

## LOCAL GOVERNMENT ACT 1999: SECTION 110 (1)

## CODE OF CONDUCT FOR COUNCIL EMPLOYEES

*Erratum*

IN *Government Gazette* No. 11, dated 13 February 2014 on pages 833-839, the notice was printed with errors and *should* be replaced with the following:

NOTICE under Clause 2.21 of the Code of Conduct for Council Employees published by the Minister for Planning for the purposes of Section 110 (1) of the Local Government Act 1999.

For the purposes of Clause 2.21 of the Code of Conduct for Council Employees adopted for the purposes of Section 110 (1) of the Local Government Act 1999 and published in the *Gazette* on the day on which this Notice is made, the value of \$100 is specified.

Dated 12 February 2014.

JOHN RAU, Deputy Premier, Minister for Planning

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## Code of Conduct for Council Employees

*Published by the Minister for Planning for the purposes of Section 110(1) of the Local Government Act 1999.*

**This Code of Conduct is to be observed by all Council employees.**

Council employees must comply with the provisions of this Code 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 Code at all times. All Councils are expected to provide training and education opportunities that will assist their employees to meet their responsibilities under the *Local Government Act 1999*.

This Code 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 Code does not affect the jurisdiction of the Industrial Relations Commission.

### PART 1 - PRINCIPLES

#### 1. Principles - Overarching Statement

*This part does not constitute separate enforceable standards of conduct.*

Council employees in South Australia have a commitment to serve 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.

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

Council employees 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.

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

The Council's 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.

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.

### PART 2 - CONDUCT

#### 2. Conduct required of Council employees

In line with 'PART 1 - Principles' of this Code, the following behaviour is considered essential to upholding the principles of good governance in Councils.

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*.

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*.

Council employees will:

#### **General behaviour**

- 2.1. Act honestly in the performance of official duties at all times, as required by Section 109(1) of the *Local Government Act 1999*.
- 2.2. Act with reasonable care and diligence in the performance of official duties, as required by Section 109(2) of the *Local Government Act 1999*.
- 2.3. Discharge duties in a professional manner.
- 2.4. Act in a way that generates community trust and confidence in the Council.
- 2.5. Act in a reasonable, just, respectful and non-discriminatory way when dealing with all people.
- 2.6. Ensure that personal interests, including financial interests, do not influence or interfere with the performance of their role.

#### **Responsibilities as an employee of Council**

- 2.7. Comply with all relevant Council policies, codes and resolutions of which they have been made aware, relevant to their particular role.
- 2.8. Deal with information received in their capacity as a Council employee in a responsible manner.
- 2.9. Endeavour to provide accurate information to the Council and to the public at all times.
- 2.10. 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.
- 2.11. 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*.
- 2.12. Not make improper use of information, including confidential information, acquired by virtue of their position.
- 2.13. Ensure that relationships with external parties do not amount to interference by improper influence, affecting judgement, decisions and/or actions.
- 2.14. Comply with all lawful and reasonable directions given by a person with authority to give such directions.

- 2.15. 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 within Council**

- 2.16. Not make any public criticism of a personal nature of fellow Council employees or Council members.
- 2.17. 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*.
- 2.18. Direct any allegations of breaches of the Code of Conduct for Council Members to the Chief Executive or nominated delegate/s.

### **Gifts and Benefits**

- 2.19. Council employees must not:
- 2.19.1. seek gifts or benefits of any kind;
  - 2.19.2. accept any gift or benefit that may reasonably create a sense of obligation on their part or may be reasonably perceived to be intended to or would reasonably be likely to influence them in carrying out their public duty; and
  - 2.19.3. accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the Council.
- 2.20. Notwithstanding Code 2.19.3, Council employees may accept hospitality provided in the context of performing their duties, including:
- 2.20.1. free or subsidised meals, beverages or refreshments of reasonable value provided in conjunction with:
    - 2.20.1.1. council work related events such as training, education sessions, workshops and conferences;
    - 2.20.1.2. council functions or events; and
    - 2.20.1.3. social functions organised by groups such as Council committees and community organisations; and
  - 2.20.2. invitations to and attendance at local social, cultural, or sporting events.
- 2.21. Where any Council employee receives a gift or benefit of more than a value published in the *Government Gazette* by the Minister from time to time, details of each gift or benefit must be recorded within a gifts and benefits register maintained and updated quarterly by the Council's Chief Executive Officer. This register must be made available for inspection at the principal office of the Council and on the Council website.

### **Use of Council Resources**

- 2.22. Council employees using Council resources must do so effectively and prudently when undertaking Council work.

- 2.23. 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.
- 2.24. Council employees must not use public funds or resources in a manner that is irregular or unauthorised.

### **Register of Interests**

- 2.25 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 Officers**

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

### **Complaints**

- 2.27 Any person may make a complaint about a Council employee under this Code.
- 2.28 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 of the Council, or a delegated person.
- 2.29 Complaints about a 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.
- 2.30 A complaint may be investigated and resolved according to the disciplinary processes of that Council.
- 2.31 In considering the lodgement of a complaint against a Council employee for a breach of the Code, Public Officers should be mindful of the obligations outlined in the *Independent Commissioner Against Corruption—Directions and Guidelines*.
- 2.32 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, an award, an industrial agreement or contract of employment.

## **APPENDIX - 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 document 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 the Council, a Council committee or a subsidiary of the Council (Section 119(1)).

#### **Conflict of Interest**

The Chief Executive Officer of a Council 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 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)).

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)).

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**

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; 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 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; and
  - conspiring with others to effect the commission of the offence.
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