



MOUNT BARKER
DISTRICT COUNCIL

EMPLOYEE CODE OF CONDUCT

REFERENCE NUMBER:	DOC/18/46509
RESPONSIBLE DEPARTMENT:	Council Services
APPLICABLE LEGISLATION:	<ul style="list-style-type: none">• <i>Local Government (General Regulations) 2013 – Schedule 2A</i>• <i>Fair Work Act 1994 (SA)</i>• <i>Work Health and Safety Act 2012 (SA) and Regulations</i>• <i>Local Government Act 1999 (SA)</i>• <i>Ombudsman Act 1972 (SA)</i>• <i>Independent Commissioner Against Corruption Act 2012.</i>
STRATEGIC PLAN:	Governance & Leadership
RELATED POLICIES / CORPORATE GUIDELINE:	<ul style="list-style-type: none">• Employee Conduct Complaint Resolution Procedure (Internal & External)• Fair Treatment in the Workplace Policy
APPROVED:	18 April 2018
NEXT REVIEW DATE:	18 April 2022

TABLE OF CONTENTS

1. SCOPE.....	3
2. COMMITMENT STATEMENT	3
3. PRINCIPLES	3
4. CONDUCT	3
5. GIFTS AND BENEFITS.....	4
6. USE OF COUNCIL RESOURCES	4
7. REGISTER OF INTEREST	5
8. CHIEF EXECUTIVE OFFICERS.....	5
9. COMPLAINTS	5
10. REVIEW	5
11. ACCESS TO THE POLICY	5
12. FURTHER INFORMATION.....	5

APPENDIX 1 – GIFTS AND BENEFITS.....	6
APPENDIX 2 – CRIMINAL MATTERS	7

1. SCOPE

All employees of Mount Barker District Council are required to comply with the provisions of this Code of Conduct (Code).

2. COMMITMENT STATEMENT

Council is committed to ensuring that all employees are familiar with, and comply with, the standards of the Code at all times. Council will provide learning and development opportunities to assist our employees to meet their responsibilities outlined in the Code.

3. PRINCIPLES

The following principles underpin the purpose of the Code:

- Our employees have a commitment to service the best interests of the community members of the Mount Barker district and to discharge their duties conscientiously and to the best of their ability.
- Our employees will act honestly in every aspect of their work and be open and transparent when making decisions or providing advice to Council.
- Our employees will perform their official duties in such a manner as to ensure that public confidence and trust in the integrity and impartiality of Council is strong.
- Our employees will respect the law and the resolutions made by our Elected Members.
- Council will make reasonable endeavours to ensure that employees have current knowledge of both statutory requirements and best practices relevant to their position.
- Council employees will make reasonable endeavours to ensure that they have such current knowledge of both statutory requirements and best practices relevant to their position as it is drawn to their attention by Council.

4. CONDUCT

General Behaviour

- 4.1 Act honestly in the performance of official duties at all times.
- 4.2 Act with reasonable care and diligence in the performance of official duties.
- 4.3 Discharge duties in a professional manner.
- 4.4 Act in a way that generates community trust and confidence in the Council.
- 4.5 Act in a reasonable, just, respectful and non-discriminatory way when dealing with all people.
- 4.6 Ensure that personal interests, including financial interests, do not influence or interfere with the performance of their role.

Responsibilities as an Employee of Council

- 4.7 Comply with all relevant Council policies, codes and resolutions of which they have been made aware, relevant to their particular role.
- 4.8 Deal with information received in their capacity as a Council employee in a responsible manner.

- 4.9 Endeavour to provide accurate information to the Council employee in a responsible manner.
- 4.10 Endeavour to provide accurate information to the Council and to the public at all times.
- 4.11 Not release or divulge information that the Council or Chief Executive Officer has order to be kept confidential, or that the employee 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.
- 4.12 Not make improper use of information, including confidential information, acquired by virtue of their position.
- 4.13 Ensure that relationships with external parties do not amount to interference by improper influence, affecting judgement, decisions and/or actions.
- 4.14 Comply with all lawful and reasonable directions given by a person with authority to give such directions.
- 4.15 Only make public comment in relation to their duties when specifically authorized to do so, and restrict such comment to factual information and professional advice.

Relationships within Council

- 4.16 Not make any public criticism of a personal nature of fellow Council employees or Council members.
- 4.17 Take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons. In accordance with the Work Health & Safety Act 2012.
- 4.18 Direct any allegations of breaches of the Code of Conduct for Council Members to the Chief Executive or nominated delegate(s).

5. GIFTS AND BENEFITS

- 5.1. Provisions relating to gifts and benefits are prescribed in accordance with Schedule 2A – Code of Conduct for Employees in the Local Government (General Regulations) 2013 and referenced in **Appendix 1**.
- 5.2. These provisions cannot be changed unless prescribed in accordance with the Act.
- 5.3. The provisions outlined in Appendix 1 apply if an employee receives a gift or benefit on an amount greater than **\$50**, as per current determination by the Minister by notice in the Gazette.

6. USE OF COUNCIL RESOURCES

- 6.1. Council employees using Council resources must do so effectively and prudently when undertaking Council work.
- 6.2. Council employees must not use Council resources, including the services of Council staff, for private purposes, unless legally or properly authorized to do so, and payments are made where appropriate.

- 6.3. Council employees must not use public funds or resources in a manner that is irregular or unauthorised.

7. REGISTER OF INTEREST

- 7.1. An employee of Council 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 declared by the Council to be subject to these provisions.

8. CHIEF EXECUTIVE OFFICERS

- 8.1. Chief Executive Officers must act in accordance with the provisions specific to their position within the Local Government Act 1999 at all times.

9. COMPLAINTS

- 9.1. Any person may make a complaint alleging that an employee of Council has contravened or failed to comply with this Code.
- 9.2. Complaints about an employee's behaviour that is alleged to have breached this Code will be dealt in with Council's Employee Conduct Complaint Resolution Procedure (Internal & External).
- 9.3. In considering the lodgement of a complaint against a Council employee for a breach of this Code, Public Officers should be mindful of the obligations outlined in the Independent Commissioner Against Corruption – Directions and Guidelines.
- 9.4. Nothing in this Code in any way derogates from the rights of an employee or duties of an employer under the Fair Work Act 1994, other legislation, Council's Enterprise Agreement or contract of employment.

10. REVIEW

This Policy will be reviewed every four (4) years or earlier in the event of changes to legislation or related Policies and Procedures or if deemed necessary by the Manager People and Culture. The Gifts and Benefits section will be updated only on the direction from the Minister.

11. ACCESS TO THE POLICY

The Code (Policy) is available to staff via the People and Culture section of the Intranet and available to members of the public on Council's website.

12. FURTHER INFORMATION

For further information on this Policy, please contact:

Title: Manager People and Culture
Extension: (08) 8393 6436
Email: apett@mountbarker.sa.gov.au

APPENDIX 1 – GIFTS AND BENEFITS

SCHEDULE 2A – CODE OF CONDUCT FOR EMPLOYEES - LOCAL GOVERNMENT (GENERAL REGULATIONS) 2013

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 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.

APPENDIX 2 – CRIMINAL MATTERS

The matters within this appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for Council Employees.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this Policy only in order to provide a complete overview of the standards of conduct and behaviour expected of Council employees.

Alleged breaches of matters outlined in this appendix should be reported to the Office for Public Integrity in the first instance.

Breaches of the Local Government Act 1999

Provision of False Information

A Council employee who submits a return under Chapter 7 Part 4 Division 2 (Register of Interests) and that is to the knowledge of the employee false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence (Section 117).

Restrictions on Disclosure

A Council employee must not disclose to any other person any information furnished pursuant to Chapter 7 Part 4 Division 2 (Register of Interests) unless the disclosure is necessary for the purposes of the preparation or use of the Register by the Chief Executive Officer or is made at a meeting of Council, a Council committee or a subsidiary of the Council (Section 119(1)).

Conflict of Interest

The Chief Executive Officer who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to Council and must not, unless Council otherwise determines during a Council meeting that is open to the public, act in relation to the matter (Section 120(1)).

An employee of Council (other than the Chief Executive Officer) who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the Chief Executive Officer and must not, unless the Chief Executive Officer otherwise determines, act in relation to the matter (Section 120(2)).

If an employee is entitled to act in relation to a matter and the employee is providing advice or making recommendations to Council or a Council committee on the matter, the employee must also disclose the relevant interest to the Council or Council committee (Section 120(4)).

Breaches of other Acts

Acting in his or her capacity as a public officer, a Council employee shall 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;
- Offences relating to appointment to public office.

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 to an attempt to commit such an offence.

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;
- Conspiring with others to effect the commission of the offence.