



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

COUNCIL POLICY	
COUNCILLOR GIFT POLICY	Policy No:
	Adopted by Council:
	Next review date: 24 April 2025
Senior Manager:	Chief Executive Officer
Responsible Officer:	Governance Manager
Functional Area:	Governance
Introduction and Background	<p>West Wimmera Shire Council is a public body subject to the Local Government Act 2020 (The Act). The objective of the Act is to establish a legislative framework that provides for Councils to be accountable to their local communities in the performance of functions and exercise of power and use of resources.</p> <p>Section 138 of the Act requires Council to adopt a Councillor Gift Policy within the period of 6 months after this section comes into operation.</p>
Purpose and Objectives	<p>West Wimmera Shire Council is committed to ensuring that Councillors, Council staff and contractors act with integrity and honesty when performing their duties or while attending functions as Council representatives.</p> <p>The acceptance of gifts, benefits and hospitality can create perceptions that a Councillor, staff member or contractor's integrity has been compromised.</p> <p>This policy states West Wimmera Shire Council's position on:</p> <ul style="list-style-type: none"> • responding to offers of gifts, benefits and hospitality; • and providing gifts, benefits and hospitality. <p>This policy is intended to support Councillors to avoid conflicts of interest and maintain high levels of integrity and public trust.</p>
Victorian Charter of Human Rights and Responsibilities Act	<p>In developing this policy, the subject matter has been considered to determine if it raises any human rights issues. In particular, whether the scope of any human right established under the Victorian Charter of Human Rights and Responsibilities Act 2006 is in any way limited, restricted or interfered with by the contents of this policy.</p> <p>It is considered that the Councillor Gifts Policy is consistent with the rights outlined in the Charter. The human rights most relevant to this policy are the rights to:</p>



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	<ul style="list-style-type: none"> • protection of privacy and reputation (section 13)
References	<ul style="list-style-type: none"> • Local Government Victoria – Conflict of Interest Guides • IBAC Local Government Integrity Frameworks review (2019) • Victorian Ombudsman Conflicts of Interest in Local Government report (2008)
Related Policies	<ul style="list-style-type: none"> • Councillor Code of Conduct • Fraud & Corruption Control Policy
Forms	Councillors Gift Declaration Form
Gifts (s3 LGA)	<p>Means any disposition of property otherwise than by will made by a person to another person without consideration in money or money's worth or with inadequate consideration, including—</p> <p>(a) the provision of a service (other than volunteer labour); and</p> <p>(b) the payment of an amount in respect of a guarantee; and</p> <p>(c) the making of a payment or contribution at a fundraising</p>
Gifts explanation to support definition Includes: <ul style="list-style-type: none"> • Items and Services • Benefits • Hospitality 	<p>A gift is anything of monetary or other value that is offered by an external organisation or individual to a Councillor, Officer or contractor as a result of their role with the agency. It includes free or discounted items or services, benefits or hospitality that exceeds common courtesy. Examples include:</p> <ul style="list-style-type: none"> • a bottle of wine or spirits • tickets to sporting events • gift Voucher • corporate hospitality at a corporate facility • discounted products for personal use • use of a holiday home • free or discounted travel • free training excursions • door prize or voucher if an individual has not personally paid to attend.
Gift disclosure threshold	<p>A disclosable gift means any gift valued at or above \$500 or a higher prescribed amount that a relevant person received in the preceding five years if:</p> <ul style="list-style-type: none"> • the relevant person was a Councillor, member of Council staff or member of a delegated committee at the time the gift was received, or • the gift was an election campaign donation. <p>If multiple gifts are received from a person, they must be treated as a</p>



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	<p>single gift with an aggregate value.</p> <p>A gift includes any good or service (other than volunteer labour) that is provided for free or at a discounted price. It includes a payment or contribution at a fundraising function.</p> <p>A failure to comply is an offence that can be prosecuted in court. If found guilty a fine of up to 60 penalty units may be imposed, the value of the gift must be paid to the Council and the Councillor may be required to pay the costs of the prosecution.</p>
Items or services	<p>For example:</p> <ul style="list-style-type: none"> • Christmas hamper • desk calendar • box of chocolates • bottle of wine • commemorative object • door prize at a function • tree lopping • house painting
Benefits	<p>For example:</p> <ul style="list-style-type: none"> • preferential treatment • privileged access • access to discount or loyalty programs • promise of a new job
Hospitality	<p>Hospitality is considered a gift unless the hospitality was reasonable and you were attending the function or event in an official Council capacity.</p> <ul style="list-style-type: none"> • <u>Reasonableness test</u>: the hospitality must be of a standard and type that an independent observer would consider appropriate and not excessive. • <u>Official capacity test</u>: it must clearly be your duty as a Councillor to attend the relevant function or event. <p>Hospitality that <u>exceeds</u> common courtesy includes:</p> <ul style="list-style-type: none"> • A 'fine dining and wines' working lunch at another organisation's premises • An offer to pay for a working lunch at a café • An offer of a free spot on an industry golf day <p>Hospitality that does <u>not</u> exceed common courtesy and is therefore <u>not</u></p>



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	<p>a gift includes:</p> <ul style="list-style-type: none"> • Sandwiches and pastries over a lunchtime meeting • A cup of coffee at another organisations premises • A cup of coffee at a café (unless there is a conflict of interest)
Ceremonial gifts	<ul style="list-style-type: none"> • Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are usually provided when conducting business with official delegates or representatives from another organisation, community. • Ceremonial gifts are the property of West Wimmera Shire Council, irrespective of value. The receipt of ceremonial gifts should be recorded on the register but does not need to be published online.
Gestures	<ul style="list-style-type: none"> • A souvenir received from a person or company as a result of attending a seminar or conference held, conducted or sponsored by them, for which an appropriate fee was paid to attend. For example ties, pens or mugs. • Small gestures of appreciation from the community or customers such as cut flowers from their garden or homemade baked goods. • Door prizes and raffle prizes at functions or conferences are <u>not</u> considered a gift if the individual has personally paid for their attendance, or where the individual has paid for the raffle ticket.
Internal gifts	<p>Gifts received by Councillors from West Wimmera Shire Council are not covered by this policy and do not need to be declared.</p> <p>For eg. recognition gifts after the end of the Mayor term or Councillor term</p>
Bribe	<p>A bribe is an offer of money or other inducement made with the intention to corruptly influence a Councillor, officer or contractor in the performance of their duties. Bribery or attempted bribery of a public official is a criminal offence.</p>
Conflict of interest	<p>The Local Government Act 2020 requires Councillors to declare General or Material Conflicts of Interest.</p> <p>A conflict of interest is a conflict between a Councillor's public duty to act in the best interest of the Council and their private interests (financial or non-financial). A conflict exists whether it is:</p> <ul style="list-style-type: none"> • Real – it currently exists • Potential – it may arise, given the circumstances • Perceived – members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the person's performance of their duty to the Council,



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	now or in the future.
Contractor	Person or company supplying goods, services or works to the Council.
Value	Value means the face value or estimated retail value.
Legitimate Business Reason	<p>A legitimate business reason is a business purpose that furthers official business or other legitimate goals of the Council.</p> <p>The following are <u>not</u> legitimate business reasons:</p> <ul style="list-style-type: none"> • 'it would have been impolite to refuse' • 'refusal would offend' (except in compelling circumstances that are in the public interest, for example accepting a gift onstage at an official ceremony) • 'networking' • 'maintaining stakeholder relationships'
<u>Policy Details</u>	
1.	<p>Scope</p> <p>This policy sets out the Council's standards and procedures for responding to gift offers. It applies to all Councillors of West Wimmera Shire Council.</p>
2.	<p>Aim</p> <p>The aim of this policy is to provide clear guidelines to ensure Councillors are not compromised in the performance of their duties by accepting gifts or benefits which may result in a sense of obligation or could be interpreted as an attempt to influence. This helps to protect and promote public confidence in the integrity of the Council.</p>
3.	<p>Key principles and accountabilities</p> <p>The key principles are:</p> <ul style="list-style-type: none"> • Obligations: Councillors act in accordance with their respective obligations with good governance. • Public interest: Councillors have a duty to act in the public interest above their private interests when carrying out their official functions, in compliance with this policy. • Culture of integrity: West Wimmera Shire Council fosters a culture of integrity whereby Councillors declare all gifts. • Risk-based: The Council's risk in relation to gift offers are assessed, managed and monitored. • Accountability: The Council's procedures are transparent and accountable. Councillors are accountable for <u>declaring all gifts</u>, and <u>declaring declined gifts</u>, or where an exception applies under this policy.



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	<p>Consistent with the Minimum Accountabilities</p> <p>The Victorian Public Sector Commission has set binding minimum accountabilities for the appropriate management of gifts, benefit and hospitality. The Council's policy is also consistent with the Department of Environment, Land, Water and Planning (DELWP) model policy on <i>Gifts, benefits and hospitality – responding to gift offers</i>, which is published by the DELWP.</p> <p>This policy also incorporates the recommendations from the IBAC review of Local Government Integrity Frameworks 2019. A self-assessment was undertaken in 2019 and reported to Council's Audit & Risk Committee. This Policy has included all the recommendations for good practice.</p> <p>Conflicts of Interest in Local Government – Victorian Ombudsman - That councils have clear rules on accepting gifts and hospitality. All gifts and hospitality, however trivial, should be declared.</p>
4.	<p>Prohibited gifts</p> <p>Any Gifts that is inconsistent with community values and could bring a Councillor's integrity, or that of the Council into disrepute (eg. if accepting a gift could be perceived as an endorsement of a product or service) must be declined. All Councillors must refuse the following gift offers:</p> <p>4.1 Gift Disclosure threshold</p> <p>Councillors are prohibited from accepting gifts that equal or exceed the gift disclosure threshold unless they know the name and address of the person making the gift.</p> <p>4.2 Anonymous Gifts</p> <p>Section 137 of the Act states</p> <p><i>(1) Subject to subsection (2), a Councillor must not accept, directly or indirectly, a gift for the benefit of the Councillor the amount or value of which is equal to or exceeds the gift disclosure threshold unless—</i></p> <p><i>(a) the name and address of the person making the gift are known to the Councillor; or</i></p> <p><i>(b) at the time when the gift is made—</i></p> <p style="padding-left: 40px;"><i>(i) the Councillor is given the name and address of the person making the gift; and</i></p> <p style="padding-left: 40px;"><i>(ii) the Councillor reasonably believes that the name and address so given are the true name and address of the person making the gift.</i></p> <p>Penalty: 60 penalty units.</p> <p><i>(2) If the name and address of the person making the gift are not known to the Councillor</i></p>



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

for whose benefit the gift is intended, the Councillor is not in breach of subsection (1) if the Councillor disposes of the gift to the Council within 30 days of the gift being received.

(3) In addition to the penalty specified in subsection (1), a Councillor who is found guilty of a breach of that subsection must pay to the Council the amount or value of the gift accepted in contravention of that subsection.

If for any reason a Councillor finds themselves in possession of a gift when they don't know the name and address of the person who gave the gift, the Councillor can give the gift to the Council within 30 days to avoid committing an offence.

4.3 Conflict of Interest

Councillors are prohibited from accepting a gift that creates a conflict of interest (real, potential or perceived).

4.3 Money or equivalent

This includes gif cards (eg. gift vouchers) or those easily converted into money (eg. shares).

4.4 Regulatory processes

Where a Council regulatory process is underway (eg a planning permit application; infringement appeal) a Councillor should not accept any gifts from any individual or group that may be involved with the permit application or regulatory activity.

4.5 Bequests/Wills

Any bequests to Councillors resulting from their position with Council must not be accepted. Arrangements may be made to donate the bequest to a charitable institution in the name of the donor or returned to the immediate family.

4.6 Fly buy/Frequent Flyer

Councillors must not collect rewards for personal use via rewards programs for any Council related transactions (i.e.: fly buys or frequent flyers). This relates to any claims for reimbursement of expenses incurred in accordance with the Council Expense Policy.

4.7 Procurement & Tender Process

Councillors must not accept any gifts, benefits and hospitality from a current or prospective supplier or any offer that is made during a procurement or tender process by a person or organisation involved in the process.

Where gifts are received or there are irregular approaches from suppliers, the Councillors must notify the Mayor and CEO and lodge a gift declaration form, so their refusal/action



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	<p>can be properly recorded.</p> <p>Councillors must not visit a current supplier's premises without invitation and when not on official business.</p> <p>4.8 Recording prohibited gift offers</p> <p>To assist the Council in monitoring the frequency and nature of prohibited gifts, it is essential that all such offers are disclosed. Councillors must lodge a gift declaration form and details will be included in the register.</p> <p>4.9 Consequence of accepting prohibited gifts</p> <p>Accepting a prohibited gift may constitute misuse of a Councillor's position, and a breach of this policy may result in serious misconduct allegations for Councillors. In addition, if the gift was offered with the expectation of something in return, such as preferential treatment, accepting it may constitute a bribe or other form of corruption and lead to criminal prosecution.</p>
5.	<p>Attempts to bribe</p> <p>A Councillor who receives a gift offer that they believe is an attempted bribe must refuse the offer. They must:</p> <ul style="list-style-type: none"> • Immediately notify the CEO and lodge a gift declaration form, so their refusal can be properly recorded, • Report the matter to the CEO or (Governance Manager) (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission). • A Councillor who believes another person within the Council may have solicited or been offered a bribe which they have not reported, must notify the CEO or report the matter as a public interest disclosure in accordance with Councils Public Interest Disclosure Procedures.
6.	<p>No soliciting of gifts</p> <p>Councillors must not solicit gifts for themselves or anyone else, in any form. To do so may constitute misuse of their position. It may also constitute corruption and lead to criminal prosecution.</p>
7.	<p>Gestures that are not gifts</p> <p>Individuals may accept gestures without approval or declaring the offer on the West</p>



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	<p>Wimmera Shire Council Gift Register.</p> <p>An example of a gesture is an object with no monetary value such as flowers cut from the person's garden or homemade baked goods.</p> <p>A gesture may also be a souvenir received from a person or company as a result of attending a seminar or conference held, conducted or sponsored by them, for which an appropriate fee was paid to attend. Examples of this is are a tie, scarf, pen, cap, diary or mug.</p> <p>Door prizes and raffle prizes at functions or conferences are <u>not</u> considered a gift if the individual has personally paid for their attendance, or where the individual has paid for the raffle ticket.</p>				
8.	<p>Gift offers</p> <table> <tr> <td>Under \$50</td><td>Councillors may <u>accept</u> token gift offers, benefits and hospitality, and these do not need to be declared or submitted to the Governance department and included in the Gifts Register. However, should the combined total of offers made from a single source in a 12 months calendar year exceed \$200, these gifts need to be declared or submitted to the Governance department and included in the Gifts Register.</td></tr> <tr> <td>Gift offers over \$50</td><td> <p>Councillors are to refuse gift offers that:</p> <ul style="list-style-type: none"> • Are likely to influence them, or would be perceived to influence them, in the course of their duties, • Are likely to raise a conflict of interest, whether actual, potential or perceived, • Are made by a person or organisation about which they will likely to make a decision, • Are likely to be a bribe, • Have no legitimate business benefit, • Consist of money, gift vouchers or something easily converted into money, • Could be perceived to be an endorsement of a product or service and will bring the individual or Council into disrepute, • Are made in secret. </td></tr> </table>	Under \$50	Councillors may <u>accept</u> token gift offers, benefits and hospitality, and these do not need to be declared or submitted to the Governance department and included in the Gifts Register. However, should the combined total of offers made from a single source in a 12 months calendar year exceed \$200, these gifts need to be declared or submitted to the Governance department and included in the Gifts Register.	Gift offers over \$50	<p>Councillors are to refuse gift offers that:</p> <ul style="list-style-type: none"> • Are likely to influence them, or would be perceived to influence them, in the course of their duties, • Are likely to raise a conflict of interest, whether actual, potential or perceived, • Are made by a person or organisation about which they will likely to make a decision, • Are likely to be a bribe, • Have no legitimate business benefit, • Consist of money, gift vouchers or something easily converted into money, • Could be perceived to be an endorsement of a product or service and will bring the individual or Council into disrepute, • Are made in secret.
Under \$50	Councillors may <u>accept</u> token gift offers, benefits and hospitality, and these do not need to be declared or submitted to the Governance department and included in the Gifts Register. However, should the combined total of offers made from a single source in a 12 months calendar year exceed \$200, these gifts need to be declared or submitted to the Governance department and included in the Gifts Register.				
Gift offers over \$50	<p>Councillors are to refuse gift offers that:</p> <ul style="list-style-type: none"> • Are likely to influence them, or would be perceived to influence them, in the course of their duties, • Are likely to raise a conflict of interest, whether actual, potential or perceived, • Are made by a person or organisation about which they will likely to make a decision, • Are likely to be a bribe, • Have no legitimate business benefit, • Consist of money, gift vouchers or something easily converted into money, • Could be perceived to be an endorsement of a product or service and will bring the individual or Council into disrepute, • Are made in secret. 				
9.	<p>Declaration of accepted/declined gifts</p> <ul style="list-style-type: none"> • Complete the Gift Declaration form within seven days of the offer • Gifts over \$50 remains the property of the Council until otherwise determined. • Declarations must be made on Council's declaration form. 				



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

10.	<p>Hospitality and Conferences</p> <p>Gift offers of hospitality that exceed common courtesy must be avoided are often inconsistent with community expectations and have a high risk of creating a conflict of interest. Examples of gift offers of hospitality that exceed common courtesy include:</p> <ul style="list-style-type: none"> • Attending as a guest in a corporate box at the football or races • Attending a concert or theatre event • Attending an industry golf day at a reduced fee • Being 'shouted' a meal at a restaurant • Accepting discounted or complimentary tickets for a family member to attend the tennis <p>Reasonable hospitality does not need to be declared. See the definitions of Hospitality.</p> <p>Conferences</p> <p>Gift offers in relation to conferences (sponsored attendance, participation, travel or accommodation) must be declined unless there is:</p> <ul style="list-style-type: none"> • Clear justification, such as where the invitation is issued by a government department or the offeror is a peak body, and • Prior written approval granted by the CEO (Mayor for Councillors, CEO for Mayor) or other responsible person. The signed and dated approval must be attached to the gift offer declaration and noted in the gifts register.
11.	<p>The G.I.F.T Test – Conflict of Interest and reputational risks</p> <p>Deciding whether to accept an offer, Councillors should first consider if the offer could be perceived as influencing them in performing their duties or lead to reputational damage. The more valuable the offer, the more likely that a conflict of interest or reputational risk exists.</p> <p>Developed by the Victorian State Services Commission, the GIFT test is a good example of what to think about when deciding whether to accept or decline a gift, benefit or hospitality.</p>



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	G	Giver	<p>Who is providing the gift, benefit or hospitality and what is their relationship to me? Does my role require me to select contractors, award grants, regulate industries or determine government policies? Could the person or organisation benefit from a decision I make?</p>
	I	Influence	<p>Are they seeking to gain an advantage or influence my decisions or actions? Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy or a token of appreciation or valuable non-token offer? Does its timing coincide with a decision I am about to make?</p>
	F	Favour	<p>Are they seeking a favour in return for the gift, benefit or hospitality? Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers over the last 12 months? Would accepting it create an obligation to return a favour?</p>
	T	Trust	<p>Would accepting the gift, benefit or hospitality diminish public trust? How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?</p>
12.	Corporate Gifts In certain cases it may be appropriate for example as a thank you to provide corporate gifts to individuals or organisations on behalf of the Council. These should be limited to token gifts. Each case will be dealt with on its individual merits. The practice of giving gifts should not be common or frequent. Approval must be obtained from the CEO.		
13.	Donations and Bequests of Gifts to Council West Wimmera Shire Council may be offered or bequested gifts or donations. Such gifts include: <ul style="list-style-type: none"> • Real property • Donations • Art work • Free Training & Services <p>West Wimmera Shire Council does not encourage and will not automatically accept a gift or donation. Given the potential for a vast range in terms of quality, relevance and the ongoing responsibility and maintenance requirements, Council reserves the right to decline the offer.</p> <p>Bequests</p> <p>In relation to Bequests, consideration will be given to:</p> <ul style="list-style-type: none"> • The expressed wishes and intentions of the bequestor, as outlined in the will, are paramount in determining the purpose for which the gift will be used. • Where Council is unable to honour the intentions of the will, all appropriate legal measures will be taken to determine a purpose for the gift that most closely aligns to the bequestor's intentions. 		



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

14.	<p>Disclosure requirements</p> <ul style="list-style-type: none"> • A Councillor must disclose any gift valued at \$500 or more in their biannual personal interest return unless the gift is from a family member. • A Councillor who has a conflict of interest as a result of receiving a gift or gifts from a person must disclose the conflict of interest in accordance with the procedures outlined in the Governance Rules. • Gifts above the gift disclosure threshold that are election campaign donations must be disclosed in an election campaign donation return. • Gifts must also be disclosed in the Councillor gift register.
15.	<p>Gifts, Benefits & Hospitality Register</p> <p>The Governance Unit maintains the Gifts Register for all gift declarations (for Councillors, Staff and Contractors).</p> <p>Gifts accepted or declined over \$50 will be included in the register. The Register contains:</p> <ul style="list-style-type: none"> • A description of the gift and its estimated value • The name of the gift giver • What was done with the gift (was it retained by the Councillor, handed to the council, etc.) • Gifts Declined • Gifts offers from suppliers (irregular approaches from suppliers) <p>In accordance with the West Wimmera Shire Council Public Transparency Policy, the Gifts Register will be available on Council's website.</p> <p>Consideration will be given to maintaining reasonable confidentiality in situations where public disclosure will prejudice a proposed development or business venture, legal advice or legal proceedings.</p> <p>The Governance Manager is to monitor the Gifts Register and report six monthly to the Executive Team on any identified systematic pattern of gifts offered and accepted to ensure that unacceptable cultures do not develop within sections of the Council. A report is to be presented annually to the Audit & Risk Committee.</p>
16.	<p>Contacts for further information</p> <p>A conflict of interest resulting from the acceptance of a gift, benefit or hospitality is not always clear to those who have them. Councillors who are unsure about the acceptance of a gift, benefit or hospitality, or the application of this policy, should speak with the CEO or Governance Manager.</p>



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

Policy Adopted:	Ordinary Meeting [date]	Minute Book Page [number]	RecFind
Policy Reviewed:	Ordinary Meeting [date]	Minute Book Page [number]	RecFind

DRAFT



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

COUNCIL POLICY		
COUNCILLOR AND STAFF INTERACTIONS POLICY	Policy No:	
	Adopted by Council:	
	Next review date:	24 February 2025
Senior Manager:	Chief Executive Officer	
Responsible Officer:	Governance Manager	
Functional Area:	Governance	
Introduction and Background	This Policy applies to all Councillors and Council Staff of the West Wimmera Shire Council.	
Purpose and Objectives	<p>This Policy is to provide guidance and support for Councillors and Council Staff in the performance of their duties. It complements the Councillor and Staff Codes of Conduct and supports compliance with the Local Government Act 2020.</p> <p>This Policy provides assistance to Councillors in getting the information they need to perform their role in a timely manner and through the appropriate channels.</p>	
Definitions	The Act means the Local Government Act 2020.	
Policy Details		
1.	General Provisions	
	1.1 Communication Channels and Provision of Information <p>The Council employs the CEO and the CEO is responsible for the organisation. Therefor Councillors’ primary point of communication is via the office of the CEO. Contact with other Council Staff will be in accordance with this Policy.</p> <p>All communication, including requests for information, between Councillors and Council Staff should go through the Office of the Chief Executive or relevant Director or relevant Line Manager as appropriate. The CEO or Director or Line Manager will then direct Councillor enquiries to the most relevant member of Council staff for a response.</p> <p>Councillors should directly communicate with Council’s Manager Governance for</p>	



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

issues and questions in relation to governance, the Governance Rules, Councillor policies and the Councillor Code of Conduct.

The Mayor, Deputy Mayor or another Councillor who is filling in for the Mayor at a function, may liaise with Council's Communications Officer for advice in relation to speeches, media releases and official statements to the media.

Where possible communication should be via email. This allows for appropriate record keeping in accordance with the relevant legislation.

All Councillor Requests should be emailed to Council's governance support gso@westwimmera.vic.gov.au who will lodge the requests in Council's electronic records management system and distributed to the relevant staff member for action. Councillors should include sufficient information to enable staff to respond, for example, the name and contact details of a resident if staff are required to contact them. Councillors should indicate in the request whether they would like to respond to the member of the public, or whether they would like the appropriate staff member to do so. If the staff member is to reply, the Councillor should be copied into the email reply.

Councillors can also communicate with Council Staff through a range of business processes including:

- Council Meetings and Briefing Sessions; and
- Committees with both Councillor and Council Staff Members

A large amount of information required for Councillors to perform their roles will be provided through the meeting papers for these meetings.

However, it is recognised that the responsibility Councillors have is to represent their constituents and in achieving the strategic priorities of the community, may require access to other information and resources.

Councillors should consider any likely cost implications in making requests for advice or information, and not make requests where the costs cannot be justified as being in the public interest. If the costs of providing information are likely to be high, the Councillor will be requested to consider a Notice of Motion.

1.2 Responses to Councillors

If a request from the Councillor relates to matters which are of a whole of Council significance or relevance, then all the Councillors will be copied into the reply.

The CEO and Director should be copied into or otherwise informed of all communication between Council Staff and Councillors.

Councillors are required to treat all information provided by staff appropriately and to adhere to any confidentiality requirements. If a Councillor is unsure whether a document or advice is confidential they should contact the CEO or relevant Director



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

for clarification prior to releasing the information.

Where possible, staff will clearly identify information which is confidential to assist Councillors in the appropriate handling of such information, however it is the Councillors responsibility to ensure they use the information in an ethical manner in accordance with the requirements of the Local Government Act 2020.

1.3 Interaction between Councillors and staff at Council facilities or functions

The Mayor is provided with office accommodation at Council's Edenhope office, and Council staff will make a meeting room available for use by the Mayor at Kaniva office on an as-required basis.

Councillors may book meeting rooms owned and controlled by Council for meetings, interviews and other functions where the primary purpose is to allow the Councillor to discharge their Council duties. The Councillor must be in attendance and bookings must be made through Customer Service.

Visits to other Council facilities, other than the various customer services / reception desks as a member of the community, are to be prearranged with the CEO or the relevant Director. This prearrangement ensures that the attendance of any relevant staff can be arranged, and any Occupational Health and Safety requirements can be organised before the visit occurs.

1.4 Personal Interaction between Councillors and staff

While this Policy governs the interactions between Councillors and Council Staff, it does not prevent Councillors and Council Staff from communicating generally.

Council staff may communicate with Councillors as residents / ratepayers of the West Wimmera Shire.

From time to time, Councillors and staff may be present at social and community events. In such situations, both parties must refrain from discussing matters relating to Council business.

1.5 Improper or undue influence

Under the Act it is the responsibility of the Council to appoint the CEO. The CEO is then responsibly for employing staff for the successful operation of the organisation. As Council does not employ the staff, Council or individual Councillors cannot direct or manage staff and are responsible for the performance of the CEO only.

Further to this Councillors, are prohibited under Section 124 of the Act from improperly directing or influencing Council Staff.

Section 124 of the Act states that:



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	<p><i>A Councillor must not intentionally direct, or seek to direct, a member of Council staff:</i></p> <ul style="list-style-type: none"> <i>a) In the exercise of a delegated power, or the performance of a delegated duty or function, of the Council; or</i> <i>b) In the exercise of a power or the performance of a duty or function exercised or performed by the member as an authorised officer under this Act or any other Act; or</i> <i>c) In the exercise of a power or the performance of a duty or function the member exercises or performs in an office or position the member holds under this Act or any other Act; or</i> <i>d) In relation to advice provided to the Council or a delegated committee, including advice in a report to the Council or delegated committee.</i> <p>Improper or undue influence can include:</p> <ul style="list-style-type: none"> • disrespecting the professional opinion, skills or expertise of staff through intimidation, bullying, harassing or disrespectful behaviour; • using rank or position to seek information outside the processes outlined in this Policy; • pressuring staff to make a decision outside the formal Council decision making processes; • pressuring staff to provide information, services or assistance to one person, group or part of the community over another, outside a formal decision of Council; • pressuring staff to make a decision to take action outside normal business process timeframes; • pressuring staff to change a recommendation in a Council Report. <p>1.6 Conduct Contradictory to this Policy</p> <p>Where any Councillor or staff member has concerns in regard to communications between Councillors and Council staff, the matter is to be referred to the CEO.</p> <p>Council staff are to inform their Director of any communication made directly to them by a Councillor not in accordance with this Policy.</p>
2.	<p>Review</p> <p>This Policy must be reviewed a minimum of once every four years or in line with legislative changes.</p>
3.	<p>Human Rights Statement</p> <p>It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights and Responsibilities Act (2006). West Wimmera Shire</p>



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	Council is committed to consultation and cooperation between management and employees.
4.	<div>Relevant Legislation and Council Policies</div> <ul style="list-style-type: none">• Local Government Act 2020• Councillor Code of Conduct• Councillor Expenses Policy• Fraud & Corruption Control Policy

DRAFT



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

Policy Adopted:	Ordinary Meeting [date]	Minute Book Page [number]	RecFind
Policy Reviewed:	Ordinary Meeting [date]	Minute Book Page [number]	RecFind

DRAFT



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

COUNCIL POLICY			
COUNCILLOR CODE OF CONDUCT POLICY		Policy No:	
		Adopted by Council:	
		Next review date:	28 February 2025
Senior Manager:	Chief Executive Officer		
Responsible Officer:	Governance Manager		
Functional Area:	Governance		
Introduction and background	As custodians of the West Wimmera Shire Council, Councillors hold a unique and important leadership role within Victoria.		
	As Councillors we commit to carrying out our role to the highest standards of conduct and behaviour. As part of this commitment all Councillors will adhere to the standards of conduct, principles and processes outlined in the Local Government Act 2020 (the Act) and this Councillor Code of Conduct (this code).		
	As Councillors of the West Wimmera Shire Council we are committed to working together in the best interests of the people within our municipality and to discharging our responsibilities to the best of our skill and judgment.		
	CODE OF CONDUCT		
	Section 139 of the Act states <i>that a Council must develop a Councillor Code of Conduct and that the purpose of the Councillor Code of Conduct is to include the standards of conduct expected to be observed by Councillors in the course of performing their duties and functions as Councillors, including prohibiting discrimination, harassment (including sexual harassment) and vilification.</i>		
	A Councillor Code of Conduct:		
	a) <i>must include the standards of conduct prescribed by the regulations expected to be observed by Councillors; and</i>		
	b) <i>must include any provisions prescribed by the regulations for the purpose of this section; and</i>		
	c) <i>must include provisions addressing any matters prescribed by the regulations for the purpose of this section; and</i>		



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

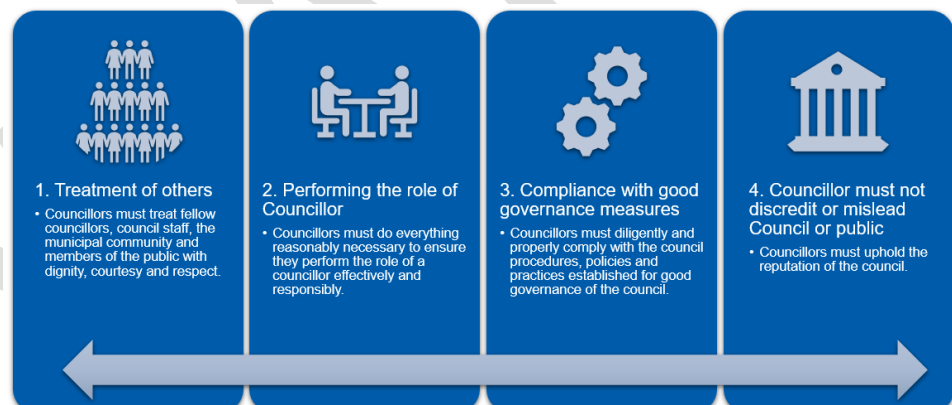
- d) *may include any other matters which the Council considers appropriate, other than any other standards of conduct.*

A Council must review and adopt the Councillor Code of Conduct within the period of 4 months after a general election. A Council must adopt the Councillor Code of Conduct by a formal resolution of the Council passed at a meeting by at least two-thirds of the total number of Councillors elected to the Council.

STANDARDS OF CONDUCT

The Standards of Conduct are included in Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020 (the Regulations). These standards are:

1. *treatment of Others;*
2. *performing the Role of Councillor;*
3. *compliance with Good Governance Measures;*
4. *Councillor must not discredit or mislead Council or public*



Nothing in the standards of conduct set out in the Regulations 2020 is intended to limit, restrict or detract from robust public debate in a democracy.

APPLICATION OF THE CODE OF CONDUCT

As Councillors we must observe the Councillor Code of Conduct whenever we:

- a) conduct the business of Council;
- b) conduct the business of the office to which we have been elected or appointed;



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	<p>c) act as a representative of Council; and</p> <p>d) are participating in any dealings with the public, such as on social media.</p>
Purpose & Objectives	The purpose of the Councillor Code of Conduct is to include the standards of conduct expected to be observed by us as Councillors in the course of performing our duties and functions as Councillors, including prohibiting discrimination, harassment (including sexual harassment) and vilification.
Definitions	<p>The Act means the Local Government Act 2020.</p> <p>The Regulations means the Local Government (Governance and Integrity) Regulations 2020.</p> <p>This code means the Councillor Code of Conduct.</p> <p>CEO means Chief Executive Officer of Council.</p> <p><i>Text in italics</i> means wording as per the Act or the Regulations.</p>
Policy Details	
1	<p>Treatment of Others</p> <p>1. Standard of Conduct – Treatment of Others</p> <p>Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020 states that a <i>Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor:</i></p> <ul style="list-style-type: none"> a) <i>takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the Equal Opportunity Act 2010 ; and</i> b) <i>supports the Council in fulfilling its obligation to achieve and promote gender equality; and</i> c) <i>does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and</i> d) <i>in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.</i> <p>2. General Conduct</p> <p>In performing our role as Councillors we must:</p>



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

- a) act with integrity;
- b) impartially exercise our responsibilities in the best interests of the municipal community;
- c) not improperly seek to confer an advantage or disadvantage on any person;
- d) avoid conflicts between our public duties as a Councillor and our personal interests and obligations;
- e) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- f) treat all persons with respect;
- g) have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council officers and other persons;
- h) exercise reasonable care and diligence and submit ourselves to the lawful scrutiny that is appropriate to our office;
- i) endeavour to ensure that public resources are used prudently and solely in the public interest;
- j) act lawfully and in accordance with the trust placed in us as an elected representative; and
- k) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

3. Relationships between Councillors

Council is comprised of a group of individuals who bring to Council their own unique skills, talents, personalities, backgrounds and divergent views. All Councillors need to be understanding and accepting of the differences between Councillors and recognise that this diversity enriches Council and is reflected in the policies, strategies and decisions which are made in the best interests of the entire municipal community.

Councillors need to be mindful that having and expressing differing and sometimes opposing viewpoints is a normal function of the process of democratic government and is just as much a part of local government as it is of the other levels of Australian government. Sharing and expressing these different views leads to informed and well considered debate. All Councillors have the right to influence, through this debate, the decisions made by Council.

Therefore, having differing views, politics or attitudes from other Councillors is not considered a conflict or a dispute and does not require resolution. Conflict does emerge when the differences become personal or the behaviour of Councillors towards each other is of a nature that threatens the effective operation of Council's decision making



processes.

As Councillors we will work collaboratively together by:

- a) respecting the right of each Councillor to speak and represent their views on the needs and rights of community members;
- b) always speaking well of each other and Council in public;
- c) demonstrating total commitment to consult with other Councillors, within the decision making framework and with no surprises;
- d) always being punctual to Council meetings and civic events;
- e) committing to a consultative approach to solving problems, developing effective decisions and communicating outcomes that build teamwork and cooperation;
- f) demonstrating leadership by focusing on issues and refraining from personalising matters particularly in relation to making personal remarks regarding other Councillors; and
- g) respecting each other's right to hold different views and debate strongly on matters of difference while being united in representing Council decisions.

4. Conduct at Council Meetings

The Governance Rules govern the conduct of Council Meetings. The Chair plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all Councillors have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed and statutory requirements are met.

As Councillors we will comply with the Governance Rules and this Code when participating in Council meetings. We will act respectfully towards the Chair, our fellow Councillors, Council officers, guests and any community members or media attending the meeting.

5. Interaction between Councillors and Council staff

As Councillors we will work as part of the Council team with the CEO and other members of staff. There must be mutual respect and understanding between Councillors and officers in relation to their respective roles, functions and responsibilities.

Our role is one of advocacy and leadership rather than management and administration. The CEO is responsible for all staff matters.

As Councillors will accept that our role is one of leadership, not a management or administrative role; and in the interests of maintaining a high level of teamwork and encouraging good morale, there will be no personal criticism of Council staff in public by Councillors. If Councillors wish to express any such criticism, then the matter should be raised in a non-public forum.



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

As effective Councillors we will work as part of the Council team, with the CEO, Directors and other members of Council staff. This teamwork will only occur if Councillors and staff have a mutual respect and cooperate with each other to achieve the Council's Council Plan.

As Councillors, we will be aware of the requirements of Section 124 of the Act and must not seek to improperly direct or influence members of Council staff in the exercise of their duties. (Please see section 3 in Chapter 4 below for a detailed explanation of this point).

As Councillors we must comply with the Councillor and Staff Interactions Policy.

6. Interaction with the Community

Accessibility of Councillors at the community level means that our actions and behaviour are closely monitored. In performing our role as Councillors, the community expects that we will comply with any laws, in particular the Act and its associated Regulations, and will be aware of our responsibility to comply with the standards of conduct.

As Councillors we will:

- a) be mindful of our broad responsibility of serving the best interests of the entire municipality;
- b) work with other levels of government and organisations to achieve benefits for the community at both a local and regional level;
- c) keep the community informed about the Council's activities and plans and report to the community on these matters on a regular basis;
- d) act in a reasonable and fair way, and in a manner which is not discriminatory; and
- e) treat all members of the community honestly and fairly and in a way which does not cause offence or embarrassment to individuals or groups.

7. Communications

As representatives of the municipal community, Councillors have a primary responsibility to be responsive to community views and to adequately communicate the position and decisions of Council.

As Councillors we will respect that the Mayor together with the CEO are the designated persons authorised to speak to the media and others on behalf of the Council.

Individual Councillors are entitled to express their personal opinions through the media, including social media. Where we choose to do so, we will make it clear that such comment is a personal view and does not represent the position of Council. Councillors must ensure that any such comment is devoid of comments that could reasonably be



construed as being derogatory, offensive or insulting to any person.

As Councillors we acknowledge that when we are accessing and/or using Council's internet, email and electronic communications, and other Council resources, we need to comply with the Councillor Expenses Policy.

8. Requests for Service/Complaints

A Councillor request for service is a request made by a Councillor on their own behalf, or on behalf of a community member. All requests for service will be made in accordance with the Councillor and Staff Interactions Policy.

In accordance with the Victorian Ombudsman's good practice guide, to ensure transparency and fairness, complaints received from Councillors will be treated the same way as ones made to Council officers. A Councillor must not seek to direct or influence the complaint handling process.

9. Harassment and Discrimination

As Councillors we must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.

For the purposes of this code, "harassment" is any form of behaviour towards a person that:

- a) is not wanted by the person;
- b) offends, humiliates or intimidates the person; and
- c) creates a hostile environment.

10. Bullying

As Councillors we must not engage in bullying behaviour towards others.

For the purposes of this code, "bullying" by a Councillor means the Councillor repeatedly behaves unreasonably towards another Councillor or a member of Council staff and that behaviour creates a risk to the health and safety of that other Councillor or member of Council staff;

Unreasonable behaviour includes victimising, humiliating, intimidating or threatening. Whether a behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:



- a) aggressive, threatening or intimidating conduct;
- b) belittling or humiliating comments;
- c) spreading malicious rumours;
- d) teasing, practical jokes or 'initiation ceremonies';
- e) exclusion from work-related events;
- f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level;
- g) displaying offensive material; or
- h) pressuring a person to behave in an inappropriate manner.

As Councillors we are the employer of the CEO. We note that reasonable management action carried out in relation to the performance of the CEO, in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:

- a) performance management processes;
- b) disciplinary action;
- c) informing the CEO about unsatisfactory work performance or inappropriate work behaviour;
- d) directing the CEO to perform duties in keeping with their job;
- e) maintaining reasonable workplace goals and standards;
- f) legitimately exercising a regulatory function; or
- g) legitimately implementing a council policy or administrative processes.

11. Promoting Wellbeing in the Workplace

Council has a duty of care under the Occupational Health and Safety Act 2004, to protect anyone in the workplace or who comes into contact with any Council activities. Council will put into place strategies, policies, procedures and work instructions to ensure this occurs and that Council complies with the Occupational Health and Safety Act 2004 so as far as is reasonably practicable.

As Councillors we will ensure that our behaviour in the Council workplace is consistent with promoting and maintaining a healthy workplace.

2 Performing the Role of a Councillor



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

1. Standard of Conduct – Performing the Role of a Councillor

Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020 states that *a Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor:*

- a) *undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and*
- b) *diligently uses Council processes to become informed about matters which are subject to Council decisions; and*
- c) *is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and*
- d) *represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.*

2. Role of Council

Section 8 of the Act states *that the role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.*

A Council provides good governance if:

- a) *it performs its role in accordance with Section 9 (the overarching governance and supporting principles); and*
- b) *the Councillors of the Council perform their role in accordance with Section 28 (the role of Councillor).*

3. Role of Councillor

Our primary role as Councillors is to set the vision and direction for the West Wimmera Shire Council, to advocate on behalf of the municipal community, and to make a range of decisions on issues which affect the community.

The business of Council will be conducted in a professional manner with efficiency and impartiality; whilst demonstrating compassion and sensitivity towards the needs of the community. We acknowledge our obligations as Councillors to carry out our duties in the best interests of the community and in accordance with the Act.

Section 28 of the Act states *that the role of every Councillor is:*

- a) *to participate in the decision making of the Council;*



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

- b) *to represent the interests of the municipal community in that decision making;*
- c) *to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.*

In performing the role of a Councillor, a Councillor must:

- a) *consider the diversity of interests and needs of the municipal community;*
- b) *support the role of the Council;*
- c) *acknowledge and support the role of the Mayor;*
- d) *act lawfully and in accordance with the oath or affirmation of office;*
- e) *act in accordance with the standards of conduct;*
- f) *comply with Council procedures required for good governance.*

The role of a Councillor does not include the performance of any responsibilities or functions of the CEO.

4. Role of the Mayor

Section 18 of the Act states that *the role of the Mayor is to:*

- a) *chair Council meetings;*
- b) *be the principal spokesperson for the Council;*
- c) *lead engagement with the municipal community on the development of the Council Plan;*
- d) *report to the municipal community, at least once each year, on the implementation of the Council Plan;*
- e) *promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct;*
- f) *assist Councillors to understand their role;*
- g) *take a leadership role in ensuring the regular review of the performance of the CEO;*
- h) *provide advice to the CEO when the CEO is setting the agenda for Council meetings; and*
- i) *perform civic and ceremonial duties on behalf of the Council.*

Section 19 of the Act states that *the Mayor has the following specific powers:*



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

- a) *to appoint a Councillor to be the chair of a delegated committee;*
- b) *to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business;*
- c) *to require the CEO to report to the Council on the implementation of a Council decision.*

5. Role of the CEO

Council's administration is accountable to Council through the CEO, who is responsible for the management and administration of the organisation. The organisation is responsible for implementing Council policy and decisions, operational policy and procedures, service delivery and providing professional advice to Council.

The CEO will provide professional, relevant and timely information to the Council, and maintain a close working relationship that supports the Mayor.

Section 94A of the Local Government Act 1989 states that a CEO is responsible for:

- a) *establishing and maintaining an appropriate organisational structure for the Council;*
- b) *ensuring that the decisions of the Council are implemented without undue delay;*
- c) *day to day management of the Council's operations in accordance with the Council Plan;*
- ca) *developing, adopting and disseminating a code of conduct for Council staff;*
- d) *providing timely advice to the Council;*
- da) *ensuring that the Council receives timely and reliable advice about its legal obligations under this Act and any other Act;*
- db) *supporting the Mayor in the performance of the Mayor's role as Mayor;*
- e) *carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the Accident Compensation Act 1985 or the Workplace Injury Rehabilitation and Compensation Act 2013;*
- f) *performing any other function or duty of the Chief Executive Officer specified in this Act or any other Act;*
- g) *appointing, directing, managing and dismissing Council staff and for all other issues that relate to Council staff;*
- h) *managing interactions between Council staff and Councillors including by ensuring that appropriate policies, practices and protocols are in place defining appropriate*



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

arrangements for interaction between Council staff and Councillors.

The Chief Executive Officer may appoint as many members of Council staff as are required to enable the functions of the Council under this Act or any other Act to be carried out and to enable the Chief Executive Officer to carry out her or his functions.

6. Resources, Facilities and Support for Councillors

It is a function of the CEO to support the Mayor, Deputy Mayor and Councillors in the performance of their roles. The Council Expenses Policy details the resources, facilities and support available to Councillors in the performance of their roles.

6.1 Use of Council Resources

As Councillors we commit to using Council resources effectively and economically. We will:

- a) maintain adequate security over Council property, facilities and resources provided to us to assist in performing our role and will comply with any Council policies applying to their use;
- b) ensure any expense claims that we submit are in compliance with the relevant legislative provisions and Council policy;
- c) ensure that Council resources are always used effectively and economically and for the purposes for which they are provided;
- d) not use Council resources, including services of Council staff, equipment and intellectual property for electoral purposes;
- e) not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate; and
- f) not use public funds or resources in a manner that is improper or unauthorised.

Any use of Council Resources will be in accordance with the Councillor and Staff Interactions Policy and the Council Expenses Policy.

3 Compliance with good governance measures

1. Standard of Conduct – Compliance with Good Governance Measures

Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020 states that a *Councillor, in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following:*

- a) *any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing*



interactions between members of Council staff and Councillors;

- b) the Council expenses policy adopted and maintained by the Council under section 41 of the Act;*
- c) the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act;*
- d) any directions of the Minister issued under section 175 of the Act.*

2. Compliance with Council Policies and Procedures

As Councillors we must comply with all Council policies and procedures which apply to Councillors in accordance with the Act or any other legislation.

3. Personal Interest Returns

Personal Interests Returns are a new requirement under Division 3 of Part 6 (sections 132-136) of the Act. In addition, the Regulations set out the detail that needs to be provided for each interest return.

3.1 Initial Personal Interest Returns

Section 133 of the Act states that Councillors *must lodge an initial personal interests return with the Chief Executive Officer containing the matters prescribed by the regulations, within 30 days of taking the oath or affirmation of office of a Councillor.*

3.2 Biannual Personal Interest Returns

Between 1 March and 31 March, and between 1 September and 30 September each year, a Councillor must lodge a Biannual Personal Interest Return. This should provide updates to any information provided in the last submitted return.

3.3 Public Access to Information in Personal Interest Returns

Sections 135 and 136 of the Act and the Regulations set out the level of information that can be accessed or disclosed publicly from information submitted in the Public Interest Returns. Councillors acknowledge the public access to this information upholds the Public Transparency Principles of the Act and is conduct in accordance with Council's Public Transparency Policy.

3.4 Penalties regarding Personal Interest Returns

Failure to submit an initial Personal Interests Return or subsequent Biannual Personal Interest Returns by the due dates can attract a penalty of up to 60 penalty units. (The value of a penalty unit is \$165.22 (as at 1 July 2020)). There are also penalties for intentionally or recklessly providing false or incomplete information.



4. Governance Rules

Section 60 of the Act states that *a Council must develop, adopt and keep in force Governance Rules for or with respect to the following:*

- a) the conduct of Council meetings;*
- b) the conduct of meetings of delegated committees;*
- c) the form and availability of meeting records;*
- d) the election of the Mayor and the Deputy Mayor;*
- da) the appointment of an Acting Mayor;*
- e) an election period policy in accordance with Section 69;*
- f) the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under Section 130;*
- g) the procedure for the disclosure of a conflict of interest by a Councillor under Section 131;*
- h) the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of Section 126(1);*
- i) any other matters prescribed by the regulations.*

Section 60(6) of the Act requires that *Council must comply with its Governance Rules.*

5. Council Decision Making

We are committed to making all decisions impartially and in the best interests of the whole municipal community and acknowledge that effective decision-making is vital to the democratic process and an essential component of good governance. Councillors will act fairly and without bias when making decisions that affect the rights and interests of others, and in accordance with 'natural justice'.

We will listen to each other as matters are discussed in Council Meetings, and not pre-determine any decisions proposed to be made prior to consideration at a Council Meeting. As part of this consideration, we will take into account the outcomes of consultation or feedback from the community on a matter.

Accordingly:

- a) we will actively and openly participate in the decision making process, striving to be informed to achieve the best outcome for the community;*
- b) we will respect the views of the individual in the debate. However, we also accept*



that decisions are based on a majority vote; and

- c) we accept that no councillor can direct another Councillor on how to vote on any decision.

6. Fairness and Equity

As Councillors we must consider issues impartially and fairly by taking into consideration all relevant facts known to us. As Councillors we must also have regard to the specific merits of each case and must not take irrelevant matters or circumstances into consideration when making decisions.

We must consider issues consistently, promptly and fairly, and must deal with matters in accordance with established procedures, in a non-discriminatory manner. We must take all relevant facts known to us, or that we should be reasonably aware of, into consideration and have regard to the particular merits of each case.

7. Council Meetings

Council Meetings must focus on the business of Council and provide an environment for transparent and healthy debate on matters requiring decision making. Councillors must comply with the Governance Rules as adopted or amended by Council to govern the conduct of meetings of Council and special committees.

The Mayor must chair meetings of the Council at which he or she is present and in doing so will:

- a) retain control at all times;
- b) be impartial;
- c) preserve order; and
- d) ensure that the business is conducted in a proper manner.

As Councillors we are committed to paying respect to the Chair at all times.

The Chair should be conscious of the needs of each Councillor and will facilitate their entry into discussions and allow fair debate and participation.

8. Formal Community Forums

Forums will be convened from time to time to enable community members to express their views in relation to a specific matter. Councillors invited or appointed to hear from the community may ask questions to clarify issues raised. However, Councillors will not behave or comment in a way that may be perceived as pre-determining their own, or Council's, position in relation to a matter, or direct Council officer responses.



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	<p>Formal community forums include:</p> <ul style="list-style-type: none"> a) Hearing of Submissions meetings – convened to hear from people in support of written submissions in relation to matters such as proposals to adopt a Budget, Council Plan or Local Law, or in relation to selling Council property; b) Single issue consultation forums – coordinated by the department responsible for a proposal or response to a community issue, single issue forums will be arranged as required. <p>While these forums are all formal in nature and may involve some or all of the Councillors, these forums are not meetings of the Council and Councillors will not make decisions at these forums, or commit Council to a course of action.</p> <p>9. Land Use planning, development assessment and other regulatory functions</p> <p>As Councillors we recognise the separation of our roles and responsibilities from those of the CEO and Council officers and as such will abstain from involvement in functions such as the issuing of permits, the consideration of fines, prosecutions and other similar regulatory functions of the Shire.</p> <p>In relation to planning matters, this extends to there being no meetings with applicants, objectors and any/or other related party unless accompanied by a Planning Officer and only if the meeting has been authorised by the relevant Director.</p> <p>As Councillors we will observe due regard to procedural fairness, the absence of bias in decision-making and will conform with relevant legislation and policies in the consideration of planning matters, including conflict of interest provisions, and the Councillor and Staff Interactions Policy.</p>
4	<p>Councillors must not discredit or mislead council or the public</p> <p>1. Standard of Conduct – Councillors must not discredit or mislead Council or the public</p> <p>Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020 states that</p> <ul style="list-style-type: none"> 1. <i>In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.</i> 2. <i>In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.</i> <p>2. Misuse of Position</p>



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

Section 123 of the Act states that a *person who is, or has been, a Councillor or member of a delegated committee must not intentionally misuse their position:*

- a) *to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or*
- b) *to cause, or attempt to cause, detriment to the Council or another person.*

For the purposes of this section, circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a delegated committee include—

- a) *making improper use of information acquired as a result of the position the person held or holds; or*
- b) *disclosing information that is confidential information; or*
- c) *directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or*
- d) *exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform; or*
- e) *using public funds or resources in a manner that is improper or unauthorised; or*
- f) *participating in a decision on a matter in which the person has a conflict of interest.*

The penalty for breach of Section 123 is 600 penalty units or 5 years imprisonment, and is an indictable offence.

3. Directing a member of Council Staff

Section 124 of the Act states that a *Councillor must not intentionally direct, or seek to direct, a member of Council staff:*

- a) *in the exercise of a delegated power, or the performance of a delegated duty or function, of the Council; or*
- b) *in the exercise of a power or the performance of a duty or function exercised or performed by the member as an authorised officer under this Act or any other Act; or*
- c) *in the exercise of a power or the performance of a duty or function the member exercises or performs in an office or position the member holds under this Act or any other Act; or*
- d) *in relation to advice provided to the Council or a delegated committee, including advice in a report to the Council or delegated committee.*

The penalty for breach of Section 124 is 120 penalty units.



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

4. Handling and Use of Confidential Information

Section 125(1) of the Act states *a person who is, or has been, a Councillor, a member of a delegated committee or a member of Council staff, must not intentionally or recklessly disclose information that the person knows, or should reasonably know, is confidential information.*

The penalty for breach of section 125 of the Act is 120 penalty units.

Section 125(1) does not apply if the information that is disclosed is information that the Council has determined should be publicly available.

Section 3(1) of the Act state that *confidential information means the following information—*

- a) *Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;*
- b) *security information, being information that if released is likely to endanger the security of Council property or the safety of any person;*
- c) *land use planning information, being information that if prematurely released is likely to encourage speculation in land values;*
- d) *law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;*
- e) *legal privileged information, being information to which legal professional privilege or client legal privilege applies;*
- f) *personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;*
- g) *private commercial information, being information provided by a business, commercial or financial undertaking that—*
 - i. *relates to trade secrets; or*
 - ii. *if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;*
- h) *confidential meeting information, being the records of meetings closed to the public under section 66(2)(a);*
- i) *internal arbitration information, being information specified in section 145;*
- j) *Councillor Conduct Panel confidential information, being information specified in section 169;*
- k) *information prescribed by the regulations to be confidential information for the*



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

purposes of this definition;

- l) information that was confidential information for the purposes of section 77 of the Local Government Act 1989.*

Councillors will be provided with relevant information from the organisation to help them make informed decisions and fulfil their duties. This information may be publicly available, or in some instances confidential.

As Councillors we will observe the confidentiality of the information that we receive in the course of performing our Councillor duties and responsibilities, and will not convey (electronically, verbally, or in writing) information we know, or should reasonably know, is confidential.

Section 125(3) of the Act states that *a person who is, or has been, a Councillor, a member of a delegated committee or a member of Council staff, may disclose information that the person knows, or should reasonably know, is confidential information in the following circumstances—*

- a) for the purposes of any legal proceedings arising out of this Act;*
- b) to a court or tribunal in the course of legal proceedings;*
- c) pursuant to an order of a court or tribunal;*
- d) in the course of an internal arbitration and for the purposes of the internal arbitration process;*
- e) in the course of a Councillor Conduct Panel hearing and for the purposes of the hearing;*
- f) to a Municipal Monitor to the extent reasonably required by the Municipal Monitor;*
- g) to the Chief Municipal Inspector to the extent reasonably required by the Chief Municipal Inspector;*
- h) to a Commission of Inquiry to the extent reasonably required by the Commission of Inquiry;*
- i) to the extent reasonably required by a law enforcement agency.*

5. Conflict of Interest Procedures

Council is committed to making all decisions impartially and in the best interests of the municipal community. It therefore recognises the importance of fully observing the requirements of the Act and Council's Governance Rules in regard to the disclosure of conflicts of interest.



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

In addition to the requirements of the Act:

- a) Councillors will give early consideration to each matter to be considered by Council, or any committee of which the Councillor is a member, to ascertain if he or she has a conflict of interest. This can be done by ensuring that the agenda of any meeting is read well ahead of time before the meeting is held.
- b) Councillors will recognise that while we may seek advice about a possible conflict of interest, the legal onus rests entirely with each Councillor. If a Councillor cannot confidently say that he or she does not have a conflict of interest, the Councillor will err on the side of caution and declare a conflict of interest and comply with the relevant requirements as if they had a conflict of interest.

Division two of the Act deals specifically with Conflict of Interest and Section 127 determines that a relevant person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

Section 128 of the Act states that a relevant person has a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

The following provides a guide in relation to the determination of conflicts of interest.

Direct interest	<p>Reasonably likely that your benefits, obligations, opportunities or circumstances will be directly altered.</p> <p>Reasonably likely you receive a direct benefit or loss measurable in financial terms.</p> <p>You have, or you together with a member(s) of your family have, a controlling interest in a company, club, organisation or other body that has a direct interest.</p>
Close association	<p>A member of your family has a direct or indirect interest.</p> <p>A member of your household has a direct or indirect interest.</p> <p>A relative has a direct interest.</p>
Indirect Financial Interest	<p>Reasonably likely you receive a direct benefit or loss measurable in financial terms, resulting from a change to another person's interests.</p> <p>Holding shares in a company or body that has a direct interest (subject to a threshold - \$10,000 value of shares if the company shares on issue exceed \$10 million).</p> <p>When a person with a direct interest owes you money, or you owe</p>



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	money to a person with a direct interest.
Conflict of Duty	<p>Manager or member of the governing body of an organisation with a direct interest.</p> <p>Partner, consultant, contractor, agent or employee of a person, company or organisation with a direct interest.</p> <p>Trustee or beneficiary of a person with a direct interest.</p> <p>Past dealings in relation to the matter as a duty to another person or body.</p>
Applicable Gift	<p>Election donations valued at or above \$500 in the previous five years.</p> <p>Other gifts valued at or above \$500 over a five-year period excluding reasonable hospitality received when attending functions in an official Council capacity.</p> <p>A gift received within the 12 months preceding the date of you becoming a Councillor.</p>
Party to a matter	Initiated or became party to civil proceedings in relation to the matter.
Impact on Residential Amenity	Reasonably likely that your residential amenity will be directly altered.
Conflicting with Public Duty	Your personal interest is in conflict with your public duty as a Councillor in relation to a matter. Application needs to be made to the Council/Delegated Committee to be exempted from voting. (The Council/Delegated Committee cannot reasonably withhold its consent)

6. Gifts and Bribery

As Councillors we will scrupulously 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 gain favourable treatment from an individual Councillor or from the Council.

We will take all reasonable steps to ensure that our family members do not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

We will not accept gifts either in our role as Councillor or where it could be perceived to influence us in our role as a Councillor except:

- a) Where the gift would generally be regarded as only having a token value and could not be perceived to influence our actions as a councillor.
- b) Where refusal may cause offence or embarrassment, in which case we will accept the gift on behalf of the Council and the gift becomes the property of the Council.

As Councillors we must comply with the Councillor Gift Policy adopted in accordance with section 138 of the *Act*.

7. Fraud and Corruption

As Councillors we will establish and maintain an environment in which fraud is not tolerated, and stakeholders, including staff, contractors and volunteers are encouraged to actively protect Council's assets, reputation and ethical standing.

As Councillors we will conduct ourselves in accordance with Council's Fraud and Corruption Control Policy.

8. Other business or employment

Councillors may undertake representation of the Council through appointment to government boards or sector committees, or they may join the bodies as a community representative on a particular group. It is important that Councillors clearly understand the basis of their appointment, maintain a positive image of the Council, and represent the Council policy position where appointed to the position by Council.

Councillors who are formally appointed to Committees through the Councillor Delegates and Representatives process are required to provide regular reports to the Council on the activities of the organisation (unless required to do otherwise by virtue of their terms of appointment).

9. Personal dealings with Council

Councillors may have reason to deal with Council in a personal capacity (for example, as a ratepayer, recipient of a Council service or applicant for a development consent granted by Council).

When we deal with our Council in our private capacity (e.g. as a ratepayer, recipient of a Council service or applicant for a permit) we do not expect nor will we request preferential treatment in relation to any such private matter. We will avoid any action that could lead Council staff or members of the public to believe that we are seeking preferential treatment.

As Councillors we must undertake any personal dealings we have with the Council in a manner that is consistent with the way other members of the community deal with the



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

Council. Councillors must also ensure that they disclose and appropriately manage any conflict of interest they may have in any matter in accordance with the requirements of the Act and the Governance Rules.

10. Political Affiliations

Councillors will maintain a clear and primary duty to the municipal community, rather than a political body or other jurisdiction. Councillors will avoid conflicts of interest, or the appearance of conflicts of interest, that affiliation with a political party may create.

Councillors will remain mindful of the importance of real and perceived impartiality of their position and will not act in a way to compromise this. Councillors will not use Council resources to promote a political body or related organisation.

If Councillors wish to run in a Federal or State election they will take a leave of absence from Council during this period. If successfully elected to another level of government, a Councillor will resign as a Councillor of West Wimmera Shire Council.

11. Elections

Councillors will not use their position as an elected representative in a way that contributes to, or may be interpreted as contributing to, the campaign or election activities of a candidate for the position of member of the Parliament of Victoria or a member of the Parliament of the Commonwealth of Australia or of another State or a Territory of the Commonwealth.

As Councillors we must comply with Council's Election Period Policy, which is included within its Governance Rules.

The Election Period Policy was developed to ensure that the general elections of West Wimmera Shire Council are conducted in a manner that is ethical, fair and equitable to all candidates and is publicly perceived as such.

Prior to an election period the CEO will ensure that all Councillors and all members of Council staff are aware of the application of the Election Period Policy.

12. Child Safe Standards

Victorian organisations that provide services to children are required under the Child Safety and Wellbeing Act 2005 to ensure that they protect children from harm. This Code aims to protect children and reduce any opportunities for abuse or harm to occur. It also helps Councillors by providing them with guidance on how to best support children and how to avoid or better manage difficult situations. As Councillors we are responsible for promoting the safety and wellbeing of children and young people who engage with Council by:

- a) adhering to all relevant Australian and Victorian legislation and Council policies;
- b) raising concerns with the CEO if risks to child safety are identified in any of the



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

	<p>activities, facilities, structures, procedures or staffing practices at Council;</p> <ul style="list-style-type: none"> c) taking all reasonable steps to protect children from abuse; d) treating children with respect and being a positive role model in our conduct with them; e) communicating with children in an age appropriate and realistic manner; f) listening to and valuing the ideas and opinions of children and young people; g) setting clear boundaries about appropriate behaviour between ourselves and children; h) observing professional boundaries with children at all times. <p>As Councillors we must not:</p> <ul style="list-style-type: none"> a) condone or participate in behaviour with children that is illegal, unsafe or abusive; b) ignore or disregard any concerns, suspicions or disclosures of child abuse; c) communicate with a child in ways that are likely to humiliate, frighten or distress the child; d) use hurtful, discriminatory or offensive behaviour or language with children; e) subject a child to any form of corporal punishment, social isolation, immobilisation, sexual suggestion, offence or misconduct; f) direct a child to perform in a sexually provocative or unsafe manner; g) develop any 'special' relationships with children that could be seen as grooming/favouritism, such as the offering of gifts or special treatment; h) have unauthorised contact with children and young people online, on social media or by phone. <p>All Councillors are encouraged to obtain a Working with Children Check, if they do not currently have one. Councillors acknowledge that if they do not have a current Working with Children Check, then they will not be able to closely associate with children as part of undertaking their role as a Councillor (for example attending a kindergarten when children are present).</p>
5	<p>Maintaining the integrity of this code</p> <p>1. Complaints made for an improper purpose</p> <p>As Councillors we must not make, or threaten to make, a complaint or cause a complaint to be made alleging a breach of this code for an improper purpose.</p>



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

A complaint is made for an improper purpose where it is:

- a) trivial, frivolous, vexatious or not made in good faith; or
- b) where it otherwise lacks merit; or
- c) has been made substantially for one or more of the following purposes:
 - i. to bully, intimidate or harass another person;
 - ii. to damage another person's reputation;
 - iii. to obtain a political advantage;
 - iv. to influence a person in the exercise of their official functions or to prevent or disrupt the exercise of those functions;
 - v. to influence the Council in the exercise of its functions or to prevent or disrupt the exercise of those functions;
 - vi. to avoid action being taken under this Code;
 - vii. to take reprisal action against a person for making a complaint alleging a breach of this Code;
 - viii. to take reprisal action against a person for exercising a function prescribed under this Code;
 - ix. to prevent or disrupt the effective administration of this Code.

2. Detrimental Action

Councillors must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this code.

A detrimental action is an action causing, comprising or involving any of the following:

- a) injury, damage or loss;
- b) intimidation or harassment;
- c) discrimination, disadvantage or adverse treatment in relation to employment;
- d) dismissal from, or prejudice in, employment;
- e) disciplinary proceedings.

3. Disputes Between Councillors

3.1 Facilitated resolution between parties



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

A dispute may arise between two individual Councillors, between one Councillor and a group of Councillors, or between two or more different groups of Councillors. The following Councillors dispute resolution procedure will apply regardless of the dynamics and numbers involved.

Before commencing any formal dispute resolution process, the Councillors who are party to any disagreement will endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the municipal community.

If, however, there is a dispute resulting from an interpersonal conflict between Councillors that cannot be resolved and it is unduly affecting the operation of Council, the Mayor will attempt to facilitate a resolution between the parties.

Either party involved in the dispute, or some other Councillor, may refer the dispute to the Mayor. The Mayor will investigate whether a dispute exists and requires resolution. The Mayor may call the parties involved to meet to resolve the dispute. These initial meetings may include the participation of other mutually agreed person/s.

The role of the Mayor at the meeting is to provide guidance to Councillors about what is expected of a Councillor including in relation to their role as a Councillor and compliance with this Code, the Act, the Governance Rules and any other policies which apply to Councillors.

If one or both of the parties to the dispute believes that the dispute has not been resolved following initial discussions to attempt to resolve the dispute, either or both parties may ask the Mayor to request the CEO to engage a professional mediator or conciliator.

At any stage in this process, if one party to the dispute does not acknowledge there is a dispute and is not willing to cooperate in discussions to resolve the alleged dispute, the dispute resolution process can only be continued if Council, through a resolution at a Council meeting, determines that a dispute does exist between the parties and requests that mediation/conciliation be commenced.

It is compulsory for all parties to the dispute to attend mediation/conciliation where this has been requested by a resolution of Council.

The Mayor may call upon the CEO for advice and guidance at any point in this process.

3.2 Mediation/Conciliation

The CEO will arrange for a qualified mediator/conciliator to be engaged.

If a mediator/conciliator is engaged, all Councillors will cooperate with the dispute resolution process and provide reasonable assistance to the mediator/conciliator



when requested.

Following mediation/conciliation a report will be prepared for the CEO by the mediator/conciliator which is to include the recommendations and actions to be taken as a consequence of the mediation/conciliation. Copies of the report are to be provided to both parties.

Where one party does not comply with the agreement, the other party has recourse to the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, the applicant has recourse to the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

3.3 Dispute between Mayor and other Councillors

Where the Mayor is a party to the dispute, the request is to be made to the Deputy Mayor who will carry out the role of the Mayor in this Dispute Resolution Process.

If the dispute is between the Mayor and the Deputy Mayor and another Councillor/s, two other Councillors may, after consultation with the CEO recommend to Council that an external mediator or conciliator be engaged. All other aspects of the dispute resolution procedure apply.

4. Breach of the Prescribed Standards of Conduct

4.1 Internal Arbitration process

Section 141 of the Act states that *the internal arbitration process applies to any breach of the prescribed standard of conduct.*

The following applies to an internal arbitration process:

- a) any processes prescribed by the regulations, including any application process;*
- b) the arbiter must ensure that parties involved in internal arbitration process are given an opportunity to be heard by the arbiter;*
- c) the arbiter must ensure that a Councillor who is a party to an internal arbitration process does not have a right to representation unless the arbiter considers that representation is necessary to ensure that the process is conducted fairly;*
- d) any requirements prescribed by the regulations.*

4.2 Making an Application



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

Section 143 of the Act states that *an application for an internal arbitration process to make a finding of misconduct against a Councillor may be made by:*

- a) the Council following a resolution of the Council; or*
- b) a Councillor or a group of Councillors.*

An application must be made within 3 months of the alleged misconduct occurring.

The application must be given to the Principal Councillor Conduct Registrar in the manner specified by the Principal Councillor Conduct Registrar in any guidelines published under section 149(1)(c) of the Act.

The application must include:

- a) the name of the Councillor alleged to have breached the standards of conduct;*
- b) the clause of the standards of conduct that the Councillor is alleged to have breached;*
- c) the misconduct that the Councillor is alleged to have engaged in that resulted in the breach;*

After receiving an application under section 143 of the Act, the Councillor Conduct Officer provides the application to the Councillor who is the subject of the application.

4.3 Principal Councillor Conduct Registrar must examine application

Section 144 of the Act states that *the Principal Councillor Conduct Registrar, after examining an application under section 143, must appoint an arbiter to the Council to hear the matter if the Principal Councillor Conduct Registrar is satisfied that:*

- a) the application is not frivolous, vexatious, misconceived or lacking in substance; and*
- b) there is sufficient evidence to support an allegation of a breach of the Councillor Code of Conduct as specified in the application.*

The Principal Councillor Conduct Registrar must reject an application if the Principal Councillor Conduct Registrar is not satisfied under subsection (a) or (b) above.

The rejection of an application by the Principal Councillor Conduct Registrar under this section does not prevent a further application being made in respect of the



same conduct by a Councillor that was the subject of the rejected application.

4.4 Arbiter must refer certain applications

Section 146 of the Act states that if, at any time before, during or after the hearing of an application for an internal arbitration process, the arbiter believes that the conduct that is the subject of the application for an internal arbitration process appears to involve serious misconduct and would more appropriately be dealt with as an application under section 154, the arbiter must refer the matter in writing to the Principal Councillor Conduct Registrar.

If the Principal Councillor Conduct Registrar receives a referral under subsection (1), the Principal Councillor Conduct Registrar must notify the parties to the application for an internal arbitration process that the matter has been referred by the arbiter.

4.5 Hearing by the Arbiter

An arbiter appointed to hear a matter subject to an application must:

- a) conduct the hearing with as little formality and technicality as the proper consideration of the matter permits; and
- b) ensure that the hearing is not open to the public.

An arbiter:

- a) may hear each party to the matter in person or solely by written or electronic means of communication; and
- b) is not bound by the rules of evidence and may be informed in any manner the arbiter sees fit; and
- c) may at any time discontinue the hearing if the arbiter considers that
 - i. the application is vexatious, misconceived, frivolous or lacking in substance; or
 - ii. the applicant has not responded, or has responded inadequately, to a request for further information.

Section 145 of the Act states that information provided to an arbiter or produced by an arbiter for the purpose of an internal arbitration process, other than the findings and the reasons, is confidential information.

4.6 Sanctions that may be imposed by an arbiter on finding of misconduct

Section 147 of the Act states that if after completing the internal arbitration process, the arbiter determines that a Councillor has failed to comply with the



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

prescribed standards of conduct, the arbiter may make a finding of misconduct against the Councillor.

If an arbiter has made a finding of misconduct against a Councillor, the arbiter may do any one or more of the following:

- a) direct the Councillor to make an apology in a form or manner specified by the arbiter;*
- b) suspend the Councillor from the office of Councillor for a period specified by the arbiter not exceeding one month;*
- c) direct that the Councillor be removed from any position where the Councillor represents the Council for the period determined by the arbiter;*
- d) direct that the Councillor is removed from being the chair of a delegated committee for the period determined by the arbiter;*
- e) direct a Councillor to attend or undergo training or counselling specified by the arbiter.*

4.7 Next Steps

Section 147 of the Act states that the arbiter must provide a written copy of the arbiter's decision and statement of reasons to:

- a) the Council;*
- b) the applicant or applicants;*
- c) the respondent; and*
- d) the Principal Councillor Conduct Registrar.*

A copy of the arbiter's decision and statement of reasons must be tabled at the next Council meeting after the Council received the copy of the arbiter's decision and statement of reasons and recorded in the minutes of the meeting.

If the arbiter's decision and statement of reasons contains any confidential information, the confidential information must be redacted before being tabled at a Council meeting.

5. No Applications during Election Period

An application cannot be made for an internal resolution procedure during the election period for a general election. Any internal resolution procedure that is in progress is to be suspended during the election period for a general election.

If the respondent to an application for an internal resolution procedure is not returned to office as a Councillor in the election, the application lapses. If the respondent is returned to



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

office in the election, the application may resume if:

- a) the application was made by the Council and the Council so resolves; or
- b) the application was made by a group of Councillors and any one (or more) of those Councillors who has been returned to office wishes to proceed with the application; or
- c) the applicant (individual Councillor) is returned to office and wishes to proceed with the application.

DRAFT



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

6.

Endorsement

We, the undersigned, declare that we will abide by this Councillor Code of Conduct adopted by Council at its meeting on 16 February 2021.

Mayor Cr Bruce Meyer Dated: 17.02.2021

Deputy Mayor Cr Jodie Pretlove Dated: 17.02.2021

Cr Trevor Domaschenz Dated: 17.02.2021

Cr Tom Houlihan Dated: 17.02.2021

Cr Tim Meyer Dated: 17.02.2021



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

Policy Adopted:	Ordinary Meeting [date]	Minute Book Page [number]	RecFind
Policy Reviewed:	Ordinary Meeting [date]	Minute Book Page [number]	RecFind

DRAFT