



# Developing a code of conduct

Guide for local government

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# Introduction

Local government elected members and employees play an important role in the local communities of Western Australia. This role includes the delivery of a diverse range of services from town planning and waste management to childcare and recreation facilities. While the roles of elected members and employees are different, both are essential to ensuring confidence in local government. Further to this, officers, whether elected members, committee members or employees, must act – and be seen to act – with integrity. All have a responsibility to perform their duties in the public interest and make accountable and ethical decisions.

Codes of conduct communicate expected standards of conduct and integrity to all those in an organisation. Effective codes that are well communicated throughout the workplace contribute to building and sustaining a culture of integrity, and create a robust and transparent framework in which to operate, both of which are fundamental to good organisational performance and public confidence.

The *Local Government Act 1995* (LG Act) requires all local governments to prepare or adopt a code of conduct to be observed by elected members, committee members and employees. This guide, prepared by the Public Sector Commission, is intended to assist local governments to develop, implement and promote an effective code of conduct. It is complemented by a number of resources for fostering good governance, which are available on the Public Sector Commission website.

The sample code for local government contained in this guide (refer pp. 11) is intended to provide guidance in relation to a broad structure for a code. A number of key conduct areas relating specifically to employees are canvassed, in recognition of the role that a code can play in articulating local government values through employee standards of conduct.

The conduct areas addressed broadly reflect the types of integrity topics that employees of local governments will likely encounter, but in developing your code you might include other topics that further reflect your mission, values and risk assessment. Under the *Local Government (Administration) Regulations 1996* it is a requirement for elected members, committee members and employees to observe detailed provisions in their codes in relation to conflicts of interest and acceptance and notifications of gifts. The Department of Local Government and Communities can assist in relation to these provisions.

# Developing your code

The following general steps for developing a code are useful, whether you are developing a new code or revising your current code in response to a review of your business context and risk factors.

## Scoping and research

Scoping and research involves identification of what sources of information may inform the development of your code. For example, generally your code should reflect your Community Strategic Plan and values, enabling legislation and regulations, together with whole-of-sector governance instruments under which your local government operates. Consideration should also be given to reviewing your current policies and governance products and whether these might need updating or augmenting to complement your proposed code and reflect your legislative obligations and business context.

You will also need to consider how the code can be used to inform consultants and others with whom your local government partners about the standards that your council, committee members and employees are expected to observe, and also as a resource for developing the expectations that will be imposed by your local government on those partners.

## Consultation

Consider forming a consultative committee to discuss the code's content and format, and how the code will be promoted to your employees, contractors and other partners. Your committee should have sufficient expertise to identify and assess the key operational risk areas that would benefit from being addressed within the code. These could include law, finance and procurement, human resources, asset management and community engagement, among other matters.

Consultation with a broad range of employees and stakeholders can help you understand the nature of ethical issues that may arise, your capacity to deal with them and perceptions in relation to the integrity of your local government workplace. This can be achieved in a variety of ways, including use of surveys, such as employee perception surveys, in addition to drawing on the expertise of the consultative committee, which should ideally represent a range of business centres within your local government.

You can also use this process to review the relevance and awareness levels of your existing code and other policies and guidelines, which will, in turn, identify areas for further education.

## Risk assessment

In determining your required standards of conduct, it will be necessary to identify critical success factors in your organisational performance and what integrity risks may arise. These might include, for example, the delivery of a high quality community service, public trust in decision making, the procurement and management of facilities and resources etc. Identification of the vulnerabilities related to those performance factors could further inform your risk management strategy, including the appropriate terms of your code and other necessary policies and procedures. For example, some business areas may be more exposed than others to integrity risks because they have a higher degree of autonomy or are making decisions upon which others may be dependent for a favourable outcome.

Because economic, industrial, regulatory and operating conditions, as well as community perceptions, change over time you should undertake regular risk assessments to ensure risk management approaches remain current and appropriate.

Some factors to consider in assessing risk in relation to employee performance are outlined below:

- requirement to manage budgets and procurement processes, or awarding of grants, contracts or licences
- regulatory and enforcement responsibilities particularly affecting members of the community and private property
- administration and delivery of public services and facilities
- management, access to, and use of, valuable equipment
- management, access to, and use of, sensitive or confidential information
- direct dealings with members of the community, especially vulnerable people
- potential for conflicts of interest for decision makers at various levels
- the existence of close personal relationships that might affect decision making
- the likely offer of, or need to provide, gifts, benefits or hospitality
- whether decisions of your employees are likely to be subject to strong stakeholder, public or media scrutiny.

Reviews by integrity agencies can reveal potential risks that may be applicable to your local government. As part of the scoping process mentioned above it is also appropriate to review previous complaints and your local government's history of integrity management.

You must ensure that your code complies with the provisions of *Local Government (Administration) Regulations 1996* under the LG Act that prescribe content of, and matters in relation to, codes. Council members will also be subject to any rules of conduct prescribed by legislation, but the rules of conduct do not limit what a code may contain.

Conflicts of interest are a particular risk area to which you should give considerable attention. The *Local Government (Administration) Regulations 1996* expressly require your code to include specific provisions in relation to disclosure of interests and

acceptance of gifts. It is advisable to develop a policy or policies canvassing conflict of interest issues, such as secondary employment, acceptance of gifts, close personal relationships etc. More expansive guidelines will assist your employees to understand what can represent conflict of interest and enable you to manage them when they arise. However, it is preferable to avoid duplication of large amounts of information contained in other applicable policies and guidelines. The WA Integrity Coordinating Group publications, *Gifts, Benefits and Hospitality – A guide to good practice* and *Conflicts of Interest – Guidelines for the WA public sector* and accompanying *Scenarios*, are resources that may assist you to develop a conflict of interest policy or policies.

## **Roles and relationships in local government: Structuring your code**

The differing functions, duties and accountabilities between elected members, chief executive officers and local government employees invoke governance issues unique to local government. Accordingly, in structuring your code one of the first decisions will be whether it should have separate chapters for each of your elected members, committee members, designated employees and employees or alternatively should be primarily organised around conduct areas, with standards of conduct for the different roles set out under each.

Each approach has its strengths, but an advantage of creating a separate chapter for employees is that it provides for the code to become a touchstone for corporate culture, governance and integrity training and enables clear guidance to employees as to the expectations placed on them as public officers.

However your code is structured, given the different accountabilities and the functional relationships between council members, committee members and employees, a statement setting out roles and relationships will clarify expectations. While the roles of council members and the chief executive officer are defined under the LG Act, because of differing accountabilities it can be useful to express the role of employees separately.

## **Endorsement of the code as a reflection of values**

A message or endorsement from the chief executive officer and mayor or president will communicate and emphasise integrity expectations, while the inclusion of your local government's mission statement and values will express the identity and aims of the local government as a whole.

## **Drafting your code**

You should also include an introduction that includes scope and applicability of the code and states that breaches are treated seriously. To ensure that the code is observed it is appropriate to include sections on reporting suspected breaches of the code in addition to canvassing each integrity topic with sufficient detail and references. Again, because the management and consequences of misconduct differ between members and employees, it will be necessary to differentiate the relevant processes. Depending upon

the nature of a breach, its management may already be provided for by legislation or may have to be addressed in some other way, for example, through a local law or employment contract. This guide does not address these matters and you should seek separate advice.

It is useful to reference specific legislation relevant to each conduct area, possibly in the body of the code or in an appendix, so employees know where they can access further information, if they need it. However, it is preferable to avoid duplication of large amounts of information contained in other applicable policies and guidelines.

Provision of a list of resources will further enhance understanding of rights and obligations.

Some writing and style tips are outlined below.

- Use positive or inclusive language, such as 'we' or 'our'.
- Make the code clear, concise and use plain English so everyone understands it.
- Avoid having a code that reads like a list of what not to do.
- Ensure the code is well structured and specific enough to guide the conduct of employees and reference other requirements or provide links to related policies.
- Be mindful of the code's length and, if your code is detailed and lengthy, consider using a table of contents.
- Consider the use of definitions for key terms to avoid ambiguity.
- Ensure the code has a clear layout and easy formatting to improve readability.
- Define or expand on key concepts, either within the code or related policies.
- Examples or scenarios related to the work of your local government may illustrate appropriate conduct in particular situations.

Once completed, the draft should ideally be reviewed by a number of appropriate stakeholders to ensure accuracy and compliance with relevant laws and policies, that it adequately reflects the values of your local government and it effectively addresses your risk assessment.

## **'First Steps' and the '6Ps'**

The Public Sector Commission has developed a range of practical tools to assist people with good decision making. One of these is ['First Steps'](#), a checklist of questions. These are simple but fundamental questions that are central to ethical and accountable public sector decision making.

1. Am I doing the right thing?
2. How would others judge my actions?
3. How could my actions impact on others?
4. Should I discuss this with someone else?

You might choose to include reference to this tool in your introduction or in an appendix to the code to emphasise that individuals should reflect on their conduct as local government members and employees.

It may also be of assistance to include in the code reference to the [‘6Ps’](#) developed by the WA Integrity Coordinating Group to assist employees to assess whether they have an interest that they are required to disclose as it could pose a potential, actual or perceived conflict of interest. In the first instance employees could be asked to understand the ‘6Ps’ and ask themselves the following questions.

- **Public duty versus private interest**  
*Do I have personal or private interests that may conflict or be perceived to conflict with my public duty?*
- **Potential**  
*Could there be benefits for me now or in the future that could cast doubt on my objectivity?*
- **Perception**  
*Remembering that perception is important, how will my involvement in the decision or action be viewed by others? Are there risks associated for me or my organisation?*
- **Proportion**  
*Does my involvement in the decision appear fair and reasonable in all the circumstances?*
- **Presence of mind**  
*What are the consequences if I ignore a conflict of interest? What if my involvement was questioned publicly?*
- **Promises**  
*Have I made any promises or commitments in relation to the matter? Do I stand to gain or lose from the proposed action or decision?*

## Adoption of your code

Whether newly developed or recently revised, the code should be formally adopted by the local government leadership. Adoption conveys the local government’s commitment to a culture of integrity and legitimises the code as a critical governance tool for members and employees.

## Introduction and embedding of your code with employees

Your chief executive officer or other senior manager should present your newly developed (or revised) code to all employees. It should be available on the local government intranet in an accessible format (including for the sight and hearing impaired) and all employees should be advised about its precise location to enable easy access. All new employees should be provided with a copy of, and briefing on, the code as part of their induction process.

Section 5.94 of the LG Act provides that the code is to be made available to the public during hours of the local government’s operation. For greater transparency you may decide to place it on your website.

Once introduced, integration of your code into corporate behaviour will require ongoing promotion. You may consider the following strategies to raise awareness:

- include conduct and integrity expectations in role statements and consider incorporating them into contracts for the supply of labour, consultancy and other outsourced services
- have each employee sign the code to confirm they have read it (this can be done electronically)
- promote your code within any relevant publications
- reference the code in other documents, such as your customer service charter, strategic plan and codes of practice
- reference the code in performance agreements and discuss conduct expectations during performance development meetings
- extend communication about the code to stakeholders including contractors, suppliers and the general public
- use the code (and associated policies and guidelines) as the basis for your training programs on ethics, decision making and accountability
- make timely reminders of conduct expectations, for example, at Christmas when gifts and hospitality are more likely to be offered to and by employees and personal behaviour issues may arise.

## Reporting and managing

It is important for you to convey in your code that alleged breaches are treated seriously and carefully, and to refer to relevant procedures for reporting and breach management.

Under the *Corruption, Crime and Misconduct Act 2003* the principal officer of local government is required to notify the Public Sector Commission of suspected minor misconduct by employees and the Corruption and Crime Commission of suspected serious misconduct by employees and members. More information about notifying and reporting misconduct can be found on the Public Sector Commission and Corruption and Crime Commission websites.

## Reviewing your code

Regularly reviewing and updating your code ensures it continues to address current and emerging conduct risks. Your code may not require an update with every review, but without a review process it may become outdated. Schedule a review date for your code and designate a position or employee to conduct the review. It can be useful to maintain a schedule of legislation referred to in your code to keep track of any amendments and consequential changes to your code.

Not all issues will arise from a deficiency in your code. Some may relate to a lack of knowledge or understanding and this may be better addressed through management and training.

# Sample code of conduct for local government

## Message from the chief executive officer and mayor or president

A message or introduction from the chief executive officer and mayor or president would act as an endorsement of your code and communicate its importance as a governance tool that conveys integrity expectations. The message should encourage all members and employees to read and be familiar with their accountabilities under the code, and make use of the resources provided with it, if any.

## Statement of values and mission

The principles to guide the behaviour of council members set out in Regulation 3 of the *Local Government (Rules of Conduct) Regulations 2007* may provide a useful basis for your code. These principles, as set out in the aforementioned Regulation 3, are:

- (a) *act with reasonable care and diligence; and*
- (b) *act with honesty and integrity; and*
- (c) *act lawfully; and*
- (d) *avoid damage to the reputation of the local government; and*
- (e) *be open and accountable to the public; and*
- (f) *base decisions on relevant and factually correct information; and*
- (g) *treat others with respect and fairness; and*
- (h) *not be impaired by mind affecting substances.*

Reference to your local government's Community Strategic Plan and mission would provide context for your code.

## Introductory paragraphs: Application, scope and roles

The introduction forms part of your code. It should explain that your code is established pursuant to the *Local Government Act 1995* (LG Act) and that it is consistent with the requirements of *The Local Government (Administration) Regulations 1996* and other applicable laws.

The introduction or scope section of the code should articulate to whom the code applies, that is, members, committee members and employees of your local government. Here, a section on roles will enable the code to be structured to focus on the differing functions, duties and accountabilities of members, employees and committee members. You could also include a requirement for members, committee members and employees to familiarise themselves with, and adhere to, all applicable policies and procedures and include reference to these in the body of the code or in an appendix.

### **Personal behaviour**

The community expects public officers to carry out their functions diligently, with integrity and due regard for their obligations and responsibilities, consistent with applicable laws, policies and procedures. They expect that decisions and conduct of local government employees will be well-informed and fair, and made in furtherance of the welfare and rights of the community.

Conduct that might be required specifically of employees in a code include that they:

- act within the limits of their delegation, consistently with the terms of the code, the law, and local government policy and procedures
- perform their duties and provide advice honestly, impartially and in the best interests of the local government and community.
- comply with all lawful and administrative practices that are consistent with local government policy and procedure
- treat members of the public, fellow employees and local government members with respect, courtesy, honesty and fairness, having regard for their interests, rights, safety and welfare
- report to the workplace appropriately attired and 'fit for work', which includes not being under the influence of alcohol or other drugs while at the workplace.

### **Supporting information and reference to legislation**

Applicable legislation can be referenced, for example, employment provisions under section 5.40 of the LG Act and provisions regarding relations between council members and employees (see Regulation 10 of the *Local Government (Rules of Conduct) Regulations 2007*). Supporting policies and resources on relevant issues could include occupational health and safety, dress requirements, discrimination, customer service, requirements for police clearances etc.

### **Official information, recordkeeping and communications**

Local governments deal with a large amount of information, some of which is intended to be available to assist and inform the general public, and some of which is confidential, concerning dealings between individuals and the local government. The community expects that information on which public officers base their advice and decisions is accurate and reliable, while confidential information is securely stored and appropriately

accessed. Local government members and employees must not use local government information for personal, commercial or political gain for themselves or others or improperly to the detriment of others.

To ensure integrity, security and appropriate communications of local government information, code requirements might include that employees will specifically:

- ensure that information obtained or created in the course of their employment is trustworthy and accurate
- ensure that information is accurately recorded and stored consistently with relevant laws and the local government's recordkeeping plan
- when making recommendations to, and determinations on behalf of, local government apply due diligence in the collation and assessment of relevant information
- only use any information acquired as a result of their employment or engagement by the local government impartially and in good faith
- not make improper use of any information acquired as a result of their employment or engagement by the local government to gain advantage or cause detriment for anyone
- not misrepresent organisational policy or use organisational information improperly to gain advantage for someone
- not disclose any information discussed during a confidential session of a local government meeting unless it ceases to be confidential
- exercise caution when participating as private citizens in public debate and commentary so as not to be perceived as representing their local government, unless authorised.

### **Supporting information and reference to legislation**

Applicable legislation can be referenced, such as section 5.93 of the LG Act in relation to improper use of information. Supporting policies and resources on relevant issues could include intellectual property, access to information, use of social media, public relations, records management etc.

### **Use of public resources**

The community expects public officers to perform their duties efficiently and utilise public resources prudently. Purchases and use of goods and services should only be made in the public interest and be appropriately recorded. All local government members and employees should play their role in protecting the assets of the local government, which include, but are not limited to, employees' time, credit cards, office and computer equipment, mobile telephones, motor vehicles, sport and recreation facilities, tools and machinery, real property, personal protective equipment etc.

Code requirements of local government employees might include:

- effective, economical and honest use and management of local government resources in the course of their duties
- compliance with applicable legislation, and local government policies and procedures when using or committing local government resources
- no improper use of public resources for direct or indirect personal gain or in such a way as to improperly cause a detriment, whether financial or otherwise
- no use of public resources for partisan political purposes
- operation, maintenance and secure storage of equipment and property in accordance with manufacturer specifications and its value
- reporting any damage to, or loss of, property or equipment immediately to management
- a conservative and proportionate approach to expenditure on hospitality in the course of local government business and ensuring that expenditure complies with local government policies.

### **Supporting information and reference to legislation**

Applicable legislation and local government policy can be referenced, such as the provisions of the *Local Government (Financial Management) Regulations 1996* in relation to procedures for making and receiving payments, and *Local Government (Functions and General) Regulations 1996* in relation to tender and procurement. Supporting policies and resources on relevant issues could include purchasing policy, pre-qualified suppliers, regional price preference, waste and sustainability, use of credit cards, use of local government facilities and equipment, travel, accommodation etc.

### **Conflicts of interest and gifts**

The community expects that local government employees will perform their official duties in the public interest and that they will not improperly use their position or authority for personal gain or to improperly cause detriment to others. Actual, potential and perceived conflicts of interest can arise from a number of sources, including friends, relatives, close associates, financial investments, personal circumstances and past employment.

To assist local government employees to avoid, identify and manage conflicts of interest, the code requirements might include the following expectations of employees:

- familiarise themselves with the different types of interests that are regulated by legislation and the disclosure requirements that apply to them
- understand in what circumstances gifts, benefits and hospitality may be accepted or rejected in accordance with local government legislation and policies
- exercise diligence in identifying, and making timely disclosure of, any interests requiring disclosure as they perform their duties

- obtain approval before commencing or continuing secondary employment and disclose any conflicts that arise as a result of that employment.

[The LG Act and subsidiary legislation, particularly the *Local Government (Administration Regulations) 1996*, require that all local government codes canvass in detail certain provisions regarding interests and gifts.]

### **Supporting information and reference to legislation**

Legislation, supporting policies and resources on relevant issues could relate to conflicts of interest, secondary employment, dealings with lobbyists, receipt and solicitation of gifts, close personal relationships etc.

### **Fraudulent or corrupt behaviour**

Community confidence in local government decision making can be lost when fraudulent or corrupt behaviour occurs. To ensure against the risk of fraudulent or corrupt behaviour local government employees may be expected to:

- not engage in any fraudulent or corrupt behaviour
- report any information about actual or potentially fraudulent, corrupt or illegal activities to their manager or chief executive officer
- report suspected breaches of the code
- abide by local government codes, policies and procedures.

### **Supporting information and reference to legislation**

Applicable legislation and local government policy could be referenced, such as the LG Act and subsidiary legislation, *The Criminal Code, Corruption, Crime and Misconduct Act 2003* and *Public Interest Disclosure Act 2003*. Here you could include detail or reference policies and resources on promoting integrity, the misconduct notification regime and public interest disclosure, such as the Department of Local Government and Communities [\*Fraud and Corruption Control Framework\*](#).

### **Reporting and management of code breaches and other wrongdoing**

Through their ethical decisions and conduct, including the decision to report wrongdoing, employees can play their part in preventing breaches of the code. Your code should make clear that reports of suspected breaches and wrongdoing will be treated seriously, dealt with confidentially and appropriate action will be taken. It should set out a breach reporting procedure and the various pathways for reporting wrongdoing, including to external oversight authorities.

### **Supporting information and reference to legislation**

Applicable legislation and local government policy could be referenced. You could also include detail or reference policies and resources on relevant issues, for example,

employee rights and entitlements, disciplinary policies, public interest disclosure, reporting misconduct to external bodies, such as the Local Government Standards Panel, Public Sector Commission and Corruption and Crime Commission etc.

### **Further information**

It is important that all members and employees understand their legal rights and obligations, as well as the ethical and behavioural standards expected by the local government.

Here you may choose to provide further information and resources from the Department of Local Government and Communities, the Public Sector Commission, the Corruption and Crime Commission, the WA Integrity Coordinating Group, the Local Government Managers Australia WA and the Western Australian Local Government Association.