



NAME OF POLICY: **Behaviour Standards**

POLICY MANUAL: **Human Resources**

BACKGROUND

This Policy and Procedure sets out the standards of behaviour which all staff, Volunteers and contractors, who are employed or engaged by the City of Norwood, Payneham & St Peters (the Council), are required to demonstrate in the performance of their duties and functions.

Volunteers have the same level of responsibility as the paid workforce (staff) in respect to their behaviour while carrying out their duties and functions for the Council.

Council staff are also required to observe the Code of Conduct for Council Employees prescribed for the purposes of Section 110(1) of the *Local Government Act 1999* (Code of Conduct) and contained in Attachment A to this Policy document.

This Policy and Procedure applies to Council staff in conjunction with and in addition to the Code of Conduct.

Council staff, Volunteers and contractors are also bound by the following:

- Our Values;
- the applicable Person & Position Description for their role;
- the terms of any contract of employment or engagement;
- the applicable Award or Enterprise Agreement; and
- any other relevant Council Policies and Procedures.

DISCUSSION

Council staff, Volunteers and contractors, must use their best endeavours, at all times, to ensure that they have current knowledge of the documents referred to above and any legal requirements and best practices relevant to their position.

The City of Norwood Payneham & St Peters will provide ongoing training and guidance to Council staff, Volunteers and contractors, regarding the expected behavioural standards which are set out in, and required by this Policy, the Code of Conduct, Our Values and other relevant Council Policies and Procedures.

Failure to comply with the Code of Conduct for Council Employees, this Policy and the accompanying, expectations set out in Person & Position Descriptions, or the Councils' Values, may result in investigation being undertaken and disciplinary processes by the Council.

KEY PRINCIPLES

This Policy is based on the following key principles:

1. Council staff, Volunteers and contractors, have a commitment to serve the best interests of the citizens of the City of Norwood, Payneham & St Peters;
2. Council staff, Volunteers and contractors will at all times carry out their duties and functions conscientiously, with due care and diligence and to the best of their ability;
3. Council staff, Volunteers and contractors, will at all times act honestly in every aspect of their work and be open and transparent when making decisions and providing advice to the Council;
4. Council staff, Volunteers and contractors, will at all times carry out their duties and functions and treat others with professionalism, courtesy and respect;
5. Council staff, Volunteers and contractors will at all times carry out their duties and functions in a manner which promotes public confidence and trust in the integrity and impartiality of the Council; and
6. Council staff, Volunteers and contractors, will at all times respect and uphold the law and resolutions made by the Council.

POLICY

Conduct required of Council staff, Volunteers and contractors

All Council staff, Volunteers and contractors must comply with the following behaviour standards at all times, in carrying out their duties and functions:

General standards

- act honestly at all times in the performance of official duties, as required by Section 109(1) of the *Local Government Act 1999*;
- act with reasonable care and diligence at all times in the performance of official duties, as required by Section 109(2) of the *Local Government Act 1999*;
- act within the parameters of their position and authority at all times;
- undertake their duties and functions in a professional manner at all times;
- act in a reasonable, just, respectful and non-discriminatory way at all times when dealing with all people;
- comply with the Code of Conduct for Council Employees, any applicable codes of practice, legislation and regulations (as amended from time to time), decisions of the Council, reasonable lawful direction given in connection with the performance of their duties and functions, Our Values and relevant Council Policies and Procedures;

Use of Council resources

- use Council facilities, resources and equipment in a safe, efficient and proper manner, and in accordance with all applicable laws, codes and regulations at all times;
- only use Council facilities, resources and equipment for Council-related and approved purposes (and not for private purposes, unless legally or properly authorised to do so) at all times;

Information

- deal with information which is received in their capacity as a Council staff member, Volunteer or contractor, in a responsible manner and in accordance with the Council's privacy and confidentiality requirements, and otherwise in accordance with the law;
- not release or divulge information that the Council or Chief Executive Officer of the Council has ordered be kept confidential, or that the Council staff member, Volunteer or contractor, should reasonably know is information that is confidential, including information that is considered by the Council or the Chief Executive Officer in confidence, subject to the *Ombudsman Act 1972* and the *Independent Commissioner Against Corruption Act 2012* and where disclosure is otherwise required or authorised by law;
- not make improper use of information, including confidential information, acquired by virtue of their position;
- endeavour to provide accurate information (and not provide false or misleading information) to the Council and to the public at all times;

Use of position

- not abuse or make use of their authority or position in order to gain a benefit or advantage for, or avoid a detriment to, themselves or another person;

Presentation

- ensure personal presentation (dress and appearance) is appropriate for the duties and functions required to be undertaken in their respective role;
- wear any corporate and/or personal safety equipment as required by reasonable lawful direction or as otherwise required by law;

Health and Safety

- take reasonable care that their acts and omissions do not adversely affect the health and safety of other persons, as required by the *Work Health and Safety Act 2012*;

Public Comment

- only make public comment on behalf of the Council when specifically authorised to do so; and
- not engage in any public criticism or make disparaging or denigrating comments about the Council, its staff and/or any decisions which are made by the Council;

whether in relation to their duties, other Council staff, Volunteers, contractors, Council Management, Elected Members, the City of Norwood, Payneham & St Peters or any Council matter.

* Note – the Mayor and Chief Executive Officer are the only persons who are authorised to make public statements on behalf of Council. However, in certain circumstances, the Mayor or Chief Executive Officer may authorise another staff member to make a media statement.

Unacceptable Behaviour

Council staff, contractors and Volunteers must not engage in *Unacceptable Behaviour* at any time in carrying out their duties and functions.

Unacceptable Behaviour is defined in the Council's Fair Treatment and Equal Opportunity Policy and Procedure, its Grievance Policy and Procedure and its Disciplinary and Performance Management Policy and Procedure.

Unacceptable Behaviour includes, but is not limited to:

- nepotism (ie abuse of position or authority to further personal interests or interests of friends or relatives);
- unreasonable, unfair or unlawful influence (ie abuse of position or authority to cause injury or detriment to another person);
- unapproved external work or holding an unapproved external role that creates a conflict of interest with the Council role/engagement;
- breaching confidentiality; and
- fraud, waste or misuse of the Council's facilities, equipment and resources.

General Guidelines for Appropriate Conduct and Decision Making

Council staff, Volunteers and contractors must follow the guidelines which are set out below, when taking action or making a decision in the course of carrying out their duties and functions (and must maintain reasonable documentation as a corporate record evidencing this):

1. Is the act or decision lawful?

What are the applicable codes of practice, legislation and regulations, policies and procedures, lawful directions given, and Council resolutions (if any) concerning the act or decision?

If unknown, what further training, research, advice or direction is required?

2. Is the act or decision consistent?

Is the act or decision consistent with previous acts or decisions made by Council staff / Volunteers /contractors, Council Policies and Procedures, Our Values, Outcomes and Objectives under the Council's Strategic Management Plan *CityPlan 2030: Shaping out Future*, lawful directions or Council decisions?

3. What is the anticipated outcome?

What is the known or reasonably anticipated outcome or effect on other Council staff, Volunteers, contractors, the Council, Elected Members or citizens (as applicable)?

This could include, but is not limited to, a financial, political, social, reputational, emotional or physical effect.

4. Does the known or anticipated outcome lead to any real or perceived breach or non-compliance?

Consider potential breach of or non-compliance with of any contract in place, codes of practice, relevant legislation and regulation, Policies and Procedure, the Code of Conduct, Council resolutions or lawful directions given.

5. Can the act or decision be justified?

Consider legal compliance, the principal roles and functions of the Council (eg Sections 6, 7 and 8 of the *Local Government Act 1999*), public interest and Council reputation.

General Guidelines in relation to Conflicts of Interest

A Council staff member, Volunteer or contractor, has an '*interest*' in a matter before the Council if they, or a person closely associated with them (as defined by Section 120(6)), of the Local Government Act 1999, would:

- receive, or have a reasonable expectation of receiving, a benefit (whether direct or indirect, pecuniary or non-pecuniary); or
- suffer, or have a reasonable expectation of suffering, a detriment (whether direct or indirect, pecuniary or non-pecuniary);

if they were to act in a particular manner in relation to the matter (including, for instance, if they were to make a particular decision).

Where a Council staff member, Volunteer or contractor has an '*interest*' in a matter before the Council, and they are required or authorised to act in relation to that matter in the course of their official duties, they must (in accordance with Section 120(2) of the *Local Government Act 1999*):

- disclose the interest to the Chief Executive Officer; and
- not act in relation to the matter, unless the Chief Executive Officer otherwise determines.

Where a Council staff member, Volunteer or contractor, is entitled to act in relation to the matter (by determination of the Chief Executive Officer) and is providing advice or making recommendations to the Council or a Council committee on that matter, they must also disclose their interest to the Council or Council committee (as relevant), in accordance with Section 120(4) of the *Local Government Act 1999*.

*Note – separate provisions apply to the Chief Executive Officer under the *Local Government Act 1999*.

The above is not intended to cover all requirements relating to conflict of interest under the *Local Government Act 1999* and Council staff members, Volunteers and contractors, should familiarise themselves with the Act and Section 120 of the Act, in particular.

Register of Interests

Council staff must adhere to the statutory requirements to lodge a primary return and submit an ordinary return in accordance with Sections 113, 114 and 115 of the *Local Government Act 1999* if they have been declared by the Council to be subject to those provisions.

Gifts and Benefits

Code of Conduct – Obligations on Council Staff

Council staff must comply with the Code of Conduct for Council Employees (as contained in Attachment A) in respect to gifts and benefits.

Under the Code of Conduct for Council Employees, gifts or benefits which are received by a person related to the Council staff member will be treated as a gift or benefit received by the staff member themselves. A person '*related*' to a Council staff member means:

- a member of the Council staff member's family;
- a family company of the Council staff member;
- a trustee of a family trust of the Council staff member.

The Code of Conduct for Council Employees requires reporting of gifts or benefits which are received (including hospitality) in certain circumstances and above the monetary value (as determined by the Minister from time to time and published in the Government Gazette). See Attachment A.

The Council may impose a lesser monetary value for reporting of gifts or benefits in this Policy (see below). The threshold of the declaration of gifts and benefits at the City of Norwood, Payneham & St Peters has been set at \$0. This means that all and any gifts and benefits, irrespective of the value, must be declared to the Chief Executive Officer.

A Register of Gifts and Benefits must also be maintained by the Chief Executive Officer.

General Guidelines

Council staff, Volunteers and contractors must not:

- seek gifts or benefits of any kind;
- seek out or accept any gift or benefit that is (or could reasonably be taken to be) intended or likely to:
 - create a sense of obligation on the part of the staff member, Volunteer or contractor to another person; or
 - influence the staff member, Volunteer or contractor in the performance or discharge of their functions or duties; or
- seek out or accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the Council.

Council staff, Volunteers and contractors, must declare and surrender all gifts and benefits of **any value** which they may be offered or receive (including those gifts and benefits which they decline) to the Chief Executive Officer. Gifts and benefits of any value may not be kept by the recipient unless authorised by the Chief Executive Officer or the Manager, Governance & Community Affairs.

Bribes and Improper Inducements

Council staff, Volunteers and contractors must not:

- accept or solicit a bribe or other improper inducement that would or might reasonably be perceived to influence the performance of their Council duties and functions;
- accept or solicit a benefit from any person or organisation where there is a real or perceived risk of compromise or conflict of interest in the performance of their Council duties and functions.

'Benefit', 'bribe' and 'other improper inducement' include, but shall not be limited to, the offer or provision of:

- free or reduced entertainment costs (ie paid tickets), meals or drinks;
- free or reduced travel costs and/or accommodation; or
- free or reduced cost of goods or services of any kind, including vouchers and payment plans.

None of the above prevents Council staff, Volunteers and contractors from accepting reasonable hospitality provided in the context of performing their duties or functions in conjunction with:

- Council functions or events;
- Council work-related events such as training, education sessions, workshops and conferences;
- social functions organised by groups such as community organisations (subject to approval from their General Manager); and
- attendance at local social, cultural or sporting events (subject to approval from their General Manager);

provided Council staff also comply with any required reporting obligations under the Code of Conduct.

Child-safe Environments and Mandatory Reporting

Some Council staff, volunteers and contractors are 'mandated notifiers' pursuant to section 11(2) of the *Children's Protection Act 1993* and have a legal obligation to report suspected child abuse or neglect.

Namely, Council staff members, volunteers or contractors who:

- are engaged in the delivery of health, welfare, education, sporting, recreational, child care or residential services for children by the Council; or
- hold a management position in the Council and are directly responsible for the provision of, or supervision of, such services to children.

The Council also has obligations as an organisation providing services to children to take steps to establish and maintain a child-safe environment.

A 'child' or 'young person' is anyone under the age of 18 (in South Australia).

Relevant Council staff, Volunteers and contractors must ensure that they comply with the Council's Safe Environment Policy at all times in the performance of their duties and functions.

Criminal Matters

General

Council staff, Volunteers and contractors, are required to notify the Manager, Organisational Development, of any criminal charges or convictions made or pending against them (including driving offences and loss of drivers' licence, but excluding expiable offences) at any time during the course of their employment or engagement by the Council. This information will be treated as confidential.

Where criminal proceedings are taken against staff, unrelated to their employment with the Council, and which result in a conviction, this may be considered a breach of this Policy, in addition to a breach of any contract of employment, and disciplinary action (including termination of employment) may be taken by the Council.

Staff, Volunteers and contractors are required to undertake a National Police Check (including criminal history assessment) and/or Department for Communities and Social Inclusion screening (or other similar working with children / child safe officer training as required) at the request of the Council.

Independent Commissioner Against Corruption Act 2012

Acting in their capacity as a Public Officer, a Council staff member or contractor, must not engage in conduct (whether within or outside the State) that constitutes '*corruption in public administration*' as defined by Section 5 of the *Independent Commissioner Against Corruption Act 2012*, including:

- an offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
 - bribery or corruption of public officers;
 - threats or reprisals against public officers;
 - abuse of public office;
 - demanding or requiring benefit on basis of public office; and
 - offences relating to appointment to public office;

- an offence against the *Public Sector (Honesty and Accountability) Act 1995*, or the *Public Corporations Act 1993*, or an attempt to commit such an offence;
- an offence against the *Lobbyists Act 2015*, or an attempt to commit such an offence;
- any other offence, including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935*, committed by a public officer while acting in his or her capacity as a public officer, or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer, and related to his or her capacity as a public officer, or an attempt to commit such an offence; or
- any of the following in relation to an offence referred to in a preceding paragraph:
 - aiding, abetting, counselling or procuring the commission of the offence;
 - inducing, whether by threats or promises or otherwise, the commission of the offence;
 - being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence; and
 - conspiring with others to effect the commission of the offence.

The above is not a comprehensive list of all possible conduct that may contravene the *Independent Commissioner Against Corruption Act 2012*.

Allegations of conduct breaching the above matters will be investigated in accordance with the legislation governing that conduct and are included in this Policy for the sake of completeness. Alleged breaches of these matters should be reported to the Office for Public Integrity in the first instance.

PROCEDURE

Complaint and Investigation

Non-compliance with this Policy

Any person can report alleged non-compliance by Council staff, Volunteers or contractors with this Policy. The report can take the form of a formal complaint regarding standard of behaviour, a workplace grievance or an external complaint by a citizen.

Following receipt of a formal report, the Council will conduct an internal investigation and determine the appropriate action to be taken in accordance with its disciplinary processes. This may include suspension, dismissal, or other action available at law.

The following Council policies may be relevant in relation to the above:

- the Workplace Grievance Policy and Procedure;
- the External Complaints Policy and Procedure; and
- the Disciplinary and Performance Management Policy and Procedure.

Non-compliance with the Code of Conduct for Council Employees

Any person can report alleged non-compliance by a Council staff member with the Code of Conduct for Council Employees.

Any complaint or report must be given to the Council's Chief Executive Officer, or other delegated person.

Complaints about the Chief Executive Officer alleging non-compliance with the Code of Conduct for Council Employees, must be brought to the attention of the Council's Principal Member (except in circumstances where it would be inappropriate to do so – for example, if the matter to which the complaint relates must be kept confidential under an Act or law).

Any complaint or report about a Council staff member will be investigated and any action which may be taken will be in accordance with the Council's disciplinary processes, as set out in the relevant Policies and Procedures.

MANAGEMENT GUIDELINES

Additional principles and processes for managing matters that arise under this Policy, may be set out in Management Guidelines. General Managers are responsible for seeking advice from the Manager, Organisational Development regarding the operation of any such Guidelines.

Issues concerning the behavioural standards and conduct of staff, Volunteers and contractors, occur in every workplace and handling such issues appropriately and sensitively is important in respect to maintaining a harmonious, efficient and effective work place. The aim of the Management Guidelines is to assist management so that minor issues or problems do not escalate and to ensure that the Council's principles for handling such matters (including procedural fairness, natural justice, confidentiality and timeliness) are followed at all times.

DOCUMENTATION AND EVIDENCE

It is the responsibility of the relevant General Manager (this responsibility cannot be delegated) to properly maintain confidential records when managing unsatisfactory behaviour of Council staff, Volunteers and contractors. This is to be done in consultation with the Manager, Organisational Development. Such records may include:

- summaries or transcripts of meetings, discussions or plans relating to unsatisfactory performance or behaviour, which may be signed by all parties present;
- correspondence relevant to the unsatisfactory performance or behaviour (including emails);
- documentation, representations or other relevant information provided by the Council staff member, Volunteer or contractor subject to the process; and
- any other evidence substantiating allegations of unsatisfactory performance or behaviour which may be lawfully obtained.

The Council is not required to provide the staff member, Volunteer or contractor subject to the process with every document or piece of evidence maintained by the Council. However, the Council must provide sufficient evidence to the relevant staff member, Volunteer or contractor, to enable them to understand the allegations of which they are accused and to prepare and articulate a response to the allegations.

Evidence demonstrating unsatisfactory performance or behaviour is to be shared with the relevant Council staff member, Volunteer or contractor, in a timely manner, in order to give them reasonable opportunity to respond and to consult with the Manager, Organisational Development in the course of the process.

REVIEW PROCESS

This Policy is scheduled to be reviewed within 24 months from the adoption date of the Policy.

INFORMATION

The contact officer for further information is the Council's Manager, Organisational Development, telephone 8366 4564 or e-mail nnewton@npsp.s.gov.au.

ADOPTION OF THE POLICY

This Policy was adopted by the Chief Executive Officer on 6 April 2018.

TO BE REVIEWED

March 2020



Mario Barone
CHIEF EXECUTIVE OFFICER

16 April 2018

Date

ATTACHMENT A

CODE OF CONDUCT FOR COUNCIL EMPLOYEES

Prescribed by the Governor for the purposes of section 110(1) of the Local Government Act 1999 (SA).

BACKGROUND

The Governor may, by regulation, prescribe a code of conduct to be observed by the employees of all councils pursuant to section 110(1) of the *Local Government Act 1999* (SA).

A new Code of Conduct for Council Employees was prescribed for the purposes of section 110(1) and came into operation on 2 April 2018 (Code of Conduct). The Code of Conduct is contained within Schedule 2A of the *Local Government (General) Regulations 2013* and set out below.

From 2 April 2018, the previous Code of Conduct for Council Employees prescribed by the Minister on 20 February 2014 (as amended) will no longer apply.

The new Code of Conduct deals exclusively with gifts and benefits and complaints. Other matters will now be governed by the principles of employment law, the Council's Policy and Procedures (including the Council's Behaviour Standards Policy and Procedure) and other relevant legislation.

Council staff must observe the Code of Conduct in carrying out their duties and functions as public officials. It is the personal responsibility of Council staff to ensure that they are familiar with, and comply with, the standards and obligations in the Code of Conduct at all times. Contravention of or failure to comply with the Code of Conduct constitutes a ground for suspending, dismissing or taking other disciplinary action against the employee pursuant to section 110(5) of the *Local Government Act 1999*.

The Code of Conduct is in addition to and does not limit the operation of the *Fair Work Act 1994* or lessen any rights or obligations on employees or employers under the *Fair Work Act 1994* or any award, industrial agreement or contract of employment. The Code of Conduct does not affect the jurisdiction of the South Australian Employment Tribunal conferred under the *Fair Work Act 1994*.

CODE OF CONDUCT FOR EMPLOYEES

1—Gifts and benefits

- (1) An employee of a council must not seek out or receive a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation on the part of the employee to a person or influence the employee in the performance or discharge of the employee's functions or duties.
- (2) If an employee of a council receives a gift or benefit of an amount greater than the amount determined by the Minister (from time to time), by notice published in the Gazette, the employee must provide details of the gift or benefit to the chief executive officer of the council in accordance with any requirements of the chief executive officer.
- (3) The chief executive officer of a council must maintain a register of gifts and benefits received by employees of the council and must ensure that the details of each gift and benefit provided under this clause are included in the register.
- (4) A register maintained under this clause must be—
 - (a) made available for inspection at the principal office of the council during ordinary office hours without charge; and
 - (b) published on a website determined by the chief executive officer.

- (5) A register maintained under this clause—
- (a) need not include information available in another register published by, or available for inspection at, the council or otherwise available under the Act; and
 - (b) may include information by reference to another register or document, provided the register or document is published by, or available for inspection at, the council and the register maintained under this clause identifies that other register or document.
- (6) For the purposes of this clause, a gift or benefit received by a person related to an employee of a council will be treated as a gift or benefit (as the case requires) received by the employee.
- (7) Unless the contrary intention appears, terms and expressions used in this clause and in Schedule 3 of the Act have the same respective meanings in this clause as they have in that Schedule, provided that a reference in Schedule 3 to a **member** will be taken, for the purposes of this clause, to be a reference to an **employee**.

Note—

The Act requires that certain gifts and benefits must be disclosed by employees and recorded on the Register of Interests relating to employees.

2—Complaints

- (1) A complaint alleging that an employee of a council has contravened or failed to comply with the code set out in this Schedule must be dealt with in accordance with a policy prepared and maintained by the council relating to complaints against employees.
- (2) The policy referred to in subclause (1) must nominate a person or persons to whom complaints are to be given and, in the case of a complaint against the chief executive officer of the council, must provide for the complaint to be given to the principal member of the council, except in circumstances where it would be inappropriate to do so (for example, if the matter to which the complaint relates must be kept confidential under an Act or law).

Note—

1. Chapter 13 Part 2 of the Act requires a council to develop and maintain policies, practices and procedures for dealing with (among other things) complaints about the actions of employees of the council.
2. The code set out in this Schedule is in addition to and does not—
 - a. limit the operation of the *Fair Work Act 1994*; or
 - b. operate to lessen any rights or obligations on employees or employers under the *Fair Work Act 1994* or any award, industrial agreement or contract of employment; or
 - c. affect the jurisdiction of the South Australian Employment Tribunal conferred under the *Fair Work Act 1994*.