



Protected Disclosures – Internal Reporting System Policy

Scope

The Protected Disclosures – Internal Reporting System Policy provides the legislative framework/requirements and supporting procedure, that is required to be followed relating to a Protected Disclosure. This Policy, aims to fully complement the Protected Disclosure Act 1994 and aims to encourage and facilitate disclosures in the public interest, of corrupt conduct, maladministration, serious and substantial waste and failure to exercise functions properly in accordance with the Government Information (Public Access) Act 2009 (GIPA Act).

Purpose

This Policy establishes an internal reporting system for the reporting of disclosures of corrupt conduct, maladministration, serious and substantial waste of public money or failure to exercise functions properly in accordance with the GIPA Act by the City of Ryde, its staff, and Councillors. The system enables such internal disclosures to be made to either Disclosure Officers, Disclosure Co-ordinator, the General Manager, or in some instances the Mayor.

This policy is designed to complement normal communication channels between supervisors and staff. Staff are encouraged to continue to raise appropriate human resource matters, at any time, with their supervisors, but where necessary, staff have the option of making a protected disclosure in accordance with this policy.

The Policy has been structured so that where changes occur to persons holding positions nominated to receive Protected Disclosures as referred to in the Policy, that Annexure A, may from time to time be required to be updated with no other changes made to the Policy.

Guidelines / Procedures

The attached Protected Disclosures – Internal Reporting System Guidelines and Procedure, detail the definitions, what disclosures are protected, reporting of disclosures, the roles and responsibilities of all staff and key positions and the protection available under the Act. The Internal Procedure, as detailed in Annexure A, details the procedure to be followed in submitting a disclosure.

References - Legislation

This Policy is made to comply with the provisions of the Protected Disclosures Act, 1994

Review Process and Endorsement

This Policy should be reviewed annually by Council in conjunction with the Code of Conduct as required in the event of legislative change. Any amendment to this Policy must be by way of Council resolution.

Attachments

Internal Reporting System Policy Guidelines and Procedures, including Internal Reporting Procedures.

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Trim Reference: D10/71980	Review date:	Endorsed: Date and COUNCIL



Protected Disclosures – Internal Reporting System Guidelines and Procedures

Related Policy

These procedures relate to the Protected Disclosures – Internal Reporting System Council Policy

1.0 Definitions

The key concepts in the internal reporting system are *'corrupt conduct'*, *'maladministration'* and *'serious and substantial waste of public money and the failure to exercise functions properly in accordance with the GIPA Act'*. Definitions of these concepts are outlined below.

Corrupt Conduct

Corrupt conduct, as defined in the *Independent Commission Against Corruption Act 1988*, is deliberate or intentional wrongdoing, not negligence or a mistake. It has to involve or affect a NSW public official or public sector organisation.

While it can take many forms, corrupt conduct occurs when:

- a public official improperly uses, or tries to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others
- a public official acts dishonestly or unfairly, or breaches public trust
- a member of the public influences, or tries to influence, a public official to use his or her position in a way that is dishonest, biased or breaches public trust.

If the ICAC is to consider investigating the matter, the conduct must also meet the conditions set out in section 9 of the ICAC Act. These conditions are that the conduct could constitute or involve:

- a criminal offence, or
- a disciplinary offence, or
- constitute reasonable grounds for dismissing or otherwise terminating the services of a public official, or
- in the case of a member of the NSW Parliament or local government councillor, a substantial breach of an applicable code of conduct.

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1.2 Maladministration

‘*Maladministration*’ is defined in the *Protected Disclosures Act* as conduct that involves action or inaction of a **serious nature** that is:

contrary to law, for example:

- decisions or actions contrary to law
- decisions or actions *ultra vires* (i.e. the decision-maker had no power to make the decision or to do the act)
- decisions or actions contrary to lawful and reasonable orders from persons or body's with authority to make or give such orders
- breach of natural justice/procedural fairness
- improper exercise of a delegated power (e.g. decisions or actions not authorised by delegation or acting under the direction of another)
- unauthorised disclosure of confidential information
- decisions or actions induced or affected by fraud

unreasonable, for example:

- decisions or actions inconsistent with adopted guidelines or policy, inconsistent with other decisions or actions which involve similar facts or circumstances not justified by any evidence, or so unreasonable that no reasonable person could so decide or act (i.e. irrational)
- arbitrary, partial, unfair or inequitable decisions or actions
- policy applied inflexibly without regard to the merits of individual cases
- relevant considerations not adequately taken into account or irrelevant considerations taken into account
- serious delay in making decisions or taking action
- failure to give notice of rights
- wrong, inaccurate or misleading advice leading to detriment
- failure to apply the law
- failure to rectify identified mistakes, errors, oversights or improprieties
- decisions or actions based on incorrect or misinterpreted information
- failure to properly investigate

• **unjust**, for example:

- decisions or actions not justified by any evidence, so unreasonable that no reasonable person could so decide or act

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- partial, unfair, inequitable or unconscionable decisions or actions
- **oppressive**, for example:
 - unconscionable decisions or actions
 - means used not reasonably proportional to ends to be achieved
 - abuse of power, intimidation or harassment
- **improperly discriminatory**, for example:
 - inconsistent application of laws, policies or practices when there is no reasonable, justifiable or appropriate reason to do so.
 - distinctions applied not authorised by law, or failure to make a distinction which is authorised or required by law
- **based wholly or partly on improper motives**, for example:
 - decisions or actions for a purpose other than that for which the power was conferred (i.e. in order to achieve a particular outcome)
 - conflicts of interest
 - bad faith or dishonesty
 - seeking or accepting gifts or benefits in connection with performance of official duties
 - misuse of public property, official services or facilities.

1.3 Serious and substantial waste

The term ‘*serious and substantial waste*’ is not defined in the *Protected Disclosures Act*. The Auditor-General provides the following working definition:

Serious and substantial waste refers to the uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in a loss/wastage of public funds/resources.

In addressing any complaint of serious and substantial waste regard will be had, to the nature and materiality of the waste.

The following delineation of the definition of serious and substantial waste may be of assistance to public officials and/or public authorities

Types:

Absolute *Serious and substantial waste might be regarded in absolute terms where the waste is regarded as significant, for example \$500,000*

Systemic *The waste indicates a pattern which results from a system weakness within public authorities*

Material *The serious and substantial waste is/was material in terms of the public authority’s expenditure or a particular item of expenditure or is/was material to such an extent*

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so as to effect a public authority's capacity to perform its primary functions

Material By Nature Not Amount

The serious and substantial waste may not be material in financial terms but may be significant by nature. That is, it may be improper or inappropriate.

Waste can take many forms, for example:

- misappropriation or misuse of public property;
- the purchase of unnecessary or inadequate goods and services;
- too many personnel being employed in a particular area, incurring costs which might otherwise have been avoided;
- personnel being remunerated for skills that they do not have, but are required to have under the terms or conditions of their employment;
- programs not achieving their objectives and therefore the costs being clearly ineffective and inefficient.

Waste can result from such things as:

- the absence of appropriate safeguards to prevent the theft or misuse of public property;
- purchasing procedures and practices which fail to ensure that goods and services are necessary and adequate for their intended purpose; and
- purchasing practices where the lowest price is not obtained for comparable goods or services.

1.4 Failure to exercise functions properly under the GIPA Act

The term 'failure to exercise functions properly' is not defined in the Act. Disclosures can be made under the Act alleging that a public authority or a public official'... has engaged, is engaging or proposes to engage in conduct of a kind that constitutes a failure to exercise functions properly in accordance with any provision of the...' GIPA Act (s.12D). While not free from doubt, it would appear that if a person wishes to rely on the protections in the Protected Disclosures Act, disclosures about such conduct may only be made to the Information Commissioner"

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2.0 What disclosures are protected under the Act

2.1 What disclosures are protected?

Disclosures are protected under the Act if they:

- are made:
 - in accordance with this Internal Reporting System; or
 - to one of the investigating authorities nominated in the Act; **and**
- show or tend to show corrupt conduct, maladministration, or serious and substantial waste of public money by the City of Ryde or any of its staff; **and**
- are made voluntarily.

2.2 What disclosures are not protected

A disclosure is not protected under the Act if it is made by a public official in the exercise of a duty imposed by or under an Act.

Protection is also not available for disclosures which:

- are **made** frivolously or vexatiously;
- primarily question the merits of government policy; or
- are made solely or substantially with the motive of avoiding dismissal or other disciplinary action.

It is an offence to wilfully make a false or misleading statement when making a disclosure.

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3.0 Reporting under the internal reporting system

The persons or positions to whom internal disclosures can be made in accordance with this policy are detailed in Annexure A and cover the positions of;

- **Disclosure Officers**
- Disclosure Co-ordinator
- General Manager
- Mayor

Where persons contemplating making a disclosure are concerned about publicly approaching any of the above, they can ring the relevant person and request a meeting in a discreet location away from the workplace.

The following guidance is provided to staff and Councillors;

- A council officer who wishes to make a protected disclosure which involves a councillor may do so to the General Manager, Mayor, or an investigating authority (i.e. the ICAC, NSW Ombudsman).
- A councillor who wishes to make a protected disclosure which involves another councillor may do so to the Mayor, the General Manager, or an investigating authority (i.e. the ICAC, NSW Ombudsman).
- If the Mayor wishes to make a protected disclosure he or she may do so to the General Manager or an investigating authority (i.e. the ICAC or NSW Ombudsman).
- The Department of Local Government is not an investigating authority under the Act, other than in relation to allegations of serious and substantial waste of public money in relation to Councils. The ICAC, the NSW Ombudsman or a council may also refer a protected disclosure to the Department for investigation, and in such a circumstance any protection conferred under the Act is maintained.

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4.0 Roles and responsibilities

This Internal Reporting Policy places responsibilities upon people at all levels within the Council. A summary of the Disclosure Procedure is set out in **Annexure A**.

4.1 Employees

Employees are encouraged to report known or suspected incidences of corrupt conduct, maladministration or serious and substantial waste in accordance with this Policy.

All employees of the City of Ryde have an important role to play in supporting those who have made legitimate disclosures. They must abstain from any activity that is or could be perceived to be victimization or harassment of persons who make disclosures. Further, they should protect/maintain the confidentiality of persons they know or suspect to have made disclosures.

Employees should note that while they can clarify matters with their Supervisor, Manager or Group Manager, to ensure their disclosure is protected they are required to follow the Internal Reporting procedure as detailed in **Annexure A**. Other human resource matters or issues that staff have, should follow the normal process of directing them to their Supervisor, Manager or Group Manager.

4.2 Disclosure Officers

The Disclosure Officers have a key role in the internal reporting system and act as a contact point across the organization for disclosures and :

- provide an initial point of contact and an internal reporting channel for disclosures
- provide advice to the discloser;
- forward the disclosure to the Protected Disclosure Coordinator and consult with the Co-ordinator as required.
- be responsible for carrying out or co-ordinating any action relating to a disclosure, as directed by the Protected Disclosure Coordinator or the General Manager in carrying out their functions;
- report back to the Protected Disclosure or the General Manager on the findings of any actions as approved ;
- take all necessary and reasonable steps as appropriate, to ensure that the fact of disclosures, the identity of persons who make disclosures, and persons the subject of the disclosures, are kept confidential (other than, for example, in the circumstances provided for in s 22 of the Act).;
- support persons who make disclosures and actively protect them from victimisation, harassment or any other form of reprisal; and
- report actual or suspected corrupt conduct to the Disclosure Co-ordinator or the General

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Manager in a timely manner to enable the General Manager to comply with the *ICAC Act*.

4.3 Disclosure Co-ordinator

The Disclosure Co-ordinator has a pivotal position in the internal reporting system and acts as a clearing house for disclosures. The Disclosure Co-ordinator will:

- provide an alternative internal reporting channel to nominated Disclosure Officers and to the General Manager;
- impartially assess each disclosure to determine:
 - whether the disclosure appears to be a protected disclosure within the meaning of the Act; and
 - the appropriate action to be taken in relation to the disclosure, for example:
 - no action/decline;
 - the appropriate person to take responsibility for dealing with the disclosure;
 - preliminary or informal investigation;
 - formal investigation;
 - prosecution or disciplinary action;
 - referral to an investigating authority for investigation or other appropriate action; or
 - referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct).
- consult with the General Manager;
- be responsible for carrying out or co-ordinating any internal investigation arising out of a disclosure, subject to the direction of the General Manager in carrying out his/her functions;
- report to the General Manager on the findings of any investigation and recommended remedial action;
- take all necessary and reasonable steps to ensure that the identity of persons who make disclosures, and persons the subject of the disclosures, are kept confidential;
- support persons who make disclosures and actively protect them from victimisation, harassment or any other form of reprisal; and
- report actual or suspected corrupt conduct to the General Manager in a timely manner to enable that officer to comply with the *ICAC Act*.

4.4 General Manager

Disclosures may be made direct to the General Manager, rather than by way of the Internal Reporting System established under this Policy. The General Manager will:

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- impartially assess each disclosure to determine:
 - whether the disclosure appears to be a protected disclosure within the meaning of the Act;
 - the appropriate action to be taken in relation to the disclosure, for example:
 - no action/decline;
 - the appropriate person to take responsibility for dealing with the disclosure;
 - preliminary or informal investigation;
 - formal investigation;
 - prosecution or disciplinary action;
 - referral to an investigating authority for investigation or other appropriate action; or
 - referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct);
- to direct the Disclosure Coordinator, or other relevant staff, as to how a disclosure is to be dealt with.
- receive reports from the Disclosure Co-ordinator on the findings of any investigation and any recommendations for remedial action, and determine what action should be taken;
- take all necessary and reasonable steps as appropriate, to ensure that the fact of disclosures, the identity of persons who make disclosures, and the persons the subject of disclosures, are kept confidential (other than, for example, in the circumstances provided for in S22 of the Act).
- have primary responsibility for protecting staff who make disclosures, or provide information to any internal or external investigation of a disclosure, from victimisation, harassment or any other form of reprisal;
- be responsible for implementing organisational reform identified as necessary following investigation of a disclosure; and
- report criminal offences to the Police and actual or suspected corrupt conduct to ICAC (under s.11 of the *ICAC Act*).

4.5 The Mayor

The Mayor may receive internal disclosures from any member of staff of the council or any councillor concerning the General Manager or a councillor. The Mayor will:

- impartially assess each disclosure made to him/her about the General Manager or a councillor to determine:
 - whether the disclosure appears to be a protected disclosure within the meaning of the Act;

Note: In making this assessment the Mayor may seek guidance from: the Disclosure Co-ordinator or General Manager (if appropriate); an investigating authority (i.e. the ICAC, or NSW Ombudsman); or the Department of Local Government.

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- the appropriate course of action to be taken in relation to the disclosure (in consultation with the General Manager, if appropriate), for example:
 - no action/decline;
 - the appropriate person to take responsibility for dealing with the disclosure;
 - preliminary or informal investigation;
 - formal investigation;
 - prosecution or disciplinary action;
 - referral to an investigating authority for investigation or other appropriate action; or
 - referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct);
- refer disclosures to the General Manager for appropriate action if they concern the council's administration, within the day to day responsibilities of the General Manager;
- take all necessary and reasonable steps, as appropriate, to ensure that the fact of disclosures, the identity of persons who make disclosures and persons the subject of disclosures, are kept confidential (other than for example, in the circumstances provided for in S22 of the Act).

5.0 Alternative avenues for disclosures

Alternative avenues available to staff for making a protected disclosure under the Act (other than by means of the internal reporting system established under this Policy for the purpose of the Act), are to;

- one of the investigating authorities under the Act (i.e. the ICAC, the NSW Ombudsman or the Department of Local Government in relation to serious and substantial waste)
- A member of Parliament or journalist (in certain limited circumstances).

Disclosures made to a journalist or a Member of Parliament will **only** be protected **if certain conditions are met**:

- the person making the disclosure to a journalist or Member of Parliament must have already made substantially the same disclosure through the internal reporting system or to the General Manager or an investigating authority in accordance with the Act;
- the public official must have reasonable grounds for believing that the disclosure is substantially true and the disclosure must be substantially true and
- the investigating authority, public authority or officer to whom the matter was originally referred has:
 - decided not to investigate the matter; or

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- decided to investigate the matter but not completed the investigation within six months of the original disclosure; or
- investigated the matter but not recommended any action in respect of the matter; or
- failed to notify the person making the disclosure, within six months of the disclosure, of whether the matter is to be investigated.

6.0 Protection available under the Act

6.1 Protection against reprisals

The Act provides protection by imposing penalties on a person who takes '*detrimental action*' against another person substantially in reprisal for a protected disclosure. Penalties can be imposed by means of fines and imprisonment. '*Detrimental action*' means action causing, comprising or involving any of the following:

- injury, damage or loss;
- intimidation or harassment;
- discrimination, disadvantage or adverse treatment in relation to employment;
- dismissal from, or prejudice in, employment; or
- disciplinary proceeding.

In any such proceedings the whistleblower only needs to show that he or she made a protected disclosure and suffered detrimental action. It then lies on the defendant to prove that the detrimental action shown to have been taken against the whistleblower was not substantially in reprisal for the person making the protected disclosure.

Any member of staff who believes that '*detrimental action*' is being taken against them substantially in reprisal for the making of an internal disclosure in accordance with this Policy should immediately bring the allegations to the attention of the General Manager or Mayor.

If a member of staff who made an **internal disclosure** feels that such reprisals are not being effectively dealt with, they should contact the ICAC or the NSW Ombudsman.

If an external disclosure was made to an investigating authority, that body will either deal with the allegation or provide advice and guidance to the person concerned.

6.2 Protection against actions

The Act provides that a person is not subject to any liability for making a protected disclosure and no action, claim or demand may be taken or made of or against the person for making the disclosure. This provision has effect despite any duty of secrecy or confidentiality or any other

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restriction on disclosure by a public official.

A person who has made a protected disclosure has a defence of absolute privilege in proceedings for defamation.

A person who has made a protected disclosure is taken not to have committed any offence against an Act which imposes a duty to maintain confidentiality with respect to any information disclosed.

6.3 Confidentiality

The Act requires investigating authorities, public authorities and public officials to whom protected disclosures are made or referred, not to disclose information that might identify or tend to identify the person who made the disclosures. The exceptions to the confidential requirement are where:

- the person consents in writing to the disclosure of that information; or
- it is essential, having regard to the principles of natural justice that the identifying information be disclosed to a person whom the information provided by the disclosure may concern; or
- the investigating authority, public authority, officer or public official is of the opinion that disclosure of the identifying information is necessary to investigate the matter effectively; or disclosure is otherwise in the public interest.

Decisions about natural justice, effective investigation and public interest will be made by the General Manager and/or the Disclosure Co-ordinator. In all cases the person who made the disclosure will be consulted before such a decision is made.

Note: If guidance is needed in relation to the requirements of natural justice, effective investigation and public interest, this may be sought from an investigating authority.

6.4 Government Information (Public Access) Act (GIPA) 2009 exemption

Under the GIPA legislation, a document is exempt from release if it contains matter the disclosure of which would disclose matters relating to a protected disclosure within the meaning of the Act. In s 22 of the Act, which provides guidelines on confidentiality, are referred to in the list of overriding secrecy laws in Schedule 1 of the GIPA Act, Section 14 (1) of the GIPA Act also makes reference to the overriding public interest against disclosure of any information described in Schedule 1.

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7.0 Rights of persons the subject of disclosures

The legitimate rights of persons the subject of disclosures will also be protected. In this regard:

- the confidentiality of the identity of persons the subject of disclosures will be protected/maintained (where this is possible and reasonable and subject to s 22 of the Act)
- disclosures will be assessed and acted on impartially, fairly and reasonably;
- responsible officers who receive disclosures in accordance with this Policy are obliged to:
 - protect/maintain the confidentiality of the identity of persons the subject of the disclosures;
 - assess disclosures impartially: and
 - act fairly to persons the subject of disclosures;
- disclosures will be investigated as discreetly as possible, with a strong emphasis on maintaining appropriate confidentiality both as to the identity of whistleblowers and the persons the subject of disclosures.
- where investigations or other enquires do not substantiate disclosures, subject to s 22 of the Act, the fact the investigation/enquiry has been carried out, the results of the investigation/enquiry, and the identity of persons the subject of the disclosures will be kept confidential, unless the persons the subject of the disclosures request otherwise;

the persons the subject of disclosures (whether protected disclosures under the Act or otherwise) which are investigated by or on behalf of Council have the right to:

- be informed as to the substance of the allegations;
 - be informed as to the substance of any adverse comment that may be included in a report/memorandum/letter or the like arising out of any such investigation; and
 - be given a reasonable opportunity to put their case (either orally or in writing) to the persons carrying out the investigation for or on behalf of the authority,
- before any final decision/determination/report/memorandum/letter or the like is made;
- where the allegations in a disclosure have been investigated by or on behalf of Council , and the person the subject of the allegations is aware of the substance of the allegations, the substance of any adverse comment, or the fact of the investigation, he or she should be formally advised as to the outcome of the investigation, regardless of the outcome; and

where the allegations contained in a disclosure are clearly wrong or unsubstantiated, the person the subject of the disclosure is entitled to the support of Council and its senior management (the nature of the support that would be reasonable and appropriate would depend on the circumstances of the case, but could include a public statement of support or a letter setting out the authority's views that the allegations were either clearly wrong or unsubstantiated).

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8.0 Notification of action taken or proposed

A person who makes a protected disclosure must be notified, within six months of the disclosure being made, of the action taken or proposed to be taken in respect of the disclosure.

If a disclosure is made in accordance with this Policy, the Disclosure Co-ordinator is responsible for the six month notification to the person who made the disclosure, unless this responsibility has been retained by or allocated to another officer by the General Manager.

If a disclosure is made to the Mayor under this Policy, the Mayor is responsible for such notification to the person who made the disclosure, unless he or she directs the General Manager, Disclosure Coordinator or another nominated officer to assume this responsibility.

The notification provided to the person who made the disclosure should contain sufficient information to demonstrate that adequate and appropriate action was taken, or is proposed to be taken, in respect of the disclosure. **This should include a statement of the reasons for the decision made on or action taken in response to the disclosure.**

The notification should include sufficient information to enable the person who made the disclosure to make an assessment as to whether the circumstances listed in section 19(3)(a)–(c) of the Act (relating to disclosures to members of Parliament and journalists) apply, i.e. whether:

- a decision was made not to investigate the matter; or
- a decision was made to investigate the matter, but the investigation was not completed within six months of the original decision being made; or
- a decision was made to investigate the matter, but the investigation has not been completed within six months of the original decision being made; or
- the matter was investigated but no recommendation was made for the taking of any action in respect of the matter.

Without such information it would be difficult for the person to be able to properly assess whether it is appropriate or warranted to make a disclosure to an MP or journalist.

9.0 Further Information

You may confidentially discuss any aspect of the Act or a possible disclosure with Council's Disclosure Co-ordinator, as detailed in Annexure A.
Further information if necessary can be obtained from:

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The Independent Commission Against Corruption (ICAC)

(ph) 8281 5999

The Office of the NSW Ombudsman

(ph) 9286 1000

The Department of Local Government

(ph) 9793 0793

10.0 Annexures

A. Internal Reporting Procedure

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CITY OF RYDE

INTERNAL REPORTING PROCEDURE

The City of Ryde will take all reasonable steps to provide protection to staff who make disclosures. Please follow this procedure to make your disclosure to a nominated position to meet technical requirements of the Protected Disclosures Act.

Breaches of confidentiality can result in disciplinary action and dismissal.

1. A protected disclosure may be made to the nominated officer/person detailed in this Policy and in the Internal Reporting matrix (ie Disclosures Co-ordinator, General Manager, Mayor)
2. City of Ryde's nominated positions to receive protected disclosures from staff are;

Disclosure Officers –

Argyle Centre

Derek McCarthy – 9952 8384 or mobile 0418 465 603
Simone Schwarz – 9952 8061 or mobile 0434 568 624

Operations Centre

George Dedes – 9952 8129 or mobile 0434 563804
Darren Ward – 9952 8163 or mobile 0409 099215

RALC

Paul Hartmann – 8878 5101 or mobile 0407 407 984

Libraries

John Maunder – 9952 8378 or 8917 1960

Civic Centre

Fred Hallab (Regulatory – Ground Floor) – 9952 8256 or mobile 0401411236
Shane Sullivan (Corp Services - Lvl 1) – 9952 8034
Amanda Janvrin (Environment & Planning – Lvl 4) – 9952 8194
Wayne Moy (E&P – Lvl 3) 9952 8184 or mobile 0408 167 925
Chris Young (E&P – Lvl 3) 9952 8237 or mobile 0417 068 607

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Disclosures Co-ordinator – Mr Roy Newsome Group, Manager – Corporate Services, Level 2, Civic Centre) 9952 8011 or mobile 0417 498 919

The General Manager – Mr John Neish, 9952 8052

The Mayor in respect of disclosures relating to the General Manager

3. Persons wishing to make a protected disclosure also have the option to lodge with the ICAC, NSW Ombudsman or Department of Local Government.
4. A person wishing to make a protected disclosure, shall make contact with any person identified in this Policy and advise that a protected disclosure is to be made. The preferred contact points are either Disclosure Officers or the Disclosures Coordinator.
5. The Disclosure Officers will provide information to the Disclosures Coordinator who will then organise a meeting with the person making the disclosure (Discloser) as soon as possible and document the disclosure in a report.
6. The Disclosure Co-ordinator will as soon as practicable advise the General Manager of the report. If the report is about the General Manager the Disclosure Co-ordinator shall advise the Mayor.
7. The General Manager (or Mayor as appropriate) shall examine the report and determine whether or not the disclosure is to be investigated or whether the matter should be referred to another authority.
8. The Discloser shall be advised in writing by the Disclosures Co-ordinator (or General Manager if applicable) whether or not the matter is to be investigated and what action is proposed. If the matter is to be investigated the likely time for completion of the investigation is to be given. If the matter is not to be investigated the reasons why shall be given. If the matter raised does not fall within the ambit of the Protected Disclosures Act the letter shall advise what other action is proposed to be taken on the matter.
9. On completion of the investigation, the Discloser shall be advised in writing by the Disclosure Co-ordinator of the findings of the investigation and what action is proposed to be taken.
10. The General Manager (or Mayor as appropriate) shall be responsible for ensuring that the appropriate action arising from the findings of the investigation is taken.

Protected Disclosures – Internal Reporting System Guidelines and Procedures		
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Code of Conduct Council Policy

Scope

This Code of Conduct is made for the purposes of section 440 of the *Local Government Act 1993* ("the Act"). Section 440 of the Act requires every council to adopt a code of conduct that incorporates the provisions of the Model Code.

For the purposes of section 440 of the Act, the Code of Conduct comprises all Parts of this document, related procedures and guidelines. In essence, Council's Code of Conduct is the Model Code of Conduct issued by the Department of Local Government with some additional features.

The Code is made in four Parts: Context, Standards of Conduct and Procedures. The fourth part is the City of Ryde Charter of Respect.

- Part 1: Context, establishes the purpose and principles that are used to interpret the standards in the Code. This Part does not constitute separate enforceable standards of conduct.
- Part 2: Standards of Conduct, set out the conduct obligations required of council officials. These are the enforceable standards of conduct.
- Part 3: Procedures, contains the complaint handling procedures, complaint assessment criteria and the operating guidelines for the conduct review committee/reviewer. This Part should be used to guide the management of complaints about breaches of the Code.
- Part 4: Charter of Respect, exists to strengthen the working relationship between Councillors and Council's Senior Management Team. These are the enforceable standards of conduct.

Purpose

The Code of Conduct sets the minimum requirements of conduct for council officials in carrying out their functions. The Code is prescribed by regulation.

The Code of Conduct assists council officials to:

- understand the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in the integrity of local government.

Guidelines / Procedures

Councillors have two distinct roles under the *Local Government Act 1993*: as a member of the governing body of the council; and as an elected person. Councillors, as members of the governing body, should work as part of a team to make decisions and policies that guide the activities of the council. The role as an elected person requires councillors to represent the interests of the community and provide leadership. The Code sets the standard of conduct that is expected when council officials exercise these roles.

Code of Conduct		
Owner: Governance Unit	Accountability: Governance Framework	Policy Number: CSG#
Trim Reference: D10/63795	Review date: Annual	Endorsed: Date - COUNCIL



Code of Conduct Council Policy

Councillors, administrators, members of staff of council, independent conduct reviewers, members of council committees including the conduct review committee and delegates of the council must comply with the applicable provisions of council's code of conduct in carrying out their functions as council officials. It is the personal responsibility of council officials to comply with the standards in the code and regularly review their personal circumstances with this in mind. Council contractors and volunteers will also be required to observe the relevant provisions of council's code of conduct.

Failure by a councillor to comply with Part 2, the standards of conduct, and/or Part 4, the Charter of Respect, of council's code of conduct constitutes misbehaviour. The *Local Government Act 1993* provides for suspension of councillors from civic office for up to six months for proven misbehaviour. For further information on misbehaviour refer to *Reporting Breaches* in the Guidelines and *Complaint Handling Procedures and Sanctions*.

Failure by a member of staff to comply with council's code of conduct may give rise to disciplinary action.

References - Legislation

This Code of Conduct is made for the purposes of section 440 of the *Local Government Act 1993* ("the Act"). Section 440 of the Act requires every council to adopt a code of conduct that incorporates the provisions of the Model Code.

Review Process and Endorsement

Council must, within 12 months after each ordinary election, review its adopted code and make such adjustments as it considers appropriate.

Attachments

Title

- Part 1 - Definitions – Code of Conduct
Guideline – Key Principles
Guideline – Guide to Ethical Decision Making
- Part 2 - Standards of Conduct - Procedure
General Conduct Obligations
Conflicts of Interest
Personal Benefit
Relationship between Council Officials
Access to Information and Council Resources
Reporting Breaches
- Part 3 - Complaint Handling - Procedure
Complaint Handling Procedures and Sanctions
Complaint Assessment Criteria
Conduct Review Committee/Reviewer Operating Guidelines
- Part 4 - Charter of Respect

Code of Conduct		
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Definitions – Code of Conduct

In the Code of Conduct the following definitions apply:

the Act	the Local Government Act 1993
act of disorder	see the definition in clause 256 of the <i>Local Government (General) Regulation 2005</i>
conduct review committee	a committee of three or more persons independent of council who are selected from those appointed by council to review allegations of breaches of the code of conduct by councillors or the general manager in accordance with the procedures set out in the Complaint Handling procedures.
conduct reviewer	a person independent of council who is solely selected from those appointed by council to review allegations of breaches of the code of conduct by councillors or the general manager in accordance with the procedures set out in the Complaint Handling procedures.
conflict of interests	a conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
council official	includes councillors, members of staff of council, administrators appointed under section 256 of the Act, members of council committees, conduct reviewers and delegates of council
delegate of council	a person or body, and the individual members of that body, to whom a function of council is delegated
designated person	see the definition in section 441 of the Act
misbehaviour	see the definition in section 440F of the Act
personal information	information or an opinion about a person whose identity is apparent, or can be determined from the information or opinion
person independent of council	a person who is not an employee of the council, has no current or ongoing contractual relationship with council in the nature of a contract for services, retainer or contract for the provision of goods of any kind, or is not an employee of any entity with such a contractual relationship.

The term “you” used in the Code of Conduct refers to council officials.

Definitions – Code of Conduct		
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Key Principles – Code of Conduct - Guideline

Related Policy

This Guideline relates to the Code of Conduct.

The Code of Conduct is based on a number of key principles. It sets out standards of conduct that meets these principles and statutory provisions applicable to local government activities. The principles underpin and guide these standards and may be used as an aid in interpreting the substantive provisions of the Code, but do not themselves constitute separate enforceable standards of conduct.

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 the key 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 your own ethical behaviour.*

SELFLESSNESS

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

IMPARTIALITY

You should make decisions on merit and in accordance with your 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 should consider issues on their merits, taking into account the views of others. *This means recording reasons for decisions; submitting to scrutiny; keeping proper records; establishing audit trails.*

OPENNESS

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 recording, giving and revealing reasons for decisions; revealing other avenues available to the client or business; when authorised, offering all information; communicating clearly.*

Key Principles – Code of Conduct - Guideline		
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Key Principles – Code of Conduct - Guideline

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 the code of conduct; fully disclosing actual or potential conflict of interests and exercising any conferred power strictly for the purpose for which the power was conferred.*

RESPECT

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

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Key Principles – Code of Conduct - Guideline		
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Ethical Decision Making – Code of Conduct - Guideline

Related Policy

This Guideline relates to the Code of Conduct.

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 employee or councillor, work colleagues, the council, persons with whom you are associated 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?

Conflict of interests

If you are unsure as to whether or not you have a conflict of interests in relation to a matter, you should consider these six points:

- Do you have a personal interest in a matter you are officially involved with?
- Is it likely you could be influenced by a personal interest in carrying out your public duty?
- Would a reasonable person believe you could be so influenced?
- What would be the public perception of whether or not you have a conflict of interests?
- Do your personal interests conflict with your official role?
- What steps do you need to take and that a reasonable person would expect you to take to appropriately manage any conflict of interests?

Political donations and conflict of interests

Councillors should take all reasonable steps to identify circumstances where political contributions may give rise to a reasonable perception of influence in relation to their vote or support.

Seeking advice

Remember – you have the right to question any instruction or direction given to you that 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 may include your supervisor or trusted senior officer, your union representatives, the Division of Local Government, the Ombudsman's Office and the Independent Commission Against Corruption.

Ethical Decision Making – Code of Conduct Guideline		
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Standards of Conduct – Code of Conduct - Procedure

Related Policy

These Standards of Conduct relate to the Code of Conduct. These are the enforceable standards of conduct.

Failure by a councillor to comply with these standards of conduct, of council's code of conduct constitutes misbehaviour and may constitute a substantial breach for the purposes of section 9 of the ICAC Act 1988. The Local Government Act 1993 provides for suspension of councillors from civic office for up to six months for proven misbehaviour. For further information on misbehaviour refer to Reporting Breaches and Complaint Handling Procedures and Sanctions in these Standards and the related procedures..

Failure by a member of staff to comply with council's code of conduct may give rise to disciplinary action.

Standards of Conduct

1. General Conduct Obligations

General conduct

1.1. You must not conduct yourself in carrying out your functions in a manner that is likely to bring the council or holders of civic office into disrepute. Specifically, you must not act in a way that:

- a) contravenes the Act, associated regulations, council's relevant administrative requirements and policies
- b) is detrimental to the pursuit of the charter of a council
- c) is improper or unethical
- d) is an abuse of power or otherwise amounts to misconduct
- e) causes, comprises or involves intimidation, harassment or verbal abuse
- f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
- g) causes, comprises or involves prejudice in the provision of a service to the community. (*Schedule 6A*)

1.2. 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*)

1.3. You must treat others with respect at all times.

1.4. Where you are a councillor and have been found in breach of the code of conduct, you must comply with any council resolution requiring you to take action as a result of that breach.

Fairness and equity

1.5. You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.

Standards of Conduct – Code of Conduct - Procedure		
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Standards of Conduct – Code of Conduct - Procedure

- 1.6. 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

- 1.7. 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, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

Development decisions

- 1.8. You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.
- 1.9. In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

Lobbying

1.10. If you are being lobbied about the making of a decision you should:

- (a) observe the provisions of the relevant Council policies;**
- (b) be alert to the motives and interests of those who seek to lobby;**
- (c) be aware of which person, organisation or company a lobbyist is representing;**
- (d) avoid saying or doing anything which could be viewed as granting a lobbyist preferential treatment;**
- (e) be alert that Lobbyists may attempt to encourage decision makers to consider matters which are irrelevant to the merits of the decision under consideration;**
- (f) keep records of all meetings with Lobbyists, and if possible have another person attend the meetings or take notes;**
- (g) only hold meetings with Lobbyists in appropriate locations, such as the Council offices.**

2. Conflicts of Interest

- 2.1. A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- 2.2. You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.
- 2.3. Any conflict of interests must be managed to uphold the probity of council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.
- 2.4. Private interests can be of two types: pecuniary or non-pecuniary.

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Standards of Conduct – Code of Conduct - Procedure

What is a pecuniary interest?

- 2.5. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (section 442)
- 2.6. A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (section 443)
- 2.7. Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
- a) 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)
 - b) councillors and members of council committees disclose an interest and the nature of that 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)
 - c) designated persons immediately declare, in writing, any pecuniary interest. (section 459)
- 2.8. Designated persons are defined at section 441 of the Act, and include, but are not limited to, the general manager and other senior staff of the council.
- 2.9. Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

What is a non-pecuniary conflict of interests?

- 2.10. Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.
- 2.11. The matter of a report to council from the conduct review committee/reviewer relates to the public duty of a councillor or the general manager. Therefore, there is no requirement for councillors or the general manager to disclose a conflict of interests in such a matter.
- 2.12. The political views of a councillor do not constitute a private interest.

Managing non-pecuniary conflict of interests

- 2.13. Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.

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- 2.14. If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 13.
- 2.15. How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.
- 2.16. As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:
- a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
 - b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
 - c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.
- 2.17. If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:
- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official
 - b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply
- 2.18. If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- 2.19. If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.
- 2.20. Despite clause 17(b), a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 17(b) above.
- Political donations exceeding \$1,000*
- 2.21. Councillors should note that matters before council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.

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Standards of Conduct – Code of Conduct - Procedure

- 2.22. Councillors should take all reasonable steps to ascertain the source of any political contributions that directly benefit their election campaigns. For example, councillors should have reasonable knowledge of contributions received by them or their “official agent” (within the meaning of the *Election Funding Act 1981*) that directly benefit their election campaign.
- 2.23. Where a councillor or the councillor’s “official agent” has received “political contributions” or “political donations”, as the case may be, within the meaning of the *Election Funding Act 1981* exceeding \$1,000 which directly benefit their campaign:
- a) from a political or campaign donor or related entity in the previous four years; and
 - b) where the political or campaign donor or related entity has a matter before council,
- then the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 17(b).
- 2.24. Councillors should note that political contributions below \$1,000, or political contributions to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.
- 2.25. If a councillor has received a donation of the kind referred to in clause 23, that councillor is not prevented from participating in a decision to delegate council’s decision-making role to council staff or appointing another person or body to make the decision in accordance with the law (see clause 20 above).

Other business or employment

- 2.26. If you are a member of staff of council considering outside employment or contract work that relates to the business of the council or that might conflict with your council duties, you must notify and seek the approval of the general manager in writing. (section 353)
- 2.27. As a member of staff, you must ensure that any outside employment or business you engage in will not:
- a) conflict with your official duties
 - b) involve using confidential information or council resources obtained through your work with the council
 - c) require you to work while on council duty
 - d) discredit or disadvantage the council.

Personal dealings with council

- 2.28. You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

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Political support and community participation

2.29. Staff must ensure that any participation in party political activities does not conflict with their primary duty as an employee to serve the Council in a politically neutral manner.

2.30. If employees become aware that a conflict of interest has arisen or might arise due to their participation in party political activities they should inform their Group Manager or the General Manager immediately and take adequate steps to manage that conflict in accordance with the Code.

Sponsorship

2.31. Any sponsorship arrangements made must not limit Council's ability to carry out its functions fully and impartially.

2.32. All sponsorship arrangements must be made in accordance with Council's Sponsorship Policy.

Council officials and future employment

2.33. Councillors and employees should not use their position to obtain opportunities for future employment.

2.34. You must not allow yourself or your work to be influenced by plans for, or offers of, employment outside Council.

Former Council Officials

2.35. 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 information.

2.36. Former Council officials must not use, or take advantage of confidential information obtained in the course of the 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 and not make public or otherwise use any confidential information gained as a consequence of your involvement with Council

3. 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.

Token gifts and benefits

3.1. Generally speaking, token gifts and benefits include:

- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
 - i) the discussion of official business
 - ii) council work related events such as training, education sessions, workshops
 - iii) conferences
 - iv) council functions or events
 - v) social functions organised by groups, such as council committees and community organisations.

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- b) invitations to and attendance at local social, cultural or sporting events
- c) 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)
- d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers.

Gifts and benefits of value

- 3.2. Notwithstanding clause 1, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

Gifts and benefits

- 3.3. You must not:

- a) seek or accept a bribe or other improper inducement
- b) seek gifts or benefits of any kind
- c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty
- d) accept any gift or benefit of more than token value
- e) accept an offer of money, regardless of the amount.

- 3.4. ***Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor, the Mayor or the general manager. The recipient, supervisor, Mayor or general manager must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register. The gift or benefit must be surrendered to council, unless the nature of the gift or benefit makes this impractical. This must be done in accordance with Council's Gifts and Benefits Policy.***

- 3.5. You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.

- 3.6. You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Improper and undue influence

- 3.7. You must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the appropriate exercise of their representative functions.

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- 3.8. You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for council in order to obtain a private benefit for yourself or for any other person or body.

Relationship Between Council Officials

Obligations of councillors and administrators

- 4.1. Each council is a body corporate. The councillors or administrator/s are the governing body of the council. The governing body has the responsibility of directing and controlling the affairs of the council in accordance with the Act and is responsible for policy determinations, for example, those relating to industrial relations policy.
- 4.2. Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager in the performance of council's functions by way of council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (*section 352*)
 - b) in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the member or delegate (*Schedule 6A of the Act*)
 - c) contact a member of the staff of the council on council related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
 - d) contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to council's external auditors who, in the course of their work, may be provided with information by individual councillors.

Obligations of staff

- 4.3. The general manager is responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation of the decisions of the council without delay.
- 4.4. Members of staff of council must:
- a) give their attention to the business of council while on duty
 - b) ensure that their work is carried out efficiently, economically and effectively
 - c) carry out lawful directions given by any person having authority to give such directions
 - d) give effect to the lawful decisions, policies, and procedures of the council, whether or not the staff member agrees with or approves of them.

Obligations during meetings

- 4.5. You must act in accordance with council's Code of Meeting Practice, if council has adopted one, and the *Local Government (General) Regulation 2005* during council and committee meetings.

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- 4.6. You must show respect to the chair, other council officials and any members of the public present during council and committee meetings or other formal proceedings of the council.

Inappropriate interactions

- 4.7. You must not engage in any of the following inappropriate interactions:

- a) Councillors and administrators approaching staff and staff organisations to discuss individual staff matters and not broader industrial policy issues.
- b) Council staff approaching councillors and administrators to discuss individual staff matters and not broader industrial policy issues.
- c) Council staff refusing to give information that is available to other councillors to a particular councillor.
- d) Councillors and administrators who have lodged a development application with council, discussing the matter with council staff in staff-only areas of the council.
- e) Councillors and administrators being overbearing or threatening to council staff.
- f) Councillors and administrators making personal attacks on council staff in a public forum.
- g) Councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make.
- h) Council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
- i) Council staff meeting with developers alone AND outside office hours to discuss development applications or proposals.
- j) 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 or administrator, exercising their power under section 226 of the Act.

- 4.8. It is appropriate that staff and staff organisations have discussions with councillors in relation to matters of industrial policy.

Public Comment

- 4.9. The Mayor or General Manager will generally be the spokesperson on Council business or matters before the Council. Only staff with specific delegations are authorised to make public comment about Council business or matters before Council. Any comment is to be made in accordance with Council's associated Policies, including Media Policy when adopted.**

5. Access to Information and Council Resources

Councillor and administrator access to information

- 5.1. The general manager, public officer and Right to Information Officer are responsible for ensuring that members of the public, councillors and administrators can gain access to the documents available under the **Government Information (Public Access) Act and Regulation**.

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- 5.2. The general manager must provide councillors and administrators with information sufficient to enable them to carry out their civic office functions.
- 5.3. Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with council procedures.
- 5.4. Members of staff of council who provide any information to a particular councillor in the performance of their civic duties must also make it available to any other councillor who requests it and in accordance with council procedures.
- 5.5. Councillors and administrators who have a private (as distinct from civic) interest in a document of council have the same rights of access as any member of the public.

Councillors and administrators to properly examine and consider information

- 5.6. Councillors and administrators must properly examine and consider all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with council's charter.

Refusal of access to documents

- 5.7. Where the general manager and public officer determine to refuse access to a document sought by a councillor or administrator they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the councillor or administrator to perform their civic duty. The general manager or public officer must state the reasons for the decision if access is refused.

Use of certain council information

- 5.8. In regard to information obtained in your capacity as a council official, you must:
- only access council information needed for council business
 - not use that council information for private purposes
 - 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 have by virtue of your office or position with council
 - only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

- 5.9. You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.
- 5.10 In addition to your general obligations relating to the use of council information, you must:
- protect confidential information
 - only release confidential information if you have authority to do so
 - only use confidential information for the purpose it is intended to be used
 - not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
 - not use confidential information with the intention to cause harm or detriment to your council or any other person or body
 - not disclose any information discussed during a confidential session of a council meeting.

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Personal information

5.11. When dealing with personal information you must comply with:

- a) *the Privacy and Personal Information Protection Act 1998,*
- b) *the Health Records and Information Privacy Act 2002,*
- c) *the Information Protection Principles and Health Privacy Principles,*
- d) *council's privacy management plan,*
- e) *the Privacy Code of Practice for Local Government*
- f) ***Government Information (Public Access) Act and Regulation***

Use of council resources

5.12. You must use council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.

5.13. 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:

- a) *the representation of members with respect to disciplinary matters*
- b) *the representation of employees with respect to grievances and disputes*
- c) *functions associated with the role of the local consultative committee.*

5.14. You must be scrupulous in your use of council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.

5.15. You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

5.16. The interests of a councillor in their re-election is considered to be a private interest and as such the reimbursement of travel expenses incurred on election matters is not appropriate. You must not use council letterhead, council crests and other information that could give the appearance it is official council material for these purposes.

5.17. You must not convert any property of the council to your own use unless properly authorised.

5.18. 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.

Councillor access to council buildings

5.19. Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.

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- 5.20. Councillors and administrators must not enter staff-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 staff.
- 5.21. Councillors and administrators must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence council staff decisions.

6. Reporting Breaches

- 6.1. Any person, whether or not a council official, may make a complaint alleging a breach of the code of conduct.
- 6.2. 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)

Protected disclosures

- 6.3. The *Protected Disclosures Act 1994* aims to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration and serious and substantial waste in the public sector.
- 6.4. The purpose of that Act is to ensure that public officials who wish to make disclosures under the legislation receive protection from reprisals, and that matters raised in the disclosures are properly investigated.¹
- 6.5. If a complaint under this code is or could be a protected disclosure, you must ensure that in dealing with the complaint, you comply with the confidentiality provisions of the Protected Disclosures Act set out in section 22:

'An investigating authority or public authority (or officer of an investigating authority or public authority) or public official to whom a protected disclosure is made or referred is not to disclose information that might identify or tend to identify a person who has made the protected disclosure unless:

- (a) the person consents in writing to the disclosure of that information, or*
- (b) it is essential, having regard to the principles of natural justice, that the identifying information be disclosed to a person whom the information provided by the disclosure may concern, or*
- (c) the investigating authority, public authority, officer or public official is of the opinion that disclosure of the identifying information is necessary to investigate the matter effectively or it is otherwise in the public interest to do so.'*

Reporting breaches of the code of conduct

¹ Protected Disclosures Guidelines, 5th Edition, NSW Ombudsman, May 2004, Annexure 2.

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- 6.6. You should report suspected breaches of the code of conduct by councillors, members of staff of council (excluding the general manager) or delegates to the general manager in writing.
- 6.7. Where you believe that the general manager has breached the code of conduct, you should report the matter to the Mayor in writing.
- 6.8. Where you believe that an administrator has breached the code of conduct, you should report the matter to the Minister for Local Government in writing.
- 6.9. Councillors should not make allegations of suspected breaches of the code at council meetings or in other public forums.

References

Council's Sponsorship Policy

Council's Media Policy

Council's Gifts and Benefits Policy

Ethical Lobbying Policy

Protected Disclosures Internal Reporting Policy

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Complaint Handling Procedure – Code of Conduct

Related Policy

These procedures relate to the Code of Conduct. They contain the complaint handling procedures, complaint assessment criteria and the operating guidelines for the conduct review committee/reviewer.

These procedures should be used to guide the management of complaints about breaches of the Code.

Complaint Handling Procedures and Sanctions

1. Complaints about the conduct of councillors, members of staff of council, members of council committees and delegates of council should be addressed in writing to the general manager.
2. Complaints about the conduct of the general manager should be addressed in writing to the Mayor.

Complaint handling procedures – staff, delegate and council committee member conduct (excluding the general manager)

3. The general manager is responsible for making enquiries, or causing enquiries to be made, into complaints alleging breach of the code of conduct regarding members of staff of council, delegates of council and/or members of council committees (other than councillors), and will determine such matters.
4. Where the general manager has determined not to enquire into the matter, the general manager will give the complainant the reason/s in writing as provided in clause 1 of the Complaint Assessment Criteria of this Procedure, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith.
5. Enquiries made into staff conduct that might give rise to disciplinary action must occur in accordance with the relevant industrial instrument and make provision for procedural fairness including the right of an employee to be represented by their union.
6. Sanctions for staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.
7. Sanctions for delegates and/or members of council committees depend on the severity, scale and importance of the breach and may include:
 - a) censure
 - b) requiring the person to apologise to any person adversely affected by the breach
 - c) counselling
 - d) prosecution for any breach of the law
 - e) removing or restricting the person's delegation

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- f) removing the person from membership of the relevant council committee
- g) revising any of council's policies, procedures and/or the code of conduct.

Complaint handling procedures – councillor conduct

8. The general manager is responsible for assessing complaints, made under the Reporting Breaches section of the Standards of Conduct, alleging breaches of the code of conduct by councillors, in accordance with the Complaint Assessment Criteria of this Procedure, in order to determine whether to refer the matter to the conduct review committee/reviewer.
9. The general manager must determine either to:
 - a) take no further action and give the complainant the reason/s in writing as provided in the Complaint Assessment Criteria of this Procedure, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith, or
 - b) resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing, or
 - c) discontinue the assessment in the circumstances where it becomes evident that the matter should be referred to another body or person, and refer the matter to that body or person as well as advising the complainant in writing, or
 - d) refer the matter to the conduct review committee/reviewer.

Complaint handling procedures – general manager conduct

10. The Mayor is responsible for assessing complaints, made under the Reporting Breaches section of the Standards of Conduct, alleging breaches of the code of conduct by the general manager, in accordance with the assessment criteria provided in the Complaint Assessment Criteria of this Procedure, in order to determine whether to refer the matter to the conduct review committee/reviewer.
11. The Mayor must determine either to:
 - a) take no further action and give the complainant the reason/s in writing as provided in the Complaint Assessment Criteria of this Procedure, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith, or
 - b) resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing, or
 - c) discontinue the assessment in the circumstances where it becomes evident that the matter should be referred to another body or person, and refer the matter to that body or person as well as advising the complainant in writing, or
 - d) refer the matter to the conduct review committee/reviewer.

Conduct review committee/reviewer

12. Council must resolve to appoint persons independent of council to comprise the members of a conduct review committee and/or to act as sole conduct reviewers.

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13. The members of the conduct review committee and/or the persons acting as sole conduct reviewers should be appropriately qualified persons of high standing in the community. These persons do not need to be residents of the local government area of the council that has appointed them.
14. The conduct review committee, members of such committee and sole conduct reviewers may act in that role for more than one council.
15. The general manager, or in the case of complaints about the general manager, the Mayor, will undertake the following functions in relation to the conduct review committee/reviewer:
 - provide procedural advice when requested
 - ensure adequate resources are provided, including providing secretariat support
 - attend meetings of the conduct review committee if so requested by the committee, and then in an advisory capacity only
 - provide advice about council processes if requested to do so but not so as to take part in the decision making process
 - if attending the conduct review committee meeting to provide advice, must not be present at, or in sight of, the meeting when a decision is taken.
16. Where a matter is to be considered by the conduct review committee/reviewer, then in each case, the general manager, or Mayor in the case of complaints about the general manager, acting in their capacity as advisor, will either convene a conduct review committee and select its members from those appointed by council or alternatively select a sole conduct reviewer from those appointed by council.
17. The conduct review committee/reviewer will operate in accordance with the operating guidelines set out in the Conduct Review Committee/Reviewer Operative Guidelines of this procedure.
18. The conduct review committee/reviewer operating guidelines are the minimum requirements for the operation of conduct review committees/reviewers. Council may supplement the guidelines, but any additional provisions should not be inconsistent with the guidelines.
19. The conduct review committee/reviewer is responsible for making enquiries into complaints made under the Reporting Breaches section of the Standards of Conduct alleging breaches of the code of conduct by councillors and/or the general manager and must determine either to:
 - a) not make enquiries into the complaint and give the complainant the reason/s in writing as provided the Complaint Assessment Criteria of this Procedure, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith, or
 - b) resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, making recommendations to the general manager, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing, or
 - c) make enquiries into the complaint, or

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- d) engage another appropriately qualified person to make enquiries into the complaint, or
 - e) not make enquiries or discontinue making enquiries where it becomes evident that the matter should be referred to another body or person, and refer the matter to that body or person as well as advising the complainant in writing. Despite any other provision of this code, this will constitute finalisation of such matters and no further action is required.
20. Where the conduct review committee/reviewer conducts enquiries or causes enquiries to be conducted, the conduct review committee/reviewer must make findings on whether, in its view, the conduct referred to it comprises a breach of the code of conduct.
21. Where the conduct review committee/reviewer makes findings, the conduct review committee/reviewer may recommend that council take any actions provided for in this code of conduct that it considers reasonable in the circumstances.
22. Where the conduct review committee/reviewer makes findings, the conduct review committee/reviewer will report its findings, and the reasons for those findings, in writing to the council, the complainant and the person subject of the complaint.
23. The conduct review committee/reviewer will report its findings and any recommendations to council only when it has completed its deliberations.

Sanctions

24. Before a council can impose a sanction it must make a determination that a councillor or the general manager has breached the code of conduct.
25. Where the council finds that a councillor or general manager has breached the code, it may decide by resolution to:
- a) censure the councillor for misbehaviour in accordance with section 440G of the Act
 - b) require the councillor or general manager to apologise to any person adversely affected by the breach
 - c) counsel the councillor or general manager
 - d) make public findings of inappropriate conduct
 - e) prosecute for any breach of law.

Councillor misbehaviour

26. Under section 440G a council may by resolution at a meeting formally censure a councillor for misbehaviour.
27. 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.
28. 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.

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29. 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.
30. 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.
31. 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.
32. 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.

Reporting on complaints

33. The general manager must report annually to council on code of conduct complaints. This report should include, as a minimum, a summary of the:
- a) number of complaints received,
 - b) nature of the issues raised by complainants, and
 - c) outcomes of complaints.

Complaint Assessment Criteria

1. The general manager or Mayor, in the case of a complaint about the general manager, will assess a complaint alleging a breach of the code of conduct to determine if the matter should be referred to the conduct review committee/reviewer. In assessing the complaint, the general manager and Mayor will have regard to the following grounds:
- a) whether there is any prima facie evidence of a breach of the code of conduct
 - b) whether the subject matter of the complaint relates to conduct that is associated with the carrying out of the functions of civic office or duties as general manager
 - c) whether the complaint is trivial, frivolous, vexatious or not made in good faith
 - d) whether the conduct the subject of the complaint could reasonably constitute a breach of the code of conduct
 - e) whether the complaint raises issues that require investigation by another person or body, such as referring the matter to the Department of Local Government, the NSW Ombudsman, the Independent Commission Against Corruption or the NSW Police
 - f) whether there is an alternative and satisfactory means of redress
 - g) how much time has elapsed since the events the subject of the complaint took place
 - h) how serious the complaint is and the significance it has for council

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- i) whether the complaint is one of a series indicating a pattern of conduct.
2. Complaints that are assessed as not having sufficient grounds to warrant referral to the conduct review committee/reviewer or that are to be referred to a more appropriate person or body can be finalised by the general manager or the Mayor, in the case of complaints about the general manager.
3. If a matter is referred to the conduct review committee/reviewer, then the conduct review committee/reviewer should use the above criteria in clause 1 for its initial assessment of the complaint and determination of the course to follow in dealing with the complaint.

Conduct Review Committee/Reviewer Operating Guidelines

1. *Jurisdiction of the conduct review committee/reviewer*

The complaint handling function of the conduct review committee/reviewer is limited to consideration of, making enquiries into and reporting on complaints made under the Reporting Breaches section of the Standards of Conduct, about councillors and/or the general manager.

Complaints regarding pecuniary interest matters should be reported to the Director General of the Department of Local Government and will not be dealt with by the conduct review committee/reviewer.

Sole reviewers and members of the conduct review committee are subject to the provisions of this code of conduct.

2. *Role of the general manager and Mayor*

The general manager, or in the case of complaints about the general manager, the Mayor, will undertake the following functions in relation to the conduct review committee/reviewer:

- provide procedural advice when requested
- ensure adequate resources are provided, including providing secretariat support
- attend meetings of the conduct review committee if so requested by the committee, and then in an advisory capacity only
- provide advice about council processes if requested to do so but not so as to take part in the decision making process
- if attending the conduct review committee meeting to provide advice, must not be present at, or in sight of, the meeting when a decision is taken.

Where the general manager, or in the case of complaints about the general manager, the Mayor, is unable to act as advisor to the conduct review committee/reviewer due to a conflict of interests in relation to a complaint, they are to nominate a senior council officer or councillor (in the case of complaints about the general manager) to perform this role.

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3. *Composition of the conduct review committee*

Where council has a conduct review committee it will comprise three or more appropriately qualified persons of high standing in the community who are independent of the council, convened and selected as provided in clause 16 of the Complaint Handling Procedures and Sanctions.

In the circumstances where a member of the conduct review committee cannot participate in a matter, the general manager, or Mayor in the case of complaints about the general manager, should select another person as provided in clause 16 of the Complaint Handling Procedures and Sanctions.

The chairperson is to be elected by the members of the conduct review committee.

The general manager, or in the case of complaints about the general manager, the Mayor, will act in an advisory capacity to the committee when requested.

4. *Quorum of the conduct review committee*

A quorum for a meeting of the conduct review committee is the majority of the members of the conduct review committee.

If a quorum is not present at a meeting of the conduct review committee it must be adjourned to a time and date that is specified.

Business is not to be conducted at any meeting of the conduct review committee unless a quorum is present.

Business may be conducted by video-conference or teleconference.

5. *Voting of the conduct review committee*

Each member of the conduct review committee shall be entitled to one vote in respect of any matter. In the event of equality of votes being cast, the chairperson shall have the casting vote.

If the vote on a matter is not unanimous, then this should be noted in any report to council on its findings.

In relation to any procedural matters relating to the operation of the conduct review committee, the ruling of the chairperson shall be final.

6. *Procedures of the conduct review committee/reviewer*

The general manager or Mayor, in the case of a complaint about the general manager, will be responsible for convening the initial meeting of the conduct review committee when there is a complaint to be referred to it.

The conduct review committee/reviewer will conduct business in the absence of the public.

The conduct review committee/reviewer will keep proper records of deliberations.

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The conduct review committee shall determine the procedures governing the conduct of its meetings provided such procedures are consistent with these operating guidelines.

7. *Procedural fairness*

In conducting enquiries, the conduct review committee/reviewer or the person engaged to do so should follow the rules of procedural fairness and must -

- a) provide the person the subject of the complaint with a reasonable opportunity to respond to the substance of the allegation
- b) provide the person the subject of the complaint with an opportunity to place before the conduct review committee/reviewer or person undertaking the enquiry any information the person considers relevant to the enquiry
- c) provide the person the subject of the complaint with an opportunity to address the conduct review committee/reviewer in person
- d) hear all parties to a matter and consider submissions before deciding the substance of any complaint
- e) make reasonable enquiries before making any recommendations
- f) act fairly and without prejudice or bias
- g) ensure that no person decides a case in which they have a conflict of interests
- h) conduct the enquiries without undue delay.²

Where the person the subject of the complaint declines or fails to take the opportunity provided to respond to the substance of the allegation against them, the conduct review committee/reviewer should proceed to finalise the matter.

8. *Complaint handling procedures*

In addition to complying with these operating guidelines, the conduct review committee/reviewer will ensure it deals with all complaints in accordance with the provisions of the Complaint Handling Procedures and Sanctions.

All persons who are the subject of complaints that are referred to the conduct review committee/reviewer will receive written information about the process being undertaken to deal with the matter.

The conduct review committee/reviewer will only deal with matters that are referred to it by the general manager or the Mayor.

Where the conduct review committee/reviewer determines to make enquiries into the matter, such enquiries should be made without undue delay.

² NSW Ombudsman, Investigating complaints, A manual for investigators, June 2004.

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In circumstances where the person the subject of the complaint meets with the conduct review committee/reviewer, they are entitled to bring a support person or legal adviser. That person will act in an advisory and support role to the person affected. They will not speak on behalf of the subject person.

9. *Findings and recommendations of the conduct review committee/reviewer*

Where the conduct review committee/reviewer determines, in its view that the conduct referred to it comprises a breach of this code of conduct it may, in its report to the council, make recommendations, that the council take any of the following actions:

- a) censure the councillor for misbehaviour
- b) require the councillor or general manager to apologise to any person adversely affected by the breach
- c) counsel the councillor or general manager
- d) make public findings of inappropriate conduct
- e) prosecute for any breach of the law
- f) revise any of council's policies, procedures and/or the code of conduct.

Before making any such recommendations, the conduct review committee/reviewer shall have regard to the following:

- a) the seriousness of the breach
- b) whether the breach can be easily remedied or rectified
- c) whether the subject has remedied or rectified their conduct
- d) whether the subject has expressed contrition
- e) whether the breach is technical or trivial only
- f) whether the breach represents repeated conduct
- g) the age, physical or mental health or special infirmity of the subject
- h) the degree of reckless intention or negligence of the subject
- i) the extent to which the breach has affected other parties or the council as a whole
- j) the harm or potential harm to the reputation of local government and of the council arising from the conduct
- k) whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny
- l) whether an educative approach would be more appropriate than a punitive approach
- m) the relative costs and benefits of taking formal enforcement action as opposed to taking no action or taking informal action
- n) what action or remedy would be in the public interest
- o) where to comply with a councillor's obligations under this code of conduct would have had the effect of depriving the council of a quorum or otherwise compromise the capacity of council to exercise its functions

10. *Amendment of the operating guidelines*

The conduct review committee/reviewer guidelines may be added to and any additional requirements may be further amended or repealed by resolution of the council.

Complaint Handling Procedure - Code of Conduct - Procedure		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Issue: Date
Trim Reference: D10/63794	Policy: Code of Conduct	Page 26



Code of Conduct – Charter of Respect

Related Policy

This Charter relates to the Code of Conduct. It exists to strengthen the working relationship between Councillors and Council's Senior Management Team. These are the enforceable standards of conduct.

Failure by a councillor to comply with these standards of conduct, of council's code of conduct constitutes misbehaviour and may constitute a substantial breach for the purposes of section 9 of the ICAC Act 1988. The Local Government Act 1993 provides for suspension of councillors from civic office for up to six months for proven misbehaviour. For further information on misbehaviour refer to Reporting Breaches and Complaint Handling Procedures and Sanctions in these Standards and the related procedures..

Failure by a member of staff to comply with council's code of conduct may give rise to disciplinary action.

As a **Councillor** of the City of Ryde, I will:-

Read reports and maintain confidentiality (as required) when making decisions

Evaluate and constructively challenge our performance

Strategically set the City's future direction and set clear priorities

Professionally deal with staff and create a non threatening culture by;

1. Debating the issue without denigrating staff (play the ball not the person)
2. Respecting that staff are bound by Council's policies and procedures
3. Telling us what is required not how to do it

Expect responses within realistic timeframes and utilise the helpdesk for my requests

Commit to representing the aspirations and needs of our Community whilst acting with dignity

Trust the staff to give their best apolitical advice but feel free to change it.

As a member of the **Executive Team** of the City of Ryde I will be :-

Receptive and responsive to Community concerns and Council's decisions

Ethical and apolitical in carrying out my duties

Supportive of Councillor requests and requirements

Professional in managing and optimising Council's resources and knowledge

Equal in my interactions with and treatment of all Councillors

Communicating in a frank, honest, clear and consistent way with Councillors and represent their views clearly to staff

Timely in all of our communications, responses and actions (within our recourse limitations)

NOTE

Receptive – includes using a range of market research and consultative methodologies, analysing the results and being guided by them

Ethical – includes honest and without prejudice or political bias, fair/impartial/independent

Professional – includes being efficient, effective, accurate, keeping our expertise up to date, being financially and commercially sound and focussed on reporting against and improving our performance across our key performance indicators.

Charter of Respect - Code of Conduct		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Issue: Date
Trim Reference: D10/63794	Policy: Code of Conduct	Page 27



Ethical Lobbying – Council Policy

Scope

Who is a Lobbyist:

A lobbyist is a person, company or organisation who conducts lobbying activities on behalf of a third party client or whose employees conduct lobbying activities on behalf of a third party client. The definition does not include:

- applicants or owners for a development application;
- charitable, religious and non-profit organisations;
- individuals making representations to inform the Council of their views on matters of public interest;
- peak industry bodies and professional organisations who represent the interests of their members;
- trade unions; or
- professionals, such as accountants, architects, lawyers, surveyors and town planners, where contact with Council on behalf of a client may be an incidental but necessary part of their work.

Purpose

The purpose of the Register for Lobbyists is to promote trust in the integrity of Council processes and ensure that contact between Lobbyists and Council officials is conducted in accordance with public expectations of transparency, integrity and honesty.

Guidelines / Procedures

General Rules for Lobbyists

- (a) Lobbyists shall comply with all relevant legislation including disclosing gifts or political donations related to planning applications or public submissions made by a Lobbyist.
- (b) Lobbyists shall not engage in any conduct that is corrupt, dishonest, illegal or cause or threaten any detriment.
- (c) Lobbyists shall use all reasonable endeavours to satisfy themselves of the truth and accuracy of all statements and information provided by them to clients whom they represent, the wide public and Council officials.
- (d) Lobbyists shall not make misleading, exaggerated or extravagant claims about the nature or extent of their access to Council officials or to any other person.
- (e) Lobbyists are expected to comply with the principles contained in Council's Statement of Business Ethics.
- (f) When making initial contact with a Council official, with the intention of conducting Lobbying activities, Lobbyists are to inform that Council official:
 - that they are Lobbyists or employees of, or contractors or persons engagement by Lobbyists;

Ethical Lobbying – Council Policy		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Policy Number:
Trim Reference: D10/67529	Review date: as required	Endorsed: Date and COUNCIL



Ethical Lobbying – Council Policy

- whether they are currently listed on the Register of Lobbyists.
- the name of the relevant client or clients; and
- the nature of the matters that their clients wish them to raise with Council officials.

(g) Lobbyists should register for each matter on which they intend to lobby Council.

Sanctions

If a Lobbyist does not meet obligations imposed by legislations then legal sanctions may apply.

If a Lobbyist does not abide by the principles set in this procedure and other relevant Council Policies, Council will take appropriate action to ensure maintenance of expected standards of transparency, accountability and ethics between Lobbyists and Council officials.

Council Officials

Councillors, staff and delegates of Council are obliged to comply with Council's Code of Conduct and other policies in their interaction with all members of the public including Lobbyists. These obligations apply whether or not the individual or organisation is registered as a Lobbyist.

When meeting with a lobbying a Council Official will attend with at least one other Council official present. Minutes will be kept of the meeting and filed in Council's official record keeping system.

References - Legislation

Lobbyists are reminded of their obligations under s149 of the Environmental Planning and Assessment Act, 1979 to disclose certain gifts and political donations. In addition, Lobbyists are expected to comply with the principles contained in Council's Statement of Business Ethics.

Review Process and Endorsement

This Policy should be reviewed as required but at least every four years following the conduct of the Local Government elections.

Attachments

<i>Title</i>
<i>Form</i>

Ethical Lobbying – Council Policy		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Policy Number:
Trim Reference: D10/67529	Review date: as required	Endorsed: Date and COUNCIL



Ethical Lobbying – FORM

Civic Centre, 1 Devlin Street Ryde 2112
Locked Bag 2069, North Ryde NSW 1670
Tel 02 9952 8222 Fax 9952 8070



Lobbyist Registration Form

Use this form to register as a lobbyist with City of Ryde.

Once we have registered your application you will receive a written notice of acknowledgement.

OFFICE USE ONLY

Reg No. _____

Date Received: _____

1. Details of application (the person or organisation who will be lobbying Council)

Given name (or A.C.N)

Family name (or company name)

Unit/street no.

Street name and Suburb

State

Postcode

Contact person/s (person/s who will be undertaking lobbying activities (if different from above)

Mobile

Email

Daytime telephone

Fax

2. Identify the issue or matter on which you will be lobbying Council

If the matter of issue on which you intend to lobby Council relates to a parcel of land or property - please provide

Property Address

Suburb

3. Details of the individual, organisation or business who has engaged you to lobby the Council

Given name (or A.C.N)

Family name (or company name)

Unit/street no.

Street name and Suburb

State

Postcode

Contact person/s

4. Signature

I certify that the above information is true and correct

Applicants Signature

Name

Date

Addresses, telephone numbers and email addresses may be used by RCC Officials to contact Lobbyists but will not be published on the register. Lobbyists are reminded of their obligations under s 147 of the Environmental Planning and Assessment Act, 1979 to disclose certain gifts and political donations.

Ethical Lobbying – FORM		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Policy Number:
Trim Reference: D10/67529	Review date: as required	Endorsed: Date and COUNCIL



Gifts and Benefits Council Policy

Scope

This policy shall apply to all Councillors and employees and delegates of the City of Ryde.

This policy is to be applied in conjunction with provisions in Council's Code of Conduct.

Purpose

The objective of this policy is to:

- clearly define the behaviour required of Councillors and employees in relation to gifts and benefits.
- provide a transparent and accountable process for gift acceptance that promotes public confidence in the City of Ryde.

Any gift accepted shall be subject to the provisions of this policy.

General

Councillors and staff must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.

Councillors and staff must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Key considerations for Councillors and employees in respect of the Policy are:

- 1 Soliciting personal gifts or benefits is prohibited.
- 2 If a Councillor or employee becomes aware of another Councillor or staff member soliciting gifts or benefits they should report it immediately to the General Manager and/or the Mayor.
- 3 Accepting gifts where a reasonable person could consider that there may be influence applied as a result of accepting the gift is prohibited.
- 4 Where it is suspected that a gift has been offered for the purposes of influencing an employee's or Councillor's behaviour in their official capacity, the gift must be declined and it should be reported immediately to the relevant Group Manager, the General Manager and/or the Mayor.
- 5 Accepting gifts of money is prohibited.
- 6 Councillors and employees should not accept gifts that appear to be more than of a token nature or of more than a nominal value. This policy acknowledges that this is

Gifts and Benefits - Policy		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Policy Number:
Trim Reference: D10/67476	Review date: December 2012	Endorsed: Date and COUNCIL



Gifts and Benefits Council Policy

not always practicable and provides guidelines below. Gifts that are accepted and are of more than a token nature will become the property of the City of Ryde.

- 7 Councillors and employees should not accept more than two gifts in a six month period from the same person regardless of their value.
- 8 Should a Councillor or employee receive a gift or prize as the result of entering a competition while engaging in official duties the gift or prize will become the property of the City of Ryde.
- 9 Any gifts or benefits received as a result of a purchase incentive scheme will be the property of the City of Ryde. For example, where purchasing over a certain amount from a supplier results in a gift, this gift will be the property of the City of Ryde.

It is best not to accept a gift or benefit offered that is more than of a token nature. The attached Procedures acknowledge that this is not always possible and set out points of consideration with regard to gifts and benefits for employees and Councillors.

The related Procedures details steps to be taken with regard to the disposal of gifts, the registering of gifts and breaches of this policy.

References - Legislation

This policy does not remove any other obligations under the Local Government Act, any other legislation, or relevant codes and policies regarding the disclosure of any interests.

This Gifts and Benefits Policy is based upon the Managing Gifts and Benefits in the Public Sector Toolkit issued by the Independent Commission Against Corruption.

Review Process and Endorsement

This policy, including the amounts and frequencies specified in the procedures, may be varied by resolution of the Council. This Policy should be reviewed as required but at least every four years following the conduct of the Local Government elections.

Related Documents

Number	Title
1.	Procedures (includes definitions and workflow)
2.	Form

Gifts and Benefits - Policy		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Policy Number:
Trim Reference: D10/67476	Review date: December 2012	Endorsed: Date and COUNCIL



Gifts and Benefits - Procedure

Related Policy

This procedure relates to Council's Gifts and Benefits Policy.

Definitions:

Benefit: A non-tangible item of value (eg: preferential treatment or access to confidential information) that one person or organisation confers on another.

Gift: A gift is an item of value (eg: gift voucher, entertainment, hospitality, travel, commodity, property etc) which one person or organisation presents to another. In the business context, gifts can have different meanings and purposes. The purpose of the gift, to a certain extent, affects how it should be managed.

Gift of influence: A gift that is intended to generally ingratiate the giver with the recipient for favourable treatment in the future.

Gift of gratitude: A gift offered to an individual or agency in appreciation of performing specific tasks or for exemplary performance of duties. Gifts to staff who speak at official functions would be considered gifts of gratitude.

Token gift or benefit: A Gift that is offered in business situations to an agency or public official representing an agency. Such gifts are often small office or business accessories that contain the company logo. They are usually products that are mass-produced and not given as a personal gift.

In addition, Council's Code of Conduct considers a token gift as one of the following:

- a) *free or subsidised meals, beverages or refreshments provided in conjunction with: the discussion of official business council work related events such as training, education sessions, workshop, conferences, council functions or events, social functions organised by groups, such as council committees and community organisations.*
- b) *invitations to and attendance at local social, cultural or sporting events*
- c) *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)*
- d) *ties, scarves, coasters, tie pins, diaries, chocolates or flowers.*

Ceremonial gift: An official gift from one agency to another agency. Such gifts are often provided to a host agency when conducting official business with delegates from another organisation. Although these gifts may sometimes be offered to express gratitude, the gratitude usually extends to the work of several people in the agency, and therefore the gift is considered to be for the agency, not a particular individual.

Nominal value: The monetary limit of acceptable gifts that confirm to industry/societal norms. For the purpose of this policy nominal value is \$25 or less.

Gifts and Benefits - Form		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Issue: Date
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Gifts and Benefits - Procedure

The types of gifts that would be considered of nominal value are:

- inexpensive pens or stationery;
- a box of chocolates;
- flowers; and
- a modest bottle of wine.

Non-Gifts: The following are not defined as a gift for the purpose of this policy:

- any gift that is offered but not accepted.
- any discounted product or service if the discount is reasonable and generally available or capable of being negotiated by others not connected with the organisation,
- any meal or other hospitality received at a function related to the role of the Councillor or employee, a function where the Councillor or employee is officially representing the organisation, or where the appropriate fee for the function has been paid,
- any gift, benefit or hospitality received in relation to membership of any industrial or professional organisation, club or other association or body,
- any gift, benefit or hospitality received by a relative or associate of a Councillor or employee if the Councillor or employee did not know about it.

Receipt of gifts

Councillors and staff must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.

Councillors and staff must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Key considerations for employees and Councillors in respect of the Policy are:

- 1 Soliciting personal gifts or benefits is prohibited.
- 2 If a Councillor or employee becomes aware of another Councillor or employee soliciting gifts or benefits they should report it immediately to the General Manager and/or the Mayor.
- 3 Accepting gifts where a reasonable person could consider that there may be influence applied as a result of accepting the gift is prohibited.
- 4 Where it is suspected that a gift has been offered for the purposes of influencing a Councillor's or employee's behaviour in their official capacity, the gift must be declined and it should be reported immediately to the relevant Group Manager, the General Manager and/or the Mayor.

Gifts and Benefits - Form		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Issue: Date
Trim Reference: D10/67476	Policy: Gifts and Benefits Policy	Page 2



Gifts and Benefits - Procedure

- 5 Accepting gifts of money is prohibited.
- 6 Councillors and employees should not accept gifts that appear to be more than of a token nature or of more than a nominal value. This policy acknowledges that this is not always practicable and provides guidelines below. Gifts that are accepted and are of more than a token nature will become the property of the City of Ryde.
- 7 Councillors and employees should not accept more than two gifts in a six month period from the same person regardless of their value.
- 8 Should a Councillor or employee receive a gift or prize as the result of entering a competition while engaging in official duties the gift or prize will become the property of the City of Ryde.
- 9 Any gifts or benefits received as a result of a purchase incentive scheme will be the property of the City of Ryde. For example, where purchasing over a certain amount from a supplier results in a gift, this gift will be the property of the City of Ryde.

Accepting Gifts

It is best not to accept a gift or benefit offered that is more than of a token nature. These guidelines acknowledge that this is not always possible and set out points of consideration with regard to gifts and benefits for Councillors and employees.

- (a) When deciding whether to accept or decline a gift consideration should be given to not only the value of the gift but also the intent of the gift or benefit being offered.
- (b) Culture or tradition should never be used as an excuse to accept inappropriate gifts and benefits.
- (c) Christmas and other cultural or religious occasions do not represent exceptions to this policy.
- (d) On occasion an inappropriate gift may be accepted inadvertently. For example:
 - the gift is wrapped and not opened in the presence of the gift giver:
 - the gift is accepted for cultural, protocol or other reasons and returning it would be inappropriate.
 - anonymous gifts received through the mail or left without a return address.
 - the gift is received in a public forum and attempts to refuse or return it would cause significant embarrassment.

These gifts will become the property of the City of Ryde.

- (e) Where possible, any frequent flyer points accrued as a result of Council purchasing tickets will remain the property of City of Ryde and will be used to reduce future costs to Council.

Gifts and Benefits - Form		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Issue: Date
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Gifts and Benefits - Procedure

Disposal of Gifts

The disposal of gifts will be dictated by the nature of the gift. The gift receiver can nominate or suggest a disposal method on the Gifts and Benefits Disclosure Form, however the General Manager or Mayor (as appropriate) will determine the action to be taken.

In determining this action the following will be considered:

- 6.1 Gifts received from visiting delegations or gifts personalised to the City of Ryde will be kept at the City of Ryde and displayed or stored appropriately.
- 6.2 Perishable gifts such as flowers can be displayed in public areas such as customer service counters, libraries etc.
- 6.3 Perishable food items may be shared amongst staff in the work location.
- 6.4 The City of Ryde will nominate a charity or charities to which surrendered gifts will be donated.
- 6.5 Gifts that can be used for work purposes may be shared amongst staff to use in the workplace.
- 6.6 Where a reasonable person could consider that there may be influence applied as a result of accepting the gift it will be returned.

The decision regarding disposal of a gift will be noted on the Gifts and Benefits Disclosure Forum.

Gift Register and forms

The details of **all** gifts received shall be entered into the Gifts Register by the immediate completion of a Gifts and Benefits Disclosure form by the employee or Councillor. This includes gifts of a token nature.

The Gifts Register will be available for public inspection.

The General Manager shall review all entries made by employees in the Gifts Register and determine any action that may be considered appropriate in relation to any such entry. Such action may include the giving of advice or counselling, removal of the employee from a decision making, regulatory or purchasing role or a direction that the gift be returned.

A Councillor may refer any entry in the Gifts Register to a Council Meeting for review by the Council.

Procedure

1. All Councillors or employees who have received a gift or benefit must complete a Gifts and Benefits Disclosure Form.

Gifts and Benefits - Form		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Issue: Date
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Gifts and Benefits - Procedure

2. The form is then referred to the Group Manager for noting and signing in the case of employees. In the case of Councillors and Group Managers it is forwarded to the General Manager for noting and signing. In the case of the General Manager, the form is to be forwarded to the Manager, Risk and Audit or the Mayor for noting and signing.
3. The Group Manager, General Manager, Manager Risk and Audit or the Mayor (as set out above) is then to review and determine action.
4. The completed and endorsed form is then sent to the Governance Unit to be recorded and, where appropriate, to advise the employee or Councillor of the outcome.

Bribes

The Code of Conduct clearly states that a bribe or other improper inducement must not be sought or accepted.

If a Councillor or employee is offered a bribe, the incident must immediately be reported to the General Manager and/or the Mayor. The ICAC, and where relevant, the police must be informed immediately.

Breaches of this Policy

Each Councillor and employee of the City of Ryde is obliged to comply with this policy.

Sanctions may be applied if this policy is breached.

Any person may report an alleged breach of this policy by a Councillor or an employee (other than the General Manager) to the General Manager in writing.

Any person may report an alleged breach of this policy by a Councillor or the General Manager to the Mayor in writing.

The General Manager or Mayor, as appropriate, shall investigate any report received and take such action as is considered necessary.

If this policy has been breached, such action may include counselling, censure motions, disciplinary action (including termination of employment), the laying of charges and the taking of civil action.

Attachments

Title
Form
Workflow

Gifts and Benefits - Form		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Issue: Date
Trim Reference: D10/67476	Policy: Gifts and Benefits Policy	Page 5



Gifts and Benefits - FORM

Gifts & Benefits Declaration Form		City of Ryde
1. Details of the Gift, Benefit or Hospitality		
Date Gift offered or received <input type="text" value=" / /"/>	Description of the Gift or Benefit <input type="text"/>	
Estimated value \$ <input type="text"/>		
2. Who was the gift given or offered to?		
Name of Recipient <input type="text"/>	Position <input type="text"/>	
Organisation <input type="text"/>	Reason the gift was offered or given <input type="text"/>	
3. What action was taken?		
<input type="checkbox"/> Gift Refused	Note: <input type="text"/>	
<input type="checkbox"/> Gift Accepted	For Gifts of value which are accepted: Why could the gift or benefit not be reasonably refused or returned? <input type="text"/> Note: <input type="text"/>	
What is the intended use for the gift or benefit? (see over) <input type="text"/>		
4. Declaration made by:		
Name <input type="text"/>	Signature <input type="text"/>	
Position <input type="text"/>		
5. Manager Authorisation		
Authorised Manager <input type="text"/>	Signature <input type="text"/>	
Position <input type="text"/>		
Office Use		
Trim Reference <input type="text"/>	Notes <input type="text"/>	

Gifts and Benefits - Form		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Issue: Date
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Gifts and Benefits - FORM

What is the intended use for the gift or benefit?

1. Gifts received from visiting delegations or gifts personalised to the City of Ryde will be kept at the City of Ryde and displayed or stored appropriately.
2. Perishable gifts such as flowers can be displayed in public areas such as customer service counters etc.
3. Perishable food items may be shared amongst staff in the work location.
4. The City of Ryde will nominate a charity to which surrendered gifts will be donated.
5. Gifts that can be used work purposes may be shared amongst staff to use in the workplace
6. Where a reasonable

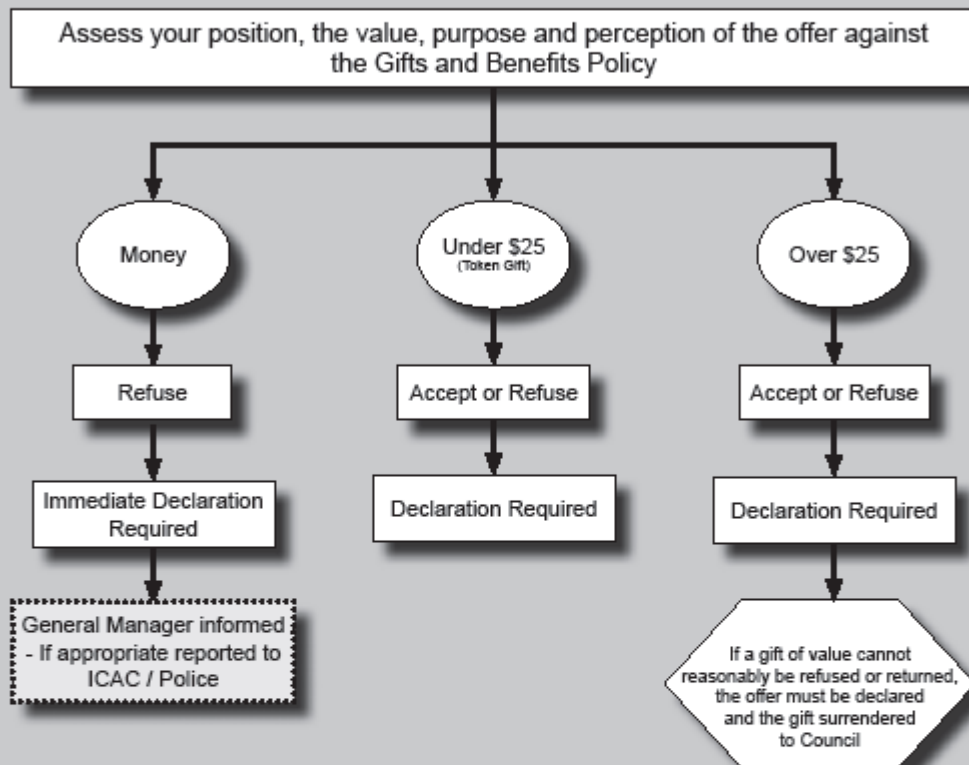
DRAFT

Gifts and Benefits - Form		
Owner: Governance Unit	Accountability: Governance framework (including registers) development	Issue: Date
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Gifts and Benefits - Workflow

Proceedures for the Declaration of Gifts and Benefits



All declarations must be recorded in the Gifts and Benefits Register as soon as practicable and no later than two weeks of offering, accepting or declining the gift or benefit.

Gifts and Benefits - Workflow

Owner: Governance Unit	Accountability: Governance framework (including registers) development	Issue: Date
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Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors – Council Policy

Scope

- (1) This Policy, and associated procedures and guidelines, may be cited as the Policy on the Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors and is effective from 27 November 2007.
- (2) In this Policy, and associated procedures and guidelines, unless otherwise stated, the expression “Councillor” refers to all Councillors of the City of Ryde, including the Mayor and Deputy Mayor.

Purpose

This Policy ensures that Councillors have access to the facilities and support required to fulfil their civic duties. It also aims to ensure that the facilities provided to Councillors to carry out their civic functions are equitable and in keeping with legislative requirements.

In addition, the purpose of this Policy, and associated procedures and guidelines, is to ensure that there is accountability and transparency in the reimbursement of expenses incurred or to be incurred by the Councillors.

Objectives

- (1) The objective of this Policy is to describe those expenses incurred or to be incurred by, and the facilities provided to the Councillors of the City of Ryde, the cost of which shall be met by the Council.
- (2) This Policy also aims to uphold and demonstrate the following key principles:
 - (a) Conduct: Councillors must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out their functions under the Act or any other Act,
 - (b) Participation, equity and access: The provisions of the Policy are to be non-discriminatory and used in an equitable manner to enable the full participation by Councillors from different walks of life. The provisions of the Policy shall also be at an appropriate level to encourage members of the community, particularly under-represented groups such as those in primary caregiver roles, to seek election to Council by ensuring that they would not be financially or otherwise disadvantaged in undertaking the civic functions of a Councillor.

The Policy shall also take into account and make reasonable provision for the special needs of Councillors to allow access to the appropriate parts of Council premises, and facilities, and maximise participation in the civic duties and business of Council.

Policy on the Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors		
Owner: Governance	Accountability: Mayoral and Councillor support service	Policy: #
Trim Reference: D10/67513	Review date: Annual	Endorsed: Date and who



Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors – Council Policy

- (c) Accountability and transparency: The details and range of benefits provided to the Councillors are to be clearly stated and be fully transparent and acceptable to the local community.
 - (d) Reasonable expenses: Councillors shall only be reimbursed for expenses reasonably incurred in their performance of their role as a Councillor.
- (3) Only those entitlements specifically described in this Policy shall be provided by the Council.

References - Legislation

This Policy is made pursuant to Sections 252 - 254 of the Local Government Act 1993.

Review Process and Endorsement

As required by Section 252 (1) of the Act, the Policy is to be adopted by Council annually, within 5 months after the end of each year.

As required by Section 253 of the Act, public notice of at least 28 days is required to be given of Council's intention to adopt or amend the Policy. Public notice is not required if an amendment is "not substantial". The term "not substantial" shall be taken to mean minor changes to wording of the Policy or changes to monetary provisions or rates that are less than 5%. It shall also mean minor changes to the standard of the provision of equipment and facilities. Any new category of expenses, facilities and equipment included in the Policy will, however, require public notice no matter how minor.

As required by Section 253 (5) of the Act, public notice of 28 days is required to be given prior to each annual adoption process, even if there is no proposed change to the Policy.

Attachments

<i>Title</i>
Procedure – Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors
Guidelines – Councillor Attendance at Conferences
Form – Councillor Reimbursement

Policy on the Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors		
Owner: Governance	Accountability: Mayoral and Councillor support service	Policy: #
Trim Reference: D10/67513	Review date: Annual	Endorsed: Date and who



Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors – Procedure

Related Policy

These procedures relate to the Policy on the Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors.

Reporting requirements

Section 428 of the Act and clause 217 of the Local Government (General) Regulation (“the Regulation”) require Council to include in each Annual Report a copy of the Policy and details of the cost of implementing the Policy. These sections are set out in Clause 6.

Payment of expenses generally

Payment of Councillor Fees

- 1 (1) An annual fee is paid to each Councillor by the Council. The fee is the amount fixed by the Council under Division 5 of Part 2 of Chapter 9 of the Act in accordance with the appropriate determination of the Local Government Remuneration Tribunal.
- (2) Unless otherwise provided for in this policy, the annual fee paid to each Councillor is intended to offset the costs involved in discharging the functions of civic office including, but not limited to, all incidental and out-of-pocket expenses relating to transport, clothing, home office expenses, home telephone and postage costs.
- (3) All fees payable under this policy shall be paid monthly in arrears for each month (or part of a month) for which the Councillor holds office.
- (4) Unless otherwise stated, no entitlement under this Policy shall be treated as being a private benefit that requires a reduction in the Councillors Fee.

Reimbursement and reconciliation of expenses

- 2 (1) Reimbursement of costs and expenses to Councillors ***under part 13 – Communication costs*** will only be made upon the production of appropriate receipts and tax invoices, and the completion of the “Request for Councillor Reimbursement” form. Expenses and costs incurred must be in accordance with the requirements of this Policy. ~~Where no receipts or tax invoices are submitted, a Councillor shall be required to sign a Statutory Declaration to confirm that the expense was incurred. If a Statutory Declaration is provided in lieu of receipts and tax invoices, Councillors are required to personally retain any supporting documentation for audit purposes and shall be required to produce this documentation to Council upon request.~~

Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors - Procedure		
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- (2) *Reimbursement of other costs and expenses to Councillors will only be made upon the production of appropriate receipts and tax invoices, and the completion of the “Request for Councillor Reimbursement” form. Expenses and costs incurred must be in accordance with the requirements of this Policy. Where no receipts or tax invoices are submitted, a Councillor shall be required to sign a Statutory Declaration to confirm that the expense was incurred. If a Statutory Declaration is provided in lieu of receipts and tax invoices, Councillors are required to personally retain any supporting documentation for audit purposes and shall be required to produce this documentation to Council upon request.*
- (3) The General Manager or one other delegated employee shall assess all such claims and if considered to be reasonable and to be legitimately payable under this Policy, shall approve the claim for payment and payment shall be made within seven (7) days.
- (4) Should the General Manager or delegated employee decide that the claim should not be paid, the General Manager shall explain such decision to the Councillor and should the Councillor still consider that the claim should be paid, it shall be considered that a dispute exists and the provisions of the Disputes clause of this policy shall apply. See Clause 33.

Payments in advance

- 3 (1) Councillors may request payment in advance in anticipation of expenses to be incurred in attending conferences, seminars and training away from home. Councillors may also request an advance payment for the cost of any other service or facility covered by the Policy. However, Councillors must fully reconcile all expenses against the cost of the advance within one (1) week of their return, with receipts, and submit these details to the General Manager or his/her delegated employee for verification. Any unspent money is required to be returned at this time.
- (2) The maximum value of a cash advance is \$500.

Establishment of monetary limits and standards

Monetary Limits

- 4 Monetary limits are stated in this Policy against each expense category as required. These monetary limits set out the maximum amount payable in respect of any facility or expense. Any additional cost incurred by a Councillor in excess of any limit set shall be considered a personal expense that is the responsibility of the Councillor. All monetary amounts stated are exclusive of GST.

Time Limits

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- 5 Reimbursement of costs and expenses to Councillors must be made within 3 months of the cost or expense being incurred.

Spouse and partner expenses

- 6 (1) In limited circumstances, Council shall meet certain costs incurred by a Councillor on behalf of their spouse, partner or accompanying person that are properly and directly related to the role of the Councillor in the performance of his or her duties, such as attendance at official Council functions that are of a formal and ceremonial nature when accompanying Councillors within metropolitan Sydney.
- (2) Costs and expenses incurred by the Councillor on behalf of their spouse, partner or accompanying person will be reimbursed if the cost or expense relates specifically to the ticket, meal and/or direct cost of attending the function, including carer costs. Peripheral expenses such as grooming, special clothing and transport are not considered reimbursable expenses.
- (3) Each Councillor is entitled to seek reimbursement up to \$300 per annum for the purposes of sub-clause (2). Official receipts will be required for reimbursement under this clause.
- (4) In recognition of the importance of a good work and family balance, spouses, partners or accompanying persons are welcome to join Councillors whilst attending events away from home. In such circumstances, Council will not require reimbursement of costs if no additional travel and accommodation expenses are incurred over and above what would have been expended by the individual Councillor. For example, if the person/s travel as a passenger in the Councillor's vehicle and are able to be accommodated in the same room already provided as standard to the Councillor, it will be considered that no additional cost has been incurred by Council.
- (5) Where a spouse, partner or accompanying persons do attend an event away from home with the Councillor, all additional costs of the person/s will not be met by Council except for attendance at official dinners or ceremonies associated with the event and for which partners are invited to attend. This provision does not extend to social outings and tours which may be provided as part of a "partners program".
- (6) Each Councillor is entitled to seek reimbursement up to \$300 per annum for the purposes of sub-clause (5). Official receipts will be required for reimbursement under this clause.

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SPECIFIC EXPENSES

Attendance at seminars, conferences and training courses

- 7
- (1) Council approval is required for Councillors to attend seminars or conferences on behalf of the Council by way of a report to be included in the Council business papers. Any application to attend a seminar or conference will require full details of the purpose, expected total costs, and expected benefits.
 - (2) After returning from the seminar, conference or training course, the Councillor/s, or accompanying member of Council staff, shall provide a written report to Council on the aspects of the event relevant to Council business and/or the local community. No written report is required for the Annual Conferences of the Local Government Associations or for compulsory training courses or seminars required by any Government agency.
 - (3) Council will pay the seminar, conference or training course registration fees charged by the organisers including the costs of related official meals and associated tours where they are relevant to the business and interests of the Council. Any time and costs incurred in undertaking activities not related to attendance at the event shall not be included in the expenses paid by Council.
 - (4) Council will also meet the reasonable cost of transportation and accommodation associated with attendance at the seminar, conference or training course, including the cost of meals (and reasonable cost of drinks) when they are not otherwise included in the fees. Each Councillor is entitled to seek reimbursement up to \$100 per meal for the purpose of this sub-clause up to a limit of 3 meals per day. Official receipts will be required for reimbursement under this clause.
 - (5) Councillors shall be entitled to seek reimbursement for attendance at dinners and other non-Council functions where briefings relevant to the Council's interest are provided by key members of the community, politicians, government departments and business. Each Councillor is entitled to seek reimbursement up to \$300 per annum for the purposes of this sub-clause. Official receipts will be required for reimbursement under this clause.
 - (6) No payment shall be reimbursed for any component of a ticket that is additional to the cost of the function, such as a donation to a political party, candidate's electoral fund or some other private benefit.
 - (7) ***When determining attendance at conferences and seminars consideration will be given to the Councillor Attendance at Conference guidelines.***

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Training and education expenses

- 8 (1) An induction program shall be conducted by the General Manager for Councillors upon election to Council and every subsequent re-election. This program may include the provision of resources and the attendance at training courses.
- (2) Provision for other training and education for Councillors will be made separately in Council's budget via the adopted Management Plan. All Councillors will be offered the same access to the same training in accordance with the budget allocated.

General travel and accommodation arrangements

- 9 (1) All travel by Councillors to a seminar, conference or training course shall be undertaken by utilising the most direct route and the most practical and economical mode of transport subject to any personal medical considerations or extenuating circumstances.
- (2) Economy class air travel will be provided as standard for travel within Australia although business class air travel will be allowed for longer haul travel to the Northern Territory and Western Australia. The cost of any upgrade shall be the responsibility of the Councillor. Business class air travel will be allowed for any overseas travel (subject to Council approval).
- (3) Where trains are used, first class train travel will be provided, including sleeping berths where available.
- (4) Council shall also meet the cost of any transfers between a Councillor's residence and a transport interchange (ie: airport) and between the transport interchange and hotel or venue, such costs not to exceed the cost of taxi fares.
- (5) Council shall reimburse travel expenses to a seminar, conference or training course by a Councillor whilst using their own private vehicle by way of a reimbursement for each kilometre travelled for the specific journey, plus any road tolls and parking fees necessarily incurred. The rate of reimbursement for kilometres travelled shall be equivalent to the rates prescribed in the relevant legislation or policies applicable to employees of the Council. Council is not liable for any traffic, parking or transport fines, or costs of petrol, oil, depreciation, repair, maintenance, insurance or registration incurred by Councillors whilst using their private vehicles on Council related business.
- (6) Any accommodation required by Councillors will be provided by Council subject to availability, access to venue and cost. A reasonable standard of accommodation is considered to be 4 – 4.5 star although 5 star accommodation will be provided where no suitable alternative accommodation is available. The cost of any upgrade shall be the responsibility of the Councillor.

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Local travel arrangements and expenses

- 10**
- (1) Under normal circumstances, Councillors are expected to provide their own transport to and from the Civic Centre and the Councillor's home and place of work for the purpose of undertaking Council business.
 - (2) Transport to and from the Civic Centre and a Councillor's home and/or place of work may be provided by the Council at the discretion of the General Manager having regard to the circumstances, whenever it is not practicable for a Councillor to use his or her normal method of transport.
 - (3) Council shall reimburse expenses incurred by Councillors for travel on Council related business outside a 15km radius of the Ryde Civic Centre, excluding the NSROC region. Travel expenses include use of a private vehicle, use of public transport, taxis, hire cars, travel using a Council vehicle and associated costs such as parking and road tolls. Except for the provisions of clause 16(5), actual costs will be reimbursed. Council is not liable for any traffic, parking or transport fines, or costs of petrol, oil, depreciation, repair, maintenance, insurance or registration incurred by Councillors whilst travelling on Council related business.
 - (4) A Council vehicle (with or without a driver), a hire car, or a taxi voucher may be provided to a Councillor for the purpose of attending any Council related event at the discretion of the General Manager having regard to the circumstances.
 - (5) Nothing in this Policy prevents a Councillor from travelling in a Council vehicle with a staff member who is also attending any Council related event.

Interstate or overseas travel

- 11**
- (1) Council approval is required for interstate or overseas travel for which reimbursement is sought by Councillors. Any travel proposals for Councillors to travel interstate or overseas requires to be included in the non-confidential business papers of Council for which due public notice has been given. Such proposals cannot be considered in a late report or Mayoral Minute.
 - (2) Any application for interstate or overseas travel will require full details of the travel including itinerary, expected total costs, reasons for the travel and expected benefits. Council does not allow the retrospective re-imbursement of such travel expenses so all expenses must be approved in advance.
 - (3) After returning from interstate or overseas travel, the Councillor, or an accompanying member of Council staff, shall provide a written report to Council on the aspects of the trip relevant to Council business and/or the local community.

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Incidental Expenses

- 12 (1) Council shall reimburse reasonable out of pocket or incidental expenses associated with attending conferences, seminars or training courses incurred by Councillors.
- (2) Incidental expenses include, but are not limited to, in-house hotel television, telephone or facsimile calls, internet charges, refreshments, laundry and dry cleaning, and newspapers.
- (3) Each Councillor is entitled to seek reimbursement up to \$20 per day for the purposes of this clause.

Communication costs and expenses

- 13 (1) Councillors are entitled to seek reimbursement for communications costs and expenses covering the areas of email, internet, telephone (both fixed and mobile) and postage.
- (2) Each Councillor is entitled to seek reimbursement up to \$300 per month (\$3600 per annum) for the purposes of this clause.

Meals and refreshments

- 14 (1) Morning and afternoon tea may be provided to each Councillor when in attendance at the Civic Centre during normal office hours. A meal including drinks may be provided to each Councillor at the Civic Centre whenever the Councillor is required to attend at the Civic Centre, or leave from or return to the Civic Centre, for a Council related event.
- (2) Meals and refreshments may also be provided to Councillors when attending a local community event or festival. The General Manager, shall determine when such meals and refreshments are to be provided.
- (3) Pursuant to clauses 7(3), 7(4) and 7(5), meals and refreshments may also be provided to Councillors when attending a seminar, conference or training course.

Care and other related expenses

- 15 (1) Where a Councillor has responsibilities for the care and support of any relative, the Council may reimburse the actual cost incurred by the Councillor to engage professional care for the relative whenever considered necessary by the Councillor in order for the Councillor to discharge the functions of civic office.

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- (2) The total amount paid to a Councillor in a financial year under sub-clause (1) shall not exceed an amount equivalent to 25% of the Councillors fee set for that year.
- (3) In this clause, *relative* shall have the same meaning as set out in the Dictionary in the Local Government Act.

Relative, in relation to a person, means any of the following:

- (a) *the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;*
- (b) *the spouse or de facto partner of the person or of a person referred to in paragraph (a)*
- (4) Where a Councillor has a special requirement, such as disability and access needs, Council shall meet reasonable costs and expenses required in order for that Councillor to discharge the functions of civic office.
- (5) The total amount paid to a Councillor in a financial year under sub-clause (4) shall not exceed an amount equivalent to 25% of the Councillors fee set for that year, however, Council can approve additional expenditure in extenuating circumstances.
- (6) Each application for care and support of a relative or for meeting the special requirements of a Councillor is to be made in writing to the General Manager or his/her delegated officer and will be assessed on its merits. The General Manager may use his/her discretion to refer the matter to Council for determination.

Insurance provisions and expenses

- 16 (1) In accordance with Section 382 of the Local Government Act, Council is insured against public liability and professional indemnity claims up the value of \$300 million and \$200 million respectively. Councillors are included as a named insured on this Policy.
- (2) Councillors are also provided additional liability protection by way of the Councillors and Officers Liability Policy, and personal injury protection by way of the Personal Accident Policy.
- (2) Insurance protection is only provided if a claim arises out of or in connection with the Councillor's performance of his or her civic duties or exercise of his or her functions as a Councillor. All insurances are subject to any limitations or conditions set out in the policies of insurance.

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- (4) Council shall pay the insurance policy excess in respect of any claim accepted by Council's insurers, whether defended or not.

Legal assistance provisions and expenses

- 17 (1) Council may, if requested, indemnify or reimburse the reasonable legal expenses of:
- (a) a Councillor defending an action arising from the performance in good faith of a function under the Local Government Act; or
 - (b) a Councillor defending an action in defamation provided the statements complained of were made in good faith in the course of exercising a function under the Act; or
 - (c) a Councillor for proceedings before the Local Government Pecuniary Interest and Disciplinary Tribunal or an investigative body provided the subject of the proceedings arises from the performance in good faith of a function under the Act and the Tribunal or investigative body makes a finding substantially favourable to the Councillor.
- (2) Legal expenses incurred in relation to proceedings arising out of the performance by a Councillor of his or her functions under the Act are distinguished from expenses incurred in relation to proceedings arising merely from something that a Councillor has done during his or her term in office. For example, expenses arising from an investigation as to whether a Councillor acted corruptly would not be covered by this section.
- (3) Council will not meet the costs of an action in defamation taken by a Councillor as plaintiff in any circumstances and will not meet the costs of a Councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation.
- (4) The provisions of this section shall not apply in respect of any enquiry, investigation or hearing initiated at the request of, or to any legal proceedings taken by, the Council itself.

ADDITIONAL MAYORAL EXPENSES

Mayoral Fee

- 18 (1) An annual fee is paid to the Mayor by the Council. The fee shall be the amount fixed by the Council under Division 5 of Part 2 of Chapter 9 of the Act in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

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- (2) Unless otherwise provided for in this Policy, the annual fee paid to the Mayor is intended to offset the additional costs involved in discharging the functions of the mayoral office over and above the costs incurred by other Councillors.
- (3) In the event that the Council resolves to pay an annual fee to the Deputy Mayor, the amount of such annual fee shall be deducted from the amount determined to be paid to the Mayor.
- (4) All fees payable under this policy shall be paid monthly in arrears for each month (or part of a month) for which the Mayor holds office.
- (5) Unless otherwise stated, no entitlement under this Policy shall be treated as being a private benefit that requires a reduction in the Mayoral Fee.

Civic Expenses

- 19** Council shall meet the cost of providing refreshments and associated expenses for civic functions, civic receptions and any other formal event hosted by the Mayor, subject to adequate funds being allocated and available in the Council's adopted Management Plan.

Communication costs and expenses

- 20** Council shall reimburse up to an additional \$250 per month (**\$3,000 per annum**) for communication costs and expenses for the Mayor, over and above the monthly expenditure limit prescribed in clause 13.

PROVISION OF FACILITIES - GENERAL PROVISIONS

Provision of facilities generally

- 21** (1) Facilities, equipment and services shall be provided to Councillors to support them in undertaking their role as elected members of the Council.
- (2) The equipment supplied under sub-clause (1) shall be of adequate capacity and functionality to generally undertake the role of Councillor. Unless otherwise resolved by the Council, the equipment shall be provided to a Councillor only once during the term of each Council. Council remains in ownership of the equipment and will be responsible for maintenance, replacement, insurance, technology upgrades and supply of consumables, and the equipment is required to be returned at the end of the term of each Councillor. However, Councillors shall be offered the option to purchase the subject equipment that they have been in possession of, at the conclusion of their term, at current market value. Unless stated otherwise, the Councillor shall be responsible for all other costs of operation, for such equipment.

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Private use of equipment and facilities

- 22 (1) Council facilities, equipment and services are not to be used for private purposes unless the use is incidental, unavoidable and of a minor nature.
- (2) Where a Councillor obtains a private benefit for the use of a facility provided by the Council, the Councillor shall be invoiced for the amount of the private benefit with repayment to be in accordance with Council's normal terms. The value of the benefit shall be determined by Council in non-confidential session of a Council meeting.
- (3) Council facilities, equipment and services are not to be used to produce election material or for any other political purposes.
- (4) Unless otherwise stated, no entitlement under this Policy shall be treated as being a private benefit that requires a reduction in the Mayoral fee or the Councillors fee.

PROVISION OF FACILITIES - SPECIFIC PROVISION OF EQUIPMENT AND FACILITIES FOR COUNCILLORS

Stationery and other items

- 23 (1) Each Councillor may receive:
- (a) 2500 sheets of plain white A4 paper per year;
 - (b) 500 plain white DLE envelopes per year;
 - (c) 500 business cards per year (***as set out in the Corporate Identity Guidelines***);
- the year commencing from the date of election to Council and each subsequent anniversary.
- Additional supplies of the above stationery items may be provided by the General Manager if considered warranted having regard to the particular needs of any Councillor.
- (2) Each Councillor may be issued from time to time with name badges, a security access card, ties/scarves and other corporate apparel or accessories for personal use. Security access cards are required to be returned when the Councillor ceases to hold office.
- (3) Stationery is not to be used to produce election material or for any other political purposes.

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Home Office and Equipment

- 24** The following equipment and facilities may be provided by the Council at a location nominated by the Councillor:

a personal computer with office and related software
(up to a total value of \$3,000)

a printer which may include or have attached facilities for facsimile, scanning, photocopying and telephone answering
(up to a total value of \$1,000)

All amounts stated are inclusive of GST

Parking

- 25** Councillors shall be provided with allocated parking at the Civic Centre for attendance at meetings and functions in the performance of their role as a Councillor and be provided with a parking permit sticker for use when parking in the Civic Centre Car Park. No other parking concessions within the City of Ryde will be granted and Council will not indemnify Councillors for any damage to their vehicles whilst utilising this facility.

Secretarial Support

- 26** Secretarial support may be provided at the discretion of the General Manager for each Councillor at the Civic Centre. This may include typing, photocopying or use of a telephone. All expenses incurred including the cost of staff shall be met by the Council.

Delivery of Material

- 27** At least once weekly each Councillor may receive a delivery of material from Council including business papers, correspondence, newspapers, etc delivered to one property address nominated by the Councillor.

PROVISION OF ADDITIONAL EQUIPMENT AND FACILITIES FOR THE MAYOR

Mayoral Office

- 28** A furnished Mayoral Office shall be provided by the Council at the Civic Centre, including a computer with office and related software (including access to email and internet).

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Secretarial Support

- 29 Secretarial support shall be provided by the Council. All necessary staff, office equipment, furnishings, printing, stationery, postage and other general office expenses shall be met by the Council, subject to adequate funds being available in the Council's adopted Management Plan.

Motor Vehicle

- 30 (1) A **Toyota Camry Hybrid Level 2** 6-cylinder vehicle (Holden Caprice (or general equivalent) shall be provided by the Council and shall be fully maintained for use by the Mayor for Council related business. The vehicle may be used for private purposes by the Mayor. The cost of petrol used for private purposes shall be the responsibility of the Mayor.
- (2) A car parking space shall be allocated at the Civic Centre for the Mayoral vehicle.
- (3) A driver may be provided by the Council in connection with the attendance of the Mayor and/or the Mayor's spouse at civic, ceremonial or other functions related to the role of the Mayor.

Ceremonial Clothing

- 31 The Mayor shall be supplied with a suitable robe and chains of office.

Other equipment and facilities

- 32 (1) In addition to equipment and facilities already provided to the Mayor as a Councillor, the Mayor shall be entitled to the following equipment and facilities:
- (a) an additional 500 business cards per year of term (as set out in the Corporate Identity Guidelines),
 - (b) 200 Christmas Cards per year of term,
 - (c) corporate attire and presentation gifts for use in connection with civic and ceremonial functions eg: tie, scarfs, mementos
- (2) The General Manager shall have discretion to provide the Mayor with further equipment and facilities, not otherwise specified in this Policy, subject to funding being made available in the adopted Management Plan and the provision of such equipment or facilities is considered reasonable for the efficient and effective performance of the Office of the Mayor. Should the General Manager exercise his/her discretion to provide the Mayor with further equipment and

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facilities, not otherwise specified in this Policy a report detailing the provision shall be presented to Council.

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OTHER MATTERS

Disputes

- 33** Should any Councillor consider that a dispute exists at any time regarding this policy, the parties to the dispute shall provide a written report on the nature of the dispute and the General Manager shall submit such reports to the next meeting of the Council to have the dispute determined by a resolution of the Council having regard to this policy, the Act and any other relevant law. The decision of the Council shall be binding on all of the parties.

Attachments

<i>Number</i>	<i>Title</i>
1.	Legislative Provisions
2.	Guidelines – Councillor Attendance at Conferences
3.	Form

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LEGISLATIVE PROVISIONS

The relevant legislative provisions are set out below. In this legislation, the expression “year” means the period from 1 July to the following 30 June.

Local Government Act

252 Payment of expenses and provision of facilities

- (1) *Within 5 months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.*
- (2) *The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.*
- (3) *A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.*
- (4) *A council may from time to time amend a policy under this section.*
- (5) *A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.*

253 Requirements before policy concerning expenses and facilities can be adopted or amended

- (1) *A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.*
- (2) *Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.*
- (3) *Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.*
- (4) *Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:*

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(a) a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and

(b) a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and

(c) a copy of the notice given under subsection (1).

- (5) A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.

254 Decision to be made in open meeting

The council or a council committee, all the members of which are councillors, must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended, or at which any proposal concerning those matters is discussed or considered.

428(pt) Annual reports

- (1) Within 5 months after the end of each year, a council must prepare a report as to its achievements with respect to the objectives and performance targets set out in its management plan for that year.

- (2) A report must contain the following:

(f) the total amount of money expended during the year on mayoral fees and councillor fees, the council's policy on the provision of facilities for use by councillors and the payment of councillors' expenses, together with a statement of the total amount of money expended during that year on the provision of such facilities and the payment of such expenses,

Local Government (General) Regulation

217(pt) Additional information for inclusion in annual report

- (a1) details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, councillors in relation to their civic functions (as paid by the council, reimbursed to the councillor or reconciled with the councillor), including separate details on the total cost of each of the following:
- (i) the provision during the year of dedicated office equipment allocated to councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed

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in councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),

- (ii) telephone calls made by councillors, including calls made from mobile telephones provided by the council and from landline telephones and facsimile services installed in councillors' homes,*
- (iii) the attendance of councillors at conferences and seminars,*
- (iv) the training of councillors and the provision of skill development for councillors,*
- (v) interstate visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,*
- (vi) overseas visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,*
- (vii) the expenses of any spouse, partner or other person who accompanied a councillor in the performance of his or her civic functions, being expenses payable in accordance with the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW prepared by the Director-General from time to time,*
- (viii) expenses involved in the provision of care for a child of, or an immediate family member of, a councillor, to allow the councillor to undertake his or her civic functions,*

403 Payment of expenses and provision of facilities

A policy under section 252 of the Act must not include any provision enabling a council:

- (a) to pay any councillor an allowance in the nature of a general expense allowance, or*
- (b) to make a motor vehicle owned or leased by the council available for the exclusive or primary use or disposition of a particular councillor other than a mayor.*

Under Section 248A of the Act, Council must not, unless otherwise permitted, pay an annual fee to a Councillor for any period during which the Councillor is suspended from office or the right to be paid any fee is suspended.

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Under Section 254A of the Act, Council may resolve that an annual fee not be paid to a Councillor or the amount reduced if the Councillor is absent, with or without leave, from meetings of the Council for a period not more than 3 months or in any circumstances prescribed by regulation. A fee must not be paid if the period of absence exceeds 3 months.

Under clause 404 of the Regulation, a prescribed circumstance for non-payment or reduction of a Councillor's annual fee is where payment would adversely affect the Councillor's entitlement to a pension, benefit or allowance and the Councillor is agreeable to the non-payment or reduction.

A Councillor may elect not to accept any entitlement under this Policy, except that the Mayor and every Councillor must be paid the appropriate minimum fees determined by the Local Government Remuneration Tribunal (unless the provisions of Section 254A of the Act apply). Payment of the appropriate minimum fees determined by the Remuneration Tribunal is a requirement of Sections 248 (4) and 249 (4) of the Act.

Other Government and Council Policy provisions

This Policy has been prepared with reference to other Government and Council Policy provisions as follows:

- (1) Department of Local Government Circular No. 06-57, 5 September 2006, *"Guidelines for the Payment of Expenses and Provision of Facilities to the Mayor and Councillors."*
- (2) Department of Local Government Circular No. 05-08, 9 March 2005, *"Legal Assistance for Councillors and Council Employees"*
- (3) ICAC Publication *"No excuse for misuse"*, November 2002
- (4) City of Ryde *"Code of Conduct"*

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Councillor Attendance at Conferences Guideline

Related Policy

This guideline sets out the criteria to determine the attendance of Councillors at Conferences. It relates to the Policy on the Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors.

Guidelines

Council acknowledges the value of Councillor attendance at conferences to enable them to be both knowledgeable and current on issues affecting the City of Ryde. In order to ensure that attendance at Conferences is equitable, transparent and consistent, attendance will be limited as follows:

1. Local Government Association Conference – the number of voting delegates plus one. Details of the delegates and attendee to be determined by resolution of Council.
2. Australian Local Government Association Conference.
3. In addition, to 1 and 2 above, every Councillor is entitled to attend one conference in either NSW, Canberra, metropolitan Brisbane or metropolitan Melbourne. The conference must directly relate to the business of Council. More than one Councillor may attend the same conference if Council resolves that this will be beneficial for both Council and the Councillors concerned.
4. Within 2 months after the conference the attending Councillor must report to Council on the proceedings of the conference. That report will be included in the Councillors Information Bulletin.
5. No Councillor can attend a Conference without the prior approval of Council. Reports to Council are to include details of the Conference and an estimate of the associated costs including registration, transport and accommodation.
6. Council may resolve that a Councillor can attend more than one conference per year but this determination will be dependant on budgetary constraints and with an emphasis on ensuring that all Councillors have equal access to conferences.
7. Each year, as part of the review of the Policy on the Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors, Council officers will provide a full report of expenditure and Conference attendance by Councillors.

Councillor Attendance at Conferences guideline		
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Civic Centre, 1 Devlin Street Ryde 2112
Locked Bag 2069, North Ryde NSW 1570
Tel 02 9952 8222 Fax 9952 8070



Councillor Reimbursement

Section 252 of the Local Government Act authorises payment or reimbursement of actual expenses incurred by Councillors in carrying out their civic duties. Claims must be made in accordance with Council's Policy on the Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors and must be made within 3 Months of the date of the expenditure. All receipts/tax invoices must be attached, otherwise a Statutory Declaration is required to be submitted.

Councillor Name

Claim Period

Address

1. Summary of Claims

Clause	Date	Claim Description	Amount	Cost Code OFFICE USE ONLY
18	/ /	Travel	\$	
20	/ /	Communication Cost & Expenses	\$	
	/ /			
	/ /			
	/ /			
	/ /			
TOTAL CLAIM				

I certify that the details provided in relation to the above claims are correct and the expenses were reasonably incurred.

Signature of Claimant

Date

2. Approval of Reimbursement of Expenditure

Expenditure detailed in this claim is approved

Manager, Governance

Date

General Manager

Date