

Code of Conduct - Elected Members, Committee Members and Candidates

Policy Owner:	Governance
Distribution:	All Elected Members and Staff
Person Responsible:	All Executive Managers
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INTRODUCTION

This Code of Conduct provides Elected Members, Committee Members and Candidates at the Shire of Chittering with legislative guidelines for an acceptable standard of professional conduct. The Code addresses the broader issue of ethical responsibility and encourages greater transparency and accountability in the affairs of Council.

The Code is complimentary to the principles adopted in the ***Local Government Act 1995*** and ***Local Government (Model Code of Conduct) Regulations 2021*** which incorporates four fundamental aims to result in:

- a) Better decision making
- b) Greater community input in the affairs of the Council
- c) Greater accountability of the Council to its community
- d) More efficient and effective local government.

The Code outlines / stipulates the expectations of Elected Members, Committee Members and Candidates. It delineates commitment to ethical and professional behaviour and outlines principles in which individual and collective local government responsibilities may be based.

ROLES & OBJECTIVES

An Elected Member's primary role is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the Shire of Chittering will be the focus of the Elected Member's public life.

An Elected Member is part of the team in which the community has placed its trust to make decisions on its behalf; and the community is therefore entitled to expect high standards of conduct from its elected representatives.

A primary role of the Elected Members when acting as Council is to make decisions in the best interest of the community.

A primary role of all Elected Members shall be the achievement of the Council objectives contained in the Strategic Plan.

The focus of Elected Members when acting as Council shall be the effective translation of the community's needs and aspirations into an agreed direction and future for the Shire.

In fulfilling the various roles, Elected Members' 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 Shire'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 Elected Members and on the Shire of Chittering.

Division 1 — Preliminary provisions

1. Citation

This is the *[insert name of local government] Code of Conduct for Council Members, Committee Members and Candidates*.

2. Terms used

(1) In this code —

Act means the *Local Government Act 1995*;

candidate means a candidate for election as a council member;

complaint means a complaint made under clause 11(1);

publish includes to publish on a social media platform.

(2) 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.

Division 2 — General principles

3. Overview of Division

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

4. 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 local government.

(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 local government in relation to the performance of their role.

5. 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.

6. 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.

Division 3 — Behaviour

7. Overview of Division

This Division 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.

8. 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.

9. Relationship with others

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 and appropriate manner and in accordance with any relevant policy 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 a local government employee in connection with the performance of their official duties; and
- (e) must not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.

10. Council or committee meetings

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 local government relating to the procedures and conduct of council or committee meetings; and
- (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.

11. Administrative Compliance

- (a) Elected Members shall ensure compliance with proper and reasonable administrative practices and conduct and professional and responsible management practices.
- (b) Elected Members are often asked to represent the Council on external organisations. Such positions should only be accepted within time and other constraints which do not adversely reflect on Council's commitment to that organisation and in doing so, Elected Members should fairly represent the Council's position to the best of their abilities, as it is understood by them at that time.
- (c) All aspects of communication by Elected Members (verbal or written) involving Council activities, should reflect the status and objectives of Council and should be accurate, polite and professional.
- (d) Elected Members shall only claim or accept travelling and sustenance expenses arising out of travel related matters which have a direct bearing on the services, processes or business of the Council in accordance with Council's policies.
- (e) Elected Members are expected to comply with neat and responsible dress standards at all times in their representation of Council.
- (f) When Elected Members are approached by members of the public to address an issue of individual concern on their behalf, the Elected Members:-

- Should ascertain if they have spoken to the relevant staff member and, if not, encourage the person(s) to do so, in the first instance;
- Should, prior to meeting with the person(s) or prior to discussing the matter in further detail, obtain comment and any related information from the relevant staff member; and
- Should provide a brief file note of the meeting (who with, time, date, topic and outcome only) for Council's records, if considered appropriate by the Elected Member.

12. Media & External Communication

- (a) Unless acting in an authorised capacity as a Council spokesperson pursuant to the local Government Act, 1995:
- i) Councillors shall not speak, attempt to speak or give the perception of speaking on behalf of the local government;
 - ii) Councillors should ensure that statements made to the media are identified as their opinions only and do not necessarily represent the position of Council; and

Subject to Clauses (i) and (ii) above, an Elected Member may choose to make a personal statement publicly on a matter related to Council business. Elected Members approached by the media for a personal statement may request the assistance of the Chief Executive Officer, or authorised delegate, in preparing a response.

- (b)
- i) Elected Members are responsible for the content they publish in a personal capacity on any form of social media platform and in this regard must understand their legal obligations.
 - The speed and reach of publishing online means content is available immediately to a wide audience. Anything posted can be difficult to delete and may be replicated, misconstrued and seen by people the author never intended or expected would see it.
 - Elected Members must recognize the potential damage that may be caused to the Shire through inappropriate use of social media. Accordingly, Elected Members should comply with this guideline to ensure that the risk of such damage is minimised, including potential action against an Elected Member under the Local Government (Model Code of Conduct) Regulations 2021.
 - Apart from the Shire President, imply that they are authorised to speak as a representative of the Shire or the Council, or give the impression that the views expressed are those of the Shire or the Council;
 - make prior public statements expressing their opinion on matters before Council that would indicate a predetermined decision;
 - post material that is offensive, obscene, defamatory, threatening, harassing, bullying, discriminatory, hateful, racist, sexist, or otherwise unlawful;
 - Use Shire logos;
 - Use a false identity;
 - Use or disclose any confidential information obtained in their capacity as an Elected Member of the Shire, or release information to the public before it has been dealt with by Council or approved for release by the Shire;
 - Mention or disclose staff members names or positions publicly or through private means (direct message) via social media

ii) Posting on the Shire's social media pages specifically

- Elected Members may like, comment or share existing content but may not post new content to the Shire's pages.
- Elected Members must not answer questions posed to the Shire on social media as this is a function of the Administration.

iii) Posting on other social media pages

- Where requests for service or official feedback have been posted on other social media sites, Elected Members may direct these to chatter@chittering.wa.gov.au or (08) 9576 4600.
- Where misinformation or factually incorrect information is posted, Elected Members may refer the original poster to the Shire for clarification i.e. contact the Shire's Customer Service (as above).

13. Complaint about alleged breach

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
- (2) A complaint must be made —
 - (a) in writing in the form approved by the local government; 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 and withdrawals of complaints.

14. Dealing with complaint

- (1) After considering a complaint, the local government must, unless it dismisses the complaint under clause 13 or the complaint is withdrawn under clause 14(1), make a finding as to whether the alleged breach the subject of the complaint has occurred.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) When preparing a plan under subclause (4)(b), the local government must consult with the person to whom the complaint relates.
- (6) A plan under subclause (4)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following —

- (a) engage in mediation;
 - (b) undertake counselling;
 - (c) undertake training;
 - (d) take other action the local government considers appropriate.
- (7) If the local government makes a finding 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 and the reasons for its finding; and
 - (b) if its finding is that the alleged breach has occurred — its decision under subclause (4).

15. 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.

16. 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.
- (2) The withdrawal of a complaint must be —
- (a) in writing; and
 - (b) given to a person authorised under clause 11(3).

17. 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 Division.

Division 4 — Rules of conduct

Notes for this Division:

1. Under section 5.105(1) of the Act a council member commits a minor breach if the council member contravenes a rule of conduct. This extends to the contravention of a rule of conduct that occurred when the council member was a candidate.
2. A minor breach is dealt with by a standards panel under section 5.110 of the Act.

18. Overview of Division

- (1) This Division sets out rules of conduct for council members and candidates.
- (2) A reference in this Division to a council member includes a council member when acting as a committee member.

19. 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.

20. 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.

21. 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.

22. Relationship 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 (for example, a briefing or workshop), 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.

23. 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;

document includes a part of a document;

non-confidential document means a document that is not a confidential document.
- (2) A council member must not disclose information that the council member —
 - (a) derived from a confidential document; or
 - (b) acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subclause (2) does not prevent a council member from disclosing information —
 - (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
 - (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.

24. 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 the person having the interest; and
 - (b) includes an interest arising from kinship, friendship or membership of an association.
- (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 —
 - (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.
- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —
 - (a) that they had an interest in the matter; or
 - (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.
- (5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —
 - (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.
- (6) Subclause (7) applies in relation to an interest if —
 - (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or
 - (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.
- (7) The nature of the interest must be recorded in the minutes of the meeting.

25. Compliance with plan requirement

If a plan under clause 12(4)(b) in relation to a council member includes a requirement referred to in clause 12(6), the council member must comply with the requirement.
