

**Policy  
Register****CANTERBURY CITY COUNCIL**  
*City of Cultural Diversity***23-032****Title:** Code of Conduct

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**Contents:** See [Code of Conduct](#) document



**CANTERBURY CITY COUNCIL**  

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*City of Cultural Diversity*

# **Code of Conduct**

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# 1 Introduction

## A strong ethical culture

The City of Canterbury is a great place to live and work and we want to see this continue in the future. We are a responsible and customer-focused council serving the people of Canterbury, and we provide quality service in all of our activities in order to achieve this future.

An important way in which we can continue to be a responsible council is through a strong ethical culture. Honesty and integrity in the way we do things as an organisation will give us strength, resilience, and effectiveness.

This Code of Conduct is an important foundation for a strong ethical culture. It articulates the standards of behaviour expected of councillors and staff and gives us a basis for our decision making process.

This code has the full support of Councillors, the General Manager senior management and staff.

## Personal responsibility

Councillors, members of staff of council and delegates of the council must comply with the applicable provisions of this code of conduct. It is the personal responsibility of all council officials to comply with the standards in the code and regularly review their personal circumstances with this in mind. Council contractors and volunteers will also be required to observe the relevant provisions of council's code of conduct.

Failure by a councillor to comply with an applicable requirement of council's code of conduct constitutes misbehaviour. Failure by a member of staff to comply with council's code of conduct may give rise to disciplinary action.

## Legislative foundations

The Local Government Act 1993 requires every council to adopt a code of conduct that incorporates the provisions of The Model Code of Conduct for Local Councils in NSW.

This Code of Conduct uses the Model Code of Conduct as a basis, and supplements it with specific provisions relevant to Canterbury City Council.

This Code should be read in conjunction with the Act. However, nothing in this Code overrides or affects the Act or any other law.

Council has also prepared an internal reporting procedure, consistent with the Protected Disclosures Act 1994, for the protection of those making internal disclosures of corrupt conduct, maladministration, and serious and substantial waste within the Council. In some circumstances the reporting of breaches of this Code of Conduct will require the use of this procedure.

## 2 Definitions

This Code may be called 'The Canterbury City Council Code of Conduct'.

In this code of conduct the following definitions apply:

Council official	includes councillors, members of staff of council and delegates of council
Delegates of council	a delegate of council is a person or body to whom a function of council is delegated
Designated person	section 441 of the Local Government Act 1993 defines a designated person as: <ul style="list-style-type: none"><li>• the general manager</li><li>• other senior staff</li><li>• a person (other than a senior staff member) who is a member of staff, a delegate, or a committee member of the council and who is designated person because their position or membership of a committee involves the exercise of functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff, delegate or committee member and the person's private interest.</li></ul>
Act of disorder	clause 29 of the Local Government (Meetings) Regulation 1999 specifies that a councillor commits an act of disorder if the councillor, at a meeting of a council or a committee of a council: <ul style="list-style-type: none"><li>(a) A contravenes the Act or any regulation in force under the Act, or</li><li>(b) assaults or threatens to assault another councillor or person present at the meeting, or</li></ul>

- (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or committee, or addresses or attempts to address the council or committee on such a motion, amendment or matter, or
- (d) insults or makes personal reflections on or imputes improper motives to any other councillor, or
- (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or committee into contempt.

The Act                      the Local Government Act 1993

The term “you” used in the model code of conduct refers to council officials.

References to sections in this Code Of Conduct are references to sections in the Local Government Act 1993.

Expressions used in this Code of Conduct that are defined in relevant legislation have the meanings set out in the legislation. A number of other expressions are defined in the Glossary. Notes and case studies are provided to assist in understanding and applying this Code of Conduct. The notes and case studies do not, however, constitute part of the Code of Conduct.

### 3 Purpose of the code of conduct

The Model Code of Conduct for Local Councils in NSW sets the minimum requirements of behaviour for council officials in carrying out their functions. The model code is prescribed by regulation. The model code of conduct has been developed to assist council officials to:

- understand the standards of conduct that are expected of them;
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (*section 439*);
- act in a way that enhances public confidence in the integrity of local government.
- identify and resolve situations which involve conflict of interest or improper use of a position;
- discourage improper conduct on the part of any such person and to protect persons making legitimate disclosures of fraud, maladministration and serious and substantial waste.

**NOTE:** You act "honestly" if you act in good faith, with no ulterior or improper purpose. A breach of the obligation to act honestly involves a consciousness that what is being done is not in the interests of Council, or the community, or both, and deliberate conduct in disregard of that knowledge. Honesty is more than the absence of dishonesty. Anything that is not a fact, or not in accordance with the facts, is dishonest.



## 4 Key principles

The Model Code of Conduct for Local Councils in NSW is based on the following key principles:

### 4.1 Integrity

You must not place yourself under any financial or other obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

### 4.2 Leadership

You have a duty to promote and support the key principles by leadership and example and to maintain and strengthen the public's trust and confidence in the integrity of the council.

*This means promoting public duty to others in the council and outside, by your own ethical behaviour.*

### 4.3 Selflessness

You have a duty to make decisions solely in the public interest. You must not act in order to gain financial or other benefits for yourself, your family, friends or business interests.

*This means making decisions because they benefit the public, not because they benefit the decision maker.*

### 4.4 Objectivity

You must make decisions solely on merit and in accordance with your statutory obligations when carrying out public business. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits.

*This means fairness to all; impartial assessment; merit selection in recruitment and in purchase and sale of council's resources; considering only relevant matters.*

#### **4.5 Accountability**

You are accountable to the public for your decisions and actions and must consider issues on their merits, taking into account the views of others.

*This means recording reasons for decisions; submitting to scrutiny; keeping proper records; establishing audit trails.*

#### **4.6 Openness**

You have a duty to be as open as possible about your decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands.

*This means recording, giving and revealing reasons for decisions; revealing other avenues available to the client or business; when authorised, offering all information; communicating clearly.*

#### **4.7 Honesty**

You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in such a way that protects the public interest.

*This means obeying the law; following the letter and spirit of policies and procedures; observing the code of conduct; fully disclosing actual or potential conflict of interests and exercising any conferred power strictly for the purpose for which the power was conferred.*

#### **4.8 Respect**

You must treat others with respect at all times.

*This means not using derogatory terms towards others, observing the rights of other people, treating people with courtesy and recognising the different roles others play in local government decision-making.*

## 5 General conduct obligations

### General conduct

- 5.1 You must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, you must avoid conduct that:
- contravenes the Act, associated regulations and council's relevant administrative requirements;
  - is detrimental to the pursuit of the charter of a council;
  - is improper or unethical;
  - is an abuse of power or otherwise amounts to misconduct;
  - causes, comprises or involves intimidation, harassment or verbal abuse;
  - causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment;
  - causes, comprises or involves prejudice in the provision of a service to the community. (Schedule 6A of the Act);
  - is unreasonable, unjust, or oppressive;
  - may cause any reasonable person unwarranted offence or embarrassment;
  - may give rise to the reasonable suspicion or appearance of improper conduct or partial performance of your public or professional duties;
  - is contrary to law or otherwise engage in wrong conduct (see Glossary).
- 5.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (*section 439*).
- 5.3 You must treat others with respect, courtesy, compassion and sensitivity at all times.

## Fairness and equity

- 5.4 You have an obligation to consider issues consistently, promptly and fairly. This involves dealing with matters in accordance with established procedures, in a nondiscriminatory manner.
- 5.5 You must always act in the public interest.
- 5.6 You must not act for an ulterior purpose or on irrelevant grounds.
- 5.7 You must take all reasonable steps to ensure that the information upon which decisions or actions are based is factually correct and that all relevant information has been obtained.
- 5.8 You must take all relevant facts known to you or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

**NOTE:** The general law requires all decision-makers to act fairly, reasonably and otherwise lawfully. That means, among other things, that decision-makers must act strictly within the powers conferred or imposed, and strictly for the purpose for which those powers were conferred or imposed.

## Harassment and discrimination

- 5.9 You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination, on the grounds of sex, pregnancy, age, race (including their colour, nationality, descent, ethnic or religious background), political affiliation, marital status, disability, homosexuality or transgender.

## Development decisions

- 5.10 It is your duty to ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid impropriety. You must also avoid any occasion for suspicion and any appearance of improper conduct.
- 5.11 In determining development applications, it is essential that you are highly conscious of the potential for even the slightest impropriety to lead to suspicion of misconduct. This means you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide concessions or preferential treatment.

## **Council Support**

- 5.12 A council official who honestly and faithfully observes the requirements of this Code and any relevant law is entitled to expect the publicly expressed support of his or her Council and colleagues against unfair allegations of dishonesty or partial performance of his or her public or professional duties.

## **Relations with the Media**

- 5.13 You must at all times promote a positive image of Council and local government generally when dealing with the public.
- 5.14 You must refrain from making any public statement which insults or makes personal reflections on or imputes improper motives to any other council official.
- 5.15 Where a situation arises where a Councillor's comment is sought on an issue of community interest, the Councillor must clearly state that their expressed view is a personal view, and does not necessarily represent the views of Council on the particular issue.

## **Tendering**

- 5.16 You must not be involved in any presentation on behalf of any tenderer whether it involves a cost or not.
- 5.17 You must not discuss with a tenderer or prospective tenderer any aspect of a tender for a contract to be let by Council, except where a staff member or delegate has been authorised to respond to enquiries relating to the tender.

## Guide to ethical decision-making

5.18 If you are unsure about the ethical issues around an action or decision you are about to take, you should consider these five points:

- Is the decision or conduct lawful?
- Is the decision or conduct consistent with council's policy and with council's objectives and the code of conduct?
- What will the outcome be for the employee or councillor, work colleagues, the council and any other parties?
- Do these outcomes raise a conflict of interest or lead to private gain or loss at public expense?
- Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

Remember – you have the right to question any instruction or direction given to you which you think may be unethical or unlawful. If you are uncertain about an action or decision, you may need to seek advice from other people. This includes your supervisor or trusted senior officer, the Department of Local Government, the Ombudsman's Office and the Independent Commission Against Corruption.

## Contact Information

General Manager – Jim Montague	9789 9447
Protected Disclosures Officer – Chris Lenard	9789 9435
Independent Commission Against Corruption	8281 5999
NSW Ombudsman	9286 1000
NSW Department of Local Government	4428 4100

## 6 Conflict of interests

### Pecuniary and non-pecuniary conflict of interests

- 6.1 A conflict of interests exists when you could be influenced, or a reasonable person would perceive that you could be influenced by a personal interest when carrying out your public duty.
- 6.2 You must appropriately resolve any conflict or incompatibility between your private or personal interests and the impartial performance of your public or professional duties.
- 6.3 Any conflict between your interests and those of council must be resolved to the satisfaction of the council. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.
- 6.4 It is essential that you properly address conflict of interests issues that may arise. You must:
- try to understand the concept and practical implications of conflict of interests issues;
  - accept that failure to resolve an actual or reasonably perceived conflict of interests is unacceptable in local government;
  - take timely and appropriate action to avoid, or if not, to disclose any actual, potential or reasonably perceived conflict of interests.
- 6.5 Perceptions of a conflict of interests are as important as actual conflict of interests. The onus is on you to identify a conflict of interests, whether perceived or real, and take the appropriate action to resolve the conflict in favour of your public duty.
- 6.6 Where necessary, you must disclose an interest promptly, fully and in writing. If a disclosure is made at a council or committee meeting, both the disclosure and nature of an interest must be recorded in the minutes.
- 6.7 If you are in doubt whether a conflict of interests exists, you should seek legal or other appropriate advice.

**NOTE:** There are some interests which are neither pecuniary or non-pecuniary. Such interests include those views that persons have as to what they believe ought to occur in the best interests of the community or the general public. Nevertheless, even an interest of that kind may give rise to a pecuniary or non-pecuniary interest on the facts of a particular case.

In addition, the law requires that decision makers must give real, proper and genuine consideration to the matter at hand, with a mind not foreclosed to argument and reason, despite any provisional views and without any predetermination.

6.8 A conflict of interests can be of two types:

***Pecuniary*** - An interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.  
(sections 442 and 443)

***Non-pecuniary*** - A private or personal interest the council official has that does not amount to a pecuniary interest as defined in the Act (for example; a friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

6.9 Pecuniary interest is regulated by Chapter 14 Part 2 of the Act. The Act requires that:

- councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (*section 449*);
- councillors or members of council committees disclose an interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*section 451*);
- designated persons immediately declare, in writing, any pecuniary interest. (*section 459*).

Designated persons are defined at section 441 of the Act.

6.10 Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

6.11 If you have a non-pecuniary conflict of interests, you must disclose the nature of the conflict. If this is in a meeting, do so as soon as practicable.

6.12 If you have declared a non-pecuniary conflict of interests you have a broad range of options for managing the conflict. The option you choose will depend on an assessment of the circumstances of the matter, the nature of your interest and the significance of the issue

**NOTE:** In deciding what action is appropriate in a particular case, you should ask:

‘Is it likely that I could be influenced by the non-pecuniary interest?’

‘Would a reasonable person believe that I could be so influenced?’



being dealt with. You must deal with a non-pecuniary conflict of interests in at least one of these ways:

- It may be appropriate that no action is taken where the potential for conflict is minimal. However, council officials should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (for example, participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (for example, relinquishing or divesting the personal interest that creates the conflict or reallocating the conflicting duties to another officer).
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply (particularly if you have a significant non-pecuniary conflict of interest).
- Include an independent person in the process to provide assurance of probity (for example, for tendering or recruitment selection panels).

**NOTE:** If a person decides not to vote on an issue because of a non-pecuniary interest, but stays in the council chamber, the person is taken to have voted in the negative.

#### Case Study

A councillor is a member of a large metropolitan club. He is not, however, active in the club or involved with the management of the club. In this situation the councillor merely enjoys the facilities of the club as a privilege of membership.

Should a matter relating to the club arise at council, it is appropriate that the councillor inform the council of his membership. It is unlikely, however, that his interest as a club member would conflict with his role as a councillor representing the view of residents and ratepayers generally. He could therefore participate in the decision making process.

If the councillor was, however, an office holder in the club, the interest may constitute a pecuniary interest.

## Other business or employment

- 6.13 A member of staff of council who is considering outside employment or contract work that relates to the business of the council or that might conflict with their council duties must notify and seek the approval of the general manager in writing. (*section 353*)
- 6.14 Senior staff must comply with Section 341 of the Act in relation to bankruptcy et al.
- 6.15 Before you engage in outside employment or business you must ensure that it will not:
- conflict with your official duties;
  - interfere with your council work;
  - involve using confidential information or council resources obtained through your work with the council;
  - require you to work while on council duty;
  - discredit or disadvantage the council.

## Political support

- 6.16 Councillors should note that matters before council involving campaign donors may give rise to a non-pecuniary conflict of interests.

## Personal dealings with council

- 6.17 You will inevitably deal personally with your council (for example, as a ratepayer, recipient of a council service or applicant for a consent granted by council). You must not expect or request preferential treatment for yourself or your family because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

## 7 Personal benefit

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

### Gifts or benefits

7.1 You must not:

- seek or accept a bribe or other improper inducement;
- by virtue of your position acquire a personal profit or advantage which has a monetary value, other than one of a token value.

7.2 You must not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence you to:

- act in a particular way (including making a particular decision);
- fail to act in a particular circumstance;
- otherwise deviate from the proper exercise of your official duties.

7.3 You may accept gifts or benefits of a nominal or token value that do not create a sense of obligation on your part and would not be perceived to influence your performance in your official duties, provided that the donor does not (to your best knowledge) have, at the time, any matter requiring determination before Council.

### Token gifts and benefits

7.4 Generally speaking, token gifts and benefits may include:

- gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address), free or subsidised meals, of a modest nature, and/or beverages provided infrequently (and/or reciprocally)

**NOTE:** Remember that the acceptance of any gift, whether or not it is required to be disclosed, is capable of constituting 'corrupt conduct' within the meaning of the Independent Commission Against Corruption Act 1998.

that have been arranged primarily for, or in connection with, the discussion of official business;

- free meals, of a modest nature, and/or beverages provided to council officials who formally represent their council at work related events such as training, education sessions, workshops;
- refreshments, of a modest nature, provided at conferences where you are a speaker;
- ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverages;
- invitations to appropriate out of hours "cocktail parties" or social functions organised by groups, such as council committees and community organisations.

7.5 If you are offered or are in receipt of a token gift or benefit of the type described above and with a value exceeding \$100.00 (or such other amount as may be specified from time to time) you must disclose this promptly to your Manager, Director or the General Manager if you are a member of staff, or to the General Manager or Mayor if you are a councillor, and make an entry in the Gifts Register. **Refer to the Procedure: Gifts Register.**

## Gifts of value

- 7.6 You must never accept an offer of money, regardless of the amount.
- 7.7 In general, you must not accept gifts and benefits that have more than a nominal or token value. These include tickets to major sporting events, corporate hospitality at a corporate facility at a sporting venue, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel and free training excursions.
- 7.8 If you receive a gift of more than token value in circumstances where it cannot reasonably be refused or returned, you should accept the gift and disclose this promptly to your Manager, Director or the General Manager if you are a member of staff, or to the General Manager or Mayor if you are a councillor. The Manager,

**NOTE:** If any doubts arise about the appropriate conduct in particular instance, staff below manager level should seek and be guided by the views of their relevant Manager. Managers in turn should seek the advice of their Director, and Directors of the General Manager.

If a person is unsure about what to do, they should err on the side of caution.

Director, General Manager or Mayor will ensure that any gifts received are recorded in the Gifts Register.

- 7.9 You must avoid situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, is securing or attempting to influence or secure a favour from you or the council.
- 7.10 If you are offered any gift of a kind that is or may reasonably be perceived as being intended to influence you or secure a favour from you or council, you must report the matter to your Manager, Director, the General Manager or the Mayor.
- 7.9 You must also take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour. Immediate family members ordinarily include parents, spouses, children and siblings.
- 7.10 Councillors and designated persons must by law disclose a description of any gift or gifts totalling a value exceeding \$500 made by the same person during a period of 12 months or less. (required to be included in the disclosure of interests returns – *section 449*).

## **Bribes**

- 7.11 If a bribe or other improper inducement is offered to you, you must immediately report the matter to the General Manager, to enable the General Manager to fulfil his obligations pursuant to Section 11 of the Independent Commission Against Corruption Act 1998. Such a report must be in writing and be provided to the General Manager as soon as possible following the incident.

## Improper and undue influence

- 7.12 You must not take advantage of your position to improperly influence other council officials in the performance of their public or professional duties to secure a private benefit for yourself or for somebody else.
- 7.13 You must not take advantage (or seek to take advantage) of your status or position with, or functions performed for, council in order to obtain unauthorised or unfair benefit for yourself or for any other person or body.

### Case Study

Over a period of time, one local council employee was involved in a series of inspections to registered premises. During the period, the owner of the premises offered the employee a number of gifts including a present for the employee's new born child. The employee accepted the gifts as he felt they were offered as unconditional and genuine tokens of appreciation for his work. He did not interpret the gifts as attempts to gain his favour. In accepting the gifts he did not contravene the council's code of conduct.

Later the owner of the premises made an application for variation to the conditions of his licence. The employee, dutifully, was not compromised by the gifts, and made a recommendation that was not in the owner's interests. After the recommendation was made, the owner complained to the council about the employee accepting the gifts.

Although the employee accepted the gifts in good faith, he nevertheless placed himself in a vulnerable position. While each of these gifts was of modest value, when viewed in total, the value of the gifts seemed quite substantial. The owner also alleged the employee had accepted bribes.

The employee's acceptance of the gifts could also be used as circumstantial evidence of bribery. Furthermore, the employee could not rely on the fact that he made a decision he would have made, regardless of the gifts, as a defence to bribery.

## 8 Relationship between council officials

### Obligations of councillors

- 8.1 Each council is a statutory corporation. The councillors are the governing body of the corporation. Councillors have the responsibility of directing and controlling the affairs of the council in accordance with the Act.
- 8.2 Councillors must:
- refrain from directing council staff other than by giving appropriate direction to the general manager in the performance of council's functions by way of council or committee resolution, or by the Mayor exercising their power under section 226 of the Act. (*section 352*)
  - refrain from, in any public or private forum, directing or influencing, or attempting to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the member or delegate (*Schedule 6A of the Act*)
  - refrain from contacting a member of the staff of the council unless in accordance with procedures governing the interaction of councillors and council staff that have been authorised by the general manager.
  - not contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the Mayor exercising their power under section 226 of the Act.

#### Case Study

A councillor was driving down a local street in her ward and noticed that the nature strips in front of several houses were very unkempt. She immediately contacted a Team Leader whom she knew quite well by mobile phone and requested that Council personnel mow the strip as a matter of urgency as it was disturbing the general environmental amenity.

This contact was inappropriate as councillors must refrain from directing council staff. In this situation the Team Leader correctly and politely referred the councillor to the general manager.

**NOTE:** The Act defines the role of the mayor as to:

- exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council
- exercise such other functions of the council as the council determines
- preside at meetings of the council
- carry out the civic and ceremonial functions of the mayoral office..

**NOTE:** Public comment includes public speaking, comments on radio and television, expressing views in print media, or where it might be expected that the publication or circulation of the comment would spread to the community at large.

## Role of the Mayor

- 8.3 The role of the Mayor is defined by section 226 of the Act. This role is the same whether the Mayor is popularly elected or elected by the councillors.

## Obligations of staff

- 8.4 The General Manager is responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation of the decisions of the council without delay.

- 8.5 Members of staff of council have an obligation to:

- give their attention to the business of council while on duty;
- ensure that their work is carried out efficiently, economically and effectively;
- carry out lawful directions given by any person having authority to give such directions;
- give effect to the lawful policies, decisions and practices of the council, whether or not the staff member agrees with or approves of them.

- 8.6 Only members of staff who are specifically delegated to do so by the General Manager may make public comment on behalf of Council.

- 8.7 When exercising a regulatory, inspection or other discretionary function in relation to members of the public, a member of staff must notify the general manager when dealing with relatives and close friends, and disqualify themselves from the dealing.

- 8.8 When making decisions or taking actions under a delegated authority a member of staff must ensure that:

- the decision or action is within their delegated authority as specified by the relevant instrument of delegation;
- all decision making requirements and procedures required by the delegation are complied with;



- the decision or action is in accordance with the spirit and the letter of any relevant legislation; and
- any decisions and the evidence upon which they are based are properly documented.

### Obligations during meetings

- 8.9 You must act in accordance with council's Code of Meeting Practice and the Local Government (Meetings) Regulation 1999 during council and committee meetings.
- 8.10 You must respect the chair, other council officials and any members of the public present during council and committee meetings or other formal proceedings of the council.

### Inappropriate interactions

- 8.11 The following interactions are inappropriate:
- Councillors approaching members of staff (below manager level) for information on sensitive or controversial matters.
  - Council staff approaching councillors directly on individual staffing matters.
  - Councillors approaching council staff outside the council building or outside hours of work to discuss council business.
  - Council staff refusing to give information which is available to other councillors to a particular councillor because of the staff member's or councillor's political views.
  - Councillors who have lodged a development application with council, discussing the matter with council staff in staff-only areas of the council.
  - Councillors being overbearing or threatening to council staff.
  - Councillors directing or pressuring council staff in the performance of their work, or recommendations they should make.

**NOTE:** Of course, councillors and staff can interact in a social context.

Councillors can also, of course, approach staff for the provision of information that is otherwise ordinarily available to other persons such as Library Services, or for assistance that has been otherwise authorised to be made available to them, such as media liaison.

- Council staff providing ad hoc advice to councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community.
- Councillors approaching council staff organisations; for example unions and associations; in relation to staffing matters that relate to individual staff members rather than broader industrial policy issues.
- Council staff meeting with developers alone and outside office hours to discuss development applications or proposals.
- Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by council associated with current or proposed legal proceedings unless permitted to do so by council's general manager or, in the case of the Mayor, exercising their power under section 226 of the Act.

## 9 Access to information and council resources

### Councillor access to information

**NOTE:** Certain documents, or parts of documents, relating to personal matters concerning particular individuals, the personal hardship of any resident or ratepayer, trade secrets, as well as matters the disclosure of which would constitute an offence under the Act or found an action of breach of confidence, are not to be disclosed.

- 9.1 A council must provide access to the documents available under section 12 of the Local Government Act 1993 to all members of the public, and to councillors. A council must also provide councillors with information sufficient to enable them to carry out their civic functions.
- 9.2 Any information that is given to a particular councillor in the performing of their civic duties must also be available to any other councillor who requests it.
- 9.3 Councillors who have a personal (as distinct from civic) interest in a document of council have the same rights of access as any member of the public.
- 9.4 Members of staff of council have an obligation to provide full and timely information to councillors about matters that they are dealing with in accordance with council procedures.
- 9.5 Councillors have an obligation to properly examine and understand all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with council's charter.
- 9.6 Councillors may also request access to documents of Council either by way of a Notice of Motion to the Council or a Freedom of Information application.

### Refusal of access to documents

- 9.7 The general manager and public officer must act reasonably in deciding whether a document sought by a councillor should be made available under section 12 of the Local Government Act 1993 or because it is relevant to the performance of the councillor's civic duty. The general manager or public officer must state the reasons for the decision if access is refused.

## Use of council information

- 9.8 You must:
- protect confidential information;
  - only access information needed for council business;
  - not use confidential information for any non-official purpose;
  - only release confidential information if you have authority to do so;
  - only use confidential information for the purpose it is intended to be used;
  - only release other information in accordance with established council policies and procedures and in compliance with relevant legislation;
  - not use council information for personal purposes;
  - not disclose any information discussed during a confidential session of a council meeting.
- 9.9 You must carry out your duties in a manner that allows council officials and the public to remain informed about local government activity and practices.
- 9.10 You must not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person.
- 9.11 You must not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you had access in the exercise of your official functions or duties by virtue of your office or position.
- 9.12 You must not use confidential information with the intention to improperly cause harm or detriment to your council or any other person or body.

**NOTE:** If you have access to confidential or sensitive information as part of a local government function, you are in a position of absolute trust, and have a 'fiduciary duty' to Council to keep confidential the information to which you have access. Refer to Section 664 of the Act for more information.

## Security of information

- 9.13 You must take care to maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.
- 9.14 When dealing with personal information you must comply with:
- the *Privacy and Personal Information Protection Act 1998*;
  - the *Health Records and Information Privacy Act 2002*;
  - the *Information Protection Principles and Health Privacy Principles*;
  - council's privacy management plan;
  - the *Privacy Code of Practice for Local Government*.

Personal information is information or an opinion about a person whose identity is apparent, or can be determined from the information or opinion.

## Use of council resources

- 9.15 You must use council resources ethically, effectively, efficiently and carefully in the course of your public or professional duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised

and proper payment is made where appropriate.

- 9.16 Union delegates and consultative committee members may have reasonable access to council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:
- the representation of members with respect to disciplinary matters;
  - the representation of employees with respect to grievances and disputes;
  - functions associated with the role of the local consultative committee.

- 9.17 You must be scrupulous in your use of council property, including intellectual property, official services and facilities and should not permit their misuse by any other person or body.
- 9.18 You must not make use of the council logo or similar intellectual property of the Council without first obtaining the written approval of the Council to such use. Refer to the **Procedure: Use of Council Property** for instructions on how such approval may be sought.
- 9.19 You must avoid any action or situation which could create the impression that council property, official services or public facilities are being improperly used for your own or any other person or body's private benefit or gain.
- 9.20 The interest of a councillor in their re-election is considered to be a personal interest and as such the reimbursement of travel expenses incurred on election matters is not appropriate. Council letterhead, council crests and other information that could give the impression it is official council material must not be used for these purposes.
- 9.21 You must not convert any property of the council to your own use unless properly authorised.
- 9.22 You must not use council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

### **Councillor access to council buildings**

- 9.23 As elected members of the council, councillors are entitled to have access to the council chamber, committee room, mayor's office (by invitation or appointment), councillor's rooms, and public areas of council's buildings during normal business hours and for meetings. Should councillors need access to these facilities at other times, authority is required from the general manager in order that necessary arrangements can be made.

- 9.24 Councillors must not enter staff-only areas of council buildings without the approval of the general manager (or delegate) or as provided in the procedures governing the interaction of councillors and council staff.
- 9.25 Councillors who are not in pursuit of their civic duties have the same rights of access to Council buildings and premises as any other member of the public.
- 9.26 Councillors are not to use entry cards in a manner or for a purpose not otherwise authorised by this Code of Conduct or by Council, including the purpose of gaining access to any part of Council premises to which access is otherwise denied or excluded by this Code.
- 9.27 Councillors must ensure that when they are within a staff area they are cognisant of potential conflict or pecuniary interest matters and/or a perception that they may bring influence to bear on council staff decisions and should conduct themselves accordingly.

## 10 Reporting breaches, complaint handling procedures & sanctions

### Corrupt conduct, maladministration and waste of public resources

- 10.1 You have an obligation to act honestly. You should report any instances of suspected corrupt conduct, maladministration and serious and substantial waste of public resources in accordance with council's internal reporting policy.
- 10.2 The Protected Disclosures Act 1994 provides certain protections against reprisals for council officials who report such matters. It is an offence to take detrimental action against people who make such reports. Refer to the **Procedure: Protected Disclosures**.

### Reporting breaches of the code of conduct

- 10.3 You should report suspected breaches of the code of conduct to the general manager, preferably in writing.
- 10.4 Where you believe that the general manager has failed to comply with this code, you should report the matter to the Mayor, preferably in writing, who will report the matter to the conduct committee.

### Complaint handling procedures – staff conduct (excluding the general manager)

- 10.5 Where appropriate, the general manager will make enquiries, or cause enquiries to be made, into breaches of the code of conduct regarding members of staff of council and others engaged by the council and will determine the matter.
- 10.6 Where the general manager has determined not to enquire into the matter, the general manager will give the complainant the reason/s in writing.



- 10.7 Enquiries made into staff conduct which might give rise to disciplinary action must occur in accordance with the relevant local government award and make provision for procedural fairness including the right of an employee to be represented by their union.

### **Complaint handling procedures – councillor and general manager conduct**

- 10.8 Council will establish a conduct committee that will consist of the Mayor, the general manager and at least one person independent of council. The independent representative/s should comprise council's nominated legal adviser or other independent person/s of appropriate standing. In the instance of a complaint being made by or against the Mayor or the general manager, the Deputy Mayor, or another councillor who has been designated by council, will take the place of the Mayor or general manager on the committee.
- 10.9 Councillors should report suspected breaches of the code of conduct to the general manager, preferably in writing, in the first instance and refrain from making allegations at council meetings. Where appropriate, the general manager will report the matter to the conduct committee.
- 10.10 Where the general manager has determined not to report the matter to the conduct committee, the general manager will give the complainant the reason/s in writing.
- 10.11 Council's conduct committee is responsible for making enquiries into allegations of breaches of the code of conduct by councillors and must either:
- determine not to make enquiries into the allegation and give the reason/s in writing; or
  - make enquiries into the alleged breach to determine the particular factual matters; or
  - engage an independent person to make enquiries into the allegation to determine the particular factual matters.
- 10.12 Enquiries made by the general manager, an independent person or the conduct committee will follow the rules of procedural fairness. The enquirer must:

**NOTE:** The general manager and the conduct committee are under a statutory duty to notify the Independent Commission Against Corruption of possible 'corrupt conduct' despite any duty of secrecy.

- inform the person/s against whose interests a decision may be made of any allegations against them and the substance of any adverse comment in respect of them;
  - provide the person/s with a reasonable opportunity to put their case;
  - hear all parties to a matter and consider submissions;
  - make reasonable enquiries before making a recommendation;
  - ensure that no person is involved in enquiries in which they have a direct interest;
  - act fairly and without bias; and
  - conduct the enquiries without undue delay.
- 10.13 Council's conduct committee must decide whether a matter reported to it discloses a prima facie breach of this code. The conduct committee will report its findings, and the reasons for these findings, in writing to the council, the complainant and the person subject of the complaint.
- 10.14 The conduct committee may recommend that council take any actions provided for in this code of conduct that the committee considers reasonable in the circumstances.

## Sanctions

- 10.15 Where the council finds that a councillor has breached the code, it may decide by resolution to:
- require the councillor to apologise to any person adversely affected by the breach;
  - request a formal apology;
  - counsel the councillor;
  - reprimand the councillor;
  - resolve to make its decision on the matter public;
  - censure the councillor for misbehaviour in accordance with section 440G of the Act;

- make public findings of inappropriate conduct (such as making the community aware of the breach through the media or annual report);
- refer the matter to an appropriate investigative body if the matter is serious (for example, the Department of Local Government, the Independent Commission Against Corruption, the NSW Ombudsman or the NSW Police);
- prosecute for any breach of law or take civil action against the Councillor.

10.16 Sanctions for staff depend on the severity, scale and importance of the breach and must be in accordance with any staff agreements, awards, industrial agreements and contracts. In the case of a staff member, the General Manager may decide to:

- counsel the staff member;
- cause to be instituted against the person disciplinary proceedings;
- terminate the person's employment with Council;
- prosecute any breach of the law or take action against the person.

## 11 Councillor misbehaviour

- 11.1 For the purposes of Chapter 14, Part 1, Division 3 of the Act, failure by a councillor to comply with an applicable requirement of this code of conduct constitutes misbehaviour. (*section 440F*)
- 11.2 Under section 440G a council may by resolution at a meeting formally censure a councillor for misbehaviour.
- 11.3 Under section 440H, the process for the suspension of a councillor from civic office can be initiated by a request made by council to the Director General of the Department of Local Government.
- 11.4 The first ground on which a councillor may be suspended from civic office is where the councillor's behaviour has been disruptive over a period, involving more than one incident of misbehaviour during that period, and the pattern of behaviour during that period is of such a sufficiently serious nature as to warrant the councillor's suspension.
- 11.5 Council cannot request suspension on this ground unless during the period concerned the councillor has been:
- formally censured for incidents of misbehaviour on two or more occasions, or
  - expelled from a meeting of the council or a committee of the council for an incident of misbehaviour on at least one occasion.
- 11.6 The second ground on which a councillor may be suspended from civic office is where the councillor's behaviour has involved one incident of misbehaviour that is of such a sufficiently serious nature as to warrant the councillor's suspension.
- 11.7 Council cannot request suspension on this ground unless the councillor has been:
- formally censured for the incident of misbehaviour concerned, or
  - expelled from a meeting of the council or a committee of the council for the incident of misbehaviour concerned.

- 11.8 Under section 440H, the process for the suspension of a councillor can also be initiated by the Department of Local Government, the Independent Commission Against Corruption or the NSW Ombudsman.

## Glossary

### Conduct

means any action or inaction relating to a matter of administration, and any alleged action or inaction relating to a matter of administration.

### Conflict of interest

means a lack of impartiality, however arising, and whether or not financial gain or loss is involved. A conflict of interest arises if it is likely that the person with the private or personal interest could be prejudicially influenced in the performance of their public or professional duties by that interest, or that a reasonable person would believe that the person could be so influenced.

### Corrupt conduct

- (a) any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or
- (b) any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or
- (c) any conduct of a public official or former public official that constitutes or involves a breach of public trust, or
- (d) any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.

Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters:

- (a) official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition),
- (b) bribery,
- (c) blackmail,
- (d) obtaining or offering secret commissions,
- (e) fraud,
- (f) theft,
- (g) perverting the course of justice,
- (h) embezzlement,
- (i) election bribery,
- (j) election funding offences,
- (k) election fraud,
- (l) treating,
- (m) tax evasion,
- (n) revenue evasion,
- (o) currency violations,
- (p) illegal drug dealings,
- (q) illegal gambling,
- (r) obtaining financial benefit by vice engaged in by others,
- (s) bankruptcy and company violations,
- (t) harbouring criminals,
- (u) forgery,
- (v) treason or other offences against the Sovereign,
- (w) homicide or violence,
- (x) matters of the same or a similar nature to any listed above,
- (y) any conspiracy or attempt in relation to any of the above.

HOWEVER, conduct does not amount to corrupt conduct unless it could constitute or involve:

- (a) a criminal offence, or
- (b) a disciplinary offence, or
- (c) reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official, or
- (d) in the case of conduct of a Minister of the Crown or a member of a House of Parliament a substantial breach of an applicable code of conduct.

### **Maladministration**

**NOTE:** Conduct may still constitute 'wrong conduct' (see below) within the meaning of the Ombudsman Act 1974 (NSW) without necessarily amounting to maladministration within the meaning of the Protected Disclosures Act 1994 (NSW).

for the purposes of the Protected Disclosures Act 1994 (NSW), is conduct of a kind that involves action or inaction of a serious nature that is:

- (a) contrary to law; or
- (b) unreasonable, unjust, oppressive or improperly discriminatory; or
- (c) based wholly or partly on improper motives.

### **Non-pecuniary interest**

means any private or personal interest that does not pertain to money (eg. kinship, friendship, membership of an association, society or trade union or involvement or interest in an activity).

### **Pecuniary interest**

means an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated, that is not too remote or insignificant.



**Public area**

means, in relation to any premises or part or parts of premises, of Council, so much of those premises as are made generally or specially available to the public as of right, but does not include any such premises at any time when they are not so made available to the public (eg. access corridors to staff areas), and in any case does not include staff areas whether open office areas or private staff offices.

**Senior staff of Council**

means the General Manager and the Directors.

**Waste**

refers to serious and substantial waste of public money.

**Wrong conduct**

means, in the context of the Ombudsman Act 1974 (NSW), refers to conduct, or any part of conduct, of any one or more of the following kinds:

- (a) contrary to law,
- (b) unreasonable, unjust, oppressive or improperly discriminatory,
- (c) in accordance with any law or established practice but the law or practice is, or may be, unreasonable, unjust, oppressive or improperly discriminatory,
- (d) based wholly or partly on improper motives, irrelevant grounds or irrelevant consideration,
- (e) based wholly or partly on a mistake of law or fact,
- (f) conduct for which reasons should be given but are not given,
- (g) otherwise wrong.

## Procedure: Interaction between Council Officials

The following procedure applies to the interaction between Council Officials outside of meetings:

1. The General Manager is responsible to the Council for performance and direction of all staff and day to day management of Council. Therefore, all requests for information and approaches to staff outside the forum of a Council or Committee meeting, shall be directed to the General Manager, to a Director, or to a Manager.
2. Only Senior Staff or Managers may provide advice to councillors.
3. It is within the discretion of the General Manager, Director or Manager to require councillors to make an appointment, to put a request in writing, or to put it on notice to Council to obtain detailed or otherwise time-consuming information. The General Manager director or manager must indicate in writing, the reasons for refusing a request.
4. For all but straightforward advice on administrative matters, councillors should put their requests for information or advice in writing to be answered by the General Manager, the appropriate Director or Manager.
5. A Director or Manager has the discretion to refer any request for information to the General Manager. The Director or Manager must indicate to the councillor that the councillor's request has been referred on.
6. If a councillor is concerned about any refusal to provide information, they should firstly raise the matter with the General Manager (or the Mayor if it was the General Manager who refused to provide the advice). If the councillor is still dissatisfied they should request the information by way of a Question on Notice or Notice of Motion to the Council.

**NOTE:** A councillor is not, of course, prevented from bringing some matter to the attention of an appropriate staff member where the matter in question is of civic and public importance, and the purpose of bringing the matter to the notice of the staff member is to do no more than convey information (eg. as to the state or condition of a road or park), with no direction being given as to what action, if any, should be taken.

**NOTE:** A member of staff is not subject to direction by the council as to the content of any advice or recommendation made by the member, but the Council is not prevented from directing a member of staff to provide advice or a recommendation: see Section 352 of the Local Government Act 1993 (NSW).

7. Councillors must not attempt to direct staff as to the performance of their work. Staff must report all such attempts immediately to their director or the General Manager.
8. Councillors must not request staff to undertake work of a private nature for the councillor or any other person except where otherwise authorised or permitted by law.
9. Councillors must not enter staff-only areas of council buildings without either:
  - 9.1. The express authorisation of either the General Manager or Director; or
  - 9.2. By authority of a resolution of Council.

# Procedure: Protected Disclosures

## Introduction

There is an obligation on Council officials to report genuine suspicion of corrupt conduct, maladministration, or serious and substantial waste.

The Protected Disclosures Act 1994 (NSW) aims to encourage and facilitate the disclosure, in the public interest of corrupt conduct, maladministration and serious and substantial waste. It does this by:

- enhancing and augmenting established procedures for making disclosures concerning such matters;
- protecting persons from reprisals that might otherwise be inflicted on them because of these disclosures; and
- providing for those disclosures to be properly investigated and dealt with.

The Protected Disclosures Act 1994 (NSW) protects a person making a disclosure in good faith against liability. The Act makes it an offence punishable by fines and imprisonment, to seek reprisal against a person making a protected disclosure. The Act refers to reprisals as detrimental action meaning, causing, compromising or involving any of the following:

- injury, loss or damage
- intimidation or harassment
- discrimination
- disadvantage or adverse treatment in employment,
- disciplinary proceedings

**NOTE:** Any disclosure, to be protected, should ordinarily be based on something more than a reasonable suspicion of prohibited activity. A disclosure is also not protected if an investigating authority or officer declines to investigate or discontinues the investigation of a matter.

The Protected Disclosures Act 1994 (NSW) does not provide protection for disclosures which:

- are frivolous or vexatious; or
- have been made to avoid dismissal or disciplinary action.

## Making Disclosures Within The Organisation

**Staff Disclosures**



**Disclosure Coordinator**



**General Manager**

If you are unclear as to what constitutes corrupt conduct, maladministration or serious and substantial waste you should seek advice from your Manager or from Council's Disclosure Coordinator.

Council's Disclosure Coordinator is the Manager Corporate Support.

## Making Disclosures Outside The Organisation

Staff and councillors can make disclosures external to the organisation. External disclosures relating to suspected corruption must be made to the Independent Commission Against Corruption. External disclosures relating to suspected maladministration or serious and substantial waste must be made to the New South Wales Ombudsman.

The investigating authority or Council, depending on to whom the disclosure is made, have a duty to notify the person making the disclosure within six months of the action taken or proposed in respect of the disclosure made.

Disclosures made externally to journalists or Members of Parliament will not be protected unless certain requirements are met. Disclosures made directly to journalists or a Member of Parliament will be protected only if the person making the disclosure has already made the same disclosure internally to the General Manager or externally to the ICAC or the Ombudsman.

Protection is only available if the information provided is substantially true and the investigating authority or Council:

- has decided not to investigate the matter
- has decided to investigate the matter but not completed the investigation within six months of the original disclosure or has investigated the matter but not recommended any action in respect of the matter
- has failed to notify the person making the disclosure within six months of the disclosure of whether or not the matter has been investigated.

## Procedure: Gifts Register

1. Councillors and staff must declare and record in the **Gifts Register** Token Gifts and Benefits with a value of \$100 or more, and Gifts of Value, whether the gifts or benefits are declined, accepted or returned. The Code of Conduct provides guidance as to what constitutes Token Gifts and Benefits and Gifts of Value.
2. Recipients have the option to either retain such gifts or (if practical and appropriate) relinquish the gift to Council for periodic disposal. Council will retain disposal proceeds in such circumstances.
3. A **Gifts & Benefits Declaration Form** must be completed and forwarded by a staff member to their Manager or Director, or in the case of a Councillor to the Mayor or General Manager.
4. If a member of staff receives an invitation to attend a function that constitutes either a Token Gift or Benefit to which this policy would apply or a Gift of Value, and they wish to accept the invitation they must:
  - 4.1. Complete a **Gifts & Benefits Declaration Form**; and then
  - 4.2. Obtain the approval of their Manager, or in the case of a Manager the approval of their Director, or in the case of a Director the approval of the General Manager **BEFORE accepting the invitation.**
5. The relevant Manager, Director or General Manager are responsible for ensuring any receipt of a **Gifts & Benefits Declaration Form** is forwarded to Manager Corporate Support.
6. The **Gifts Register** will be maintained by the Manager Corporate Support and constitutes a public register.
7. The personal benefits declaration form and the **Gifts Register** will incorporate the following information in relation to the personal benefit:
  - 7.1. Date and time of receipt or provision of gift
  - 7.2. Date and time of entry into the register
  - 7.3. Provider or donator of the gift;

- 7.4. If appropriate, the name of the business or organisation that the provider or donator represents;
  - 7.5. The receiver of the gift (if this is a team, area or division, identify the unit and the individual names of the recipients);
  - 7.6. A description of the gift;
  - 7.7. An estimated retail value
  - 7.8. Action taken and or decision made relating to the gift, for instance whether it was accepted, declined, returned, personally retained, relinquished, donated to charity and so on;
  - 7.9. The signature and date when signed by the staff member or councillor; and
  - 7.10. Signature and date when signed off by the staff member's Manager, or in the case of a Councillor, the Mayor or General Manager.
8. All declarations must be recorded in the **Gifts Register** as soon as practicable and no later than two (2) weeks of offering, accepting or declining the gift or benefit.
  9. If a Councillor or staff member is uncertain about whether a gift, benefit or hospitality is non-token, they should discuss it with their Manager, the Mayor or General Manager.

Councillors and staff should err on the side of caution and...

**if in doubt – declare it.**



## Gifts & Benefits Declaration Form

For information on when and how to use this form refer to the Gifts Register procedure.

Dates and Times		Date	Time
<b>Gift or benefit received or provided:</b>			
<b>This form prepared:</b>			
<b>Received by Manager Corporate Support:</b>			
<b>Entered into Gifts Register:</b>			
<b>Gift or benefit provided by:</b>			
<b>Name:</b>			
<b>Organisation:</b>			
<b>Phone number (if available):</b>			
<b>Contact address (if available):</b>			
<b>Gift or benefit received by:</b>			
(if applicable, list unit and all members of the unit receiving the gift or gifts)		<hr/> <hr/> <hr/>	
<b>Details of Gift or Benefit</b>			
<b>Description:</b>		<hr/> <hr/> <hr/>	
<b>Estimated retail value</b>			
<b>Action taken with gift</b>		<hr/> <hr/> <hr/>	
<b>Signed by</b> Receiver of gift or benefit		<b>Signed by</b> Manager, Director, General Manager, or Mayor	
<b>Signature:</b>		<b>Signature:</b>	
<b>Name:</b>		<b>Name:</b>	
<b>Position:</b>		<b>Position:</b>	
<b>Date:</b>		<b>Date:</b>	

## Procedure: Use of Council Property

1. Staff must not use Council resources for private purposes, however, they may make private use of:
  - 1.1. **Fixed telephones and facsimile**, provided the calls are local (such expression to include calls to adjoining STD areas), infrequent, short and do not unduly interfere with the business of Council.
  - 1.2. **Mobile phones**, provided that the actual cost of the private call is reimbursed to Council.
  - 1.3. **Photocopiers**, provided the use is infrequent and minimal.
  - 1.4. **Computers**, provided the use is infrequent and minimal, in accordance with Council's policy on computer usage, and does not interfere with the business of Council. No non-Council storage media (such as floppy disks, rewriteable CDs, and USB Flash Drives) are to be used in Council computers unless approved by the Manager Information Services.
  - 1.5. **Email and the Internet**, provided the use is infrequent and minimal and does not interfere with the business of Council. Access to inappropriate Internet sites and the use of email to distribute or store offensive and inappropriate material will not be tolerated.
  - 1.6. **Small items of equipment and tools** may be borrowed infrequently and for brief periods, subject to approval from the person responsible for the tool or piece of equipment. In giving the approval the approving officer will consider safety and the value of the item. The borrower is responsible for any loss of or damage to the item. An appropriate record is to be maintained for any item borrowed.
2. Council's resources and equipment must not be used in any circumstances by a member of staff in relation to a second job or business.
3. Council vehicles, pens, paper, clothing, material etc. are not to be used for private purposes unless lawfully authorised.

4. Council's **'Payment of Expenses and Provision of Facilities to Councillors Policy'** sets out further information in relation to Councillors' rights and obligations relating to the provision of facilities for use in their role as a Councillor.
5. Approval to make use of the council logo or similar intellectual property of the Council is to be sought in the following manner:
  - 5.1. Any application for such use of the Council logo or other intellectual property must be made in writing and state the manner in which the logo or other intellectual property will be used and the purpose of such use.
  - 5.2. The Council may refuse to approve the use of its logo or intellectual property without giving reasons for its refusal except where the application is made by a Councillor for the purpose of advertising the Councillor's location and that the Councillor is a member of the Council.
  - 5.3. Any approval given by the Council to the use of the logo or other intellectual property may be on conditions which require that the logo or other intellectual property are not so used as to give the appearance that a business, enterprise, club or any other activity is approved of or endorsed by the Council.