

Code of Conduct



City of Ryde

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1. OUR CODE OF CONDUCT

The City of Ryde has established a good reputation based on probity and transparency. All of us have a responsibility of maintaining these high standards and our Code of Conduct provides the foundation upon which these standards are built. This document is a very important part of our Council and it applies equally to all Councillors and employees in The City of Ryde.

In our work for the Council we will continue to be faced with situations where we need to make difficult decisions as to the most appropriate course of action. Our (draft) Code has again been reviewed, with the assistance of a representative group of Councillors and employees, and has been based on the Model Code of Conduct issued by the Department of Local Government.

As a Council official it is your responsibility to comply with the standards in our Code. Failure by a Councillor to comply with an applicable requirement of Council's Code of Conduct constitutes misbehaviour. Failure by an employee to comply with Council's Code of Conduct may give rise to disciplinary action.

If you honestly and faithfully uphold the The City of Ryde Values and observe the responsibilities of this Code and the law, you are entitled to expect the publicly expressed support of the organisation and colleagues if unfair allegations of dishonesty or other misconduct are made against you.

Michael Whittaker
General Manager

2. WHO DOES THIS CODE COVER?

This Code covers all Councillors and employees, committee members and delegates of The City of Ryde, including trainees, apprentices, temporary and casual employees.

Based on this Code, a statement of business ethics has been developed for our contractors, consultants and a Code of Conduct for our volunteers/work experience staff.

The City of Ryde is committed to fostering a secure and open work environment in which all Councillors and employees can be confident in seeking advice about any questions that they have.

3. GLOSSARY OF TERMS

The City of Ryde	The organisation you are elected to or work for i.e. the Council of the The City of Ryde
Code	The Code of Conduct of the The City of Ryde
Council Official	People covered by this Code which includes Councillors and employees, committee members and delegates of The City of Ryde
Councillor(s)	An elected member of the Council of the The City of Ryde
Act of Disorder	See the definition in clause 256 of the Local Government (General) Regulation 2005
Disclosures Co-ordinator	The person appointed to deal with disclosures relating to corrupt conduct, maladministration and serious and substantial waste, and for disclosures under the Child Protection legislation. (Public Officer)
Employees	The employees of the The City of Ryde
Organisation	The City of Ryde
The Act	The Local Government Act 1993

4. THE CITY OF RYDE VALUES AND KEY PRINCIPLES

As a Council official you are required to be committed to our Council's values and the key principles upon which the Model Code of Conduct for Local Government in NSW is based.

Our Values

- **Professionalism**
We deliver effective services to the community with honest and consistent decision making
- **Teamwork**
We work together with respect, co-operation and support
- **Leadership**
We promote clear direction, encouragement and open communication
- **Ethics**
We are honest, responsible and accountable for our actions
- **Pride**
We have satisfaction in our work
- **Recognition**
We have a sense of belonging through acknowledgment of our achievements

Related Documents

Code of Behaviour

Code of Good Governance

Key Principles

Integrity

You must not place yourself under any financial or other obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

Leadership

You have a duty to promote and support these principles by leadership and example and to maintain and strengthen the public's trust and confidence in the integrity of the Council. *This means promoting public duty to others in the Council and outside, by their own ethical behaviour.*

Selflessness

You have a duty to make decisions solely in the public interest. You must not act in order to gain financial or other benefits for yourself, your family or friends. *This means making decisions because they benefit the public, not because they benefit you.*

Objectivity

You must make decisions solely on merit and in accordance with their statutory obligations when carrying out public business. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits. *This means fairness to all; impartial assessment; merit selection in recruitment and in purchase and sale of Council's resources; considering only relevant matters.*

Accountability

You are accountable to the public for your decisions and actions and you must consider issues on their merits, taking into account the views of others. *This means where appropriate recording reasons for decisions; submitting for scrutiny; keeping proper records; establishing audit trails.*

Openness and Transparency

You have a duty to be as open as possible about your decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands. *This means giving and revealing reasons for decisions; revealing other avenues available to the client or business; when authorised, offering all information; communicating clearly.*

Honesty

You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in such a way that protects the public interest. *This means obeying the law; following the letter and spirit of policies and procedures; observing Codes of conduct; fully disclosing actual or potential conflict of interests*

Respect

You must treat with respect other Council officials and the role they play, treating them with courtesy at all times. This means not using derogatory terms towards others, observing the rights of other people, treating people with courtesy and recognizing the different roles others play in local government decision-making.

5. GENERAL CONDUCT OBLIGATIONS

General Conduct

- 5.1 You must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, you must avoid conduct that:
- contravenes the Act, associated regulations and Council's relevant administrative requirements
 - is detrimental to the pursuit of the charter of a Council
 - is improper or unethical
 - is an abuse of power or otherwise amounts to misconduct
 - causes, comprises or involves intimidation, harassment or verbal abuse
 - causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
 - causes, comprises or involves prejudice in the provision of a service to the community. (*Schedule 6A of the Act*)
- 5.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (*Section 439*)
- 5.3 You must treat others with respect at all times.

Fairness and Equity

- 5.4 You have an obligation to consider issues consistently, promptly and fairly. This involves dealing with matters in accordance with established procedures, in a non-discriminatory manner.
- 5.5 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

Harassment and Discrimination

- 5.6 You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination, on the grounds of sex, pregnancy, age, race (including their colour, nationality, descent, ethnic or religious background), political affiliation, marital status, disability, homosexuality or transgender.

Related Documents

Prevention of Discrimination HR8-2

Prevention of Harassment HR8-3

Development Decisions

- 5.7 It is your duty to ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid impropriety. You must also avoid any occasion for suspicion and any appearance of improper conduct.
- 5.8 In determining development applications, it is essential that you are highly conscious of the potential for even the slightest impropriety to lead to suspicion of misconduct. This means you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide concessions or preferential treatment. A Council official must not offer support to a proponent or an objector but note the content of their representations and refer them to the relevant officer or the General Manager. These representations can then be considered when the applications come before Council.

Related Documents

Statement of Ethics for Development Applications – Roles, Rights, and Responsibilities for all Stakeholders DRAFT

Child Protection

- 5.9 In relation to children, our Council will engage only in practices that are respectful of and provide security of children and in no way degrade, endanger, exploit, intimidate or harm them psychologically or physically.
- 5.10 All employees are required to report to the Disclosures Coordinator and General Manager any conduct by any employee towards a young person or child that may amount to reportable conduct.
- 5.11 Reportable conduct includes:
- any sexual offence, sexual misconduct committed against, with or in the presence of a child (including a child pornography offence), or
 - any assault, ill treatment or neglect of a child, or
 - any behaviour that causes psychological harm to a child.
- 5.12 The General Manager is required to report to the Ombudsman, within 30 days of becoming aware, any allegations of reportable conduct made against an employee and any reportable convictions.
- 5.13 Council's Child Protection Policy details the responsibilities of employees working with children as mandatory reporters.

Related Documents

Child Protection – Child Related Employment Provisions HR5-1

Public Comment

- 5.14 Public comment includes public speaking comments on radio and television, expressing views in print media, or where it might be expected that the publication or circulation of the comment will spread to the community at large.
- 5.15 Only the General Manager, Mayor or employees specifically delegated to do so, may make media or public comment on behalf of the The City of Ryde.

Related Documents

The City of Ryde Induction Manual HR2-2

Occupational Health and Safety

- 5.16 Under the Occupational Health and Safety Act 2000, all Council officials while at work, must take reasonable care for the health and safety of people who are at the place of work and who may be affected by the person's acts or omissions at work.
- 5.17 Council officials must, while at work, co-operate so far as is necessary to enable compliance with any requirement under this Act or the regulations that are imposed in the interests of health, safety and welfare of any person.

Related Documents

Occupational Health and Safety Policy HR7-1

Expenses

- 5.18 Councillors must only accept payment of expenses and provision of facilities in accordance with Council's adopted policy.
- 5.19 Employees may only claim or accept travelling and sustenance expenses arising out of travel related to matters which have a direct bearing on the services, policies or business of the The City of Ryde.

Related Documents

Policy on the Payment of Expenses and Provision of Facilities for the Mayor and other Councillors

Guide To Ethical Decision-Making

5.20 If you are unsure about the ethical issues around an action or decision you are about to take, you should consider these five points:

- Is the decision or conduct lawful?
- Is the decision or conduct consistent with Council's policy and with Council's objectives and the Code of Conduct?
- What will the outcome be for the Councillor, employee or work colleagues, the Council and any other parties?
- Do these outcomes raise a conflict of interest or lead to private gain or loss at public expense?
- Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

Remember – you have the right to question any instruction or direction given to you, which you think, may be unethical or unlawful. If you are uncertain about an action or decision, you may need to seek advice from other people. This includes your supervisor or trusted senior officer, the Department of Local Government, the Ombudsman's Office and the Independent Commission Against Corruption.

Independent Commission Against Corruption	8281 5999
NSW Ombudsman	9286 1000
NSW Department of Local Government	4428 4100

6. CONFLICT OF INTERESTS

- 6.1 A conflict of interest arises if it is likely that a personal interest could conflict, or be seen to conflict, with the performance of your public or professional duties.
- 6.2 It is essential that members of the public, when dealing with our Council, can be confident that when making decisions Councillors and employees are free of any conflicts of interests.
- 6.3 You need to ensure that if any conflict exists between your interests and those of the Council it must always be resolved to the satisfaction of The City of Ryde Council.
- 6.4 Conflicts of interests can be of two types:

a) Pecuniary Interest

Is an interest that you have in a matter because of a possibility of a reasonable financial gain or loss to you, or to another person with whom you are associated. This would include your spouse, de facto partner or a relative. (Section 442(1) Local Government Act provides the legal wording).

b) Non-Pecuniary Interest

Is a private or personal interest, which you have, and does not relate to money. For example, a friendship, family, membership of a club and the like where a financial gain or loss is not involved.

- 6.5 A **conflict of interest** would exist where you have:
- a personal interest that would lead you to be influenced in the way you carry out your Council work or public duties
 - a personal interest that could lead a fair person to think you could be influenced in the way that you carry out your Council work or public duties
 - knowledge that a family member, relative, friend, associate or anybody else close to you has an interest that could lead to you being influenced, or a fair person to think you could be influenced, in a way you carry out your Council work or public duties
- 6.6 Perceptions of conflicts of interest are as important as actual conflicts of interest.
- Therefore even if you do not consider that you have a conflict it is important to consider how a reasonable person would view the situation. Thus, in many cases only you will be aware of the potential for conflict.
- 6.7 If, as an employee, you believe that you are faced with, or could be seen to be faced with, a conflict or pecuniary interest it is your responsibility to disclose the nature of the conflict. You must advise your Manager, Group Manager or

the General Manager who will discuss ways of resolving the conflict with you, and decide if the disclosure should be in writing. All written notifications will to be placed on the Council's Disclosure of Interest Register.

- 6.8 In the case of the General Manager, advice must be given to the Council or if this is not practical then advice must be given to the Mayor and subsequently to Council.
- 6.9 At the commencement of any Council or committee meeting, Councillors, if they have an interest in any matter listed on the agenda of that meeting, must make a disclosure of any interest and the nature of the interest whether it is pecuniary or not, in relation to the matter. The notification will be recorded in the Minutes of that meeting.
- 6.10 As a Councillor or employee, if we have any doubt as to whether we have a conflict of interest in a particular matter, we should seek legal or appropriate advice and act accordingly.
- 6.11 Where the interest is a pecuniary one, you must comply with the Act. If you do not comply with the Act, the consequences may be severe.

The Act requires that if a pecuniary interest exists in a matter, you must not be involved in consideration or discussion of the matter in which you have the interest and must not participate in the decision-making process or vote on any question relating to the matter. The Act requires that:

- Councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (*Section 449 of the Local Government Act 1993*)
- Councillors or members of Council committees disclose an interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*Section 451 of the Local Government Act 1993*)
- Designated persons immediately declare, in writing, any pecuniary interest (*Section 459 of the Local Government Act 1993*)

Designated persons are defined at Section 441 of the *Local Government Act 1993*.

- 6.12 Where the interest is a non-pecuniary one you have a broader range of options for managing the interest. The option you choose will depend on an assessment of the circumstances of the matter, the degree of the interest and the significance of the issue being dealt with. You must deal with a conflict of interests in at least one of these ways:
- Take no action because the potential for conflict is minimal. Council officials should consider providing an explanation of why they consider a conflict does not exist.
 - Limit involvement if practical for example, participate in discussion but not in decision-making) or restrict your access to all relevant information. Care needs to be taken when exercising this option. This is not considered

to be a preferred option as partial involvement in the consideration of the matter may create the perception of a conflict of interest.

- Remove the source of the conflict (for example, relinquishing or divesting the personal interest that creates the conflict or reallocating the conflicting duties to another officer).
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue, particularly if you have a significant interest.
- Include an independent in the process to provide assurances of probity (for example, for tendering or recruitment selection panels).

Political Support

6.13 Councillors should note that matters before Council for determination that involve campaign donors or supporters have the potential to place the Councillor in a position of having a pecuniary or non-pecuniary conflict of interests.

As a Councillor your options include:

- Declaring an interest and not participating in discussion or voting on the matter
- Declaring an interest in the matter and participating in the discussion and voting as the conflict is deemed to be insignificant

NOTE: Extreme care should be taken if the nature of the relationship may constitute a pecuniary interest (for example, where it could be perceived that an election donation has been given on the understanding that the Councillor will provide support on a particular matter should he or she be elected). Such an arrangement could also constitute an offence under the Crimes Act.

Lobbying

6.14 You may be lobbied by a wide range of people, including individuals, organisations, companies and developers. As a general rule it is an essential element of the democratic system that any individual should be able to lobby the Council or a Councillor. However, particular considerations apply when you are dealing with statutory powers such as planning.

You must consider evidence and arguments put by a wide range of organisations and individuals in order to perform your duties effectively. However, Councillors should not respond to oral requests for concessions and require written application to be made to the General Manager for evaluation by Council employees and reporting to Council of all the consequences of granting the request.

6.15 The “Protocol for Meetings with the Mayor and Councillors” is attached at **Annexure 1**. The Protocol applies to the Mayor and Councillors if meetings are to be held requiring attendance by staff. The Protocol also requires that meetings not be held with any party where the matter is before a Court or is under assessment by Council as Consent Authority. In matters that relate to development issues, persons will be directed to Council’s pre-lodgement process or Council’s Customer Service Centre where there is always a Duty Officer available.

Caucus Votes

- 6.16 Binding caucus votes on matters is inconsistent with the obligation of each Councillor to consider the merits of the matter before them. Political group meetings must not be used to decide how Councillors should vote on matters like development applications where there are specific statutory considerations for each decision-maker to consider.

Former Council Officials

- 6.17 You must be careful in your dealings with former Council officials and make sure that you do not give them, or appear to give them, favourable treatment or access to privileged information.

Former Council officials must not use, or take advantage of confidential information obtained in the course of their official duties that may lead to gain or profit. At the end of your involvement with Council, you must:

- Return all Council property, documents or items (keys, mobile phones etc)
- Not make public or otherwise use any confidential information gained as a consequence of your involvement with Council.

Employee Political Participation

- 6.18 Council employees must ensure that any participation in political activities does not conflict with your primary duty as an employee to serve the Council of the day in a politically neutral manner. Council employees must also declare any membership of political parties to the General Manager through submission of a confidential letter or memorandum.

Personal Relationships

- 6.19 You should consider the depth of a personal relationship in deciding whether or not it gives rise to a conflict of interests

Sponsorship

- 6.20 Sponsorships should not limit Council's ability to carry out its range of functions fully and impartially or influence a Council decision. You must never ask for or receive any personal benefits from a sponsorship arrangement.
- 6.21 Only the Mayor, General Manager or an employee specifically delegated to do so, may seek or accept sponsorship on behalf of the The City of Ryde.

Other Employment or Business

- 6.22 Employees are required to advise the General Manager in writing if you have, or are intending to obtain, an alternative source of income including a second job with another employer or involvement in a business undertaking established for profit making purposes.

- 6.23 Any second job or business (full time, part time or temporary) must be undertaken in your own time. It must not adversely affect your normal work, lead to a conflict of interest or lead a fair and reasonable person to think that you have a conflict of interest. The use of the organisation's resources or information is not permitted and any secondary employment must not discredit or disadvantage the The City of Ryde.
- 6.24 The The City of Ryde requires all permanent employees to complete a Secondary Employment – Disclosure Form to indicate whether or not you are engaged in secondary employment.
- 6.25 All secondary employment needs to be approved by the General Manager.

Related Documents

Secondary Employment – Disclosure Form HR5-4-1

7. PERSONAL BENEFIT

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

Gifts or Benefits

7.1 You must not:

- seek or accept a bribe or other improper inducement
- by virtue of your position acquire a personal profit or advantage, which has a monetary value, other than one of a token value or permitted under the guidelines in this Code.

7.2 You must not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence you to:

- act in a particular way (including making a particular decision)
- fail to act in a particular circumstance
- otherwise deviate from the proper exercise of your official duties.

7.3 You may accept gifts or benefits of a nominal or token value that do not create a sense of obligation on your part.

Token Gifts and Benefits

7.4 Generally speaking, token gifts and benefits may include:

- gifts of single bottles of reasonably priced alcohol to individual Council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- free or subsidised meals, of a modest nature, and/or beverages provided infrequently (and/or reciprocally) that have been arranged primarily for, or in connection with, the discussion of official business
- free meals, of a modest nature, and/or beverages provided to Council officials who formally represent their Council at work related events such as training, education sessions, workshops
- refreshments, of a modest nature, provided at conferences where you are a speaker
- ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverages
- invitations to appropriate out of hours “cocktail parties” or social functions organised by groups, such as, Council committees and community organisations.

Non-Token Gifts

- 7.5 You must never accept an offer of money, regardless of the amount.
- 7.6 In general, you must not accept gifts and benefits that have more than a nominal or token value. These include but are not limited to:
- tickets to major sporting events,
 - corporate hospitality at a corporate facility at a sporting venue
 - discounted products for personal use
 - the frequent use of facilities such as gyms
 - use of holiday homes
 - free or discounted travel
 - free training excursions or
 - as otherwise defined in the Council's Gift Policy.

Any gift which has a retail value of more than \$100 would be considered non-token.

- 7.7 If you receive a gift of more than token value in circumstances where it cannot reasonably be refused or returned. Should you accept the non-token gift or hospitality you are required to disclose this promptly to your Group Manager, the Mayor or the General Manager. The Group Manager, Mayor or General Manager will ensure that any gifts received are recorded in a Gifts Register along with a notation specifying the reasons for its acceptance.
- 7.8 You must avoid situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, is securing or attempting to influence or secure a favour from you or the Council.
- 7.9 You must also take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour. Immediate family members ordinarily include parents, spouses, children and siblings.
- 7.10 Councillors and designated persons must by law disclose a description of any gift or gifts totalling a value exceeding \$500 made by the same person, company or other entity during a period of 12 months or less. *(required to be included in the disclosure of interests returns – Section 449)*

Improper and Undue Influence

- 7.11 You must not take advantage of your position to improperly influence other Council officials in the performance of their public or professional duties to secure a private benefit for yourself or for somebody else.
- 7.12 You must not take advantage (or seek to take advantage) of your status or position with, or functions performed for, Council in order to obtain unauthorised or unfair benefit for yourself or for any other person or body.

Related Documents

The City of Ryde - Gifts Policy

Gift Register

8. RELATIONSHIP BETWEEN COUNCIL OFFICIALS

Obligations of Councillors

- 8.1 Each Council is a statutory corporation. The Councillors are the governing body of the corporation. Councillors have the responsibility of directing and controlling the affairs of the Council in accordance with the *Local Government Act 1993*.
- 8.2 Councillors must:
- Only provide, by way of Council or committee resolution, or by the Mayor exercising their power under s226 of the *Local Government Act 1993*, proper and appropriate direction to the General Manager in the performance of Council's functions.
 - Refrain from, in any public or private forum, directing or improperly influencing, or attempting to direct or improperly influence, any other employee of the Council or a delegate of the Council in the exercise of the functions of the member or delegate.
 - When seeking information on policy issues and day to day matters, in the exercise of their statutory role as a member of the Council, contact the General Manager, Group Manager, an officer nominated by the Group Manager.
 - Not contact, or issue instructions to, any of Council's contractors or tenderers, including Council's legal advisers.

Role of the Mayor

- 8.3 The role of the Mayor is defined by Section 226 of the *Local Government Act 1993*. This role is the same whether the Mayor is popularly elected or elected by the Councillors.

Obligations of Employees

- 8.4 The General Manager is responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation of, without delay, the decisions of the Council.
- 8.5 Employees have an obligation to:
- give their attention to the business of Council while on duty
 - ensure their work is carried out efficiently, economically and effectively
 - carry out lawful directions given by any person having authority to give such directions
 - give effect to the lawful policies, decisions and practices of the Council, whether or not the employee agrees with or approves of them.

Obligations During Meetings

- 8.6 You must act in accordance with Council's Code of Meeting Practice and the *Local Government (Meetings) Regulation 1999* during Council and committee meetings.
- 8.7 You must respect the chair, Council officials and any members of the public present during Council and committee meetings or other formal proceedings of the Council.

Inappropriate Interactions

- 8.8 The following interactions are inappropriate:
- Councillors approaching unauthorised employees for information on sensitive or controversial matters
 - Employees approaching Councillors directly (rather than via their Group Manager, employee representative or union delegate)
 - Councillors approaching employees outside the Council building or outside hours of work to discuss Council business
 - Employees refusing to give information, which is available to other Councillors, to a particular Councillor because of the employees or Councillor's political views
 - Councillors who have a development application before Council discussing the matter with unauthorised employees in employee-only areas of the Council
 - Employees being asked to answer questions or provide documents to Councillors who are overbearing or threatening
 - Councillors directing or pressuring employees in the performance of their work, or recommendations they should make
 - Employees providing ad hoc advice to Councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community
 - Councillors approaching Council employee organisations; for example unions and associations; in relation to employee matters.
 - Employees meeting with developers alone and outside office hours to discuss development applications or proposals.
 - Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by Council associated with current or proposed legal proceedings unless permitted to do so by Council's General Manager or, in the case of the Mayor, exercising their power under section 226 of the Act.

9. ACCESS TO INFORMATION

Councillor Access to Information

- 9.1 A Council must provide access to the documents listed in section 12 of the *Local Government Act 1993* to all members of the public, and to Councillors. A Council must also provide Councillors with information sufficient to enable them to carry out their civic functions.
- 9.2 Any information given to a particular Councillor in the pursuit of their civic duties must also be available to any other Councillor who requests it.
- 9.3 Councillors who have a personal (as distinct from civic) interest in a document of Council have the same rights of access as any member of the public.
- 9.4 Council employees have an obligation to provide full and timely information to Councillors about matters that they are dealing with.
- 9.5 Councillors have an obligation to properly examine all the information provided to them relating to matters they are dealing with, sufficient to make a decision on the matter in accordance with Council's charter.

Refusal Of Access to Documents

- 9.6 The General Manager and Public Officer must act reasonably in deciding whether a document sought by a Councillor should be made available under section 12 of the *Local Government Act 1993* or because it is relevant to the performance of the Councillor's civic duty. The General Manager or public officer must state the reasons for the decision if access is refused.

Use of Council Information

- 9.7 Council officials must:
- Protect confidential information
 - Only access information needed for Council business
 - Not use confidential information for any non-official purpose
 - Only release confidential information if you have authority to do so
 - Only use confidential information for the purpose it is intended to be used
 - Only release other information in accordance with established Council policies and procedures and in compliance with relevant legislation.
 - Not use Council information for personal purposes.
 - Not disclose any information discussed during a confidential session of a Council meeting.

- 9.8 You must carry out your duties in a manner that allows Councillors, employees, delegates and the public to remain informed about local government activity and practices.
- 9.9 You must not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person.
- 9.10 You must not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you had access in the exercise of your official functions or duties by virtue of your office or position.
- 9.11 You must not use confidential information with the intention to improperly cause harm or detriment to your Council.

Security of Information

- 9.12 You must take care to maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.

Personal Information

- 9.13 When dealing with personal information you must abide by the privacy legislation controlling the collection, holding, use, correction, disclosure or transfer of any personal information obtained through your job. If you deal with personal information in your job you should acquaint yourself and adhere with the privacy principles in the privacy legislation and the Local Government Privacy Code.

Personal information is any information about a person where you know who the person is or you can guess who the person is.

If you have any doubts about the handling of any personal information you should discuss this with your supervisor or the Council's Privacy Contact Officer on 9952 8061.

10. USE OF THE CITY OF RYDE'S RESOURCES

- 10.1. You are expected to be efficient and economical in your use and management of Council's resources, including your own work time.
- 10.2 You are entrusted with Council's resources and you must protect these resources from loss, damage, misuse or theft. All suspected and actual losses must be reported.
- 10.3 Minimal use of Council's resources such as telephone, mobile phones, faxes, photocopiers, and computers for private use are acceptable.
- 10.4 Minimal and appropriate private use of e-mail and the Internet, in accordance with Council's policy, is also acceptable.
- 10.5 You must not use Council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature. You should not display such material in the workplace.
- 10.6 Council's tools and equipment cannot be borrowed or removed from Council premises for private purposes unless provided for under an agreement.
- 10.7 Union delegates and consultative committee members may have reasonable access to Council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:
 - the representation of members with respect to disciplinary matters
 - the representation of employees with respect to grievances and disputes
 - functions associated with the role of the local consultative committee.
- 10.8 The interests of a Councillor in their re-election is considered to be a personal interest and as such the reimbursement of travel expenses incurred on election matters is not appropriate. Council letterhead, Council crests and other information that could give the impression it is official Council material must not be used for these purposes.
- 10.9 Council's resources and equipment must not be used in any circumstances, in relation to a second job or business.

Councillor Access to Council Buildings

- 10.10 As elected members of the Council, Councillors are entitled to have access to the Council chamber, committee room, mayor's office (subject to the mayor's approval), Councillor's rooms, and public areas of Council's buildings. Should Councillors need access to these facilities at other times, authority is required from the General Manager in order that necessary arrangements can be made.
- 10.11 Councillors must not enter employee-only areas of Council buildings without the approval of the General Manager (or delegate) or as provided in the procedures governing the interaction of Councillors and Council employees.

- 10.12 Councillors must ensure that when they are within an employee area they are cognisant of potential conflict or pecuniary interest matters and/or a perception that they may bring influence to bear on Council employee decisions and should conduct themselves accordingly.

Related Documents

E-Mail/Internet System Users Policy

Mobile Phone Policy HR9-3

Policy on the Payment of Expenses and Provision of Facilities for the Mayor and other Councillors.

11. REPORTING BREACHES, INVESTIGATION PROCEDURES & SANCTIONS

Corrupt Conduct, Maladministration and Waste of Public Resources

- 11.1 In your duties with The City of Ryde you are not only required to act honestly but also to report any instances of possible corruption, maladministration or serious and substantial wastage.
- 11.2 Those who are unclear as to what constitutes corrupt conduct, maladministration or wastage should refer to the Protected Disclosures Act Information booklet and/or seek advice from the Disclosures Co-ordinator.
- 11.3 To receive protection from any possible victimisation, suspected corruption, maladministration or serious and substantial waste of public monies should be reported in accordance with the internal reporting system. If you receive any such reports as a supervisor you are required to pass them on to the Disclosures Co-ordinator or General Manager.
- 11.4 Alternatively you can also report suspected corruption to the Independent Commission Against Corruption, and maladministration to the Ombudsman.
- 11.5 A person who makes a voluntary report in accordance with The City of Ryde's Procedures will be protected under the Protected Disclosures Act. The The City of Ryde is committed to ensuring that employees are not victimised as a result of reporting corrupt conduct, maladministration or waste.
- 11.6 You can be disciplined if you make a report that you do not believe to be true.

Reporting Breaches of The Code of Conduct

- 11.7 You also have an obligation to report suspected breaches of the Code of Conduct to the General Manager.

Investigation Procedures – Employee Conduct (Excluding the General Manager)

- 11.8 The General Manager, or delegated officer, will investigate breaches of the Code of Conduct regarding Council employees and others engaged by the Council and will determine the matter.

Investigation Procedures – Councillor and General Manager Conduct

- 11.9 Council will establish a Conduct Committee that will consist of the Mayor, the General Manager and Council's nominated legal adviser or other independent person of appropriate standing. In the instance of a complaint being made against the Mayor or the General Manager, the Deputy Mayor will take the place of the Mayor or General Manager on the committee. If either the Mayor, General Manager or Deputy Mayor consider that they have a conflict of interest in dealing with the complaint the General Manager will appoint an independent legal adviser to take their place on the Conduct Committee.
- 11.10 Councillors must report suspected breaches of the Code of Conduct to the General Manager in the first instance and refrain from making allegations until the matter has been appropriately considered. The General Manager will assess the complaint against Council's agreed criteria (see **Annexure 2**) and where appropriate refer the matter to the Conduct Committee. Where the General Manager has determined not to report the matter to the Conduct Committee, the General Manager will give the complainant the reason/s in writing. If the complainant is dissatisfied with the reason/s given by the General Manager he/she can appeal, as a confidential item, to the full Council.
- 11.11 Where a Councillor believes that the General Manager has failed to comply with the Code, the Councillor should report the matter to the Mayor who will report the matter to the conduct committee.
- 11.12 Council's Conduct Committee is responsible for conducting investigations into allegations of breaches of the Code of Conduct by Councillors and must either:
- Determine not to make enquiries into the allegations and give the reason/s in writing;
 - Make enquiries into the alleged breach to determine the particular factual matters; or
 - Engage an independent person to make enquiries into the allegation to determine the particular factual matters
- 11.13 An investigation conducted by the General Manager or the conduct committee will follow the rules of procedural fairness. The investigator must:
- Inform the person/s against whose interests a decision may be made of any allegations against them and the substance of any adverse comment in respect of them
 - Provide the person/s with a reasonable opportunity to put their case
 - Hear all parties to a matter and consider submissions
 - Make reasonable inquiries or investigations before making a decision
 - Ensure that no person decides a case in which they have a direct interest
 - Act fairly and without bias, and
 - Conduct the investigation without undue delay
 - Ensure confidentiality of the investigation.

Sanctions

- 11.14 Where the Council finds a Councillor has breached the Code, it may decide by resolution to:
- Require the Councillor to apologise to any person adversely affected by the breach
 - Counsel the Councillor
 - Reprimand the Councillor
 - Censure the Councillor
 - Make public disclosures of inappropriate conduct
 - Refer the matter to an appropriate investigative body if the matter is serious (for example, the Department of Local Government, the Independent Commission Against Corruption, the NSW Ombudsman or the NSW Police)
 - Prosecute for any breach of law
- 11.15 Sanctions for employees depend on the severity, scale and importance of the breach and will be dealt with in accordance with any employee agreements, awards, industrial agreements and contracts.

Related Documents

Reporting Corruption Maladministration and Serious and Substantial Wastage

Conditions of Employment HR05

Protected Disclosures Act Information booklet for Councillors and Staff

12. COUNCILLOR MISBEHAVIOUR

- 12.1 For the purposes of Chapter 14, Part 1, Division 3 of the Act, failure by a Councillor to comply with an applicable requirement of this Code of Conduct constitutes misbehaviour. (Section 440F)
- 12.2 Under section 440G a Council may by resolution at a meeting formally censure a Councillor for misbehaviour.
- 12.3 Under section 440H, the process for the suspension of a Councillor from civic office can be initiated by a request made by Council to the Director General of the Department of Local Government.
- 12.4 The first ground on which a Councillor may be suspended from civic office is where the Councillor's behaviour has been disruptive over a period, involving more than one incident of misbehaviour during that period, and the pattern of behaviour during that period is of such a sufficiently serious nature as to warrant the Councillor's suspension.
- 12.5 Council cannot request suspension on this ground unless during the period concerned the Councillor has been:
- formally censured for incidents of misbehaviour on two or more occasions, or
 - expelled from a meeting of the Council or a committee of the Council for an incident of misbehaviour on at least one occasion.
- 12.6 The second ground on which a Councillor may be suspended from civic office is where the Councillor's behaviour has involved one incident of misbehaviour that is of such a sufficiently serious nature as to warrant the Councillor's suspension.
- 12.7 Council cannot request suspension on this ground unless the Councillor has been:
- formally censured for the incident of misbehaviour concerned, or
 - expelled from a meeting of the Council or a committee of the Council for the incident of misbehaviour concerned.
- 12.8 Under section 440H, the process for the suspension of a Councillor can also be initiated by the Department of Local Government, the Independent Commission Against Corruption or the NSW Ombudsman.

13. APPENDIX

Local Government Act 1993

Freedom of Information Act 1989

Health Records Information Privacy Act 2002

Ombudsman Act 1974

Privacy and Personal Information Act 1998

ANNEXURE 1

Refer to Section 6.15

City of Ryde

Protocol for Meetings with the Mayor and Councillors

Background

1. Role of the Mayor

As stated in Section 226 of the Local Government Act the role of the Mayor is:

- to exercise, in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council;
- to exercise such other functions of the Council as the Council determines;
- to preside at meetings of the Council,
- to carry out the civic and ceremonial functions of the Mayoral Office.

2. Code of Conduct

The general provisions of Council's Code of Conduct should be noted, in particular Section 5.7 and 5.8 and Section 8 which deal with Development Decisions and the relationship with Council Officials. Copies of these Sections are **ATTACHED**.

Meetings with Mayor and Councillors – Procedure

- 1) If meetings are proposed to be held by the Mayor and Councillors requiring attendance by staff, the following procedure is to be followed:
 - i) the Mayor's Secretary will contact either the General Manager or Group Manager required to be in attendance;
 - ii) the purpose of the meeting and attendees will need to be advised;
 - iii) suitable notice ie: 3 days, for such meetings is required to be given;
 - iv) in respect of the Privacy and Personal Information Protection Act, any person at the meeting will need to be informed that the details of such meeting will be made available to the Council.
 - v) brief notes from each meeting will be taken and maintained by the Mayor's Secretary.
- 2) Meetings will not be held with any party where the matter is before a Court or is under assessment by Council as the Consent Authority.
- 3) In matters that relate to development issues, persons will be directed to Council's pre-lodgement process or Council's Customer Service Centre where there is always a Duty Officer available.

ANNEXURE 1

City of Ryde

Protocol for Meetings with the Mayor and Councillors

Extracts from Code of Conduct

Development Decisions

- 5.7 It is your duty to ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid impropriety. You must also avoid any occasion for suspicion and any appearance of improper conduct.
- 5.8 In determining development applications, it is essential that you are highly conscious of the potential for even the slightest impropriety to lead to suspicion of misconduct. This means you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide concessions or preferential treatment. A Council official must not offer support to a proponent or an objector but note the content of their representations and refer them to the relevant officer or the General Manager. These representations can then be considered when the applications come before Council.

8. RELATIONSHIP BETWEEN COUNCIL OFFICIALS

Obligations of Councillors

- 8.1 Each Council is a statutory corporation. The Councillors are the governing body of the corporation. Councillors have the responsibility of directing and controlling the affairs of the Council in accordance with the Local Government Act 1993.
- 8.2 Councillors must:
- Only provide, by way of Council or committee resolution, or by the Mayor exercising their power under s226 of the *Local Government Act 1993*, proper and appropriate direction to the General Manager in the performance of Council's functions.
 - Refrain from, in any public or private forum, directing or improperly influencing, or attempting to direct or improperly influence, any other employee of the Council or a delegate of the Council in the exercise of the functions of the member or delegate.

ANNEXURE 1

City of Ryde

Protocol for Meetings with the Mayor and Councillors

- When seeking information on policy issues and day to day matters, in the exercise of their statutory role as a member of the Council, contact the General Manager, Group Manager, an officer nominated by the Group Manager.
- Not contact, or issue instructions to, any of Council's contractors or tenderers, including Council's legal advisers.

Role of the Mayor

8.3 The role of the Mayor is defined by Section 226 of the Local Government Act 1993. This role is the same whether the Mayor is popularly elected or elected by the Councillors.

Obligations of Employees

8.4 The General Manager is responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation of, without delay, the decisions of the Council.

8.5 Employees have an obligation to:

- give their attention to the business of Council while on duty
- ensure their work is carried out efficiently, economically and effectively
- carry out lawful directions given by any person having authority to give such directions
- give effect to the lawful policies, decisions and practices of the Council, whether or not the employee agrees with or approves of them.

Obligations During Meetings

8.6 You must act in accordance with Council's Code of Meeting Practice and the Local Government (Meetings) Regulation 1999 during Council and committee meetings.

8.7 You must respect the chair, Council officials and any members of the public present during Council and committee meetings or other formal proceedings of the Council.

ANNEXURE 1

City of Ryde

Protocol for Meetings with the Mayor and Councillors

Inappropriate Interactions

8.8 The following interactions are inappropriate:

- Councillors approaching unauthorised employees for information on sensitive or controversial matters
- Employees approaching Councillors directly (rather than via their Group Manager, employee representative or union delegate)
- Councillors approaching employees outside the Council building or outside hours of work to discuss Council business
- Employees refusing to give information, which is available to other Councillors, to a particular Councillor because of the employees or Councillor's political views
- Councillors who have a development application before Council discussing the matter with unauthorised employees in employee-only areas of the Council
- Employees being asked to answer questions or provide documents to Councillors who are overbearing or threatening
- Councillors directing or pressuring employees in the performance of their work, or recommendations they should make
- Employees providing ad hoc advice to Councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community
- Councillors approaching Council employee organisations; for example unions and associations; in relation to employee matters.
- Employees meeting with developers alone and outside office hours to discuss development applications or proposals.
- Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by Council associated with current or proposed legal proceedings unless permitted to do so by Council's General Manager or, in the case of the Mayor, exercising their power under section 226 of the Act.

ANNEXURE 2

Refer to Section 11.10

Assessment Criteria for referral to the Conduct Committee

Councillors must report any suspected breaches of the Council's Code of Conduct to the General Manager. The allegation will be assessed by the General Manager against the following criteria in order to determine if the allegation should be referred to the conduct committee for further action.

1. Is there sufficient information to enable an assessment of the allegation to be made?
2. If the allegation were true would it be considered a breach of the Council's Code of Conduct?
3. If the allegation was true and considered a breach of the Council's Code of Conduct, and taking into account known precedents, is it likely to result in some type of sanction?

Where the General Manager assesses that the allegation meets each of the criterions the General Manager must refer the matter to the Council's Conduct Committee.

Where the General Manager has determined not to report the matter to the conduct committee, because it was considered that one or more criterion are not met, the General Manager will give the complainant the reason/s in writing. If the complainant is dissatisfied with the reason/s given by the General Manager, he/she can appeal to the full council, as a confidential item.