

Code of Conduct

AUGUST 2021



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“We are entrusted to provide an organisational initiative/s to transform the City into a modern contemporary business that is able to meet the needs, wants and aspirations of its customers, communities and stakeholders.”

Message from the Chief Executive Officer

This Code of Conduct (Code) and our Just Culture Framework outlines the standards of behaviour that we need to apply as representatives of the City of Swan (the City).

We are entrusted to provide an organisational initiative/s to transform the City into a modern contemporary business that is able to meet the needs, wants and aspirations of its customers, communities and stakeholders.

It is essential that we are familiar with the Code and are aware that any breach not only affects our reputation and service delivery, it could also lead to disciplinary action.

The Code applies to our professional behaviour at work, including events and activities that occur outside of business hours and/or away from the City premises but where there is a workplace connection, and can also apply to some aspects of our private activities and relationships.

We need to be alert to potential conflicts relating to our private interests. Some conflicts may not initially be self-evident. That is why it is really important to read this document and be alert to issues that may put you and the City at risk.

If you are in doubt it is best to check with your supervisor and declare what might even be a potential or perceived conflict of interest. It is better to be safe – and take the approach of openness and transparency.

In our roles, we should be mindful of the trust placed in us with the access we have to private information. It is of paramount importance that this information is not used for either our own or other’s advantage. We also need to take care in expressing opinions publicly where they might be seen as representing the views of the City.

I ask that you join me in striving to uphold the integrity and credibility of the City by modelling the principles of this Code at all times.

Jeremy Edwards

Chief Executive Officer
City of Swan

Introduction



1. Introduction

This Code of Conduct (Code) sets out the standards of conduct and integrity required by all City of Swan workers i.e. employees, volunteers and contractors.

The Code applies in work settings and also includes events and activities that occur outside of business hours and/or away from the City of Swan premises but where there is a workplace connection.



City of Swan

Vision and Values



CITY OF SWAN VISION AND VALUES

2. City of Swan Vision and Values

The City of Swan has committed to a vision and a set of shared values that will be displayed through our behaviours and actions.

Our Vision

One City – Diverse Places

The City of Swan aspires to:

- be a connected and cohesive community;
- value and celebrate the diversity of our people and places;
- be a recognised and significant gateway to Perth; and
- build organisational capability to meet community expectations.

Our Shared Values

Workers must act in accordance with the City's values when carrying out their respective duties.

Respect

We will work cooperatively with our City colleagues, community and stakeholders. We will respect the individual, with an understanding of our diverse roles, whilst working and living in One City.

Excellence

We commit to providing excellent customer services with a "can do" approach. It is our "can do" attitude that is built into our actions and behaviours and allows us to be responsive to our changing environment.

Accountability

We will take responsibility for our actions and behaviour. We will be ethical and act with integrity. Our professional behaviour will be reflected in our open and transparent decision making. We will provide good governance that addresses legislative and organisational compliance.

Leadership

We will lead by example, with a professional pride in our City. We will set direction, provide guidance and help people to be the best they can be.

Using the Code



USING THE CODE

3. Using the Code

All workers must abide by the Code and display professional conduct at all times.

Many of the matters covered by the Code are also the subject of detailed City policy statements or legislation. Relevant policies and legislation have been identified in specific sections of this Code for ease of reference; however, this is not an exhaustive list.

Policies can be found on the City's intranet policy register. In the course of undertaking their duties at the City, workers should make themselves aware of all relevant policies and legislation.

Breaches of the Code require immediate attention and workers have a duty to report known or suspected breaches of the Code to their Supervisor or Manager.

The City understands that the Code sets out standards of behaviour and that in some situations, the correct course of action might not be clear. Workers can seek advice on the operation of the Code from their Manager or the Human Resources team.

In some cases, breaches of the Code have disciplinary consequences – some of which are serious and warrant dismissal.

All alleged breaches of the Code will be managed in accordance with:

- the principles of procedural fairness;
- the *Fair Work Act 2009* (Cth);
- Local Government Industry Award 2010 (Cth);
- the *Corruption and Crime Commission Act 2003* (WA);
- a worker's contract of employment;
- the City's enterprise agreements;
- the City's policies, procedures and standards;
- the *Local Government Act 1995*; and/or
- any other relevant legislation.

Workers having any questions regarding the Code should direct their queries to their Manager or the Human Resources team.

Example

What happens if I breach the Code of Conduct?

Obviously, there are different levels of breaches from very minor to very serious. All alleged breaches and breaches will be dealt with professionally, confidentially and within the City's disciplinary framework. Such action can vary from a verbal warning being issued, to the termination of employment.

Roles and Relationships at the City of Swan



4. Roles and Relationships at the City of Swan

The relationship between Council and workers is unique and it is important that workers understand the roles and relationships that exist within the City in order to foster positive working relationships and achieve good governance.

The role of Council, Councillors, the Mayor and the CEO are set out in the *Local Government Act 1995* (the Act).

Councillors and workers have different roles and work best when they respect each other's roles and allow each other to perform their respective roles without interference.

4.1 Role of Council

The role of Council is to:

- (a) direct and control the City's affairs;
- (b) be responsible for the performance of the City's functions;
- (c) oversee the allocation of the City's finances and resources; and
- (d) determine the City's policies.

4.2 Role of Councillors

The role of a Councillor is to represent the interests of the community and to translate the community's needs and aspirations into the future direction of the City.

Pursuant to the Act, a Councillor:

- (a) represents the interests of electors, ratepayers and residents of the City;
- (b) provides leadership and guidance to the community within the City's district;
- (c) facilitates communication between the community and Council;
- (d) participates in the City's decision-making processes at Council and committee meetings; and
- (e) performs such other functions as are given to a Councillor by the Act or any other written law.

4.3 Role of Mayor

In addition to the role of Councillor, the Mayor's role is to:

- (a) preside at meetings in accordance with the Act and relevant policies and procedures;
- (b) provide leadership and guidance to the community within the City;
- (c) carry out civic and ceremonial duties on behalf of the City;
- (d) speak on behalf of the City;
- (e) perform such other functions as are given to the Mayor by the Act or any other written law; and
- (f) liaise with the CEO on the City's affairs and the performance of its functions.

4.4 Role of Chief Executive Officer (CEO)

The functions of the CEO are to:

- (a) advise Council in relation to the functions of a local government under the Act and other written laws;
- (b) ensure that advice and information is available to the Council so that informed decisions can be made;
- (c) cause Council decisions to be implemented;
- (d) manage the day to day operations of the City;
- (e) liaise with the Mayor on the City's affairs and the performance of its functions;
- (f) speak on behalf of the City when approved by the Mayor;
- (g) be responsible for the employment, management supervision, direction and dismissal of other workers;
- (h) ensure that records and documents of the City are properly kept;
- (i) provide a safe working environment; and
- (j) perform any other function specified or delegated by the Council or imposed under the Act or any other written law as a function to be performed by the CEO.

4.5 Role of Workers

In accordance with their employment contract, common law duties and legislative obligations, workers are required to:

- (a) perform their duties with skill, honesty, care and diligence, using authority in a fair and equitable manner;
- (b) comply with all relevant legislation as well as policies, procedures and standards of the City;
- (c) follow instructions and lawful and reasonable directions that relate to their employment and duties;
- (d) promote the best interests of the City and the community; and
- (e) liaise and work with the community and key stakeholders in an appropriate manner, in accordance with good governance and the Code, particularly where required as part of their professional duties.

In addition, every worker has a duty of care to ensure their own safety and health at work and avoid adversely affecting the safety or health of any other person through any act or omission at work.

4.6 Relationship between Councillors and Workers

The City of Swan is a complex organisation with different roles in its governance structure.

The City has the best chance of achieving its objectives where the people in each of these roles respect each other and work collaboratively to achieve outcomes. The City's values (as set out above) guide workers in their approach to working relations with others at the City.

The relationship between Council and workers is critical to achieving good governance.

The focus of the Council and Councillors should be on strategy, policy and outcomes. That is, they should focus on how the community is to benefit from the City's activities and in what way. The role of workers is to focus on advice, implementation and the delivery of approved Plans such as the Community Strategic Plan, Corporate Business Plan and the Annual Business Plan of the respective and relevant Business Units.

A number of factors contribute to a good relationship between Councillors and workers. These include goodwill, a clear understanding of each other's roles, good communication, agreed structures and protocols, an appreciation of legislative requirements and clear delegations.

The CEO is in the first instance accountable to the Council for providing advice and the delivery of approved Plans such as the Strategic Community Plan, Corporate Business Plan and the Annual Business Plan etc. Workers are accountable to the

CEO only through the organisation structure for the delivery of all agreed outcomes i.e. plans, strategies, KPIs etc. Workers are not accountable to the Council or to individual Councillors and are not required to take instructions from the Council or Councillors.

It should also be noted that the City also operates in a political environment in which it liaises with State and Federal politicians and stakeholders. Workers are not at liberty to communicate with politicians in regard to any City and/or Council matter and/or any other matter which is related to the employment/engagement of a worker.

Relevant document

Guideline – Councillor Requests and Enquiries

Personal Behaviour



5. Personal Behaviour

The City is committed to creating a harmonious work environment free from harassment, sexual harassment, bullying, discrimination and victimisation both to those who work for the City and to those we serve and to make impartial decisions based on merit.

5.1 Expectations

The City expects its workers to:

- (a) conduct themselves in a manner that is safe and by their actions or inactions, not expose themselves or others to harm;
 - (b) contribute to a harmonious and productive workplace;
 - (c) treat members of the public and colleagues with courtesy, respect and dignity; free from harassment, discrimination and bullying;
 - (d) act honestly, with integrity and professionalism; including in dealings with other local government employees and the broader community;
 - (e) make decisions fairly, impartially and promptly, considering all relevant available information;
- (f) ensure the appropriate use and disclosure of information that is acquired in the performance of their duties;
 - (g) comply with all lawful and safe work instructions and directions;
 - (h) ensure all instructions and directions given to others are lawful, ethical, clear, reasonable and not in breach of this Code; and
 - (i) not act in any way which could be regarded as harassment, specifically including sexual harassment or bullying at work or any circumstances which could be directly or indirectly associated with work e.g. any work related activity of function or on social media etc.

Relevant documents

MP-053 Workplace Complaints, Discrimination, Harassment and Bullying
MP-001 Occupational Safety, Health and Injury Management
Disability Access and Inclusion Plan

5.2 Fitness for Work

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

5.2.1 Drug and Alcohol Use

Substance misuse is not tolerated at the City.

The use of any illegal/illicit drugs constitutes a breach of the Fitness for Work management practice and may constitute serious misconduct. Workers found to be under the influence of any illegal substance will be subject to disciplinary action.

The unauthorised use, consumption, cultivation/manufacture, possession or sale of any illegal/illicit drugs or synthetic substance during work hours or on City premises constitutes a breach of the Code, and may warrant summary dismissal for serious misconduct. It may also constitute a criminal activity requiring notification to the relevant authorities.

The City permits responsible drinking at approved functions and events only. The City does not allow a worker to be over the legal limit (currently 0.05 BAL) during work time. The City will from time to time conduct random drug and alcohol testing of workers in relation to alcohol and substance/drug consumption.

5.2.2 Mental and Physical Wellbeing

The City is committed to providing support to its workers with physical disabilities and mental health issues. The City has a duty to make reasonable adjustments to its workplaces to support people with physical or mental illness. Workers have a duty to notify the City of any such issues if it affects their ability to do their job.

Relevant document

MP-081 Fitness for Work

5.3 Smoking

All City owned, controlled or managed buildings and other like facilities are declared smoke free zones and smoking of tobacco products is prohibited.

Smoking is not permitted in City owned or operated motor vehicles.

Smoking may be permitted in **DESIGNATED SMOKING AREAS** and open air locations provided the smoker is at least 5 metres away from any building, part of building, vehicle, plant, equipment and fuel refuelling point. Smoking is also prohibited where environmental tobacco smoke inconveniences workers and members of the public or where it is likely to be drawn back into a building or workplace.

Smoking is permitted inside the Depot only where it is signposted **DESIGNATED SMOKING AREA**.

5.4 Personal Presentation

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

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

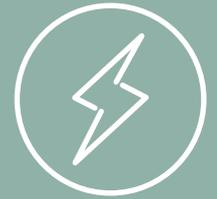
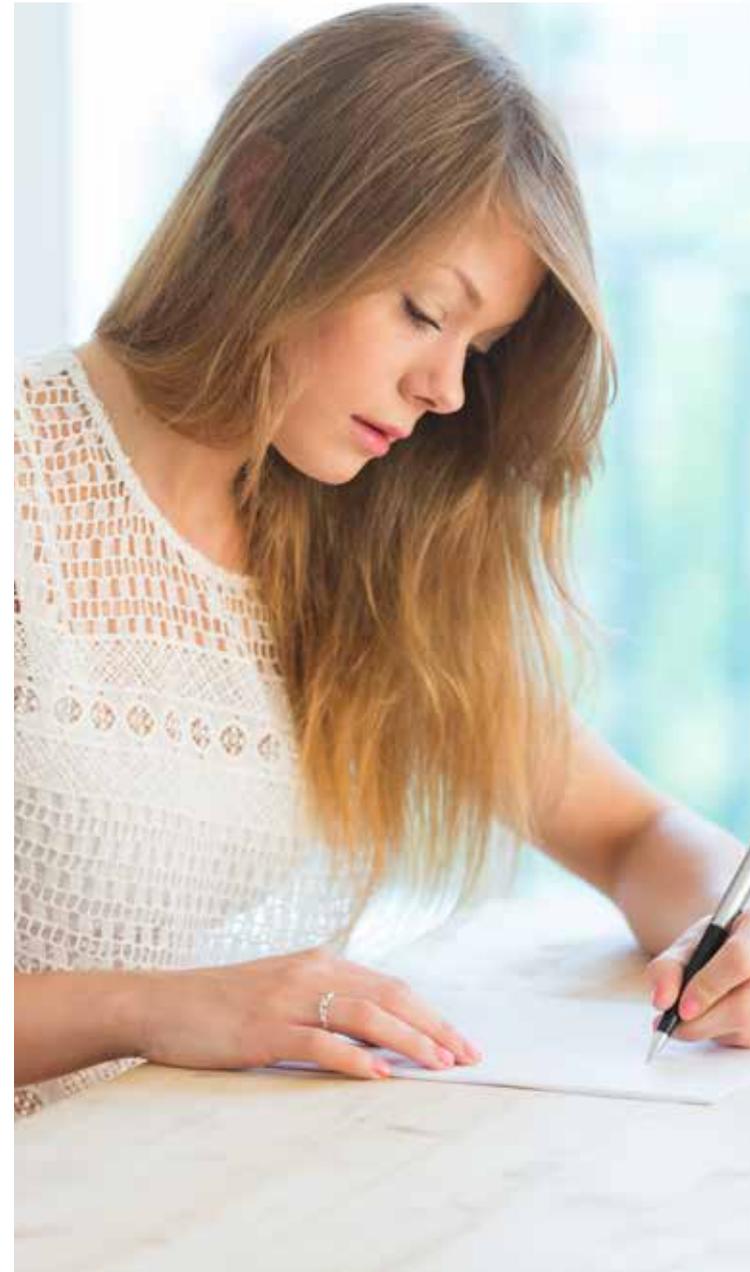
5.5 Weapons and Workplace Violence

The City's commitment to providing all workers with a safe working environment extends to any and all forms of weapons and workplace violence.

The City will not tolerate any level of violence or threat of violence in the workplace. Under no circumstances should any worker bring a weapon to work or threaten violence of any kind.

Such conduct constitutes a breach of the Code, and may warrant summary dismissal for serious misconduct. It may also constitute a criminal activity requiring notification to the relevant authorities.

Conflict and Disclosure of Interest



6. Conflict and Disclosure of Interest

6.1 Conflict of Interest

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

Workers should be impartial when performing all aspects of their duties. Having a conflict of interest is not wrong, but it needs to be managed in the interest of the City rather than the interests of the individual. If a worker is unsure of whether a conflict of interest exists they should discuss it with a Manager as soon as they become aware that it may be an issue. A conflict situation may change over time and may need ongoing monitoring.

Any worker who has a material personal interest in an issue they are dealing with must promptly advise their Supervisor, in writing, of the interest. Any future dealings on the matter, by the worker concerned, shall only be in accordance with their Supervisor's direction. Where a worker seeks information from the City that is publicly available, the worker must access that information through the public channel available to all people and not through avenues available because of their employment with the City.

Conflicts affecting financial and impartiality interests are the subject of strict statutory controls and penalties. Certain categories of workers, in particular those with delegated authority, are required to lodge annual or primary returns. In addition, the Council or CEO has discretion, in the interests of openness and accountability, to require other categories of workers to lodge annual or primary returns.

6.2 Secondary Employment

Workers who are engaged in other paid or unpaid employment and/ or contract work, in addition to their employment at the City, need to inform the City of this either at the commencement of their employment or when the other work commences. In these situations the worker should ensure that any secondary employment is in no direct or indirect conflict of interest with City business. It is also important to consider whether any additional work might negatively affect their work performance at the City. If in doubt about any potential conflict of interest, workers should contact their Supervisor.

6.3 Disclosure of Interest (affecting impartiality)

Workers are required to disclose any interest that could, or may, adversely influence their objectivity in exercising official duties for the City. An interest could arise from family connections, associates, friendship, membership of an association, political views, voluntary work, private employment and/or investments.

6.3.1 Disclosure of interest at Council or Committee Meetings

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

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

The written notice that is given to the CEO will then be passed onto the person presiding over the meeting. This person must bring the notice and its contents to the attention of the persons present,

immediately before the matter to which the disclosure is related, is discussed. The disclosure must also be recorded in the meeting minutes.

Workers may be excused from a requirement to disclose an interest if in the first instance they failed to disclose the interest and if the worker is in good faith able to prove that they were not aware of an interest in the matter that they may have had. Workers may also be excused if they failed to disclose an interest in a matter if they were unaware that a matter of interest was to be discussed at a designated meeting but then disclosed the interest as soon as possible after the meeting.

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

Examples:

My de facto partner proposes to operate a business in the City and wishes to apply for a restaurant licence. Do I have a financial interest?

Yes. A de facto partner comes within the definition of "closely related person" in Part 5 Division 6 Section 5.62 of the Act and you should therefore declare a financial interest and have no involvement in any dealings concerning the application.

I am keen for my son to apply for a job at the City. Are there any particular things I should consider?

The Act clearly discourages nepotism. However, there is no reason why your son should not apply for the position, provided that your relationship is made quite clear to the relevant persons and you are not involved with the selection and recruitment process. Lobbying in support of your son is not permitted.

I have been asked to join the committee of a community-based group which is based in the City. The organisation has many dealings with the City and quite often applies for City grants. Should I accept the invitation?

No. There is a clear conflict of interest in such a situation. It would be different if your proposed membership of an organisation arose because you lived in the City and joined as a community member. In these circumstances, however, you must not be involved in any decision-making involving either the organisation or the City directly.

A company which supplies playground equipment to the City has offered me a scholarship to travel overseas and investigate latest design trends in the provision of playground equipment. Should I accept the offer?

No. Acceptance of such a scholarship would be a conflict of interest with future dealings with the company. Any travel arrangements of this nature should be funded by the City or yourself personally.

I am having a tough time financially and wish to take a second job for a short time to get on top of my mortgage repayments. How should I approach this?

The issue here is whether or not the second job would affect your ability to carry out your duties at the City competently and in an impartial manner. At the least, you need to notify the City of the second job. If you believe you may have difficulty meeting expectations of performance, or there could be a potential conflict of interest, then you should discuss this issue with your Supervisor and if necessary, seek the CEO's approval.

In my new community development role with the City, I have been asked to join the committee of a community organisation. Should I accept?

The preferred practice is for City workers not to become directly involved in community organisations in this manner, particularly as members of committees of such organisations. Participation, as a member, could involve a certain degree of decision-making and therefore would potentially be a conflict of interest. However, in special circumstances, it may be permissible to join such committees in an 'ex officio' non-voting capacity. In these circumstances, you should exclude yourself from the relevant part of any meeting which involves any issue concerning the City.

The situation is quite different if you wish to join a community based group or organisation in your capacity as a community member (i.e. because you live within the City's boundaries) as part of the local community concerned. Again, you should avoid any situation where a conflict of interest with the City potentially arises (e.g. by excluding yourself from part of a meeting).

I wish to submit a paper I have prepared for publication in a professional journal. The paper, in part, includes a case study based on the experience of the City. Is it necessary to get any approval or permission for this?

In normal circumstances, the City would be delighted that you are extending your professional development in this way. As a matter of courtesy, it would be appropriate for you to seek your supervisor's approval of your proposal beforehand. This would allow your Supervisor to acknowledge any potential conflicts of interest.

You have invested in a property development that is occurring within the City. There have been some holdups with the development and you want to know where it is at. You send an email, on your work email, to someone within the City who is involved in the development approval process. All of the information you are asking for can be publicly obtained. Have you done anything wrong?

It is okay for you to ask questions to the City in relation to the development but you should not do this using your work email.

Relevant documents

Local Government Act 1995 - Part 5, Division 6
Local Government (Administration) Regulations 1996 - regulation 34C
Guideline - Manage Conflicts of Interest

6.4 Political Affiliation

A worker's right to maintain political convictions or to be a member of a political party is respected. However, all advice given by workers in the course of their employment must be given in such a way that is impartial and does not reflect any political association or desire.

Where a worker is in a position of conflict between their personal political beliefs and their professional duties they must disclose this conflict to their Manager and act in accordance with the Manager's instructions.

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

Local Government Elections

Staff have an administrative role in support of the WA Electoral Commission who conducts the election on behalf of the City. Staff must not get involved in the elections other than as part of an authorised administrative function.

Section 4.94(c) of *the Local Government Act 1995* provides that a local government employee must not canvass at any election of the local government of which they are an employee.

Relevant document

Pol-C-169 Election Caretaker Provisions

6.5 Gifts

Employees of the City must not receive prohibited gifts from any associated persons.

‘Prohibited gifts’ refers to any gift worth \$300 or more; or receiving several gifts from the same person within a 12-month period that are worth more than \$300 in total.

An ‘associated person’ is someone who is either undertaking, or seeking to undertake, an activity or business dealing with the City, or, who it is reasonable to believe is intending to undertake an activity with the City.

Employees of the City may be able to accept a gift if it is not a prohibited gift, with the exception of some Business Units who have a no gifts policy. The City asks all employees to carefully consider the appropriateness of accepting any gifts and check with your Business Unit Manager prior to accepting.

For a gift worth less than \$50, such as a pen, chocolates, bottle of wine etc. there is no requirement for this to be reported.

For a gift worth between \$50 and \$300, employees are required to notify their Business Unit Manager and Manager Governance of the details of the gift within 10 days of the acceptance of the gift.

The gifts disclosure form is available on the City’s intranet page.

Once the gift disclosure form is submitted, it will be recorded in the City’s Record Keeping System and Employee Gift Register. The record will be retained and disposed of in accordance with the City’s Record Keeping Plan. This information will be used as required by law, for purposes related to the dealings between the associated person and the City, or purposes related to the employee only.

In addition to the requirement to disclose the gift please note the following additional legislative requirements:

- You will be required to disclose an interest relating to this gift in respect to

a matter which you may provide advice or a report, directly or indirectly, to the Council or a Committee of Council.

- If you have been delegated a power or duty, you must not exercise that power or discharge any duty in relation to any matter where you have received a gift from a person associated with that matter and will disclose to the CEO the nature of the interest as soon as practicable after becoming aware the interest.

Relevant legislation

- *Local Government Act 1995* – sections 5.70 and 5.71
- Local Government (Administration) Regulations 1996 – Part 4A – Codes of conduct for local government employees

Note: This does not apply to the CEO. The CEO has different compliance requirements.

The following requirements are applied to an employee acting as Chief Executive Officer in accordance with POL-C-183 Temporary Employment or Appointment of Acting CEO.

Where a gift is received by an employee in their capacity as CEO:

- The legislative requirements in regard to the CEO shall apply for the period in which they are acting.
- ‘Prohibited gift’ provisions do not apply for the period in which they are acting.

- The employee shall still complete and submit an employee notification of gift form, in addition to the CEO notification of gift form (if required).
- The employee shall comply with the employee disclosure requirements in regard to any gift received while acting as CEO (over \$50) when in their substantive role.

Examples:

If I accept a gift from a supplier valued at \$60 and I am offered a further gift to the value of \$300 from the same supplier within a one year period, am I able to accept it?

No. The total value of the gifts received from the same person exceeds \$300, which is not permissible.

You are offered 4 tickets to the races including food and drinks. The tickets are valued at \$60 each and they have been offered to you by a person who works for a cement contracting company the City uses. Can you accept the tickets?

Yes, the total value of the gifts is less than \$300. You can accept them and you must notify your Business Unit Manager and Manager Governance using the gift disclosure form within 10 days of receiving the gift.

A worker is offered the use of a digger from one of the City's contractors, to use on their private property that they are in the midst of building as a holiday home. The worker uses the digger on several occasions but never receives any payment. Have they done anything wrong?

Yes, the provision of a service is considered a gift and it would be reasonable to assume that the use of a digger would constitute more than \$300 worth of services and it is therefore a prohibited gift.

You receive a Christmas gift from a client which is a Myer gift voucher valued at \$100. Are you allowed to accept it?

Yes. The total value of the gift is less than \$300. You can accept it and you must notify your Business Unit Manager and Manager Governance using the gift disclosure form within 10 days of receiving the gift.

A big IT company takes the CEO out for dinner on several occasions. As a thank you for the City using the IT company the CEO receives two first class tickets to England to watch the cricket at Lords. The CEO accepts the tickets and takes one of their Executive team with them. Was it okay for the CEO to use the tickets?

No the value of the tickets would have exceeded the \$300 limit and they should have sent a polite thank you and returned the tickets.

Fraudulent or Corrupt Behaviour



7. Fraudulent or Corrupt Behaviour

The City considers fraud, corruption and misconduct to be serious matters. Such behaviours are unacceptable and the City adopts a zero tolerance approach towards such behaviour. All allegations of corrupt conduct will be investigated and may result in disciplinary action including possible dismissal.

The City expects its workers to:

- Not engage in fraud, criminal or corrupt conduct;
- Report any fraudulent, criminal or corrupt behaviour;
- Report any breaches of the Code; and
- Commit to supporting strong culture and sound governance to prevent, detect and respond to fraud and misconduct.



Communication and Official Information



8. Communication and Official Information

Openness in the provision and dissemination of information is standard practice at the City. The City has adopted the principles of open, transparent governance which enables it to involve the public in decision-making processes.

8.1 Confidential Information

Certain information may be confidential or sensitive and is therefore not appropriate for a wider audience. Where confidentiality is necessary to protect the privacy or rights of individuals or organisations, information must not be released to anyone other than the person who is entitled to receive it or needs access to it for the proper discharge of their functions.

If a worker has access to confidential information, they must ensure that it is properly secured at all times and that it is accessible only to those that have the appropriate authorisation.

The City has adopted an Information Statement, which informs workers and members of the general public of:

- the type of information that must be made available, and to whom;
- the type of information that the City has voluntarily made accessible to members of the public; and
- the type of information that the City will not allow to be disclosed without specific permission.

Workers are subject to contractual obligations regarding confidentiality and the use of confidential and sensitive information. This means that workers must not use any City information obtained in the course of their employment, or after their employment has ceased, for personal gain or benefit, nor should they pass it on to others who may use it in such a way, unless the disclosure is:

- required by law;
- made as part of the proper performance of their duties as a worker; or
- agreed to by the City.

Information that is otherwise publicly available may be disclosed.

Examples:

A friend of mine is having problems with their next door neighbour. I am able to access information from City records that I believe might be of interest and benefit to my friend. Should I provide this information?

No. Although there is a lot of information that is generally accessible by the general public and OK for you to release, information of a confidential nature must not be imparted to anyone unless you are authorised to do so. You should only access information in the workplace that is required for your own work purposes. If your friend requests any information, then your course of action would be to put them in touch with the responsible staff member.

How do I know whether information is confidential or not? (That is, can it be released to members of the public or not?)

Generally speaking, documents are confidential if they concern matters such as industrial/personnel matters, legal matters, internal working documents/discussion papers and those matters which are prescribed in section 5.23 of the Act. If you are unclear whether the information is of a confidential nature, consult your supervisor.

Example:

As part of my job, I have developed a tender specification for widgets. I have been approached by a private company asking for my permission to use this specification. Is it OK for me to give them the information?

You do not own the intellectual property (copyright) in the specification. This belongs to the City. Any arrangements for its use by the company should be subject to an agreement between the company and the City.

8.2 Intellectual Property

Where a worker has left the employment of the City, that worker is not permitted to take with them copies of computer programs, files, documents, or other information and records containing the City's information. As a general rule, all work executed or created by a worker in the course of their employment, is the property of the City; that is, the City is the owner of the intellectual property concerned.

8.3 Public Comment

From time to time a worker may be approached by the media for comment about City activities. Only those authorised by the CEO have approval to respond to any enquiry from the media without directing it, in the first instance, to the Manager, Marketing and Public Relations. This includes providing "on" or "off the record" comments to the media on matters pertaining to the City and Council.

The City of Swan has a Facebook page. Only those authorised to add content to this page may do so. Otherwise social media is not an approved form of communication. It is inappropriate to make disparaging remarks or display offensive/inappropriate images about the City and/or its workers, Councillors, contractors or consultants on any private social media sites.

Examples:

I've received a call from a journalist about a work issue that I have some knowledge of. What should I do?

You should refer the matter in the first instance to the City's Manager Marketing and Public Relations who will handle the query. This will ensure calls from the media are handled in a consistent manner.

One of the staff took a photo at the staff Christmas party of two workers kissing and then posted it on their Facebook page with the caption, "Look what Joe and Mary got up to at the City of Swan's Christmas party". Was it okay for this to be posted?

No, the images are in relation to two staff members at the City and the whole feel of the post could present the City and the two workers in a negative light.

A worker who is also a union member is involved in a dispute with the City about a particular safety issue. The worker feels like the City is not managing it properly and so they write a press release that they send out via the union. Is this behaviour okay?

No, the worker has released confidential information to the media and should have pursued the official channels available to them to have the matter resolved.

Relevant documents

POL-C-159 Social Media

POL-C-134 Media Protocols

Social Media Usage Protocols

Record Keeping and Use of Information



9. Record Keeping and Use of Information

It is important when preparing any document that may become part of the public record that only facts are recorded and no personal opinions or disparaging remarks. Actions and decisions should be recorded to assist transparency.

Any records that are created or received must be protected and managed with care and in accordance with the *State Records Acts 2000 (WA)*. Public records cannot be falsified, destroyed, altered, back dated or damaged.

A worker cannot record a conversation, either visually or using a listening device, with another worker, Councillor, contractor or consultant without their knowledge and consent. If a worker does record a conversation without the consent of the other party to the conversation then they can be subject to disciplinary action up to and including dismissal. An exception is where the recording is reasonably necessary for the protection of the lawful interests of a party to the conversation such as where a worker is being harassed, bullied or discriminated against.

The privacy of workers is respected and information contained on their personnel files must be kept in strict confidence. Any worker may view their personnel file under supervision.

The City and workers must meet minimum record keeping requirements under relevant legislation.

Examples:

A local business has sent me a brochure detailing the products and services they provide. Do I need to capture it for my records?

If you use the information as the basis for spending City money, then yes, you should capture it.

A worker of the City has been told that someone made a complaint against them and that information has ended up on their personnel file without them having the chance to respond. Can they ask to look at their personnel file?

Yes. The City allows workers to look at their personnel file. In addition a negative decision about someone cannot be made and end up on their personnel file without them first having the right to respond to the allegations.

Relevant documents

MP-055 Records Management
City of Swan Record Keeping Plan

Use of the City's Resources



10. Use of the City's Resources

It is in everyone's best interests to ensure that the City's resources are used effectively and economically. City property, assets, funds, facilities and services must only be used for authorised purposes.

When using City assets, workers will:

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

Workers who misuse or abuse the City's assets or are negligent in securing the City's property may have usage withdrawn or be directed to cover any costs associated with the abuse or negligence. Appropriate disciplinary action may also be taken against that employee.

10.1 Computer and Other Communications Resources

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

Workers must take all due care to maintain the security and privacy of these resources by:

- not sharing your password;
- locking your computer when you leave your work station;
- not forwarding internal emails to external recipients without appropriate approval;
- not forwarding emails containing inappropriate or offensive material.

This list is not exhaustive.

Misuse of assets may amount to misconduct and result in disciplinary action.

Relevant documents

MP-069 Information Technology Security
MP-019 Acceptable Use of Computing and Communications Facilities
POL-C-159 Social Media

Examples:

I have a second hand car that I wish to sell. I'm sure I will get a good response from other City workers through the City's email system. Is this acceptable?

No. These types of emails create unnecessary congestion on the City's network. The City provides public folders on Microsoft Outlook specifically for this purpose.

I have a 50-page university assignment that I need to have three bound copies of. Is it acceptable to use the City's photocopying and binding facilities?

The City does allow staff to use City equipment for personal use on a limited basis. Check first with your supervisor to ensure your request will not exceed the acceptable limit.

10.2 Motor Vehicles

The City's vehicles and vehicles used by the City's workers for City business must be operated in accordance with the City's Motor Vehicle management practice. Smoking is not permitted in City vehicles.

Where a motor vehicle is required for City business, workers are to use City motor vehicles only. Workers must use their best endeavours to obtain a City motor vehicle; however, where none is available workers must obtain approval from their Manager to use their private motor vehicles.

Any parking, speeding or other infringements incurred by the driver of a City vehicle are the responsibility of that driver. All accidents involving City vehicles or City workers on City business are to be reported immediately to the relevant Manager.

Relevant document

MP-115 Motor Vehicle

10.3 Corporate Credit Cards

Corporate credit cards are issued to authorised individuals for the payment of specified business expenses in accordance with the City's procurement policies and credit card procedures.

10.4 Contractual and Other Commitments

Signing a contract, or entering into a commitment on behalf of the City, is a serious matter. Workers should not enter into any agreement or commitment unless authorised to do so.

A full understanding of the nature and extent of the commitment should be made in all arrangements or transactions which have legal consequences. Workers should obtain advice or clarification from their Supervisor who can, seek advice internally through the Governance and Strategy team or, if necessary, obtain outside legal advice.

Relevant document

City of Swan Delegation of Authority Register

Examples:

I have negotiated a contract arrangement with a software supplier for the purchase of a visitor booking system. I have been provided with a contract document which has to be signed on behalf of the City. Can I sign this document?

Some documents are required to be executed under seal. Such a document is subject to a procedure which requires signature by the CEO, an Executive Manager and the seal applied.

Other documents, which do not require execution under seal, should be referred to either a Business Unit or Executive Manager authority to sign. If in doubt about the execution requirements of a particular document please seek the advice of your immediate supervisor.

10.5 Tendering and Contracts

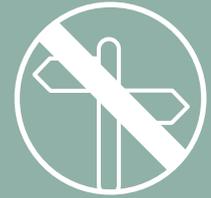
The City is committed to 'best value for money' when procuring goods and services through any competitive process involving the calling of expressions of interest, public tenders and quotations. Workers engaged in procurement should ensure they obtain value for money and are accountable for their actions.

The City has internal processes that are designed to ensure the City achieves value for money and complies with the requirements of the Local Government (Functions and General) Regulations and City policy. Workers must use City processes for procurement to ensure that they achieve value for money and comply with all requirements.

Relevant documents

Local Government Act 1995 – s3.58
'Disposal of Property'
Local Government (Functions and General) Regulations 1996
POL-C-116 Procurement
Disposal of Assets Process

Breaches of the Code of Conduct



11. Breaches of the Code of Conduct

11.1 Compliance

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

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

In addition, workers must comply with any lawful and reasonable instruction given to them by those who have the authority to do so. Should a worker have any doubts as to the appropriateness of any such instruction being given, the matter should be taken up with their Supervisor or Manager or the person who gave the order.

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

11.2 Performance

Workers have a responsibility to ensure that they carry out their work efficiently, economically and effectively, and to a standard that reflects favourably on both the City and its staff.

Where a worker is underperforming, that is where a worker fails to attain or maintain the standard of performance expected by the City, then the worker will be performance managed.

11.3 Misconduct and Serious Misconduct

Misconduct can be classified as either 'misconduct' or 'serious misconduct'.

Misconduct and serious misconduct are breaches of conduct or behavioural standards, required by the City. The level of conduct or behaviour required by the City is set out in:

- this Code;
- the City's enterprise bargaining agreements;
- individual workers' employment contracts;
- the City's policies and procedures; and
- relevant legislation, including but not limited to the *Fair Work Act 2009* (Cth), equal opportunity legislation and occupational safety and health legislation, Corruption, Crime and Misconduct Act 2003.

11.3.1 Misconduct

Misconduct is any inappropriate conduct or unsatisfactory behaviour which may be directly or indirectly work-related and can generally be addressed internally through counselling or disciplinary action.

Misconduct is also when a public officer engages in conduct/behaviour that:

- negatively affects the honest or impartial performance of the functions of a public officer;
- involves the performance of functions in a manner that is not honest or impartial;
- involves a breach of the trust placed in the public officer; or
- involves the misuse of information or material, for the benefit of the public officer or detriment of another person, that is in connection with their functions as a public officer; and
- could constitute behaviour for which termination is a reasonable option.

Examples of misconduct include, but are not limited to:

- the use of abusive or offensive language;
- inappropriate use of the City's resources;
- any form of discrimination or harassment at work or work-related events;
- failure to comply with the lawful and reasonable direction of a Supervisor or Manager;
- breach of the duty of good faith to the City;
- absenteeism without reason and notification within the timeframes required;
- a contravention of a worker's duties under section 18A of the Occupational Safety and Health Act 1984 (WA); and

- failure to comply with policies, processes, procedures, instructions and/or legislation.

In the situations, as described above, the City must notify the Public Sector Commission of the misconduct.

In addition, misconduct may include, but is not limited to:

- consuming or being under the influence of drugs or alcohol during work hours in breach of this Code;
- unlawful use or disclosure of confidential information;
- failure to disclose conflicts of interest;
- discrimination and/or harassment at work or work related events;
- if a worker is unfit and/or unsafe to drive (e.g. loss of all demerit points, a series of driving incidents).

11.3.2 Serious Misconduct

Serious misconduct is any unsatisfactory or inappropriate conduct of a serious nature which requires a formal investigation and may lead to disciplinary action, including termination of employment.

Serious misconduct includes, but is not limited to, when a public officer:

- acts corruptly or corruptly fails to act in the course of their duties; or
- corruptly takes advantage of their position for the benefit or detriment of any person; or

- commits an offence which carries a penalty of two or more years imprisonment; or
- commits fraud, corruption, unlawful use or disclosure of information or failure to disclose conflicts of interest; or
- commits a breach of the duty of good faith to the City; or
- being unsafe to drive (e.g. loss of all demerit points, a series of driving incidents).

The City has a duty to notify the Crime and Corruption Commission (CCC), (and possibly the Police) and/or the Public Sector Commission (PSC) where it has a reasonable suspicion that misconduct and/or serious misconduct has occurred. Following a formal investigation either by the CCC/PSC, the City, or an investigator, disciplinary action up to and including termination may occur.

Serious misconduct may include, but is not limited to:

- abuse of public office;
- blackmail;
- bribery;
- deliberately releasing confidential information;
- extortion, obtaining or offering a secret commission;
- fraud;
- theft;
- forgery;

- perverting the course of justice;
- an offence related to an electoral donation; or
- loss of revenue of the state by tax evasion.

Under the *Fair Work legislation*, conduct that is serious misconduct includes:

- (a) wilful or deliberate behaviour by a worker that is inconsistent with the continuation of the contract of employment;
- (b) conduct that causes serious and imminent risk to:
 - (i) the health or safety of a person; or
 - (ii) the reputation, viability or profitability of the employer's business.

11.4 Investigating Allegations of Misconduct and Serious Misconduct

All allegations of misconduct, or serious misconduct, will be dealt with either formally or informally, in accordance with the City's policies, procedures and with consideration of procedural fairness and natural justice. The following key principles also apply.

(a) Confidentiality

As far as practicable, only the people involved in the attempted resolution or the investigation of an allegation of misconduct will have access to information about it.

This means that only those people with a genuine role to play in helping to resolve an allegation of misconduct should know its details or discuss them. Anyone found to have engaged in gossip or innuendo involving an allegation of misconduct is at risk of disciplinary action and possibly legal action under the laws of defamation.

The City considers confidentiality one of the most important aspects of dealing with allegations of misconduct. However, in some circumstances, information may not be able to be kept confidential, such as where physical threats are involved or legislation otherwise requires disclosure (e.g. Crime and Corruption Commission notification).

(b) Respectful

Everyone involved in an investigation into allegations of misconduct will be treated with dignity and respect throughout the investigation process. Similarly, everyone involved in an investigation is required to treat each other with dignity and respect.

(c) Fair and impartial

All relevant parties will have the opportunity to share and disclose all information regarding the allegations. No assumptions of guilt or otherwise will be made and, to the extent possible, no action will be taken until all relevant information has been collected and considered.

(d) Supportive

No action will be taken against anyone for making, or helping someone to make, an allegation of misconduct. The City will take all reasonable steps to support anyone making an allegation of misconduct, and to ensure they are not victimised. Where appropriate, investigations may be conducted under the Public Interest Disclosure legislation ("whistleblowers"), which provides added protections to those making complaints.

The City's Employee Assistance Program provider and Equity Officers will be available during an investigation to provide support and guidance to workers and other parties involved in the investigation where required.

(e) Promptness

All investigations will be dealt with as promptly as possible.

Where appropriate, the City may also appoint an independent investigator to conduct a comprehensive independent investigation.

11.5 Suspension from Employment

Depending on the nature of the allegations, it may be appropriate to suspend a worker from employment during the investigation.

Where this occurs, the worker will be notified of any suspension in writing, including the basic details of the allegation and the investigation process.

11.6 Disciplinary Outcomes

If it is found that a worker is guilty of the misconduct alleged, the Manager Human Resources (or delegate), in consultation with the worker's manager or supervisor, and the CEO if necessary, will then consider what disciplinary action is warranted, taking into account any mitigating circumstances.

Depending on the seriousness of the misconduct (or serious misconduct), disciplinary action may include, but is not limited to:

- (a) Counselling, including training in specific policies and procedures;
- (b) Recorded (verbal) warning;
- (c) Issuing a formal written warning;
- (d) Demotion or redeployment (if permitted by contract or agreed to by the worker as an alternative to termination);

- (e) Terminating employment with notice (or pay in lieu); or
- (f) Summary termination of employment without notice (or pay in lieu).

Relevant documents

MP-053 Workplace Complaints, Discrimination, Harassment and Bullying
Employee Assistance Program provider information

Making a Complaint



12. Making a Complaint

The City takes any alleged breaches of the Code seriously and encourages any person who has reasonable grounds to believe a worker of the City has committed a breach of this Code to make a complaint in accordance with the City's policy that is relevant to the alleged breach.

Relevant documents

POL-C-171 Complaints Management
MP-053 Workplace Complaints, Discrimination, Harassment and Bullying

12.1 Corruption, Crime and Misconduct Act 2003

The *Corruption, Crime and Misconduct Act 2003* states that matters of misconduct and/or corruption may be reported to the Corruption and Crime Commission.

Misconduct under the *Corruption, Crime and Misconduct Act 2003* may differ from 'misconduct' as set out in section 11 of the Code. If in doubt, workers should speak to their Supervisor or Manager, or alternatively the Manager Human Resources.

Workers should be aware that the CEO is required to notify the Corruption and Crime Commission or the Public Sector Commission of any matter that they suspect, on reasonable grounds, concerns either serious or misconduct.

Relevant documents

POL-C-164 Fraud and Corruption
Fraud and Corruption Control Plan

12.2 Public Interest Disclosure Act 2003

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

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

Relevant document

Public Interest Disclosure Act Guidelines

www.swan.wa.gov.au



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available in alternative
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