of conduct is the key mechanism for promoting and enforcing ethical and behavioural standards.
- It is important that the council's code of conduct is correctly used and that code of conduct processes are respected and complied with.



# Code of Conduct Complaints

How are code of conduct complaints made?

To be dealt with under the code of conduct, complaints must:

- be made in writing to the general manager, or if about the general manager, to the mayor
- be made within 3 months
- show conduct that would constitute a breach of the council's code of conduct if proven



# Code of Conduct Complaints

## What is not a code of conduct complaint?

Complaints about the following **are not** “code of conduct complaints” and should not be dealt with under the council’s code of conduct:

- the standard or level of service provided by the council
- the merits of a decision
- policies or procedures of the council
- conduct in good faith, that would not otherwise constitute a breach of the council’s code of conduct.



# Code of Conduct Complaints

How are complaints about delegates and committee members dealt with?

- The general manager is responsible for dealing with code of conduct complaints about committee members and delegates.
- The general manager may determine to take no action, to resolve the complaint informally or to take disciplinary action.
- Prior to taking disciplinary action, the general manager must comply with certain procedural fairness requirements.



# Code of Conduct Complaints

How are complaints about delegates and committee members dealt with?

Where proven, code of conduct complaints about delegates and members of committees may result in:

- censure
- requirement for an apology
- prosecution for any breach of the law
- removal or restriction of a delegation
- removal from membership of a committee



# Code of Conduct Complaints

## your obligations

### You **must not**:

- make code of conduct complaints for an improper purpose
- take reprisal action for making or dealing with a code of conduct complaint
- disclose any information about a code of conduct complaint
- impede or disrupt the consideration of a code of conduct complaint and comply with any reasonable and lawful requests



Questions?



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