

TOWN OF CLAREMONT

CODE OF

CONDUCT

OCTOBER 2017



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1 GUIDING PRINCIPLES

The Code of Conduct (the 'Code') applies to Elected Members, Committee Members and employees of the Town of Claremont. This Code outlines expected standards of professional conduct with an emphasis on ethical responsibility to encourage greater transparency and accountability.

The Code aims to result in –

- ❖ Better and more efficient decision-making;
- ❖ Community participation in the decisions and affairs of the Town;
- ❖ Accountability of the Town to its community; and
- ❖ A governance structure that is efficient and dynamic.

The Code is further guided by the Town's values which are –

- ❖ *Respect – We are responsible for how we behave in our workplace and will show respect and courtesy to all customers and colleagues;*
- ❖ *Integrity – We are open, accountable and honest;*
- ❖ *Quality Communication – We demonstrate our respect for our community and each other through timely, accurate and understandable communication;*
- ❖ *Customer Service – Every contact with a customer is important and an opportunity to demonstrate our commitment;*
- ❖ *Excellence – Our focus is quality outcomes achieved on time and on budget.*

The Code observes statutory requirements of *the Local Government Act 1995* (s5.103 – Codes of Conduct) and Local Government (Rules of Conduct) Regulations 2007.

2 ROLES AND RESPONSIBILITIES

2.1 Elected Members

The primary role of an Elected Member is to represent the community by translating the community's needs and aspirations into a directive for the future of the Council. The Role of Elected Members is set out in s2.10 of the *Local Government Act 1995*.

An Elected Member is part of a team in which the community has placed its trust to make decisions on its behalf. In fulfilling the various roles, Elected Members' activities will focus on:

- ❖ Achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- ❖ Achieving sound financial management and accountability in relation to the Council's finances;
- ❖ Ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;
- ❖ Working with other governments and organisations to achieve benefits for the community at both a local and regional level; and
- ❖ Having an awareness of the statutory obligations imposed on Elected Members and on the Council.

Elected Members are required to act in certain ways, which include, but are not limited to:

- ❖ Representing the interests of the community as a whole and not just special interest groups;
- ❖ Participating in local government decision-making and voting; and
- ❖ Acting in a quasi-judicial manner when considering planning applications and other requests for approvals and licences.

To ensure Elected Members are acting in the interests of the Town and basing decisions on relevant and factually correct information, Elected Members must:

- ❖ Read agendas to be adequately informed;
- ❖ Treat matters on their individual merits; and
- ❖ Act impartially.

Elected Members are also required to represent the organisation by way of appointment to Committees of Council. Their role in Committee membership is to ensure that they faithfully represent the Council's position to other members of the Committee and provide the Committee with regular reports on activities of the organisation.

In fulfilling any of their required duties, Elected Members are expected to exercise reasonable care and diligence by displaying consistency in their decision-making, and treating all matters on individual merits.

2.1.1 Mayor

The Mayor represents the collective leadership of the Council and provides an interface between the Elected Members and Chief Executive Officer. The role of the Mayor falls within the following broad areas:

- ❖ *Leadership, representation and advocacy*
The Mayor is expected to provide leadership and guidance in realising the best interests of the community by acting as a link between Council and the Town's Executive Management Team, and by representing the Council at appropriate meetings of the organisation.
- ❖ *Chairperson*
The Mayor is responsible for determining Council meeting procedures in line with the Act and the *Standing Orders Local Law 2009*. As the Presiding Member at meetings of Council, the Mayor must exercise impartiality and sound knowledge of legislative requirements to facilitate constructive and concise debate.
- ❖ *Public relations and communications*
The Mayor is the spokesperson for the Town, and as such, must endeavour to be available to members of the public wherever possible. The Mayor must have an open line of communication with the CEO in order to liaise on the Town's affairs and performance of its functions.
- ❖ *Ceremonial responsibilities and social engagements*
The Mayor represents Council at official functions, and carries out civic and ceremonial duties on its behalf.

2.1.2 Quasi-Judicial Role of Elected Members

Local governments perform quasi-judicial functions when determining applications for planning, development approval and for other approvals, licences, consents and permits. When acting in this quasi-judicial role, Elected Members must apply the principles of natural justice without bias or conflict of interest, and make decisions in a judicial manner based on:

- ❖ The law and the relevant Council's policies as they exist; and
- ❖ The facts and merits of the case.

Elected members are required to observe these standards not only in the Council Chambers, but also when conducting themselves outside the Chamber.

Determining applications must be based on sound legislative rationale and not on specific public perception; Elected Members must remain objective and impartial when dealing with applicants or affected persons. The decision-making process requires Elected Members to determine applications based on factual information, and with due consideration to recommendations as provided by the Council's Employees.

Elected members must comply with the provisions of the legislation that deal with planning and other statutory decisions. Adherence and awareness of Council's adopted procedures with regard to quasi-judicial decisions is required to ensure that the distinction between the role of employees in collating information and preparing applications, and Elected Members in determining applications is clear. Neither of the roles should unduly influence the other in carrying out their duties.

2.2 Committee Members

Committee Members may be Elected Members, Employees of the Town or other people who volunteer to serve the community on official Town of Claremont Committees.

Committee Members are considered to be bound by the probity requirements placed upon Elected Members by the *Local Government Act 1995* and, to the extent that it is applicable, by this Code.

Committee Members are expected to provide an advisory role to Council using their expertise and knowledge on issues relating to the Committee.

2.3 Employees

While on duty, Employees are expected to give their time and attention to Town business and ensure that their work is carried out efficiently and effectively in accordance with Council policies, procedures and directives. It is expected that their standard of work reflects favourably on themselves and on the Town.

Employees will ensure all Councillors get equal access to relevant information that will help the Council make informed decisions on behalf the community with regard to the Town's strategic objectives. The professional role of Employees is to provide an impartial, professional opinion and recommendation to Elected Members that is based on factual information.

Employees will deal with customers, both internally and externally, courteously, objectively, impartially and in line with the Town's values.

2.4 Relationship between Elected Members and Employees

While Elected Members and Employees are all expected to work together as a part of the Town of Claremont 'team,' there are certain protocols that must be adhered to in order to promote mutual respect and cooperation achieving the Council's corporate goals and implement its strategies. These include but are not limited to:

- ❖ Elected Members must accept that their role is one of leadership, not a management or administrative one;
- ❖ Elected Members have no capability to individually direct other Elected Members or Employees to carry out particular functions;
- ❖ Employees must remember that they are employed by, and responsible to the CEO, not Elected Members;
- ❖ Employees are to follow established protocols with regards to receiving and responding to Elected Member requests;
- ❖ Elected Members, Committee Members and Employees are all expected to refrain from publicly criticising each other in a way that casts aspersions on their professional competence and credibility.

2.5 Attendance at Meetings

Elected Members, relevant Employees and Committee Members make a commitment to attend meetings when elected to Council, or appointed to a Committee. If an Elected Member Relevant Employee or a Committee Member is unable to attend a meeting:

- ❖ An apology should be given; or
- ❖ A leave of absence should be sought.

2.6 Training and Development

The Town supports the professional development of its Elected Members and Employees as outlined in the Effective People Management Policy (LG500) and the Equal Opportunity Policy (LG502).

Elected Members and Employees are expected to undergo voluntary training that will help in the effective performance of their statutory obligations. The Town allocates funds within its operational budget for the professional development of Elected Members and Employees that may be accessed upon application.

As knowledge is a key element in making good decisions, Elected Members, Committee Members and Employees are expected to seek additional information, as necessary, to ensure that decisions made on behalf of the community are informed, support the Town's strategic goals, and are in line with industry best practices.

2.7 Record Keeping Responsibilities

Elected Members and Employees shall comply with the *State Records Act 2000* and the Town's Records Management Policy (LG518) to ensure adequate records are kept to evidence the performance of their duties.

3. RULES OF CONDUCT

The Town requires that all Elected Members, Committee Members and Employees adhere to the following:

3.1 Respect

We are responsible for how we behave in our workplace and will show respect and courtesy to all customers and colleagues.

- ❖ Not act in any manner that bring into question ability to be impartial and to consider each matter on its merits
- ❖ Act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code
- ❖ Perform duties impartially and in the best interests of the Town, uninfluenced by fear or favour
- ❖ Respect for the decision-making processes of Council by observing any direction the Council may adopt in terms of advancing and promoting the objectives of the Town

3.2 Integrity

We are open, accountable and honest.

- ❖ Act in good faith in the interests of the Town and the community
- ❖ Make no allegations which are improper or derogatory, unless true and in the public interest
- ❖ Refrain from any form of conduct, in the performance of official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment
- ❖ Always act in accordance with obligation of fidelity to the Council
- ❖ Give effect to the lawful decisions and policies of the Council, whether or not they agree with or approve of them
- ❖ Bring to the notice of either the Chief Executive Officer or the Mayor any dishonesty or possible dishonesty on the part of any Elected Member, Committee Member or Employee

3.3 Quality Communication

We demonstrate our respect for our community and each other through timely, and accurate and understandable communication.

- ❖ Adequately communicate the attitudes and decisions of the Council to the community
- ❖ Maintaining confidentiality at all times by not communicating information of a confidential nature until it is no longer confidential
- ❖ Accurately convey adopted policies, procedures and decisions of the Council
- ❖ Be polite and treat others with respect and fairness avoiding behaviour which may harass or intimidate

3.4 Customer Service

Every contact with a customer is important and an opportunity to demonstrate our commitment.

- ❖ Display dedication to excellence in customer service by striving to ensure that every customer experience with the Town is a positive one
- ❖ Work together with the community to develop appropriate solutions through open and ongoing consultation
- ❖ Actively engage with customers by displaying reliability and efficiency in problem-solving

- ❖ Comply with neat and responsible dress standards at all times in a manner appropriate to their position, especially when attending meetings or representing the Council in an official capacity

3.5 Excellence

Our focus is quality outcomes achieved on time and on budget.

- ❖ Ensure compliance with proper and reasonable administrative practices and conduct, and assume professional and responsible management practices
- ❖ Adhere to principles of fiscal responsibility when making decisions on behalf of the community
- ❖ Make decisions that take into consideration Council's best interests and advance its strategic plan
- ❖ Implement decisions and follow processes that make the best use of the available people, resources and time to ensure the best possible results for their community
- ❖ Strive to meet operational and strategic goals in a timely, efficient, and cost-effective manner
- ❖ Deliver outcomes that meet the community's expectations

4. CONFLICT OF INTEREST

Elected Members and Employees are required to ensure that there is no actual or perceived conflict of interest between their personal interests and the impartial fulfilment of their professional duties. Disclosure provisions require that a declaration be made when the relevant person, or a person whom the relevant person is closely associated with, has a –

- ❖ Direct or indirect financial interest in a matter (s5.60 of the Act);
- ❖ Proximity interest in the matter (s5.60B of the Act); or
- ❖ Impartiality interest in the matter (*Local Government (Administration) Regulations 1996* Reg. 34C).

In particular, an Elected Member or Employee who has a conflict of interest in any matter to be discussed at a Council or Committee meeting attended by the person must disclose the nature of the interest:

- ❖ In a written notice given to the Chief Executive Officer before the meeting; or
- ❖ At the meeting immediately before the matter is discussed.

An Elected Member or an Employee who has given, or will give, advice in respect of any matter to be discussed at a Council or Committee meeting not attended by the person should disclose the nature of any conflict of interest the person has in the matter:

- ❖ In a written notice given to the Chief Executive Officer before the meeting; or
- ❖ At the time the advice is given.

These disclosures, and associated actions in relation to the disclosures, should be in accordance with Regulation 34C of the *Local Government (Administration) Regulations 1996*.

4.1 Declaring Private Work

All Employees, except those employed on a casual basis, are required to seek permission from the Chief Executive Officer before undertaking work outside the organisation. In assessing the declaration of private or secondary work, elements to be considered include possible interference with the completion of normal duties, and the possibility of any conflict of interest.

The Chief Executive Officer retains the right to refuse approval or to grant approval to engage in paid work outside employment with the Town and to impose conditions where appropriate. Employees who are approved to undertake private work shall under no circumstances use the Town's equipment, premises, time, resources or consumables to conduct or undertake activities associated with their private work.

Neither Elected Members nor Employees shall undertake private work to assist external agencies in the development or lodgement of funding submissions that may compete with similar submissions by the Town.

Elected members are also to make a disclosure if there is any potential conflict of interest between the Council's decision-making activities and their own private work.

4.2 Dealing with Land

Any intention to undertake dealings in land within the local government district, which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence), should be lodged by written notice with the Chief Executive Officer.

4.3 Personal Associations

Relevant persons that exercise recruitment or other discretionary functions will have to make a disclosure before dealing with relatives or close friends, and must disqualify themselves from any decision-making process that deals with those persons.

5 DEALING WITH COUNCIL PROPERTY

5.1 Use of Confidential Information

Elected Members, Committee Members and Employees will not use confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially and in good faith; or, to improperly cause harm or detriment to any person or organisation.

5.2 Intellectual Property

The title to Intellectual Property in all duties relating to Employees performing their roles will be assigned to the Town of Claremont upon its creation unless otherwise agreed by separate contract.

5.3 Use of Local Government Resources

Elected Members and Employees shall:

- ❖ Be honest in their use of the Town's facilities, funds, materials and equipment and shall not misuse them or permit their misuse (or the appearance of misuse) by any person or body
- ❖ Use the Town's resources entrusted to them effectively, economically and lawfully in the course of their duties
- ❖ Not use the Town's resources (including the services of Town employees during normal working hours) for private purposes
- ❖ Not make unauthorised use of information and other intellectual property, produced or registered by employees or external contractors for the Town

5.4 Access to Information

- ❖ Employees will ensure that Elected Members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities
- ❖ Elected Members will ensure that information provided will be used properly to assist in the process of making reasonable and informed decisions on matters before the Council

5.5 Freedom of Information

An application can be made seeking access to any information held by the Town under the *Freedom of Information Act 1992* (the 'FOI'). Elected Members, Committee Members and Employees are obliged to assist with locating documents relevant to an application made under the FOI.

5.6 Access to Town Buildings for Elected Members

Elected Members are entitled to have access to the Council Chamber and public areas of the Town's buildings during normal business hours and for meetings. Should Elected Members desire access to these facilities at other times, authority is required from the CEO.

Elected Members must not enter employee-only areas of the Town's buildings without prior approval. Elected Members must ensure that when they are within an employee designated area they are cognisant of potential conflict or pecuniary interest matters and/or a perception that they may bring influence on operational decisions and should conduct themselves accordingly.

Elected Members are to record each attendance in non-public areas of the Town's buildings in the register of the respective building.

6 PERSONAL BENEFIT

6.1 Improper or Undue Influence

Elected Members, Committee Members and Employees will not take advantage of their position to improperly influence others in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

6.2 Personal Dealings with Council

Elected Members, Committee Members and Employees must not expect or request preferential treatment for themselves or their family because of their position. They must avoid any action that could lead members of the public to believe that they are seeking preferential treatment.

6.3 Gifts and Contributions to Travel

Elected Members and Employees must be mindful of the legislative requirements to disclose gifts and contributions to travel. This includes completing the relevant forms prepared by the Town.

In particular, Elected Members and Employees should not accept a gift or contribution to travel of \$300 or more and must notify the Chief Executive Officer of gifts accepted with a

value of between \$50 and \$299 in circumstances where the gift is received from a person who:

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

Where a donor is not undertaking or seeking to undertake an activity involving a local government discretion, Elected Members and Employees are to disclose gifts or contributions to travel greater than \$200.

The timelines for notification and the content of the notification are to be in accord with the provisions of Rule 12 of the *Local Government (Rules of Conduct) Regulations 2007* for Elected Members and Regulation 34B of the *Local Government (Administration) Regulations 1996* for Employees.

The Chief Executive Officer will maintain a public register for gifts and travel contributions in accordance with the Act's requirements.

In addition, Elected Members and Employees should:

- ❖ Refuse all offers of money, gift vouchers or items easily converted to money such as shares which are made as a result of their position with the Town; and
- ❖ Refuse bribes and report bribery attempts to the Chief Executive Officer and to the West Australian Police and/or the Corruption and Crime Commission.

If a person covered by this Code is unsure about how to respond to an offer of a gift, benefit or hospitality, seek advice from the relevant Executive Manager or the Chief Executive Officer.

7 BREACHES AND MISCONDUCT

7.1 Breach of Code

Any reported breaches of this Code will be treated seriously and investigated in line with the Town's standard procedures.

7.1.1 Elected Members

Complaints will be managed in accordance with the *Local Government (Rules of Conduct) Regulations 2007* if they relate to a breach of a Rule of Conduct.

An Elected Member who is suspected of breaching Rules of Conduct may be reported to the Town's Complaints Officer. Investigations will be conducted in accordance with Part 5, Division 9 of the *Local Government Act 1995*. Complaints will be managed in accordance with natural justice and procedural fairness.

7.1.2 Employees

A complaint alleging that an Employee has breached this Code shall be made in writing to the Employee's relevant Executive Manager or to the Chief Executive Officer. Complaints regarding the Chief Executive Officer will be made to the Mayor.

The complaint will be investigated in a manner that is in accordance with the Town's Grievance Work Procedure (located in the HR Policy Manual), the Town's Human Resources Disciplinary Procedures, Public Interest Disclosure Procedures and the principles of procedural fairness and natural justice.

7.3 Investigation Procedures

Any type of investigation conducted in line with the subsections below either by the Chief Executive Officer or the Governance Committee will follow the rules of procedural fairness. The investigator must:

- ❖ Inform the person(s) against whose interests a decision may be made of any allegations against them and the substance of any adverse comment;
- ❖ Provide the person(s) with a reasonable opportunity to put their case;
- ❖ Hear all parties to the matter and consider submissions;
- ❖ Make reasonable enquiries before making a decision;
- ❖ Ensure that no person is involved in enquiries in which they have a direct interest; and
- ❖ Ensure that any decision is effectively communicated to the relevant interested parties.

7.3.1 Investigations Regarding Employees

The Chief Executive Officer will investigate breaches of the Code regarding Employees. Each complaint will be dealt with quickly and fairly in accordance with the principles of procedural fairness and in accordance with the Town of Claremont's procedures and related documentation.

7.3.2 Investigations Regarding Elected Members and the CEO

Where an Employee or Elected Member believes that an Elected Member or the Chief Executive Officer has failed to comply with the code, the matter should be reported to the Mayor who will report the matter to the Governance Committee.

The Town's Governance Committee will be responsible for the investigation of allegations of breaches of the code of and must either:

- ❖ Investigate the alleged breach; or
- ❖ Engage an independent person to investigate the allegation.

If a breach of the Code is found then the Governance Committee must recommend to the Council the sanction(s), if deemed necessary, for the Council's consideration.

7.4 Misconduct

For the purposes of this Code, misconduct is defined in accordance with section 4 of the *Corruption, Crime and Misconduct Act 2003*.

The Chief Executive Officer has a statutory obligation to report reasonable suspicion of serious misconduct to the Corruption and Crime Commission and reasonable suspicion of minor misconduct to the Public Sector Commission.

As public officers, Elected Members and Employees are required to immediately report to the Chief Executive Officer any instance where there is a reasonable suspicion that misconduct has occurred.

7.5 Public Interest Disclosure

The Town has a public interest disclosure procedure that provides confidential mechanisms for reporting and investigating misconduct allegations or improper conduct in accordance with the *Public Interest Disclosure Act 2003*.