

POLICY

Policy Name	Code of Conduct for Employees
Policy Category	Governance/Human Resources
Department / Officer	Chief Executive Officer/Corporate and Customer Service
Date Adopted	15 July 2019 (SMT)
Date/s Reviewed	September 2023
Review Frequency	Every Three Years
Strategic Plan Reference	Aspiration 6 – We are a financially sustainable and well-governed organisation.
Attachments	Appendix 1 – Schedule 2A – Code of Conduct for Employees

1. Purpose

The purpose of this policy is to set out the commitment from Council Employees to service the best interests of the people within the community their Council represents and to discharge their duties conscientiously and to the best of their ability.

2. Scope

Council employees (including contractors etc) must comply with the provisions of this Code in carrying out their functions as public officers. It is the personal responsibility of council employees to ensure that they are familiar with, and comply with, the standards in the Code at all times.

Each employee of the Council is a public officer for the purposes of the *Independent Commissioner Against Corruption Act 2012*.

This Policy does not exclude the operation of the *Fair Work Act 1994*, the rights of employees and their Unions to pursue industrial claims, or any relevant Awards or Enterprise Agreements made under the Fair Work Act. This Policy does not affect the jurisdiction of the Industrial Relations Commission.

3. Policy Statement (Summary)

Council is committed to ensure Council Employees:

- Have a commitment to serve the best interests of people within the community of the City of Victor Harbor and to discharge their duties conscientiously and to the best of their ability.
- Will act honestly in every aspect of their work and be open and transparent when making decisions or providing advice to Council.
- Will perform their official duties in such a manner as to ensure that public confidence and trust in the integrity and impartiality of their Council is strong.

- Will respect the law, and the resolutions made by the Elected Member body of the Council.
- Will make reasonable endeavours to ensure that they have such current knowledge of both statutory requirements and best practices relevant to their position as is drawn to their attention by Council.

The Chief Executive Officer will make reasonable endeavours to ensure that employees have current knowledge of both statutory requirements and best practices relevant to their position.

4. Legislation and Compliance

Section 109 of the Local Government Act 1999 states that Council employees, must at all times act honestly and with reasonable care and diligence in the performance of official duties.

Section 110 (4) of the Local Government Act 1999 states Council employees must observe the Code of Conduct

Failure to comply with any of these behaviours can constitute a ground for suspending, dismissing or taking disciplinary action against the employee, under *Section 110 (5) of the Local Government Act 1999*.

Schedule 2A of the Local Government (General) Regulations 2013 sets out the provisions of the Code of Conduct in respect to gifts and benefits, which is mandatory across Local Government in South Australia.

5. Definitions

Council Employee means any person that is employed full-time, part-time or casually, and external contractors by the Council who receives remuneration for their work. And volunteers who freely offers to take part in an enterprise or undertake a task.

Chief Executive Officer means the appointed Chief Executive Officer or Acting Chief Executive Officer or nominee.

Council Resources means any asset or service owned or administrated by the City of Victor Harbor including property, equipment, vehicles, internet and telecommunications, stationery and hospitality services, used in the course of carrying out normal Council business.

Gift means an item of value (eg gift voucher; entertainment, hospitality, travel, commodity, property)

Gift Register means an official Council record that details gifts and benefits received by staff and how they were managed.

Confidential Information means any decision, document or discussion which Council resolved to treat as confidential under *Section 90 of the Local Government Act 1999*, any matter deemed as confidential by the Senior Management Team or any information which would breach a person's right to confidential protection of their personal information.

6. Policy Content

6.1 Code of conduct requirements

Schedule 2A of the Local Government (General) Regulations 2013 sets out the provisions of the Code of Conduct for Employees as gazetted on 13 February 2018 in respect to gifts and benefits. It is detailed in **Appendix 1** to this Policy.

Further to the requirements of the **Appendix 1**, the following behaviour is considered essential to upholding the principles of good governance in Councils:

6.1.1 General Behaviour

Council employees will:

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

6.1.2 Responsibilities as an Employee of Council

Council employees must:

- Comply with all relevant Council policies, codes and resolutions, relevant to their particular role.
- Deal with information received in their capacity as a Council employee in a responsible manner.
- Endeavour to provide accurate information to the Council and to the public at all times.
- Take all reasonable steps to ensure that the information upon which employees make decisions or actions are based is factually correct and that all relevant information has been obtained and is considered.
- Not release or divulge information that the Council or Chief Executive Officer of the Council has ordered be kept confidential, or that the Council 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*.
- Not make improper use of information, including confidential information, acquired by virtue of their position.
- Ensure that relationships with external parties do not amount to interference by improper influence, affecting judgment, decisions and/or actions.
- Comply with all lawful and reasonable directions given by a person with authority to give such directions.
- Only make public comment in relation to their duties when specifically authorised to do so, and restrict such comment to factual information and professional advice.

6.1.3 Relationships within Council

Council Employees must:

- Not make any public criticism of a personal nature of fellow Council Employees or Council Members
- Take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons, as required by the *Work Health and Safety Act 2012*.
- Direct any allegations of breaches of the Code of Conduct for Council Members to the Chief Executive Officer or nominated delegate(s).

6.1.4 Employee Attendance

Council Employees will receive an orientation program when commencing employment or transferring to a new department/section or role. This program will provide each employee with details of the attendance requirements of their position (including tea breaks). It is the responsibility of the employee to ensure that these requirements are met and that any attendance record management systems in place are utilised honestly.

6.1.5 Use of Council Resources

Council Employees:

- Using Council resources must do so effectively and prudently when undertaking council work.
- Must not use Council resources, including the services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate.
- Must not use public funds or resources in a manner that is irregular or unauthorised.

6.1.6 Register of Interest

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

6.1.7 Chief Executive Officer

The Chief Executive Officer must act in accordance with the provisions specific to their position within the *Local Government Act 1999* at all times.

6.1.8 Reporting an alleged Breach

- All employees must comply with the Policy and report any alleged breaches:
 - To their supervisor or manager, or in the case of the Chief Executive Officer, to the Mayor.
 - As may be required by the Act;
 - As may be required pursuant to the Independent Commissioner Against Corruption Act (SA) 2012)
- In the event that any factor prevents a report being made to a direct supervisor or manager, all reports are to be made to the Chief Executive Officer;

- An employee who is found to have breached the Policy will be subject to counseling and/or other disciplinary action (including termination) in accordance with the law.

7. Risk Management

This Policy endeavours to promote high ethical standards and professional behaviour by Council employees and fulfils Council's obligations under *Section 110 of the Local Government Act 1999*.

8. Implementation/Delegations

The Chief Executive Officer is provided with the delegated authority to implement this Policy.

9. Related Documents

Complaint Handling Policy
Complaints Handling Procedure
Conflict of Interest Policy for Employees
Council's Enterprise Bargaining Agreement
Employee Code of Conduct Guidelines
Employee Gift and Benefits Register
Fraud and Corruption Policy
Independent Corruption Against Corruption Act 2012 - Directions and Guidelines
Management of Poor Performance, Unacceptable Behaviour and Dismissals Procedure
South Australian Government Gazette No.48 (13 February 2018)

10. Availability of Policy

This policy is available on Council's website at www.victor.sa.gov.au. It may also be inspected or purchased at the Principal Office of the Council at 1 Bay Road, Victor Harbor.

Appendix 1

Schedule 2A—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.*