



**CODE OF
CONDUCT
POLICY
P3.0109.10**

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PART 1 INTRODUCTION

This Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct) is made under section 440 of the *Local Government Act 1993* (LGA) and the *Local Government (General) Regulation 2005* (the Regulation).

The Model Code of Conduct sets the minimum standards of conduct for Council officials. It is prescribed by regulation to assist Council officials to:

- understand and comply with 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 local government.

Section 440 of the LGA requires every Council (including county Councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. A Council's or joint organisation's adopted code of conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "Council officials" for the purposes of the Model Code of Conduct (eg volunteers, contractors and members of wholly advisory Committees).

A Council's or joint organisation's adopted code of conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct. However, a Council's or joint organisation's adopted code of conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct.

Councillors, administrators, members of staff of Councils, delegates of Councils, (including members of Council Committees that are delegates of a Council) and any other person a Council's adopted code of conduct applies to, must comply with the applicable provisions of their Council's code of conduct. It is the personal responsibility of Council officials to comply with the standards in the code and to regularly review their personal circumstances and conduct with this in mind.

Failure by a Councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the LGA. The LGA provides for a range of penalties that may be imposed on Councillors for misconduct, including suspension or disqualification from civic office. A Councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.

Failure by a member of staff to comply with a Council's code of conduct may give rise to disciplinary action.

Guide to ethical decision making

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, Council, persons with whom you are associated 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 that 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 may include your supervisor or a senior officer, your union representatives, the Office of Local Government, the Ombudsman's Office and the Independent Commission Against Corruption.

Independent Commission Against Corruption 8281 5999
NSW Ombudsman 9286 1000
NSW Office of Local Government 4428 4100

PART 2 DEFINITIONS

In this code the following terms have the following meanings:

administrator	an administrator of a Council appointed under the LGA other than an administrator appointed under section 66
Committee	see the definition of 'Council Committee'
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures
conduct	includes acts and omissions
Council	includes county Councils and joint organisations
Council Committee	a Committee established by a Council comprising of Councillors, staff or other persons that the Council has delegated functions to
Council Committee member	a person other than a Councillor or member of staff of a Council who is a member of a Council Committee other than a wholly advisory Committee, and a person other than a Councillor who is a member of the Council's audit, risk and improvement committee
Council official	includes Councillors, members of staff of a Council, administrators, Council Committee members, members of advisory Committees of a Council, delegates of Council, independent conduct reviewers, contractors and volunteers of a Council, officers of entities owned by a Council and, for the purposes of clause 4.16, Council advisers
Councillor	any person elected or appointed to civic office, including the Mayor and includes members and chairpersons of county Councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
delegate of Council	a person (other than a Councillor or member of staff of a Council) or body, and the individual members of that body, to whom a function of the Council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes Council, state and federal election campaigns
environmental planning instrument	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>
General Manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 400O of the LGA
LGA	the <i>Local Government Act 1993</i>

local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
regional planning panel	a regional planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
Mayor	includes the chairperson of a county Council or a joint organisation
members of staff of a Council	includes members of staff of county Councils and joint organisations
the Office	Office of Local Government
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
the Regulation	the <i>Local Government (General) Regulation 2005</i>
voting representative,	a voting representative of the board of a joint organisation
wholly advisory committee	a Council Committee that the Council has not delegated any functions to

PART 3 GENERAL CONDUCT OBLIGATIONS

General conduct

3.1 You must not conduct yourself in a manner that:

- (a) is likely to bring the Council or other Council officials into disrepute
- (b) is contrary to statutory requirements or the Council's administrative requirements or policies
- (c) is improper or unethical
- (d) is an abuse of power
- (e) causes, comprises or involves intimidation or verbal abuse
- (f) involves the misuse of your position to obtain a private benefit
- (g) constitutes harassment or bullying behaviour under this code, or is unlawfully discriminatory.

3.2 You must act lawfully and honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the LGA or any other Act (section 439).

Fairness and equity

3.3 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.

3.4 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.

3.5 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 3.3 or 3.4.

Harassment and discrimination

3.6 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.

3.7 For the purposes of this code, "harassment" is any form of behaviour towards a person that:

- (a) is not wanted by the person
- (b) offends, humiliates or intimidates the person, and
- (c) creates a hostile environment.

Bullying

3.8 You must not engage in bullying behaviour towards others.

3.9 For the purposes of this code, 'bullying behaviour' is any behaviour in which:

- (a) a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons, and
- (b) the behavior creates a risk to health and safety.

3.10 Bullying behavior may involve, but is not limited to, any of the following types of behaviour:

- (a) aggressive, threatening or intimidating conduct
- (b) belittling or humiliating comments
- (c) spreading malicious rumours
- (d) teasing, practical jokes or 'initiation ceremonies'
- (e) exclusion from work-related events
- (f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- (g) displaying offensive material
- (h) pressure to behave in an inappropriate manner.

3.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:

- (a) performance management processes
- (b) disciplinary action for misconduct
- (c) informing a worker about unsatisfactory work performance of inappropriate work behaviour
- (d) directing a worker to perform duties in keeping with their job
- (e) maintaining reasonable workplace goals and standards
- (f) legitimately exercising a regulatory function
- (g) legitimately implementing a Council policy or administrative processes.

Work health and safety

3.12 All Council officials, including Councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WHS Act). You must comply with your duties under the WHS Act and your responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety. Specifically, you must:

- (a) take reasonable care for your own health and safety
- (b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
- (c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WHS Act and any policies or procedures adopted by the Council to ensure workplace health and safety
- (d) cooperate with any reasonable policy or procedure of the Council relating to workplace health or safety that has been notified to Council staff
- (e) report accidents, incidents, near misses, to the General Manager or such other staff member nominated by the General Manager, and take part in any incident investigations
- (f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WHS Act in relation to the same matter.

Land use planning, development assessment and other regulatory functions

3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.

3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

Binding caucus votes

- 3.15 You must not participate in binding caucus votes in relation to matters to be considered at a Council or Committee meeting.
- 3.16 For the purposes of clause 3.15, a binding caucus vote is a process whereby a group of Councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the Council or Committee, irrespective of the personal views of individual members of the group on the merits of the matter before the Council or Committee.
- 3.17 Clause 3.15 does not prohibit Councillors from discussing a matter before the Council or Committee prior to considering the matter in question at a Council or Committee meeting, or from voluntarily holding a shared view with other Councillors on the merits of a matter.
- 3.18 Clause 3.15 does not apply to a decision to elect the Mayor or deputy Mayor, or to nominate a person to be a member of a Council Committee or a representative of the Council on an external body.

Obligations in relation to meetings

- 3.19 You must comply with rulings by the chair at Council and Committee meetings or other proceedings of the Council unless a motion dissenting from the ruling is passed.
- 3.20 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other Council officials or any members of the public present during Council or Committee meetings or other proceedings of the Council (such as, but not limited to, workshops and briefing sessions).
- 3.21 You must not engage in conduct that disrupts Council or Committee meetings or other proceedings of the Council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.
- 3.22 If you are a Councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the Council, or of a Committee of the Council.

Without limiting this clause, you must not:

- (a) leave a meeting of the Council or a Committee for the purpose of depriving the meeting of a quorum, or
- (b) submit a rescission motion with respect to a decision of the purposes of voting against it to prevent another Councillor from submitting a rescission motion with respect to the same decision, or
- (c) deliberately seek or impede the consideration of business at a meeting.

Prohibited Substance and Alcohol in the workplace

- 3.23 Council is committed to providing a safe, healthy and productive workplace that is free from hazards relating to prohibited substances and alcohol use. Members of staff should refer to Council's Prohibited Substance and Alcohol Policy.

PART 4 PECUNIARY INTERESTS

What is a pecuniary interest?

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- (a) your interests, or
 - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - (c) a company other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purpose of clause 4.3:
- (a) your “relative” is any of the following:
 - (i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - (ii) your spouse’s or de facto partner’s parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - (iii) the spouse or de facto partner of a persons referred to in paragraphs (i) and (ii).
 - (b) “de facto partner” has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):
- (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
 - (b) just because the person is a member of, or is employed by, a Council or a statutory body, or is employed by the Crown, or
 - (c) just because the person is a member of, or a delegate of a Council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

What interests do not have to be disclosed?

- 4.6 You do not have to disclose the following interests for the purposes of this Part:
- (a) your interest as an elector
 - (b) your interest as a ratepayer or person liable to pay a charge
 - (c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this code

- (d) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this code
- (e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
- (f) if you are a Council Committee member, an interest you have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if you have been appointed to represent the organisation or group on the Council Committee
- (g) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
- (h) an interest you have arising from the proposed making by the Council of an agreement between the Council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the Committee) of the association, or is a partner of the partnership
- (i) an interest you have arising from the making by the Council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the Council in respect of similar matters with other residents of the area:
 - (i) the performance by the Council at the expense of your relative of any work or service in connection with roads or sanitation
 - (ii) security for damage to footpaths or roads
 - (iii) any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council, or by or under any contract
- (j) an interest relating to the payment of fees to Councillors (including the Mayor and deputy Mayor)
- (k) an interest relating to the payment of expenses and the provision of facilities to Councillors (including the Mayor and deputy Mayor) in accordance with a policy under section 252 of the LGA
- (l) an interest relating to an election to the office of Mayor arising from the fact that a fee for the following 12 months has been determined for the office of Mayor
- (m) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
- (n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Councillor or a Council Committee member
- (o) an interest arising from the appointment of a Councillor to a body as a representative or delegate of the Council, whether or not a fee or other recompense is payable to the representative or delegate.

4.7 For the purposes of clause 4.6, “relative” has the same meaning as in clause 4.4 but includes your spouse or de facto partner.

What disclosures must be made by a designated person?

4.8 Designated persons include:

- (a) the General Manager
- (b) other senior staff of the Council for the purposes of section 332 of the LGA

- (c) a person (other than a member of the senior staff of the Council) who is a member of staff of the Council or a delegate of the Council and who holds a position identified by the Council as the position of a designated person because it involves the exercise of functions (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 or delegate and the person's private interest
- (d) a person (other than a member of the senior staff of the Council) who is a member of a Committee of the Council identified by the Council as a Committee whose members are designated persons because the functions of the Committee involve the exercise of the Council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the Committee and the member's private interest.

4.9 A designated person:

- (a) must prepare and submit written returns of interests in accordance with clauses 4.21, and
- (b) must disclose pecuniary interests in accordance with clause 4.10.

4.10 A designated person must disclose in writing to the General Manager (or if the person is the General Manager, to the Council) the nature of any pecuniary interest the person has in any Council matter with which the person is dealing as soon as practicable after becoming aware of the interest.

4.11 Clause 4.10 does not require a designated person who is a member of staff of the Council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.

4.12 The General Manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.

4.13 A disclosure by the General Manager must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the Council and the Council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by Council staff other than designated persons?

4.14 A member of staff of Council, other than a designated person, must disclose in writing to their Manager or the General Manager the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.

4.15 The staff member's Manager or the General Manager must, on receiving a disclosure under clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by Council advisers?

4.16 A person who, at the request or with the consent of the Council or a Council Committee, gives advice on any matter at any meeting of the Council or Committee, must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an adviser.

4.17 A person does not breach clause 4.16 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.

What disclosures must be made by Council Committee member?

- 4.18 A Council Committee member must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29.
- 4.19 For the purposes of clause 4.18, a “Council Committee member” includes a member of staff of Council who is a member of the Committee.

What disclosures must be made by a Councillor?

- 4.20 A Councillor:
- (a) must prepare and submit written returns of interests in accordance with clause 4.21, and
 - (b) must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29 where it is applicable.

Disclosure of interests in written returns

- 4.21 A Councillor or designated person must make and lodge with the General Manager a return in the form set out in schedule 2 to this code, disclosing the Councillor’s or designated person’s interests as specified in schedule 1 to this code within 3 months after:
- (a) becoming a Councillor or designated person, and
 - (b) 30 June of each year, and
 - (c) the Councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).
- 4.22 A person need not make and lodge a return under clause 4.21, paragraphs (a) and (b) if:
- (a) they made and lodged a return under that clause in the preceding 3 months, or
 - (b) they have ceased to be a Councillor or designated person in the preceding 3 months.
- 4.23 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 4.24 The General Manager must keep a register of returns required to be made and lodged with the General Manager.
- 4.25 Returns required to be lodged with the General Manager under clause 4.21(a) and (b) must be tabled at the first meeting of the Council after the last day the return is required to be lodged.
- 4.26 Returns required to be lodged with the General Manager under clause 4.21(c) must be tabled at the next Council meeting after the return is lodged.
- 4.27 Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

Disclosure of pecuniary interests at meetings

- 4.28 A Councillor or a Council Committee member who has a pecuniary interest in any matter with which the Council is concerned, and who is present at a meeting of the Council or Committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.29 The Councillor or Council Committee member must not be present at, or in sight of, the meeting of the Council or Committee:
- (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - (b) at any time during which the Council or Committee is voting on any question in relation to the matter.
- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a Council or Council Committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the General Manager in writing by a Councillor or a Council Committee member to the effect that the Councillor or Council Committee member, or the Councillor's or Council Committee member's spouse, de facto partner or relative, is:
- (a) a member of, or in the employment of, a specified company or other body, or
 - (b) a partner of, or in the employment of, a specified person.

Such a notice is, unless and until the notice is withdrawn or until the end of the term of the Council in which it is given (whichever is the sooner), sufficient disclosure of the Councillor's or Council Committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the Council or Council Committee after the date of the notice.

- 4.33 A Councillor or a Council Committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the Councillor or Council Committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.34 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.35 Despite clause 4.29, a Councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.36 Clause 4.29 does not apply to a Councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- (a) the matter is a proposal relating to:
 - (i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the Council's area, or

- (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the Council's area, and
- (b) the pecuniary interest arises only because of an interest of the Councillor in the Councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and
- (c) the Councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.

4.37 A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:

- (a) be in the form set out in schedule 3 of this code and contain the information required by that form, and
- (b) be laid on the table at a meeting of the Council as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.

4.38 The Minister for Local Government may, conditionally or unconditionally, allow a Councillor or a Council Committee member who has a pecuniary interest in a matter with which the Council is concerned to be present at a meeting of the Council or Committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- (a) that the number of Councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- (b) that it is in the interests of the electors for the area to do so.

4.39 A Councillor or a Council Committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the Council or Committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.38, must still disclose the interest they have in the matter in accordance with clause 4.28.

PART 5 NON-PECUNIARY CONFLICTS OF INTEREST

What is a non-pecuniary conflict of interest?

- 5.1 Non-pecuniary interests are private or personal interests a Council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 5.3 The personal or political views of a Council official do not constitute a private interest for the purposes of clause 5.2.
- 5.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of Council decision-making. The onus is on you to identify any nonpecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this code.
- 5.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of Council staff other than the General Manager, such a disclosure is to be made to the staff member's Manager. In the case of the General Manager, such a disclosure is to be made to the Mayor.
- 5.7 If a disclosure is made at a Council or Committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
 - (a) a relationship between a Council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the Council official's extended family that the Council official has a close personal relationship with, or another person living in the same household

- (b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
- (c) an affiliation between the Council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a Council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation
- (d) membership, as the Council's representative, of the board or management Committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the Council and the organisation are potentially in conflict in relation to the particular matter
- (e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
- (f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.

5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:

- (a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
- (b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a Council or Committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.

5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest, you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.

5.12 If you are a member of staff of Council other than the General Manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your Manager. In the case of the General Manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the Mayor.

5.13 Despite clause 5.10(b), a Councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.

5.14 Council Committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a nonprofit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the Council Committee.

Political donations

5.15 Councillors should be aware that matters before Council or Committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.

5.16 Where you are a Councillor and have received or knowingly benefitted from a reportable political donation:

- (a) made by a major political donor in the previous four years, and
- (b) the major political donor has a matter before Council,

you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A disclosure made under this clause must be recorded in the minutes of the meeting.

5.17 For the purposes of this Part:

- (a) a “reportable political donation” has the same meaning as it has in section 6 of the *Electoral Funding Act 2018*
- (b) “major political donor” has the same meaning as it has in the *Electoral Funding Act 2018*.

5.18 Councillors should note that political donations that are not a “reportable political donation”, or political donations to a registered political party or group by which a Councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of clause 5.9 and take the appropriate action to manage them.

5.19 Despite clause 5.16, a Councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

Loss of quorum as a result of compliance with this part

5.20 A Councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:

- (a) the matter is a proposal relating to:
 - (i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the Council’s area, or
 - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the Council’s area, and
- (b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person’s principal place of residence, and
- (c) the Councillor discloses the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part in accordance with clause 5.6.

5.21 The Minister for Local Government may, conditionally or unconditionally, allow a Councillor or a Council Committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the Council or Committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- (a) that the number of Councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- (b) that it is in the interests of the electors for the area to do so.

5.22 Where the Minister exempts a Councillor or Committee member from complying with a requirement under this Part under clause 5.21, the Councillor or Committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

Other business or employment

5.23 The General Manager must not engage, for remuneration, in private employment, contract work or other business outside the service of the Council without the approval of the Council.

5.24 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the Council that relates to the business of the Council or that might conflict with the staff member's Council duties unless they have notified the General Manager in writing of the employment, work or business and the General Manager has given their written approval for the staff member to engage in the employment, work or business.

5.25 The General Manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the Council that relates to the business of the Council, or that might conflict with the staff member's Council duties.

5.26 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the Council if prohibited from doing so.

5.27 Members of staff must ensure that any outside employment, work or business they engage in will not:

- (a) conflict with their official duties
- (b) involve using confidential information or Council resources obtained through their work with the Council including where private use is permitted
- (c) require them to work while on Council duty
- (d) discredit or disadvantage the Council
- (e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

Personal dealings with Council

5.28 You may have reason to deal with your Council in your personal capacity (for example, as a ratepayer, recipient of a Council service or applicant for a development consent granted by Council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

5.29 You must undertake any personal dealings you have with the Council in a manner that is consistent with the way other members of the community deal with the Council. You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this code.

PART 6 PERSONAL BENEFIT

- 6.1 For the purposes of this Part, a gift or a benefit is something offered to or received by a Council official or someone personally associated with them for their personal use and enjoyment.
- 6.2 A reference to a gift or benefit in this Part does not include:
- (a) items with a value of \$10 or less
 - (b) a political donation for the purposes of the *Electoral Funding Act 2018*
 - (c) a gift provided to the Council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual Council official or someone personally associated with them
 - (d) a benefit or facility provided by the Council to an employee or Councillor
 - (e) attendance by a Council official at a work-related event or function for the purposes of performing their official duties, or
 - (f) free or subsidised meals, beverages or refreshments provided to Council officials in conjunction with the performance of their official duties such as, but not limited to:
 - (i) the discussion of official business
 - (ii) work-related events such as Council-sponsored or community events, training, education sessions or workshops
 - (iii) conferences
 - (iv) Council functions or events
 - (v) social functions organised by groups, such as Council Committees and community organisations.

Gifts and benefits

- 6.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the Council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.
- 6.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.

How are offers or gifts and benefits to be dealt with?

- 6.5 You must not:
- (a) seek or accept a bribe or other improper inducement
 - (b) seek gifts or benefits of any kind
 - (c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
 - (d) subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9
 - (e) accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
 - (f) participate in competitions for prizes where eligibility is based on the Council being in or entering into a customer–supplier relationship with the competition organiser
 - (g) personally, benefit from reward points programs when purchasing on behalf of the Council.

6.6 Where you receive a gift or benefit of any value other than one referred to in clause 6.2, you must disclose this promptly to your Manager or the General Manager in writing. The recipient, Manager, or General Manager must ensure that, at a minimum, the following details are recorded in the Council's gift register:

- (a) the nature of the gift or benefit
- (b) the estimated monetary value of the gift or benefit
- (c) the name of the person who provided the gift or benefit, and
- (d) the date on which the gift or benefit was received.

6.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the Council, unless the nature of the gift or benefit makes this impractical.

Gifts and benefits of token value

6.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$50. They include, but are not limited to:

- (a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$50
- (b) gifts of alcohol that do not exceed a value of \$50
- (c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
- (d) prizes or awards that do not exceed \$50 in value.

Gifts and benefits of more than token value

6.9 Gifts or benefits that exceed \$50 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) and, subject to clause 6.7, must not be accepted.

6.10 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$50, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.

6.11 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$50 in value.

6.12 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

"Cash-like gifts"

6.13 For the purposes of clause 6.5(e), "cash-like gifts" include, but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

Improper and undue influence

- 6.14 You must not use your position to influence other Council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A Councillor will not be in breach of this clause where they seek to influence other Council officials through the proper exercise of their role as prescribed under the LGA.
- 6.15 You must not take advantage (or seek to take advantage) of your status or position with Council, or of functions you perform for Council, in order to obtain a private benefit for yourself or for any other person or body.

PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALS

Obligations of Councillors and administrators

- 7.1 Each Council is a body politic. The Councillors or administrator/s are the governing body of the Council. Under section 223 of the LGA, the role of the governing body of the Council includes the development and endorsement of the strategic plans, programs, strategies and policies of the Council, including those relating to workforce policy, and to keep the performance of the Council under review.
- 7.2 Councillors or administrators must not:
- (a) direct Council staff other than by giving appropriate direction to the General Manager by way of Council or Committee resolution, or by the Mayor or administrator exercising their functions under section 226 of the LGA
 - (b) in any public or private forum, direct or influence, or attempt 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 staff member or delegate
 - (c) contact a member of the staff of the Council on Council-related business unless in accordance with the policy and procedures governing the interaction of Councillors and Council staff that have been authorised by the Council and the General Manager
 - (d) contact or issue instructions to any of the Council's contractors, including the Council's legal advisers, unless by the Mayor or administrator exercising their functions under section 226 of the LGA.
- 7.3 Despite clause 7.2, Councillors may contact the Council's external auditor or the chair of the Council's audit risk and improvement Committee to provide information reasonably necessary for the external auditor or the audit, risk and improvement Committee to effectively perform their functions.

Obligations of staff

- 7.4 Under section 335 of the LGA, the role of the General Manager includes conducting the day-to-day management of the Council in accordance with the strategic plans, programs, strategies and policies of the Council, implementing without undue delay, lawful decisions of the Council and ensuring that the Mayor and other Councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.
- 7.5 Members of staff of Council must:
- (a) give their attention to the business of the Council while on duty
 - (b) ensure that their work is carried out ethically, efficiently, economically and effectively
 - (c) carry out reasonable and lawful directions given by any person having authority to give such directions
 - (d) give effect to the lawful decisions, policies and procedures of the Council, whether or not the staff member agrees with or approves of them
 - (e) ensure that any participation in political activities outside the service of the Council does not interfere with the performance of their official duties.

Inappropriate interactions

7.6 You must not engage in any of the following inappropriate interactions:

- (a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- (b) Council staff approaching Councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- (c) subject to clause 8.6, Council staff refusing to give information that is available to other Councillors to a particular Councillor
- (d) Councillors and administrators who have lodged an application with the Council, discussing the matter with Council staff in staff-only areas of the Council
- (e) Councillors and administrators approaching members of local planning panels or regional planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the Councillor or administrator has a right to be heard by the panel at the meeting
- (f) Councillors and administrators being overbearing or threatening to Council staff
- (g) Council staff being overbearing or threatening to Councillors or administrators
- (h) Councillors and administrators making personal attacks on Council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media
- (i) Councillors and administrators directing or pressuring Council staff in the performance of their work, or recommendations they should make
- (j) Council staff providing ad hoc advice to Councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- (k) Council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
- (l) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the Council associated with current or proposed legal proceedings unless permitted to do so by the Council's General Manager or, in the case of the Mayor or administrator, unless they are exercising their functions under section 226 of the LGA.

Councillor and Staff Contact

7.7 Councillors are permitted to contact Directors, and Managers nominated by the General Manager, directly on matters regarding their roles as elected representatives. Information should not be sought on any issue where a Councillor may have a conflict of interest or which pertains to a matter on which a declaration of pecuniary interest has been lodged. Contact must be directed in the workplace or in an 'on duty' setting only. Councillors may not seek advice from staff below the level of Director or Manager.

7.8 Despite clause 7.7, Councillors are permitted to contact members of staff below the level of Director or Manager who are undertaking secretarial or minute taking roles for, or who are members of or invitees to meetings of, Committees, panels or other official Council groups but only in respect of the business or administration of those groups or as otherwise permitted by the General Manager. Contact must be directed in the workplace or in an 'on duty' setting only.

PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES

Councillor and administrator access to information

- 8.1 The General Manager is responsible for ensuring that Councillors and administrators can access information necessary for the performance of their official functions. The General Manager and public officer are also responsible for ensuring that members of the public can access publicly available Council information under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 8.2 The General Manager must provide Councillors and administrators with the information necessary to effectively discharge their official functions.
- 8.3 Members of staff of Council must provide full and timely information to Councillors and administrators sufficient to enable them to exercise their official functions and in accordance with Council procedures.
- 8.4 Members of staff of Council who provide any information to a particular Councillor in the performance of their official functions must also make it available to any other Councillor who requests it and in accordance with Council procedures.
- 8.5 Councillors and administrators who have a private interest only in Council information have the same rights of access as any member of the public.
- 8.6 Despite clause 8.4, Councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to Council information in relation to the matter unless the information is otherwise available to members of the public, or the Council has determined to make the information available under the GIPA Act.

Councillors and administrators to properly examine and consider information

- 8.7 Councillors and administrators must ensure that they comply with their duty under section 439 of the LGA to act honestly and exercise a reasonable degree of care and diligence by properly examining and considering all the information provided to them relating to matters that they are required to make a decision on.

Refusal of access to information

- 8.8 Where the General Manager or public officer determine to refuse access to information requested by a Councillor or administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the Councillor or administrator to perform their official functions (see clause 8.2) and whether they have disclosed a conflict of interest in the matter the information relates to that would preclude their participation in consideration of the matter (see clause 8.6). The General Manager or public officer must state the reasons for the decision if access is refused.

Use of certain Council information

- 8.9 In regard to information obtained in your capacity as a Council official, you must:
 - a) subject to clause 8.14, only access Council information needed for Council business

- b) not use that Council information for private purposes
- c) 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 have access by virtue of your office or position with Council
- d) only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

8.10 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.

8.11 In addition to your general obligations relating to the use of Council information, you must:

- (a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
- (b) protect confidential information
- (c) only release confidential information if you have authority to do so
- (d) only use confidential information for the purpose for which it is intended to be used
- (e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- (f) not use confidential information with the intention to cause harm or detriment to the Council or any other person or body
- (g) not disclose any confidential information discussed during a confidential session of a Council or Committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

Personal information

8.12 When dealing with personal information you must comply with:

- (a) the *Privacy and Personal Information Protection Act 1998*
- (b) the *Health Records and Information Privacy Act 2002*
- (c) the Information Protection Principles and Health Privacy Principles
- (d) the Council's privacy management plan
- (e) the Privacy Code of Practice for Local Government.

Use of Council resources

8.13 You must use Council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.

8.14 Union delegates and consultative Committee members may have reasonable access to Council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:

- (a) the representation of members with respect to disciplinary matters
- (b) the representation of employees with respect to grievances and disputes
- (c) functions associated with the role of the local consultative Committee.

8.15 You must be scrupulous in your use of Council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.

- 8.16 You must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 8.17 You must not use Council resources (including Council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 8.18 You must not use the Council letterhead, Council crests, Council email or social media or other information that could give the appearance it is official Council material:
- (a) for the purpose of assisting your election campaign or the election campaign of others, or
 - (b) for other non-official purposes.
- 8.19 You must not convert any property of the Council to your own use unless properly authorised.

Internet access

- 8.20 You must not use Council's computer resources or mobile or other devices to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, or that could otherwise lead to criminal penalty or civil liability and/or damage the Council's reputation.

Council record keeping

- 8.21 You must comply with the requirements of the *State Records Act 1998* and the Council's records management policy.
- 8.22 All information created, sent and received in your official capacity is a Council record and must be managed in accordance with the requirements of the *State Records Act 1998* and the Council's approved records management policies and practices.
- 8.23 All information stored in either soft or hard copy on Council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the Council and will be treated as Council records, regardless of whether the original intention was to create the information for personal purposes.
- 8.24 You must not destroy, alter, or dispose of Council information or records, unless authorised to do so. If you need to alter or dispose of Council information or records, you must do so in consultation with the Council's records Manager and comply with the requirements of the *State Records Act 1998*.

Councillor access to Council buildings

- 8.25 Councillors and administrators are entitled to have access to the Council chamber, Committee room, Mayor's office (subject to availability), Councillors' rooms, and public areas of Council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the General Manager.

8.26 Councillors and administrators must not enter staff-only areas of Council buildings without the approval of the General Manager (or their delegate) or as provided for in the procedures governing the interaction of Councillors and Council staff.

8.27 Councillors and administrators must ensure that when they are within a staff only area they refrain from conduct that could be perceived to improperly influence Council staff decisions.

Social Media

8.28 You must not use social media to post or share comments, photos, videos, electronic recordings or other information that:

- (a) is offensive, humiliating, threatening or intimidating to other Council officials or those that deal with the Council
- (b) contains content about the Council that is misleading or deceptive
- (c) divulges confidential Council information
- (d) breaches the privacy of other Council officials or those that deal with Council
- (e) contains allegations of suspected breaches of this code or information about the consideration of a matter under the Procedures, or
- (f) could be perceived to be an official comment on behalf of the Council where you have not been authorised to make such comment.

PART 9 MAINTAINING THE INTEGRITY OF THIS CODE

Complaints made for an improper purpose

- 9.1 You must not make or threaten to make a complaint or cause a complaint to be made alleging a breach of this code for an improper purpose.
- 9.2 For the purposes of clause 9.1, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- (a) to bully, intimidate or harass another Council official
 - (b) to damage another Council official's reputation
 - (c) to obtain a political advantage
 - (d) to influence a Council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
 - (e) to influence the Council in the exercise of its functions or to prevent or disrupt the exercise of those functions
 - (f) to avoid disciplinary action under the Procedures
 - (g) to take reprisal action against a person for making a complaint alleging a breach of this code
 - (h) to take reprisal action against a person for exercising a function prescribed under the Procedures
 - (i) to prevent or disrupt the effective administration of this code under the Procedures.

Detrimental action

- 9.3 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this code.
- 9.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under the Procedures.
- 9.5 For the purposes of clauses 9.3 and 9.4, a detrimental action is an action causing, comprising or involving any of the following:
- (a) injury, damage or loss
 - (b) intimidation or harassment
 - (c) discrimination, disadvantage or adverse treatment in relation to employment
 - (d) dismissal from, or prejudice in, employment
 - (e) disciplinary proceedings.

Compliance with requirements under the Procedures

- 9.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.
- 9.8 You must comply with a practice ruling made by the Office under the Procedures.

Disclosure of information about the consideration of a matter under the procedures

- 9.9 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.
- 9.10 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 9.11 You must not make allegations about, or disclose information about, suspected breaches of this code at Council, Committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.
- 9.12 You must not disclose information about a complaint you have made alleging a breach of this code or a matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- 9.13 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the *Public Interest Disclosures Act 1994*.

Complaints alleging a breach of this part

- 9.14 Complaints alleging a breach of this Part by a Councillor, the General Manager or an administrator are to be managed by the Office. This clause does not prevent the Office from referring an alleged breach of this Part back to the Council for consideration in accordance with the Procedures.
- 9.15 Complaints alleging a breach of this Part by other Council officials are to be managed by the General Manager in accordance with the Procedures.

