



Code of Conduct

Council Members, Committee
Members and Candidates

ADOPTED BY COUNCIL 3 MAY 2021

City of Armadale

7 Orchard Avenue
Armadale WA 6112

9394 5000
www.armadale.wa.gov.au
info@armadale.wa.gov.au

Reviewed by Council August 2018 (CS65/8/18)

Amended by Council December 2019 (CS93/12/19)

Amended by Council 26 February 2024

Contents

1	Introduction	4
2	Our Values	5
3	Roles and Responsibilities	5
3.1	Role of Council	5
3.2	Role of the Mayor	6
3.3	Role of the Council Member	6
3.4	Role of Committee Members	7
3.5	Role of the CEO	7
3.6	Relationships between Council Members and employees	8
3.7	Team Effort	8
4	General Principles	9
4.1	Personal integrity	9
4.2	Relationship with others	9
4.3	Accountability	9
5	Behaviour	10
5.1	Personal integrity	10
5.2	Relationships with others	10
5.3	Council or committee meetings	10
5.4	Smoking, vaping and like substances	11
5.5	Corporate obligations	11
5.6	Complaints about employee conduct	13
5.7	Appointments to External Committees, Working Groups or Organisations	13
5.8	Observers at City of Armadale Committee Meetings	13
5.9	Travelling and Sustenance Expenses	14
5.10	Dealings in land	14
6	Gifts	16
6.1	The City will maintain a gifts register and it will record:	16
6.2	Statutory requirements pertaining to gifts	16
6.3	Gifts during an election period	16
7	Resources, information and property	17
7.1	Use of Local Government Resources	17
7.2	Use of Information	17
7.3	Freedom of Information	17
8	Breaches and Complaints	18
8.1	Complaints about alleged breach	18
8.2	Dealing with complaints	18
8.3	Dismissal of complaint	19
8.4	Withdrawal of complaint	19
8.5	Other provisions about complaints	19
8.6	Compliance with plan requirement	19
9	Rules of Conduct	20
9.1	Process for dealing with minor breaches	20
9.2	Misuse of local government resources	20
9.3	Securing personal advantage or disadvantaging others	20
9.4	Prohibition against involvement in administration	21
9.5	Relations with local government employees	21
9.6	Disclosure of information	21
9.7	Disclosure of interests	22
10	Misconduct and other matters	24
10.1	Misconduct	24
10.2	Public Interest Disclosure	24
11	Glossary of Terms	25

1. Introduction



This is the City of Armadale Code of Conduct (“Code”) for Council Members, Committee Members and Candidates. In this code -

- Act** means the *Local Government Act 1995*;
- Candidate** means a candidate for election as a council member;
- Publish** includes to publish on a social media platform.

Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

The Code provides Council Members, Committee Members and Candidates of the City of Armadale with consistent guidelines for an acceptable standard of professional conduct. The Code addresses, in a concise manner, the broader issue of ethical responsibility and encourages greater Local Government transparency and accountability.

This Code is a requirement of the *Local Government Act 1995* and the model Code of

Conduct contained within the *Local Government (Model Code of Conduct) Regulations 2021*. Together with these legislative instruments, the Code is intended to result in:

- (a) Better decision-making by the City of Armadale,
- (b) Greater community participation in the decisions and affairs of the City,
- (c) Greater accountability of the City to its community, and
- (d) More efficient and effective Local Government.

This Code provides a guide and a basis of expectations for Council Members, Committee Members and Candidates. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

This Code, unless otherwise stated, applies only to Council Members, Committee Members and Candidates.

2. Our Values

The following values have the highest standing in the City of Armadale. Council Members, Committee Members and Candidates are expected to apply these values in all their activities associated with the business of the City.

Safety - We demonstrate personal responsibility for the safety and wellbeing of everyone around us. Everything we do relies upon the safety of our workforce and the community. We care about the safe management of the environment.

Honesty - We are honest, consistent, open and transparent in our dealings with our stakeholders and are committed to building mutual trust and respect.

Accountability - We set high performance expectations and hold ourselves accountable for the quality of our work and the results we achieve as individuals, as team members and as an organization.

Respect - We are sincere, fair and forthright, treating others with dignity and respecting their individual differences, feelings and contributions.

Professionalism - We show pride, enthusiasm and dedication in everything that we do. We are committed to delivering high quality service and advice.

3. Roles and Responsibilities

3.1 Role of Council

The Council is the governing body of the City of Armadale and consists of elected Council members. The offices of Council are the Mayor, Deputy Mayor and Councillors.

The role of the council is set out in s.2.7 of the *Local Government Act 1995* as follows:

- “(1) The council —
- (a) governs the local government’s affairs; and
 - (b) is responsible for the performance of the local government’s functions.
- (2) Without limiting subsection (1), the council is to —

- (a) oversee the allocation of the local government’s finances and resources; and
- (b) determine the local government’s policies.”

The City of Armadale conducts its business and decision making using a “committee” system. The City has two (2) types of committees;

- ones that are made up solely of Council Members (often referred to as “Standing Committees”) and
- those made up of persons appointed by Council (such persons may be Council Members, employees, community members or a mix of the three).

These Committees make recommendations to the Council and the Council makes a final decision on the matter.

Roles and Responsibilities (cont.)

3.2 Role of the Mayor

In addition to the role of a Council Member the role of the Mayor is set out in s.2.8(1) of the *Local Government Act 1995* as follows:

- “(1) The mayor or president –
- (a) presides at meetings in accordance with this Act; and
 - (b) provides leadership and guidance to the community in the district; and
 - (c) carries out civic and ceremonial duties on behalf of the local government; and
 - (d) speaks on behalf of the local government; and
 - (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and
 - (f) liaises with the CEO on the local government’s affairs and the performance of its functions.”

The Deputy Mayor assumes the above role in absences of the Mayor.

3.3 Role of the Council Member

The primary role of a Council Member is to represent the community. The effective translation of the community’s needs and aspirations into a direction and future for the City will be the focus of a Council Member’s public life.

The role of a Council Member is set out in s.2.10 of the *Local Government Act 1995* as follows:

“A Councillor –

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

Each councillor is required to duly, faithfully, honestly, and with integrity, fulfil the duties of the office for **all of the people in the whole of the City**, according to the best of their judgment and ability. A Council Member is part of the team in which the community has placed its trust to make decisions on its behalf. Therefore, the community is entitled to expect high standards of conduct from its elected representatives. In fulfilling the various roles, a Council Member’s activities will focus on:

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

In carrying out its functions, the City is to use its best endeavours to meet the needs of current and future generations through integration of environmental protection, social advancement and economic prosperity.

3.4 Role of Committee Members

From time to time, Council will establish committees to assist in its decision making.

Committees can comprise of:

- Council Members only.
- Council Members and employees.
- Council Members, employees and other persons.
- Council Members and other persons.
- Employees and other persons.
- Other persons only.

The role of committees is generally to deliberate upon matters within their authority as determined by Council, and to give advice and/or make recommendations to Council. With very few exceptions, Committees of Council do not have decision making powers. However, Council can, and does occasionally, delegate such powers as and when necessary.

3.5 Role of the CEO

The CEO is appointed by Council and is the communication link between Council Members and employees. All other Council employees are responsible to the CEO.

The CEO is responsible to the Council for the implementation of Council policies, decisions and budgeted works, the provision of accurate and timely advice to Council and the efficient administration of the Council.

The functions of the CEO are set out in s.5.41 of the *Local Government Act 1995* as follows:

“The CEO’s functions are to –

- (a) advise the council in relation to the functions of a local government under this Act and other written laws; and
- (b) ensure that advice and information is available to the council so that informed decisions can be made; and
- (c) cause council decisions to be implemented; and
- (d) manage the day to day operations of the local government; and
- (e) liaise with the mayor or president on the local government’s affairs and the performance of the local government’s functions; and
- (f) speak on behalf of the local government if the mayor or president agrees; and
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to S 5.37(2) in relation to senior employees); and
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.”

Roles and Responsibilities (cont.)

3.6 Relationships between Council Members and employees

An effective Council Member will work as part of the Council team with the CEO and other employees. That teamwork will only occur if Council Members and employees have a mutual respect and co-operate with each other to achieve the Council’s corporate goals and implement the Council’s strategies. To achieve that position, Council Members need to observe their statutory obligations, which include, but are not limited to, the principles of behaviour and Rules of Conduct set out in this Code.

3.7 Team Effort

For the City of Armadale to perform to its maximum capability and potential, it is very important that a ‘team effort’ prevail between Council Members, CEO, employees, volunteers and other persons appointed to Council committees.

There is an inherent inter-relational dependency between all involved and it is essential that Council Members, CEO, employees, volunteers and other persons appointed to committees not only understand and respect each other’s roles, but commit themselves to working together as a team.

This Code is designed to engender that team spirit and encourage productive working relationships for the good of the Armadale community.



4. General Principles

This part sets out general principles to guide the behaviour of council members, committee members and candidates.

4.1 Personal integrity

- (1) A council member, committee member or candidate should —
 - (a) act with reasonable care and diligence; and
 - (b) act with honesty and integrity; and
 - (c) act lawfully; and
 - (d) identify and appropriately manage any conflict of interest; and
 - (e) avoid damage to the reputation of the City.
- (2) A council member or committee member should —
 - (a) act in accordance with the trust placed in council members and committee members; and
 - (b) participate in decision-making in an honest, fair, impartial and timely manner; and
 - (c) actively seek out and engage in training and development opportunities to improve the performance of their role; and
 - (d) attend and participate in briefings, workshops and training sessions provided or arranged by the City in relation to the performance of their role.

4.2 Relationship with others

- (1) A council member, committee member or candidate should —
 - (a) treat others with respect, courtesy and fairness; and
 - (b) respect and value diversity in the community.
- (2) A council member or committee member should maintain and contribute to a harmonious, safe and productive work environment.

4.3 Accountability

- A council member or committee member should —
- (a) base decisions on relevant and factually correct information; and
 - (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
 - (c) read all agenda papers given to them in relation to council or committee meetings; and
 - (d) be open and accountable to, and represent, the community in the district.

5. Behaviour

This part sets out —

- (a)

requirements relating to the behaviour of council members, committee members and candidates; and
- (b)

the mechanism for dealing with alleged breaches of those requirements.
- reminded that only the Mayor can speak on behalf of the local government; and
- (c)

must not use offensive or derogatory language when referring to another person; and
- (d)

must not disparage the character of another council member, committee member or candidate or an employee of the City in connection with the performance of their official duties; and

5.1 Personal integrity

- (1)

A council member, committee member or candidate —

(a)

must ensure that their use of social media and other forms of communication complies with this code; and

(b)

must only publish material that is factually correct.
- (2)

A council member or committee member —

(a)

must not be impaired by alcohol or drugs in the performance of their official duties; and

(b)

must comply with all policies, procedures and resolutions of the local government.

5.2 Relationship with others

- (1)

A council member, committee member or candidate —

(a)

must not bully or harass another person in any way; and

(b)

must deal with the media in a positive, informative and appropriate manner and in accordance with any relevant policy of the City and are

5.3 Council or committee meetings

- (1)

When attending a council or committee meeting, a council member, committee member or candidate —

(a)

must not act in an abusive or threatening manner towards another person; and

(b)

must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and

(c)

must not repeatedly disrupt the meeting; and

(d)

must comply with any requirements of a local law of the City relating to the procedures and conduct of council or committee meetings; and

5.4 Smoking, vaping and like substances

- (e)

must comply with any direction given by the person presiding at the meeting; and
- (f)

must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.
- (1)

In accordance with the City’s Smoke Free Workplace Policy (HLTH 5):

(a)

Smoking is prohibited in all Council owned and controlled buildings, enclosed workplaces, enclosed recreational facilities and work vehicles at all times.

(b)

To prevent drift of smoke into smoke free environments, no smoking will be permitted within 5 metres of doorways and 10 metres of air intake vents of Council premises.

(c)

Smokers are expected to be considerate of the health and wellbeing of others. It is unacceptable to smoke where it is possible for others to inhale smoke e.g. along thoroughfares and footpaths and near access ways.

(d)

Smokers are expected to be discreet. It is unacceptable to smoke where the activity is clearly visible to work colleagues and the general public e.g. outside offices in full view of other staff.

(e)

Smokers are only permitted to smoke during official work

- breaks in designated outdoor areas.
- (2)

This includes the smoking of any tobacco product, chewing tobacco, e-cigarettes, nicotine vapourisation devices (i.e. ‘vaping’) and applies to all Council Members, employees and volunteers.

5.5 Corporate obligations

- (1)

Standard of dress

Council Members are expected to comply with neat and responsible dress standards at all times and will dress in a manner appropriate to their position, in particular when attending meetings or representing the City in an official capacity.
- (2)

Communication and Public Relations

As a representative of the community, Council Members need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so, Council Members should acknowledge that:

(a)

As a member of the Council, there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council.

(b)

Official notification of approvals, permits and so on relating to decisions of the Council will be communicated by a designated officer of the City. Councillors may advise applicants of the outcomes of a Council meeting but should remind the

- (c)

applicant of the need to await official notification from City officers before taking any action.

(d)

Information concerning adopted policies, procedures and decisions of the Council is conveyed accurately.

(e)

while they will have their own opinions on matters referred to Council, once Council has made a decision, irrespective of those opinions, they are expected to recognise their fiduciary duty and support that decision.

(f)

Statements to the press on behalf of the City will only be made by the Mayor or the CEO unless otherwise authorised.
- (3)

Communications with Developers and Developer Interest Groups

Council Members and Committee Members should be mindful that meetings with developers could compromise their impartiality in the decision making process and should at all times conduct themselves in line
- with the Department of Local Government Sport and Cultural Industries guidelines <https://www.dlgsc.wa.gov.au/departments/publications/publication/elected-members-relationship-with-developers>.

(4)

Communication between Council Members

Council Members will represent and promote the interests of their community as a whole.

At the same time, Council Members and employees should be mindful of the important role of ward Council Members when dealing with issues relevant to a specific ward and should use their best endeavours to inform ward Council Members of such matters.

To further support the above philosophy, it should be recognised that:

•

Council Members share responsibility and legal liability for the entire City and that Council allocates resources, on a strategic needs basis, guided by the professional and technical advice provided by officers.

•

To maintain a good working relationship, it is appropriate that, in matters of a
- contentious nature, Council Members seek to communicate with the relevant ward Council Members when contacted by an elector from another ward.

•

In communicating with constituents, ward Council Members should always be mindful of clause 5.6(2) of this Code. Communication from individual Council Members should very clearly state where it is the Council Member's personal opinion and advise that he/she is not able to act or speak on behalf of Council as a whole.

(5)

Communication between employees and Council Members

In accordance with the City's Policy – Communication between Elected Members and City Employees – staff resources are allocated by, and under the direction of the CEO, therefore Council Members must direct requests for, or concerns about resources or services, to the CEO or if the CEO determines, to the relevant Executive Director.

5.6 Complaints about employee conduct

(1)

A complaint alleging that an employee or volunteer has breached the Code of Conduct for Employees and Volunteers shall be made in writing (Form F). Complaints regarding:

(a)

An employee or volunteer to be made to the Executive Director overseeing the relevant service area of the City to which the employee or volunteer is engaged;

(b)

An Executive Director are to be made to the Chief Executive Officer; or

(c)

The Chief Executive Officer is to be made to the Mayor.

(2)

The complaint will be investigated in a manner that is in accordance with the City's Complaint Handling Procedure, the City's Human Resource Disciplinary Procedures, Public Interest Disclosure Procedures and the principles of natural justice.

5.7 Appointments to External Committees, Working Groups or Organisations

(1)

As part of their representative role, Council Members are often asked to represent the Council on external organisations. It is important that Council Members and employees:

(a)

Clearly understand the basis of their appointment.

(b)

Provide brief verbal or written reports, as necessary, to the relevant Committee on the activities of the organisation.

(c)

Make every endeavour to personally notify their deputies when they are not able to attend.

5.8 Observers at City of Armadale Committee Meetings

(1)

Council Members wishing to attend a meeting of a Committee of which he/she is not a member shall be seated in the area set aside for persons observing and shall not participate in any Committee discussion unless invited to do so by the presiding member of that Committee.

12 City of Armadale

Code of Conduct 2021 13

Behaviour (cont.)

- (2) Council members attending a meeting of a Committee of which they are not a member shall observe the same legislative requirements regarding disclosure of interests (including the requirement to leave the room and not participate) as members of the committee.

5.9 Travelling and Sustenance Expenses

Council Members will only claim or accept travelling and sustenance expenses arising out of travel related matters which have a direct bearing on the services, policies or business of the City in accordance with Council's policy and the provisions of the Local Government Act 1995.

5.10 Dealings in land

Council Members are to lodge a written notice with the CEO describing:

- an intention to undertake a dealing in land within the City of Armadale area; or
- land dealings which may otherwise be in conflict with the Council's functions (other than purchasing their principal place of residence).



6. Gifts

Gift means - “a conferral of a financial benefit (including a disposition of property) made by 1 person in favour of another person unless adequate consideration in money or money’s worth passes from the person in whose favour the conferral is made to the person who make the conferral; or a contribution to travel”.

All Council Members and employees who accept a gift shall declare them through the Attain software system.

6.1 The City will maintain a gifts register and it will record:

- (1) the names of the persons who gave and received the gift;
- (2) the date of receipt of the gift;
- (3) a description, and the estimated value of the gift at the time it was made;
- (4) the relationship between the Elected Member and the person giving the gift; and
- (5) the disposition of the gift.

6.2 Statutory requirements pertaining to gifts

- (1) The *Local Government Act 1995* (s. 5.87A) requires all Council Members to declare any gift received in their capacity as a Council Member. All Council Members must disclose in writing to the CEO, within 10 days of receipt all gifts that are valued at **\$300 or more** (Admin Reg 20A(1)). Or if the gift is 1 of 2 or more gifts made by one person to the Council Member anytime during a 12 month period the sum of the amounts of those 2 or more gifts.

6.3 Gifts during an election period

- (1) This requirement relates to **Candidates** and involves gifts that are valued at **\$200 or more** and includes: “any disposition of property, or the conferral of any financial benefit, made by one person in favour of another”
- (2) During the disclosure period of the Local Government election process (as defined by regulation 30C of the *Local Government (Elections) Regulations 1997*), candidates must:
 - (a) within three days of the making, receipt or promise of a gift, disclose to the CEO the receipt or promise of such a gift, and
 - (b) not receive or accept gifts from a donor whose name and address is not known to the candidate,
- (3) A candidate does not commit an offence under regulation 30B(4) of the *Local Government (Elections) Regulations 1997* if the candidate cannot provide some or all of the information required in regulation 30F(1) of the *Local Government (Elections) Regulations 1997* and on the Disclosure form of an Election Gift if:
 - (a) the candidate provides as much of the information as is available to the candidate, and
 - (b) indicates what required information is not provided, and
 - (c) provides reasons for not being able to provide the information.

7. Resources, information and property

7.1 Use of Local Government Resources

- (1) Council Members will:
 - (a) be scrupulously honest in their use of the City’s services, finances and resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
 - (b) use the City’s services, finances and resources entrusted to them effectively and economically in the course of their duties;
 - (c) not use the City’s services, finances and resources, including the services of employees, for private purposes, unless properly authorised to do so, and appropriate payments are made (as determined by the CEO);
 - (d) not use Council vehicles, plant or equipment for private use unless authorised to do so; and
 - (e) foster an awareness of the community’s ownership of the City’s natural and built environment.

7.2 Use of Information

- (1) The requirements of the *State Records Act 2000* apply to all information generated and acquired by Council Members of the City in the performance of their duties. Council Members will

ensure documents and information generated and acquired are recorded in accordance with the City’s Record Keeping Plan and Record Keeping Policy.

- (2) Council Members will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.
- (3) As part of their role, Council Members of the City will at times generate and handle information that is confidential, sensitive, or concerns the personal affairs and identity of other parties. Disclosure of such information is prohibited unless it authorised by law or associated with a legitimate purpose.

7.3 Freedom of Information

Council Members acknowledge that:

- (1) the *Freedom of Information Act 1992* (FOI Act) was introduced to facilitate public access to documents and an application can be made seeking access to any information held by the City;
- (2) an object of the FOI Act is to “make the persons and bodies that are responsible for State and local government more accountable to the public”; and
- (3) they are obligated to assist the City’s CEO and the City’s freedom of information officers in locating documents relevant to an application made under the FOI Act.
- (4) at no time should they divulge any personal information about any person to anyone without their permission.

8. Breaches and Complaints

8.1 Complaints about alleged breach

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of one of the Standards of Behaviour set out in Part 5.

(2) A complaint must be made —

(a) in writing in the form approved by the City (**Form A**); and

(b) to a person authorised under subclause (3); and

(c) within 1 month after the occurrence of the alleged breach.

(3) The local government must, in writing, authorise 1 or more persons to receive complaints made under subclause (1).

(4) For the purposes of making a complaint in accordance with subclause (2) for an alleged breach of the Standards of Behaviour referred to in Part 5, the person authorised by the City to receive complaints is the Manager City Governance or in their absence the Coordinator Governance.

(5) A complaint made in a manner, or to a person, that is not made in accordance with this clause may not be dealt with.
- alleged breach the subject of the complaint has occurred.

(3) Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard.

(4) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur (balance of probability).

(5) If the local government makes a finding that the alleged breach has occurred, the local government may —

(a) take no further action; or

(b) prepare and implement a plan to address the behaviour of the person to whom the complaint relates.

(6) When preparing a plan under subclause (5)(b), the local government must consult with the person to whom the complaint relates.

(7) A plan under subclause (5)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following —

8.2 Dealing with complaints

(1) A complaint made under clause 8.1 will be managed in accordance with the City's Complaints Management Policy for Council Members.

(2) After considering a complaint, the local government must, unless it dismisses the complaint under clause 8.3 or the complaint is withdrawn under clause 8.4, make a finding as to whether the

(a) engage in mediation;

(b) undertake counselling;

(c) undertake training;

(d) take other action the local government considers appropriate.

(8) If the local government makes a finding/s in relation to the complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of —

(a) its finding/s and the reasons for its finding; and

(b) if its finding/s is that the alleged breach has occurred — its decision under subclause (5).

(2) The withdrawal of a complaint must be —

(a) in writing; and

(b) given to a person authorised under clause 8.1(3).

8.3 Dismissal of complaint

(1) The local government must dismiss a complaint if it is satisfied that —

(a) the behaviour to which the complaint relates occurred at a council or committee meeting; and

(b) either —

(i) the behaviour was dealt with by the person presiding at the meeting; or

(ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.

(2) If the local government dismisses a complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of its decision and the reasons for its decision.

8.4 Withdrawal of complaint

(1) A complainant may withdraw their complaint at any time before the local government makes a finding in relation to the complaint.

8.5 Other provisions about complaints

(1) A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a Council Member.

(2) The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Part.

8.6 Compliance with plan requirement

If a plan under clause 8.2(5)(b) in relation to a council member includes a requirement referred to in clause 8.2(7), the council member must comply with the requirement.

A photograph showing a man and a woman sitting at a white table. The man, on the left, is wearing a dark polo shirt and is looking down at a document on the table. The woman, on the right, is wearing a light-colored patterned shirt and is also looking at the document. They appear to be in a meeting or discussion.

18 City of Armadale

Code of Conduct 2021 19

9. Rules of Conduct

This part sets out rules of conduct for Council Members and candidates. A reference in this Part to a Council Member includes a Council Member when acting as a committee member.

Section 5.105 of the Act prescribes a minor breach if a Council member contravenes a rule of conduct. Section 5.105(1)(b) of the Act also prescribes a minor breach in the event the matter involves a breach of a Local Law as to conduct. “Local law as to conduct” is defined by regulation 34D of the *Local Government (Administration) Regulations 1996* where it means a local law relating to the conduct of people at council or committee meetings (the City’s Standing Orders Local Law).

Minor breach complaints are dealt with by the primary Local Government Standards Panel (Standards Panel). The procedure for dealing with a complaint of a minor breach is set out in the Act.

9.1 Process for dealing with minor breaches

- (1) A person may make a complaint that a Rule of Conduct has been breached by a Council Member or committee member and must be made in the form of the Official Conduct Form 1, to the designated Complaints Officer of the City (currently the CEO).
- (2) The Complaints Officer must send the complaint to the Presiding Member of the Standards Panel within 14 days of receipt and the Standards Panel will deal with the complaint.
- (3) A person who wishes to make a complaint that a Rule of Conduct has been breached must do so within 6 months of the alleged conduct occurring.
- (4) It is a requirement of the *Local Government Act 1995* that the elected member to whom the complaint relates

is to receive a copy of the complaint from the Complaints Officer.

9.2 Misuse of local government resources

- (1) In this clause —
electoral purpose means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*;

resources of a local government includes —

- (a) local government property; and
- (b) services provided, or paid for, by a local government.
- (2) A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

9.3 Securing personal advantage or disadvantaging others

- (1) A council member must not make improper use of their office —
 - (a) to gain, directly or indirectly, an advantage for the council member or any other person; or
 - (b) to cause detriment to the local government or any other person.
- (2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or *The Criminal Code* section 83.

9.4 Prohibition against involvement in administration

- (1) A council member must not undertake a task that contributes to the administration of the local government unless authorised by the local government or the CEO to undertake that task.
- (2) Subclause (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

9.5 Relations with local government employees

- (1) In this clause —
local government employee means a person —
 - (a) employed by a local government under section 5.36(1) of the Act; or
 - (b) engaged by a local government under a contract for services.
- (2) A council member or candidate must not —
 - (a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or
 - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or

- (c) act in an abusive or threatening manner towards a local government employee.

- (3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.
- (4) If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event at which members of the public are present, the council member or candidate must not orally, in writing or by any other means —
 - (a) make a statement that a local government employee is incompetent or dishonest; or
 - (b) use an offensive or objectionable expression when referring to a local government employee.
- (5) Subclause (4)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.

9.6 Disclosure of information

- (1) In this clause —
closed meeting means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;
confidential document means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;
Department means the Department of Local Government and its successors in title;

Rules of Conduct (cont.)

<p>document includes a part of a document;</p> <p>non-confidential document means a document that is not a confidential document.</p>		<p>the person having the interest; and</p> <p>(b) includes an interest arising from kinship, friendship or membership of an association.</p>		<p>because the council member did not know —</p> <p>(a) that they had an interest in the matter; or</p> <p>(b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.</p>		<p>and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.</p>	
(2)	A council member must not disclose information that the council member —	(2)	A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —	(5)	If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —	(6)	Subclause (7) applies in relation to an interest if —
(a)	derived from a confidential document; or	(a)	in a written notice given to the CEO before the meeting; or	(a)	before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and	(a)	under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or
(b)	acquired at a closed meeting other than information derived from a non-confidential document.	(b)	at the meeting immediately before the matter is discussed.	(b)	at the meeting the person presiding must bring the notice	(b)	under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.
(3)	Subclause (2) does not prevent a council member from disclosing information —	(3)	Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.			(7)	The nature of the interest must be recorded in the minutes of the meeting.
(a)	at a closed meeting; or						
(b)	to the extent specified by the council and subject to such other conditions as the council determines; or	(4)	Subclause (2) does not apply if a council member fails to disclose an interest				
(c)	that is already in the public domain; or						
(d)	to an officer of the Department; or						
(e)	to the Minister; or						
(f)	to a legal practitioner for the purpose of obtaining legal advice; or						
(g)	if the disclosure is required or permitted by law.						

9.7 Disclosure of interests

- (1) In this clause —
- interest** —
- (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of



10. Misconduct and other matters

10.1 Misconduct

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

The Chief Executive Officer has a statutory obligation to report to the Corruption and Crime Commission allegations of suspected serious misconduct.

10.2 Public Interest Disclosure

The *Public Interest Disclosure Act 2003* (PID Act) encourages people to come forward with information about wrongdoing without fear of reprisal.

The PID Act outlines what should be disclosed, who it must be disclosed to, and also provides for the protection of people who make a PID, as well as those who may be subject of a PID.

The City of Armadale is committed to the aims and objectives of the PID Act, which recognises the value and importance of reporting as a means to identify and address wrongdoing.

The City of Armadale strongly supports disclosures being made by Council Members, employees or volunteers about corrupt or other improper conduct and does not tolerate any of its Council Members, employees or volunteers taking reprisal action against anyone who makes or proposes to make a public interest disclosure.

Disclosures need to be made to the City of Armadale PID Officer (Currently these are Executive Director Corporate Services and the Manager Governance and Administration) however it is recommended that prior to making a disclosure Council Members, employees or volunteers should seek advice from the PID Officer.

Procedures have been developed to facilitate disclosures and provides a guide to all parties (including management, appointed Public Interest Disclosure Officers, potential disclosers and people against whom a disclosure has been made) as to how PID is to be facilitated within the City of Armadale. These procedures can be located at <https://www.armadale.wa.gov.au/public-interest-disclosure-0>



11. Glossary of Terms

Misconduct

Misconduct occurs if —

- (a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment; or
- (b) a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person; or
- (c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years' imprisonment; or
- (d) a public officer engages in conduct that —
 - (i) adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or
 - (ii) constitutes or involves the performance of his or her functions in a manner that is not honest or impartial; or
 - (iii) constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer; or
 - (iv) involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse

is for the benefit of the public officer or the benefit or detriment of another person, and constitutes or could constitute —

- (v) deleted
- (vi) a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the *Public Sector Management Act 1994* (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).

(Section 4 *Corruption, Crime and Misconduct Act 2003*)

Minor Misconduct

Means misconduct of a kind described in section 4(d) (*Refer above*) that is not any of the following —

- (a) police misconduct;
- (b) conduct engaged in by a member of a House of Parliament or the Clerk of a House of Parliament;
- (c) conduct engaged in by —
 - (i) a member of a local government or council of a local government.
 - (ii) a member of a council of a regional local government

(Section 3 *Corruption, Crime and Misconduct Act 2003*)

Glossary of terms (cont.)

Serious Misconduct

Means —

- (a) misconduct of a kind described in section 4(a), (b) or (c) (Refer above) by a public officer; or
- (b) police misconduct.

(Section 3 *Corruption, Crime and Misconduct Act 2003*)

Minor Breach

- (1) A council member commits a minor breach if he or she contravenes —
 - (a) a rule of conduct contained in Part 7 of this Code; or
 - (b) a local law, contravention of which the regulations specify to be a minor breach.
- (2) A minor breach is a recurrent breach if it occurs after the council member has been found under this Division to have committed 2 or more other minor breaches.

(Section 5.105(1) *Local Government Act 1995*)

Serious Breach

A council member who commits any offence under a written law, other than a local law made under this Act, of which it is an element that the offender is a council member or is a person of a description that specifically includes a council member commits a serious breach.

(Section 5.105(3) *Local Government Act 1995*)

Gift

a conferral of a financial benefit (including a disposition of property) made by 1 person in favour of another person unless adequate consideration in money or money's worth passes from the person in whose favour the conferral is made to the person who make the conferral; or a contribution to travel.

Designated Employee

Means —

- (a) a CEO; and
- (b) an employee, other than the CEO, to whom any power or duty has been delegated under Division 4; and
- (c) an employee who is a member of a committee comprising council members and employees; and
- (d) an employee nominated by the local government to be a designated employee.

(Section 5.74 *Local Government Act 1995*)

Fiduciary duty

Means that the Elected Member must at all times act in the best interests of the City and must make full disclosure of any economic or other interest that the Elected Member has that might conflict with the interest of the City.



armadale.wa.gov.au

