EMPLOYEE CODE OF CONDUCT

CITY OF PROSPECT

Reference Number:	CR19/14912
Type:	Human Resources Policy
Responsibility:	Director Corporate Services
Responsible Officer (s):	Human Resource Advisor
Initial Adopted Date:	Executive Leadership Team – 19 February 2019
Last Review Date:	November 2018
Next Review Date:	November 2021
Legislation and References:	*Local Government Act 1999* *Local Government (General) Regulations 1999* *Criminal Law Consolidation Act 1935* *Fair Work Act 1994* *Independent Commissioner Against Corruption Act 2012* *Independent Commissioner Against Corruption – Directions and Guidelines* *Ombudsman Act 1972* *Work Health and Safety Act 2012.*
Related Policies, Procedures and Documents:	Complaint Handling Policy and Procedure Fair Treatment Policy Performance Management & Discipline Policy and Procedure Work Health and Safety Policies Records Management Policies Information Technology Polices Privacy Policy Motor Vehicle Policy Whistle-blowers Protection Policy Social Media Policy

1 Preamble

1.1 Council employees must comply with the provisions of this Policy in carrying out their functions as public officials. It is the personal responsibility of Council employees to ensure that they are familiar with, and comply with, the standards in the Policy at all times.

1.2 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 1994*. This Policy does not affect the jurisdiction of the South Australian Employment Tribunal.

2 Part 1 - Principles

2.1 PRINCIPLES – OVERARCHING STATEMENT

2.1.1 Council employees have a commitment to serve the best interest of the people within the Prospect Community and to discharge their duties conscientiously and to the best of their ability.

2.1.2 Council employees will act honestly in every aspect of their work and be open and transparent when making decisions or providing advice to Council.

2.1.3 Council employees will respect the law, and the resolutions made by the elected member body of the Council.

2.1.4 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.

2.1.5 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 is drawn to their attention by Council.

3 Part 2 - Conduct

3.1 GENERAL CONDUCT

3.1.1 All employees are expected to embrace and demonstrate Our Values

3.2 OUR VALUES:

Respect We treat others as we wish to be treated

Innovation We are creative and find smart solutions

Teamwork We work together by encouraging and supporting each other

Integrity We act honestly and with transparency

Commitment We hold ourselves and each other accountable

Enjoyment We celebrate success, acknowledge achievement, and enjoy our work

3.3 CONDUCT REQUIRED OF COUNCIL EMPLOYEES

3.3.1 In line with 'Part 1 – Principles' of this Policy, the following behaviour is considered essential to upholding the principles of good governance in Council.

3.3.2 A failure to comply with any of these behaviours can constitute a ground for disciplinary action against the employee, including dismissal, under Section 110(5) of the *Local Government Act 1999*.

3.3.3 Council employees must also comply with all relevant statutory requirements within the *Local Government Act 1999*, the *Work Health and Safety Act 2012* and other Acts. A failure to comply with these statutes, as identified within this Part, can also constitute a ground for disciplinary action against the employee, including dismissal, under Section 110(5) of the *Local Government Act 1999*.

3.3.4 Council employees will:

General Behaviour

(1) Act honestly in the performance of official duties at all times, as required by Section 109(1) of the *Local Government Act 1999*.

(2) Act with reasonable care and diligence in the performance of official duties, as required by Section 109(2) of the *Local Government Act 1999*.

(3) Discharge duties in a professional manner.

(4) Act in a way that generates community trust and confidence in the Council.

(5) Act in a reasonable, just, respectful and non-discriminatory way when dealing with all people.

(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

(7) Comply with all relevant Council policies, codes and resolutions of which they have been made aware, relevant to their particular role.

(8) Deal with information received in their capacity as a Council employee in a responsible manner.

(9) Endeavour to provide accurate information to the Council and to the public at all times.

(10) 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.

(11) Not release or divulge information that the Council or the Chief Executive Officer of the Council has ordered be kept 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*.

(12) Not make improper use of information, including confidential information, acquired by virtue of their position.

(13) Ensure that relationships with external parties do not amount to interference by improper influence, affecting judgement, decisions and/or actions.

(14) Comply with all lawful and reasonable directions given by a person with authority to give such directions.

(15) 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.

Relationships with Council

(16) Not make any public criticism of a personal nature of fellow Council employees or Council members.

(17) 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*.

(18) Direct any allegations of breaches of the Code of Conduct for Council Members to the Chief Executive Officer of nominated delegate/s.

Gifts and Benefits

(19) Schedule 2A of the *Local Government (General) Regulations 2013 sets* out the obligations for Council employees in relation to Gifts and Benefits. A copy of Schedule 2A is provided as an appendix to this Policy.

(20) For the purposes of section 1(2) of Schedule 2A of the *Local Government (General) Regulations 2013* the Minister for Local Government has determined an amount of $50. *(South Australian Government Gazette, No. 9 of 2018, 13 February 2018, page 717)*.

Use of Council Resources

(21) Council employees using Council resources must do so effectively and prudently when undertaking Council work.

(22) Council employees 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.

(23) Council employees must not use public funds or resources in a manner that is irregular or unauthorised.

Register of Interests

(24) 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.

Chief Executive Officer

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

Complaints

(26) Any person may make a complaint about a Council employee under this Policy.

(27) Complaints about an employee's behaviour that is alleged to have breached this Code should be brought to the attention of the Chief Executive Officer, or a delegated person.

(28) Complaints about the Chief Executive Officer's behaviour that is alleged to have breached the Code should be brought to the attention of the Council's Principal Member.

(29) A complaint may be investigated and resolved according to the endorsed Complaint Handling Procedure.

(30) In considering the lodgement of a complaint against a Council employee for a breach of this Policy, Public Officers should be mindful of the obligations outlined in the *Independent Commissioner Against Corruption – Directions and Guidelines*.

(31) Nothing in this Policy in any way derogates from the rights of an employee or duties of an employer under the *Fair Work Act 1994*, other legislation, an aware, an industrial agreement or contract of employment.

4 Criminal Matters

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

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

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

4.4 BREACHES OF THE LOCAL GOVERNMENT ACT 1999

Provision of false information

4.4.1 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 or omitted from the return) is guilty of an offence (Section 117).

Restrictions on disclosure

4.4.2 A Council employee must not disclose to any other person 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 the Council, a Council committee or a subsidiary of the Council (Section 119(1)).

Conflict of Interest

4.4.3 If the Chief Executive Officer 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, he/she must disclose the interest to the Council, and must not, unless the Council otherwise determines during a Council meeting that is open to the public, act in relation to the matter (Section 120(1)).

4.4.4 An employee of the 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)).

4.4.5 If an employee is entitled to act in relation to a matter and the employee is providing advice or making recommendations to the 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

4.4.6 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 the Section 5 of the *Independent Commissioner Against Corruption Act 2012*, including:

An offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:

- Bribery or corruption of public officers;
- Threats or reprisals against public officers;
- Abuse of public office;
- Demanding or requiring benefit on basis of public office; and
- Offences relating to appointment to public office.

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 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 in a preceding paragraph:

- Aiding, abetting, counselling or procuring the commission of the offence;
- Inducing, whether by threats or promises or otherwise, the commission of the offence;
- Being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence; and
- Conspiring with others to effect the commission of the offence.

5 Review

5.1 The Policy will be reviewed every 3 years or as required by legislation.

6 Access to the Policy

6.1 The Policy is available for on Council's internal Intranet page copintranet/index.php?option=com_content&view=article&id=178:code-of-conduct-for-council-employees&catid=31:human-resources&lang=en.

7 Approval

Signed: .....
Human Resource Advisor

Date: 3/7/2019.

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Director Corporate Services

Date: 3/7/2019

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Chief Executive Officer

Date: 3/7/19

8 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 purpose 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 aware, industrial agreement or contract of employment; or

(c) affect the jurisdiction of the South Australian Employment Tribunal conferred under the *Fair Work Act 1994.*

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.