



ELECTED MEMBER POLICIES



Policy Position 1.1 – Code of Conduct (EM1.1)

PREAMBLE

The Code of Conduct provides Elected Members, Committee Members and Employees in the Local Government with consistent guidelines for an acceptable standard of professional conduct. This code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability in individual Local Governments.

The Code is complementary to the principles adopted in the *Local Government Act 1995* and regulations which incorporates four fundamental aims to result in:

- (a) Better decision-making by local governments;
- (b) Greater community participation in the decisions and affairs of local governments;
- (c) Greater accountability of local governments to their communities; and
- (d) More efficient and effective local government.

The Code provides a guide and a basis of expectations for Council Members, Committee Members and Employees. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

STATUTORY ENVIRONMENT

The Code of Conduct observes statutory requirements of the *Local Government Act 1995* (Part 5, Div. 9 s5.103, s5.104 – *Codes of Conduct*) and *Local Government (Administration) Regulations 1996* (r.34B and 34C).

RULES OF CONDUCT

Council Members acknowledge their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed rules of conduct as described in the *Local Government Act 1995* and *Local Government (Rules of Conduct) Regulations 2007*.

(this policy is now obsolete with the Code of Conduct taking place)(this policy is now obsolete with the Code of Conduct taking place)



1.1.1 CODE OF CONDUCT FOR COUNCIL MEMBERS, COMMITTEE MEMBERS AND CANDIDATES

Division 1 – Preliminary provisions

1. Citation

This is the *Shire of Kent* Code of Conduct for Council Members, Committee Members and Candidates.

2. Terms used

- (1) In this code —

Act means the *Local Government Act 1995*;

candidate means a candidate for election as a council member;

complaint means a complaint made under clause 11(1);

publish includes to publish on a social media platform.

- (2) Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

Division 2 – General principles

3. Overview of Division

This Division sets out general principles to guide the behaviour of council members, committee members and candidates.

4. Personal integrity

- (1) A council member, committee member or candidate should —

- (a) act with reasonable care and diligence; and
- (b) act with honesty and integrity; and
- (c) act lawfully; and
- (d) identify and appropriately manage any conflict of interest; and
- (e) avoid damage to the reputation of the local government.

- (2) A council member or committee member should —

- (a) act in accordance with the trust placed in council members and committee members; and
- (b) participate in decision-making in an honest, fair, impartial and timely manner; and
- (c) actively seek out and engage in training and development opportunities to improve the performance of their role; and
- (d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.



5. Relationship with others

- (1) A council member, committee member or candidate should —
 - (a) treat others with respect, courtesy and fairness; and
 - (b) respect and value diversity in the community.
- (2) A council member or committee member should maintain and contribute to a harmonious, safe and productive working environment.

6. Accountability

A council member or committee member should —

- (a) base decisions on relevant and factually correct information; and
- (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
- (c) read all agenda papers given to them in relation to council or committee meetings; and
- (d) be open and accountable to, and represent, the community in the district.

Division 3 – Behaviour

7. Overview of Division

This Division sets out —

- (a) requirements relating to the behaviour of council members, committee members and candidates; and
- (b) the mechanism for dealing with alleged breaches of those requirements.

8. Personal integrity

- (1) A council member, committee member or candidate —
 - (a) must ensure that their use of social media and other forms of communication complies with this code; and
 - (b) must only publish material that is factually correct.
- (2) A council member or committee member —
 - (a) must not be impaired by alcohol or drugs in the performance of their official duties; and
 - (b) must comply with all policies, procedures and resolutions of the local government.

9. Relationship with others

A council member, committee member or candidate —

- (e) must not bully or harass another person in any way; and
- (f) must deal with the media in a positive and appropriate manner and in

accordance with any relevant policy of the local government; and

- (g) must not use offensive or derogatory language when referring to another person; and
- (h) must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and
- (i) must not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.

10. Council or committee meetings

When attending a council or committee meeting, a council member, committee member or candidate —

- (a) must not act in an abusive or threatening manner towards another person; and
- (b) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and
- (c) must not repeatedly disrupt the meeting; and
- (d) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and
- (e) must comply with any direction given by the person presiding at the meeting; and
- (f) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.

11. Complaint about alleged breach

When attending a council or committee meeting, a council member, committee member or candidate —

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
- (2) A complaint must be made —
 - (a) in writing in the form approved by the local government; and
 - (b) to a person authorised under subclause (3); and
 - (c) within 1 month after the occurrence of the alleged breach.
- (3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.

12. Dealing with complaint

- (1) After considering a complaint, the local government must, unless it dismisses the complaint under clause 13 or the complaint is withdrawn under clause 14(1), make a finding as to whether the alleged breach the subject of the complaint has occurred.



- (2) Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard.
- (3) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
- (4) If the local government makes a finding that the alleged breach has occurred, the local government may —
 - (a) take no further action; or
 - (b) prepare and implement a plan to address the behaviour of the person to whom the complaint relates.
- (5) When preparing a plan under subclause (4)(b), the local government must consult with the person to whom the complaint relates.
- (6) A plan under subclause (4)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following —
 - (a) engage in mediation;
 - (b) undertake counselling;
 - (c) undertake training;
 - (d) take other action the local government considers appropriate.
- (7) If the local government makes a finding in relation to the complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of—
 - (a) its finding and the reasons for its finding; and
 - (b) if its finding is that the alleged breach has occurred — its decision under subclause (4)

13. Dismissal of complaint

- (1) The local government must dismiss a complaint if it is satisfied that —
 - (a) the behaviour to which the complaint relates occurred at a council or committee meeting; and
 - (b) either —
 - (i) the behaviour was dealt with by the person presiding at the meeting; or
 - (ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.
- (2) If the local government dismisses a complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of its decision and the reasons for its decision.



14. Withdrawal of complaint

- (1) A complainant may withdraw their complaint at any time before the local government makes a finding in relation to the complaint.
- (2) The withdrawal of a complaint must be —
 - (a) in writing; and
 - (b) given to a person authorised under clause 11(3).

15. Other provisions about complaints

- (1) A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.
- (2) The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division.

Division 4 – Rules of conduct

Notes for this Division:

- Under section 5.105(1) of the Act a council member commits a minor breach if the council member contravenes a rule of conduct. This extends to the contravention of a rule of conduct that occurred when the council member was a candidate.
- A minor breach is dealt with by a standards panel under section 5.110 of the Act.

16. Overview of Division

- (1) This Division sets out rules of conduct for council members and candidates.
- (2) A reference in this Division to a council member includes a council member when acting as a committee member.

17. Misuse of local government resources

- (1) In this clause —

electoral purpose means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*;

resources of a local government includes —

- (a) local government property; and
 - (b) services provided, or paid for, by a local government.
- (2) A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

18. Securing personal advantage or disadvantaging others

- (1) A council member must not make improper use of their office —
 - (a) to gain, directly or indirectly, an advantage for the council member or any



other person; or

(b) to cause detriment to the local government or any other person.

- (2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or *The Criminal Code* section 83.

19. Prohibition against involvement in administration

- (1) A council member must not undertake a task that contributes to the administration of the local government unless authorised by the local government or the CEO to undertake that task.
- (2) Subclause (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

20. Relationship with local government employees

- (1) In this clause —

local government employee means a person —

- (a) employed by a local government under section 5.36(1) of the Act; or
- (b) engaged by a local government under a contract for services.

- (2) A council member or candidate must not —

- (a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or
- (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or
- (c) act in an abusive or threatening manner towards a local government employee.

- (3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

- (4) If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means —

- (a) make a statement that a local government employee is incompetent or dishonest; or
- (b) use an offensive or objectionable expression when referring to a local government employee.

- (5) Subclause (4)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.



21. Disclosure of information

- (1) In this clause —

closed meeting means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;

confidential document means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;

document includes a part of a document;

non-confidential document means a document that is not a confidential document.

- (2) A council member must not disclose information that the council member —

- (a) derived from a confidential document; or
- (b) acquired at a closed meeting other than information derived from a non-confidential document.

- (3) Subclause (2) does not prevent a council member from disclosing information —

- (a) at a closed meeting; or
- (b) to the extent specified by the council and subject to such other conditions as the council determines; or
- (c) that is already in the public domain; or
- (d) to an officer of the Department; or
- (e) to the Minister; or
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

22. Disclosure of interests

- (1) In this clause —

Interest —

- (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and
- (b) includes an interest arising from kinship, friendship or membership of an association.

- (2) A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —

- (a) in a written notice given to the CEO before the meeting; or
- (b) at the meeting immediately before the matter is discussed.



- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —
 - (a) that they had an interest in the matter; or
 - (b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.
- (5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —
 - (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.
- (6) Subclause (7) applies in relation to an interest if —
 - (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or
 - (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.
- (7) The nature of the interest must be recorded in the minutes of the meeting.

23. Compliance with plan requirement

If a plan under clause 12(4)(b) in relation to a council member includes a requirement referred to in clause 12(6), the council member must comply with the requirement.

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Related Documents:	Nil



1.1.2 PERSONAL BENEFIT

Use of Confidential Information

Elected Members, Committee Members and Employees will not use confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially and in good faith, or to improperly cause harm or detriment to any person or organisation.

Intellectual Property

The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the Local Government upon its creation unless otherwise agreed by separate contract.

Improper or Undue Influence

Elected Members and Employees will not take advantage of their position to improperly influence other Elected Members or Employees in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

Gifts

Definitions: In this clause, and in accordance with Regulation 34B of the Local Government (Administration) Regulations 1996 –

“activity involving a local government discretion” means an activity –

- a) *that cannot be undertaken without an authorisation from the local government; or*
- b) *by way of a commercial dealing with the local government;*

“gift” has the meaning given to that term in S 5.82 (4) except that it does not include –

- a) *a gift from a relative as defined in S 5.74(1); or*
- b) *a gift that must be disclosed under Regulation 30B of the Local Government (Elections) Regulations 1997; or*
- c) *a gift from a statutory authority, government instrumentality or non-profit association for professional training;*

“notifiable gift” in relation to a personal who is an employee, means –

- a) *a gift worth between \$50 and \$300; or*
- b) *a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth between \$50 and \$300;*

“prohibited gift” in relation to a person who is an employee, means –

- a) *a gift worth \$300 or more; or*



-
- b) *a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth \$300 or more.*
- a) A person who is an employee is to refrain from accepting a prohibited gift from a person who –
- i) is undertaking or seeking to undertake an activity involving a local government discretion; or
 - ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion.
- b) A person who is an employee and who accepts a notifiable gift from a person who –
- i) is undertaking or seeing to undertake an activity involving a local government discretion; or
 - ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion, must notify the CEO, in accordance with item (c) and within 10 days of accepting the gift, of the acceptance.
- c) The notification of the acceptance of a notifiable gift must be in writing and include –
- i) the name of the person who gave the gift; and
 - ii) the date on which the gift was accepted; and
 - iii) a description, and the estimated value, of the gift; and
 - iv) the nature of the relationship between the person who is an employee and the person who gave the gift; and
 - v) if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift” (whether or not it is also a notifiable gift under paragraph (a) of that definition) –
 - 1) a description; and
 - 2) the estimated value; and
 - 3) the date of acceptance, of each other gift accepted within the 6 month period.
- d) The CEO is to maintain a register of notifiable gifts and record in it details of notifications given to comply with a requirement made under item (c).
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- e) This clause does not apply to gifts received from a relative (as defined in S 5.74(1) of the *Local Government Act*) or an electoral gift (to which other disclosure provisions apply).
- f) This clause does not prevent the acceptance of a gift on behalf of the local government in the course of performing professional or ceremonial duties in circumstances where the gift is presented in whole to the CEO, entered into the Register of Notifiable Gifts and used or retained exclusively for the benefit of the local government.

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Related Documents:	Nil



Policy Position 1.2 – Councillor Fees, Allowances and Reimbursements (EM1.2)

1.2.1 COUNCILLOR FEES, ALLOWANCES AND REIMBURSEMENTS

Purpose

The purpose of this policy is to ensure there is an equitable and transparent system for the payment of Elected Members' attendance fees and reimbursements and the Shire President's and Deputy Shire President's allowances.

Scope

Elected Members

Objective

- Specify the allowances paid to Elected Members;
- Specify the rate of reimbursement for travel; and
- Clarify "reasonable" expense reimbursement for attendance at conferences, seminars and training.

Principles

The Shire of Kent is bound by the provisions of the WA Salaries and Allowances Act 1975 and the determination of the Salaries and Allowances Tribunal in regard to the payment of Elected Members. The Shire of Kent is classified as Band 4 and must pay within the range allocated to Band 4.



1. Payment of Fees and Allowances

1.1 Annual Meeting Attendance Fees in lieu of Council Meeting and Committee Meeting Attendance Fees:

- a) In lieu of paying the *Shire President* and *Councillors* meeting attendance fee for each prescribed meeting, the Shire will pay a percentage (not less than 50%) of the maximum annual attendance fee set by the Salaries and Allowances Tribunal through determination published in the Government Gazette from time to time. The amount to be paid will be set by Council as part of the adoption of the Annual Budget.
- b) Payments will be made quarterly in arrears on a pro-rata basis throughout the annual period.

1.2 Annual Local Government Allowances – President and Deputy President

- a) The Shire will pay an Annual Local Government Allowance for the *Shire President* that is a percentage (not less than 50%) of the maximum set by the Salaries and Allowances Tribunal through determination published in the Government Gazette from time to time. The amount to be paid will be set by Council as part of the adoption of the Annual Budget.
- b) The Shire will pay an Annual Local Government Allowance for the *Deputy Shire President* that is equivalent to 25% of the Shire President's Allowance.
- c) Payments will be made quarterly in arrears on a pro-rata basis throughout the annual period.

1.3 Expenses to be Reimbursed

Council Members may be reimbursed for the following expenses in accordance with s5.98 of the *Local Government Act 1995* and as prescribed under Regulation 31(1) of the *Local Government (Administration) Regulations 1996*, (subject to provision of a tax invoice/receipt and a signed Expenses Claim Form):

- Childcare and travel costs incurred by a council member because of the member's attendance at a council meeting or a committee meeting on which they are a member.

The extent to which a council member can be reimbursed for these expenses is outlined in *Extent of Expenses to be Reimbursed* the Salaries and Allowances Tribunal.

1.4 Conditions of Payment

- a) All allowances and fees shall be paid automatically into a nominated bank account unless an Elected Member has advised the Chief Executive Officer (CEO), in writing, that they do not want to claim any or part of those fees and allowances.
- b) If an Elected Member advises that they do not want all or part of the fees and allowances to which they are entitled, any subsequent request for full or additional payment will not be back-paid but accrued from the date of the CEO receiving such a request.



1.5 Information, Communication and Technology (ICT) Equipment & Use

- a) Upon commencement, Elected Members will be issued with a Wi-Fi compatible mobile device with keyboard or equivalent technology.
- b) Conditions of issued equipment:
 - i. Any damage or loss of the equipment during that time caused by negligence or improper use is the responsibility of the Elected Member to repair and fund or replace. This may include the payment of any insurance excess where applicable.
 - ii. The equipment is strictly to be used for Shire purposes only including, researching Council related matters, Shire related pictures or filming, email correspondence, diary requests and Council meeting agendas.
 - iii. The CEO, if requested, may provide assistance to Elected Members with user support and training.
 - iv. All information on Shire issued equipment is subject to Freedom of Information requests.
 - v. All Elected Members will receive an @kent.wa.gov.au email address which is to be used for all Shire related correspondence.
- c) The Shire will pay an ICT Annual Allowance of \$1,000 per Elected Member.
- d) At the end of the operational life of any mobile devices issued to Elected Members or where they are being replaced with updated versions, Elected Members have the opportunity to purchase the obsolete device at market value.

2. Attendance at Conferences and Training within Australia

- a) Council will determine, as part of the annual budget process, the Annual Conference and Training budget, which is to be in addition to costs associated with attendance at the annual West Australian Local Government Convention.
- b) All fees associated with a training event or conference, including travel, meals and accommodation expenses and course fees etc will be covered by the Shire, to the extent listed in clause 2.1. Supporting evidence must be provided.



2.1 Extent of Expenses to be reimbursed

- a) The Shire will reimburse all accommodation costs associated with training and conferences providing the nightly rate is fair and reasonable.
- b) An Elected Member attending a conference and/or training event is entitled to be reimbursed for 'normally accepted' living costs while travelling. Such living costs are to be reimbursed in accordance with the Salaries and Allowances Tribunal through determination published in the Government Gazette from time to time and include, but are not limited to:
 - meals and refreshments for the Elected Member (that are not covered by the conference and training registration costs);
 - dry-cleaning and laundry expenses; and
 - reasonable telephone and internet charges.
- c) Elected Members will generally not be reimbursed for the cost of meals or refreshments for other people with the exception of an accompanying person as specified in 2.2 of this policy.
- d) Expenses will generally be reimbursed from the time an Elected Member leaves home to attend an event to the time the Elected Member returns home. Should an Elected Member extend a visit by leaving prior to the time necessary to arrive for the event or return after the time at which the Elected Member could have returned following the event, reimbursements will be paid for the days of the conference and/or training event only.
- e) Costs of taxi fares, ride-share services, vehicle hire and parking, which are reasonable, required and incurred in attending conferences and/or training, will be reimbursed by the Shire in accordance with the Salaries and Allowances Tribunal through determination published in the Government Gazette from time to time.
- f) Should an Elected Member withdraw their registration from a conference or training course past the last cancellation date, any costs incurred by Council that cannot be recouped from event organisers or recovered through insurance shall be reimbursed to Council by that Elected Member.

2.2 Extent of Expenses to be reimbursed

- a) Where an Elected Member is accompanied at a conference or training event, all costs incurred by the accompanying person, including, but not limited to, travel, breakfast, meals, registration and/or participation in any event programs, are to be borne by the Elected Member/accompanying person and not by the Shire.
- b) The exception to the above being the cost of attending any official conference/training event dinner where partners would normally attend as well as accommodation costs association with a shared room with the Elected Member, where such costs are not above a room rate for the Elected Member alone.
- c) Where the Shire meets an account containing any expenditure or cost incurred on behalf of the accompanying person attending, such expenditure must be repaid to the Shire by the Elected Member/accompanying person within 30 days of being invoiced for such expenditure following the conclusion of the conference and/or training event.

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Related Documents:	Salaries and Allowances Tribunal through determination published in the Government Gazette from time to time



Policy Position 1.3 – Conduct of Elected Members, Committee Members and Employees (EM1.3)

(this policy is now obsolete with the Code of Conduct taking place)

1.3.1 ELECTED MEMBER RECORD KEEPING POLICY

1. Scope:

The purpose of this policy is to ensure that full and accurate records of the activities and decisions of Elected Members, in the course of their official duties for Council, are created, managed, and disposed of appropriately to meet the Council's organisational needs and accountability requirements.

2. Compliance with Legislation:

The Shire of Kent will comply with the recordkeeping requirements of the

- *State Records Act 2000*;
- *State Records Principles and Standards 2002*;
- *Freedom of Information Act 1992*;
- *Local Government Act 1995*;
- *State Records Office publications*:
- *State Records Office General Disposal Authority of Local Government Records*
- *State Records Office General Disposal Authority for Source Records*.
- *Shire of Kent Recordkeeping Plan*

Reference is also made to the State Records Office *Information Management Advice: Local Government Elected Members Records: Which records to capture?* Dated October 2019.

3. Elected Member's Records:

Elected Members have a unique and pivotal role within the local government and the community. They represent the interests of electors, residents and ratepayers, participate in local government decision making at Council and Committee meetings, and facilitate communication between the community and the Council.

The State Records Commission requires the creation and retention of records of the: "communications and transactions of Elected Members which constitute evidence affecting the accountability of the Council and the discharge of its business." This may include, but not be limited to hardcopy and electronic correspondence, email, facsimile, databases and social media.

The Shire of Kent's Chief Executive Officer is responsible under the *Local Government Act 1995* for ensuring that all records of the Shire are kept in accordance with relevant legislation. In the case of records this means the *State Records Act 2000* and the *State Records Principles and Standards 2002*.

All Elected Member will be provided records and information management training appropriate to their individual responsibilities under this Policy.

4 Creation and Capture of Records:

4.1 What Records to Create and Capture



Records created and received by Elected Members that relate to the Shire of Kent's business must be forwarded to the Chief Executive Officer for capture into the corporate recordkeeping system.

Elected Members should create and capture full and accurate records of any significant business undertaken in the course of their official duties for Council. Significant business can include:

- Providing advice, instructions or recommendations;
- Giving permissions and consents; and
- Making decisions, commitments or agreements binding for the Elected Member or Council.

In addition, Elected Members should capture records relating to:

4.1.1 Communications, such as:

- Complaints and compliments;
- Correspondence concerning corporate matters;
- Submissions, petitions and lobbying; and
- Information for Council's interest relating to local government business activity and functions.

4.1.2 Lobbying - All correspondence or petitions relating to lobbying matters.

4.1.3 Telephone, Meetings and Other Verbal Conversations – regarding the Shire of Kent's business activities or projects.

4.1.4 Social Media i.e. Facebook, Twitter etc - where the posts:

- Create interest from the public or media;
- Communicate decisions or commit the Shire of Kent to an action;
- Seek feedback;
- Address issues of safety; and/or
- Relate to sensitive or contentious issues.

4.1.5 Work diaries/Appointment Books - containing information that may be significant to the conduct of the individual Elected Member on behalf of the Shire of Kent.

4.1.6 Records relating to allowances, benefits and gifts

All records relating to the receipt of benefits, allowances or gifts.

4.1.7 Addresses, Speeches and Presentations

Records, which have been delivered as part of the Elected Members official duties.

5 Elected Members Responsibilities:

Elected Members have a responsibility to create and capture records which document their conduct of official business for Council. Official business includes business relevant to the performance of the function and duties of an Elected Member. These records must be captured as part of the Shire of Kent's recordkeeping system and includes records in all formats.



Elected Members who retire or resign from Council and have possession of official business records are requested to forward the records to the Chief Executive Officer.

6 Access to Records:

Elected members have access to certain documents over and above the rights of electors or creditors of the municipality which are provided for in accordance with *Section 5.94 of the Local Government Act 1995*.

Additional rights as provided by *Section 5.92 of the Local Government Act 1995* are granted in order to enable an Elected Member to discharge adequately the functions of their elected office. A member may only seek such information from the Shire's recordkeeping system in the pursuit of Council business. Elected Members are not to use information for their own or another person's purpose, benefit or detriment unconnected with Council activities.

Elected members wishing to obtain access to records and/or information on a Council matter must contact the Chief Executive Officer.

7 Retention and Disposal of Records:

Records relating to the business of Council which are held by Elected Members must be retained or disposed of in accordance with the *State Records Act 2000*.

The State Records Office of Western Australia has issued the *General Retention and Disposal Authority for Local Government Records*, which outlines classes of records and how long they should be kept before being legally destroyed or transferred to archives. Periods specified are based on relevant legislation, guidelines and standards

Elected Members should liaise with the Chief Executive Officer regarding the disposal of any records of Council business as the Shire of Kent is responsible for:

- Ensuring legislative requirements are met
- Ensuring destruction is undertaken appropriately (e.g. that no sensitive information is released due to inappropriate destruction methods), and
- Documenting disposal decisions for accountability purposes.

8 Definitions:

<i>Access</i>	Right, opportunity, means of finding, using or retrieving information. (<i>International Standard ISO 15489.1: 2017 Records Management Part 1</i> , Clause 3.1)
<i>Capturing Records</i>	This involves registering business-related information as a record into the Shire of Kent's recordkeeping system.
<i>Council</i>	In this document means the Local Government office and the Council of the Shire of Kent
<i>Creating Records</i>	The process of generating or receiving business-related information in any format or media.
<i>Disposal</i>	Any method of removing records from an organisation's control through an approved process. Disposal actions include destruction, transfer of custody, or archiving of records.
<i>Disposal Authority</i>	A document which defines the minimum periods of time for which different classes of records must be kept. It stipulates how the records



	are to be disposed, whether by destruction or retaining them permanently. A disposal authority is approved by the State Records Commission.
<i>Elected Member</i>	Means a serving elected member of Council of the Shire of Kent
<i>General Disposal Authority</i>	Is a document setting out the disposition of records and authorising their disposal. The Shire of Kent is required to comply with the <i>General Disposal Authority for Local Government Records and the General Disposal Authority for Source Records</i> .
<i>Government Record</i>	Is a record created or received by or for a government organisation or a government organisation employee or contractor in the course of the work for the organization (State Records Act 2000)
<i>Record</i>	Recorded information, in any form, including data in computer systems, created or received and maintained by an organisation or person in the transaction of business or the conduct of affairs and kept as evidence of such activity. (International Standard ISO 15489, Records Management, Part 3 Terms and Definitions, Clause 3.1515489)
<i>Recordkeeping Plan</i>	<p>A Recordkeeping Plan sets out the matters which relate to how records are to be created by and how the organisation will keep its records. Western Australian government organisations are required to have a Recordkeeping Plan. It may comprise one or more documents. It must provide an accurate reflection of the records management program within the organisation. It needs to include information about:</p> <ul style="list-style-type: none">• The organisation's records management system/s;• Disposal arrangements;• Policies, practices and processes; and <p>Sufficient evidence that best practices have been implemented within the organisation. (State Records Office)</p>
<i>Recordkeeping System</i>	Is a system to capture, maintain and provide access to records over time that displays features for ensuring authentic, reliable, complete and usable records that function as evidence of business transactions. (State Records Office)
<i>State Archive</i>	Means a State record that is to be retained permanently. (State Records Office)
<i>State Record</i>	Means a parliamentary record or a government record. (State Records Office)
<i>State Records Act 2000</i>	An Act to provide for the keeping of State records and for related purposes. It is the most significant piece of legislation affecting the management of State records. The Act and the accompanying <i>State Records (Consequential Provisions) Act</i> were proclaimed on 30 November 2001. The Act replaced the archives and recordkeeping aspects of the <i>Library Board of Western Australia Act 1951-1983</i> . (State Records Office)
<i>State Records Commission</i>	The State Records Commission was established in July 2001 under the terms of <i>Part 8 of the State Records Act 2000</i> . The Commission consists of four members: the Auditor General, the Information Commissioner, the Ombudsman, and an appointee with recordkeeping experience from outside Government (that is, someone who is not a public service officer under the terms of the <i>Public Sector Management Act 1994</i>). The fourth Commissioner is appointed by the Governor for a three year term. The



Commission's functions are set out in the *State Records Act 2000*) (State Records Office)

State Records Office The State Records Office of Western Australia is the Western Australian public records authority with responsibility for managing, preserving and providing access to the State's records. The State Records Office operates as a Government agency within the Department of Local Government, Sport and Cultural Industries. (State Records Office)

State Records Principles and Standards 2002 In accordance with *section 61 of the State Records Act 2000*, the State Records Commission is required to produce principles and standards to govern recordkeeping by State organisations. These principles and standards represent the core recordkeeping requirements for Western Australian State and local government agencies.

Document Control

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Related Documents:	Policy 3.2.1 – Shire of Kent Record Keeping Policy Shire of Kent Record Keeping Plan



1.3.2 Attendance at Events Policy

Introduction

Section 5.90A of the *Local Government Act 1995* provides that a local government must prepare and adopt an Attendance at Events policy.

This policy is made in accordance with those provisions

Purpose

This policy addresses attendance at any events, including concerts, conferences, functions or sporting events, whether free of charge, part of a sponsorship agreement, or paid by the local government. The purpose of the policy is to provide transparency about the attendance at events of council members and the chief executive officer (CEO).

Attendance at an event in accordance with this policy will exclude the gift holder from the requirement to disclose an interest if the ticket is above \$300 and the donor has a matter before council. Any gift received that is less than \$300 (either one gift or cumulative over 12 months from the same donor) also does not need to be disclosed as an interest. Receipt of the gift will still be required under the gift register provisions.

5.90A Policy for attendance at events

- (1) In this section –
event includes the following –
 - (a) a concert;
 - (b) a conference;
 - (c) a function;
 - (d) a sporting event;
 - (e) an occasion of a kind prescribed for the purposes of this definition.
- (2) A local government must prepare and adopt* a policy that deals with matters relating to the attendance of council members and the CEO and events, including -
 - (a) the provision of tickets to events; and
 - (b) payments in respect of attendance; and
 - (c) approval of attendance by the local government and criteria for approval; and
 - (d) any prescribed matter.

**Absolute Majority required.*
- (3) A local government may amend* the policy.

**Absolute Majority required.*
- (4) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.



- (5) The CEO must publish an up-to-date version of the policy on the local government's official website.

Provision of tickets to events

1. Invitations

- 1.1 All invitations or offers of tickets for a council member or CEO to attend an event should be in writing and addressed to the CEO.
- 1.2 Any invitation or offer of tickets not addressed to the CEO is not captured by this policy and must be disclosed in accordance with the gift and interest provisions in the Act.

2. Approval of attendance

- 2.1 In making a decision on attendance at an event, the council will consider:
 - (a) who is providing the invitation or ticket to the event,
 - (b) the location of the event in relation to the local government (within the district or out of the district),
 - (c) the role of the council member for CEO when attending the event (participant, observer, presenter) and the value of their contribution,
 - (d) whether the event is sponsored by the local government,
 - (e) the benefit of local government representation at the event,
 - (f) the number of invitations/tickets reserved, and
 - (g) the cost to attend the event, including the cost of the ticket (or estimated value of the event per invitation) and any other expenses such as travel and accommodation.
- 2.2 Decisions to attend events in accordance with this policy will be made by simple majority or by the CEO in accordance with any authorisation provided in this policy.

3. Pre-approved events

The Shire approves attendance at the following events by Elected Members, the CEO and Employees of the Shire:

- (a) advocacy, lobbying or Members of Parliament or Ministerial briefings (Elected Members, the CEO and Executive Management only);
- (b) meetings of clubs or organisations within the Shire of Kent;
- (c) any free event held within the Shire of Kent;
- (d) Australian or West Australian Local Government events;
- (e) events hosted by clubs or not for profit organisations within the Shire of Kent to which the Shire President, Elected Member, CEO or employee has been officially invited;
- (f) Shire hosted ceremonies and functions;
- (g) Shire hosted events with employees;
- (h) Shire run tournaments or events;
- (i) Shire sponsored functions or events;
- (j) cultural events/festivals within the Shire of Kent or District;
- (k) events run by a local, state or federal government;
- (l) events run by schools and universities within the Shire of Kent;



- (m) opening or launch of an event or facility within the Shire of Kent or District;
- (n) events run by WALGA, LGIS or a recognised and incorporated WA based local government professional association;

All Elected Members, the CEO and employees with approval of the CEO or their respective Executive Manager, are entitled to attend a pre-approved event.

4. Payments in respect of attendance

- 4.1 Where an invitation or ticket to an event is provided free of charge, the local government may contribute to appropriate expenses for attendance, such as travel and accommodation for events outside the district if the council determine attendance to be of public value.
- 4.2 For any events where a member of the public is required to pay, unless a pre-approved event, the council will determine whether it is in the best interests of the local government for a council member or the CEO or another officer to attend on behalf of the council.
- 4.3 If the council determines that a council member or CEO should attend a paid event, the local government will pay the cost of attendance and reasonable expenses, such as travel and accommodation.
- 3.4 Where partners of an authorised local government representative attend an event, any tickets for that person, if paid for by the local government, must be reimbursed by the representative unless expressly authorised by the council.

5. Definitions

Term	Definition
CEO	Chief Executive Officer
Council	Includes the Shire President and all Councillors.
District	Is defined as the Great Southern Region of Western Australia.
Elected Members	Includes the Shire President and all Councillors.
Event	In accordance with section 5.90A of the <i>Local Government Act 1995</i> is defined as: <ul style="list-style-type: none">• Concert• Conference• Function• Sporting event• Occasions prescribed by the <i>Local Government (Administration) Regulations 1996</i>
LGIS	Local Government Insurance Services
Shire	The Shire of Kent
WALGA	Western Australian Local Government Association



6. Variation to this policy:

This policy may be cancelled or varied from time to time.

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Related Documents:	Nil



Policy Position 1.4 – Standing Orders (EM1.4)

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PART 1 - PRELIMINARY

1.1 Application

All meetings of the Council or a committee and other matters as prescribed are to be conducted in accordance with the Act, the Regulations and these Standing Orders, except that the following Standing Orders do not apply to the meeting of a committee –

- (a) Clause 8.2, in regard to seating;
- (b) Clause 9.5, limitation on the number of speeches.

1.2 Definitions

- (1) In these Standing Orders unless the context otherwise requires:

“Act” means the *Local Government Act 1995*;

“CEO” means the Chief Executive Officer or Acting Chief Executive Officer for the time being of the Shire of Kent ;

“committee” means a committee of the Council;

“Council” means the Council of the Shire of Kent;

“local government” means the Shire of Kent;

“member” means a councillor on the Council as well as the councillors who hold the office of President and Deputy President;

“person presiding” means the person presiding at a meeting of the council or a meeting of the electors whether it be the President, Deputy President, a councillor chosen by the Council at a Council meeting or a councillor or elector chosen by the electors at an electors meeting;

“presiding member” means the presiding member of a committee or the deputy presiding member, or a member of the committee when performing a function of the presiding member in accordance with the Act;

“Regulations” means the *Local Government (Administration) Regulations 1996*;

“simple majority” is more than 50% of the members present and voting; and

“substantive motion” means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.



- (2) Unless otherwise defined herein the terms and expressions used in the Standing Orders are to have the meaning given to them in the Act and Regulations.

PART 2 – CALLING MEETINGS

2.1 Calling Committee Meetings

A meeting of a committee is to be held –

- (a) if called for in a verbal or written request to the CEO by the presiding member of the committee, setting out the date and purpose of the proposed meeting;
- (b) if called for by at least 1/3 of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) if so decided by the committee.

2.2 Notice of Special Council Meetings

- (1) Subject to subclause (2), the CEO is to convene a special meeting of the Council by giving each Council member at least 72 hours' notice of the date, time, place and purpose of the meeting.
- (2) Where there is a need to meet urgently, in the opinion of the President, the CEO may give a lesser period of notice of a special meeting than mentioned in subclause (1).



PART 3 - BUSINESS OF THE MEETING

3.1 Business to be Specified on Notice Paper

- (1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the person presiding or a decision of the Council.
- (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
- (3) No business is to be transacted at a committee meeting other than that specified in the agenda or given in the notice as the purpose of the meeting, without the approval of the presiding member or a decision of the committee.
- (4) No business is to be transacted at an adjourned meeting of the Council or a committee other than that –
 - (a) specified in the notice of the meeting which had been adjourned; and
 - (b) which remains unresolved;

except in the case of an adjournment to the next ordinary meeting of the Council or the committee, when the business unresolved at the adjourned meeting is to have precedence at that ordinary meeting.

3.2 Order of Business

- (1) The order of business at any ordinary meeting of the Council shall be as decided by the President and the CEO unless the Council resolves what the order of business shall be.
- (2) Unless otherwise decided by the members present, the order of business at any special meeting of the Council or at a committee meeting is to be the order in which that business stands in the agenda of the meeting.
- (3) Notwithstanding subclauses (1) and (2) in the order of business for any meeting of the Council or a committee, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

3.3 Petitions

A petition, in order to be effective, is to –

- (a) be addressed to the President;
- (b) be made by electors of the district;
- (c) state the request on each page of the petition;



- (d) contain the names, addresses and signatures of the electors making the request, and the date each elector signed;
- (e) contain a summary of the reasons for the request;
- (f) state the name of the person upon whom, and an address at which, notice to the petitioners can be given;
- (g) be in the form prescribed by the Act and *Local Government (Constitution) Regulations 1998* if it is –
 - (i) a proposal to change the method of filling the office of President;
 - (ii) a proposal to create a new district or the boundaries of the local government;
 - (iii) a request for a poll on a recommended amalgamation;
 - (iv) a submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward.

3.4 Confirmation of Minutes

- (1) When minutes of a meeting are submitted to an ordinary meeting of the Council or committee for confirmation, if a member is dissatisfied with the accuracy of the minutes, then he or she is to -
 - (a) state the item or items with which he or she is dissatisfied; and
 - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (2) Discussion of any minutes, other than discussion as to their accuracy as a record of the proceedings, is not permitted.

3.5 Announcements by the Person Presiding Without Discussion

- (1) At any meeting of the Council or a committee the person presiding may announce or raise any matter of interest or relevance to the business of the Council or committee, or propose a change to the order of business.
- (2) Any member may move that a change in order of business proposed by the person presiding not be accepted and if carried by a majority of members present, the proposed change in order is not to take place.

3.6 Matters for which Meeting May be Closed

For the convenience of members of the public, the Council or committee may identify by decision, early in the meeting, any matter on the agenda of the meeting to be discussed



behind closed doors, and that matter is to be deferred for consideration as the last item of the meeting.

3.7 Motions of which Previous Notice has been Given

- (1) Unless the Act, Regulations or these Standing Orders otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO.
- (2) A notice of motion under subclause (1) is to be given at least seven (7) clear working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good government of persons in the district.
- (4) The CEO –
 - (a) with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be out of order; or
 - (b) may on his or her own initiative make such amendments to the form but not the substance thereof as will bring the notice of motion into due form; and
 - (c) may under his or her name provide relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) No notice of motion is to be out of order because the policy involved is considered to be objectionable.
- (6) A motion of which notice has been given is to lapse unless –
 - (a) the member who gave notice thereof, or some other member authorised by him or her in writing moves the motion when called on; or
 - (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.
- (7) If a notice of motion is given and lapses in the circumstances referred to in subclause (6)(a), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse.

3.8 Questions by Members of which Due Notice has been given.

- (1) A question on notice is to be given by a member in writing to the CEO at least seven (7) clear working days before the meeting at which it is raised.
- (2) If the question referred to in subclause (1) is in order, the answer is, so far as is practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.



- (3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the person presiding.

3.9 Urgent Business Approved By the Person Presiding or by Decision

In cases of extreme urgency or other special circumstance, matters may, with the consent of the person presiding, or by decision of the members present, be raised without notice and decided by the meeting.

3.10 Deputations

- (1) A deputation wishing to be received by the Council or a committee is to apply in writing to the CEO who is to forward the written request to the President, or the Presiding Member as the case may be.
- (2) The President if the request is to attend a Council meeting, or the Presiding Member of the committee, if the request is to attend a meeting of a committee, may either approve the request, in which event the CEO is to invite the deputation to attend a meeting of the Council or committee as the case may be, or may instruct the CEO to refer the request to the Council or committee to decide by simple majority whether or not to receive the deputation.
- (3) A deputation invited to attend a Council or committee meeting -
 - (a) is not to exceed five persons, only two of whom may address the Council or committee, although others may respond to specific questions from the members; and
 - (b) is not to address the Council or committee for a period exceeding 15 minutes without the agreement of the Council or the committee as the case requires.
- (4) Any matter which is the subject of a deputation to the Council or a committee is not to be decided by the Council or that committee until the deputation has completed its presentation.

PART 4 - PUBLIC ACCESS TO AGENDA MATERIAL

4.1 Inspection Entitlement

Members of the public have access to agenda material in the terms set out in Regulation 14 of the Regulations.

4.2 Confidentiality of Information Withheld

Information withheld by the CEO from members of the public under Regulation 14.2, of the Regulations, is to be –



- (a) identified in the agenda of a Council or committee meeting under the item “Matters for which meeting may be closed”; and
- (b) marked “confidential” in the agenda.

PART 5 - DISCLOSURE OF FINANCIAL INTERESTS

5.1 Separation of Committee Recommendations

Where a member of the Council has disclosed an interest in a matter, at a committee meeting, and the matter is contained in the recommendations of the committee to an ordinary meeting of Council or to another committee meeting that will be attended by the member, the recommendation concerned is to be separated on the agenda of that ordinary meeting or other committee meeting, from other recommendations of the committee, to enable the member concerned to declare the interest and leave the room prior to consideration of that matter only.

5.2 Member with an Interest may ask to be Present

- (1) Where a member has disclosed the nature of his or her interest in a matter, immediately before the matter is considered by the meeting, he or she may, without disclosing the extent of the interest, request that he or she be allowed to be present during any discussion or decision making procedure related to the matter.
- (2) If such a request is made, the member is to leave the room while the request is considered. If the request is allowed by the members, the member may return to the meeting and be present during the discussion or decision making procedure related to that matter, but is not permitted to participate in any way.

5.3 Member with an Interest may ask Permission to Participate

- (1) A member who discloses both the nature and extent of an interest, may request permission to take part in the consideration or discussion of the matter, or to vote on the matter.
- (2) If such a request is made, the member is to leave the room while the request is considered. If it is decided at a meeting that a member who has disclosed both the nature and extent of an interest in a matter, be permitted to participate in the consideration and discussion of the matter or to vote on the matter, or both, then the member may return to participate to the extent permitted.

5.4 Disclosures by Employees

- (1) If an employee within the meaning of section 5.70 of the Act, presents a written report to a meeting, on a matter in which the employee has an interest, the nature of the interest is to be disclosed at the commencement of the report.



- (2) If such an employee makes a verbal report to a meeting on a matter in which the employee has an interest, the employee is to preface his or her advice to the meeting by verbally disclosing the nature of the interest.

PART 6 - QUORUM

6.1 Quorum to be Present

The Council or a committee is not to transact business at a meeting unless a quorum is present.

6.2 Loss of Quorum During a Meeting

- (1) If at any time during the course of a meeting of the Council or a committee a quorum is not present –
 - (a) in relation to a particular matter because of a member or members leaving the meeting after disclosing a financial interest, the matter is adjourned until either -
 - (b)
 - (i) a quorum is present to decide the matter; or
 - (ii) the Minister allows a disclosing member or members to preside at the meeting or to participate in discussions or the decision making procedures relating to the matter under section 5.69 of the Act; or
 - (b) because of a member or members leaving the meeting for reasons other than disclosure of a financial interest, the person presiding is to suspend the proceedings of the meeting for a period of five minutes, and if a quorum is not present at the end of that time, the meeting is deemed to have been adjourned and the person presiding is to reschedule it to some future time or date having regard to the period of notice which needs to be given under the Act, Regulations, or the Standing Orders when calling a meeting of that type.
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1)(b) –
 - (a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and
 - (b) in the case of a Council meeting
 - (i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
 - (ii) the provisions of clause 9.5 apply when the debate is resumed.



PART 7 - KEEPING OF MINUTES

7.1 Content of Minutes

In addition to the matters contained in Regulation 11 of the Regulations, the content of minutes of a meeting of the Council or a committee is to include, where an application for approval is declined or the authorisation of a licence, permit, or certificate is otherwise withheld or cancelled, the reasons for the decision.

7.2 Preservation of Minutes

Minutes including the agenda of each Council and committee meeting are to be kept as a permanent record of the activities of the local government in accordance with the requirements of the *State Records Act 2000*.

PART 8 - CONDUCT OF PERSONS AT COUNCIL AND COMMITTEE MEETINGS

8.1 Official Titles to be Used

Members of the Council are to speak of each other in the Council or committee by their respective titles of President or councillor. Members of the Council, in speaking of or addressing employees, are to designate them by their respective official titles.

8.2 Members to Occupy Own Seats

At the first meeting held after each ordinary elections day, the President is to allot a position at the Council table to each councillor and the councillor is to occupy that position when present at meetings of the Council until such time as there is a call by a majority of councillors for a re-allotment of positions.

8.3 Leaving Meetings

During the course of a meeting of the Council or a committee no member is to enter or leave the meeting without first advising the person presiding, in order to facilitate the recording in the minutes of the time of entry or departure.

8.4 Adverse Reflection

- (1) No member of the Council or a committee is to reflect adversely upon a decision of the Council or committee except on a motion that the decision be revoked or changed.
- (2) No member of the Council or a committee is to use offensive or objectionable expressions in reference to any member of the local government, or any other person.



8.5 Recording of Proceedings

- (1) No person is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without the written permission of the Council.
- (2) Subclause (1) does not apply if the record is taken by or at the direction of the CEO, with the permission of the Council or committee.

8.6 Prevention of Disturbance

- (1) Any member of the public addressing the Council or a committee is to extend due courtesy and respect to the Council or committee and the processes under which they operate and must take direction from the person presiding whenever called upon to do so.

Penalty \$1,000

- (2) No person observing a meeting, is to create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.

Penalty \$1,000

8.7 Distinguished Visitors

If a distinguished visitor is present at a meeting of the Council or a committee, the person presiding may invite such person to sit beside the person presiding or at the Council table.

PART 9 - CONDUCT OF MEMBERS DURING DEBATE

9.1 Members wishing to Speak

Every member of the Council wishing to speak is to indicate by show of hands or other method agreed upon by the Council. When invited by the person presiding to speak, members shall address the Council through the person presiding.

9.2 Priority

In the event of two or more members of the Council or a committee wishing to speak at the same time, the person presiding is to decide which member is entitled to be heard first. The decision is not open to discussion or dissent.

9.3 The Person Presiding to Take Part in Debates

Unless otherwise prohibited by the Act, and subject to compliance with procedures for the debate of motions contained in these Standing Orders, the person presiding may take part in a discussion of any matter before the Council or committee as the case may be.



9.4 Relevance

Every member of the Council or a committee is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

9.5 Limitation of Number of Speeches

No member of the Council is to address the Council more than once on any motion or amendment before the Council except the mover of a substantive motion, in reply, or to a point of order, or in explanation.

9.6 Limitation of Duration of Speeches

All addresses are to be limited to a maximum of five minutes. Extension of time is permissible only with the agreement of a simple majority of members present.

9.7 Members Not to Speak After Conclusion of Debate

No member of the Council or a committee is to speak to any question after it has been put by the person presiding.

9.8 Members Not to Interrupt

No member of the Council or a committee is to interrupt another member of the Council or committee whilst speaking unless:

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 10.16; or
- (d) to move a motion under clause 11(e).

9.9 Re-Opening Discussion on Decisions

No member of the Council or a committee is to re-open discussion on any decision of the Council or committee, except for the purpose of moving that the decision be revoked or changed.

PART 10 - PROCEDURES FOR DEBATE OF MOTIONS

10.1 Motions To be Stated

Any member of the Council or a committee who moves a substantive motion or amendment to a substantive motion is to state the substance of the motion before speaking to it.



10.2 Motions to be Supported

No motion or amendment to a substantive motion is open to debate until it has been seconded, or, in the case of a motion to revoke or change the decision made at a Council or a committee meeting, unless the motion has the support required under Regulation 10 of the Regulations.

10.3 Unopposed Business

- (1) Upon a motion being moved and seconded, the person presiding may ask the meeting if any member opposes it.
- (2) If no member signifies opposition to the motion the person presiding may declare the motion in subclause (1) carried without debate and without taking a vote on it.
- (3) A motion carried under subclause (2) is to be recorded in the minutes as a unanimous decision of the Council or committee.
- (4) If a member signifies opposition to a motion the motion is to be dealt with according to this Part.
- (5) This clause does not apply to any motion or decision to revoke or change a decision which has been made at a Council or committee meeting.

10.4 Only One Substantive Motion Considered

When a substantive motion is under debate at any meeting of the Council or a committee, no further substantive motion is to be accepted.

10.5 Breaking Down of Complex Questions

The person presiding may order a complex question to be broken down and put in the form of several motions, which are to be put in sequence.

10.6 Order of Call in Debate

The person presiding is to call speakers to a substantive motion in the following order:

- (a) The mover to state the motion;
- (b) A seconder to the motion;
- (c) The mover to speak to the motion;
- (d) The seconder to speak to the motion;
- (e) A speaker against the motion;
- (f) A speaker for the motion;
- (g) Other speakers against and for the motion, alternating in view, if any;



- (h) Mover takes right of reply which closes debate.

10.7 Limit of Debate

The person presiding may offer the right of reply and put the motion to the vote if he or she believes sufficient discussion has taken place even though all members may not have spoken.

10.8 Member May Require Questions to be Read

Any member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member whilst speaking.

10.9 Consent of Secunder Required to Accept Alteration of Wording

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

10.10 Order of Amendments

Any number of amendments may be proposed to a motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn or lost.

10.11 Amendments Must Not Negate Original Motion

No amendment to a motion can be moved which negates the original motion or the intent of the original motion.

10.12 Mover of Motion Not to Speak on Amendment

On an amendment being moved, any member may speak to the amendment, provided that if the person who moved the substantive motion does choose to speak to the amendment, the right of reply is forfeited by that person.

10.13 Substantive Motion

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved.

10.14 Withdrawal of Motion and Amendments

Council or a committee may, without debate, grant leave to withdraw a motion or amendment upon request of the mover of the motion or amendment and with the approval of the seconder provided that there is no voice expressed to the contrary view by any member, in which case discussion on the motion or amendment is to continue.



10.15 Limitation of Withdrawal

Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

10.16 Personal Explanation

No member is to speak at any meeting of the Council or a committee, except upon the matter before the Council or committee, unless it is to make a personal explanation. Any member of the Council or committee who is permitted to speak under these circumstances is to confine the observations to a succinct statement relating to a specific part of the former speech which may have been misunderstood. When a member of the Council or committee provides an explanation, no reference is to be made to matters unnecessary for that purpose.

10.17 Personal Explanation - When Heard

A member of the Council or a committee wishing to make a personal explanation of matters referred to by any member of the Council or committee then speaking, is entitled to be heard immediately, if the member of the Council or committee then speaking consents at the time, but if the member of the Council or committee who is speaking declines to give way, the explanation is to be offered at the conclusion of that speech.

10.18 Ruling on Questions of Personal Explanation

The ruling of the person presiding on the admissibility of a personal explanation is final unless a motion of dissent with the ruling is moved before any other business proceeds.

10.19 Right of Reply

- (1) The mover of a substantive motion has the right of reply. After the mover of the substantive motion has commenced the reply, no other member is to speak on the question.
- (2) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

10.20 Right of Reply Provisions

The right of reply is governed by the following provisions:

- (a) if no amendment is moved to the substantive motion, the mover may reply at the conclusion of the discussion on the motion;
- (b) if an amendment is moved to the substantive motion the mover of the substantive motion is to take the right of reply at the conclusion of the vote on any amendments;



- (c) the mover of any amendment does not have a right of reply;
- (d) once the right of reply has been taken, there can be no further discussion, nor any other amendment and the original motion or the original motion as amended is immediately put to the vote.

PART 11 - PROCEDURAL MOTIONS

11.1 Permissible Procedural Motions

In addition to proposing a properly worded amendment to a substantive motion, it is permissible for a member to move the following procedural motions:

- (a) that the Council (or committee) proceed to the next business;
- (b) that the question be adjourned;
- (c) that the Council (or committee) now adjourn;
- (d) that the question be now put;
- (e) that the member be no longer heard;
- (f) that the ruling of the person presiding be disagreed with;
- (g) that the Council (or committee) meet behind closed doors, if the meeting or part of the meeting to which the motion relates is a matter in respect of which the meeting may be closed to members of the public under section 5.23 of the Act.

11.2 No Debate on Procedural Motions

- (1) The mover of a motion stated in each of paragraphs (a), (b), (c), (f) and (g) of clause 11.1 may speak to the motion for not more than two minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
- (2) The mover of a motion stated in each of paragraphs (d) and (e) of Clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

11.3 Procedural Motions - Closing Debate - Who May Move

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

11.4 Procedural Motions - Right of Reply on Substantive Motion



The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

PART 12 - EFFECT OF PROCEDURAL MOTIONS

12.1 Council (or Committee) to Proceed to the Next Business - Effect of Motion

The motion “that the Council (or committee) proceed to the next business”, if carried, causes the debate to cease immediately and for the Council (or committee) to move to the next business of the meeting. No decision will be made on the substantive motion being discussed, nor is there any requirement for the matter to be again raised for consideration.

12.2 Question to be Adjourned - Effect of Motion

- (1) The motion “that the question be adjourned”, if carried, causes all debate on the substantive motion or amendment to cease but to continue at a time stated in the motion.
- (2) If the motion is carried at a meeting of the Council –
 - (a) the names of members who have spoken on the matter are to be recorded in the minutes; and
 - (b) the provisions of clause 9.5 apply when the debate is resumed.

12.3 Council (or Committee) to Now Adjourn - Effect of Motion

- (1) The motion “that the Council (or committee) now adjourn”, if carried, causes the meeting to stand adjourned until it is re-opened at which time the meeting continues from the point at which it was adjourned, unless the person presiding or a simple majority of members upon vote, determine otherwise.
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1) –
 - (a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and
 - (b) in the case of a Council meeting
 - (i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
 - (ii) the provisions of clause 9.5 apply when the debate is resumed.



12.4 Question to be Put - Effect of Motion

- (1) The motion “that the question be now put”, if carried during discussion of a substantive motion without amendment, causes the person presiding to offer the right of reply and then immediately put the matter under consideration without further debate.
- (2) This motion, if carried during discussion of an amendment, causes the person presiding to put the amendment to the vote without further debate.
- (3) This motion, if lost, causes debate to continue.

12.5 Member to be No Longer Heard - Effect of Motion

The motion “that the member be no longer heard”, if carried, causes the person presiding to not allow the speaker against whom the motion has been moved to speak to the current substantive motion or any amendment relating to it, except to exercise the right of reply if the person is the mover of the substantive motion.

12.6 Ruling of the Person Presiding Disagreed With - Effect of Motion

The motion “that the ruling of the person presiding be disagreed with”, if carried, causes the ruling of the person presiding about which this motion was moved, to have no effect and for the meeting to proceed accordingly.

12.7 Council (or Committee) to Meet Behind Closed Doors - Effect of Motion

- (1) Subject to any deferral under clause 3.6 or other decision of the Council or committee, this motion, if carried, causes the general public and any officer or employee the Council or committee determines, to leave the room.
- (2) While a decision made under this clause is in force the operation of clause 9.5 limiting the number of speeches a member of the Council may make, is suspended unless the Council decides otherwise.
- (3) Upon the public again being admitted to the meeting the person presiding, unless the Council or committee decides otherwise, is to cause the motions passed by the Council or committee whilst it was proceeding behind closed doors to be read out including the vote of a member or members to be recorded in the minutes under section 5.21 of the Act.

PART 13 - MAKING DECISIONS

13.1 Question - When Put

When the debate upon any question is concluded and the right of reply has been exercised the person presiding shall immediately put the question to the Council or the committee, and, if so desired by any member of the Council or committee, shall again state it.



13.2 Question - Method of Putting

If a decision of the Council or a committee is unclear or in doubt, the person presiding shall put the motion or amendment as often as necessary to determine the decision from a show of hands or other method agreed upon so that no voter's vote is secret, before declaring the decision.

PART 14 - IMPLEMENTING DECISIONS

14.1 Implementation of a Decision

- (1) If a notice of motion to revoke or change a decision of the Council or a committee that complies with Regulation 10 of the Regulations is received by the CEO before any action has been taken to implement that decision, then no steps are to be taken to implement or give effect to that decision until such time as the motion of revocation or change has been dealt with.
- (2) Implementation of a decision is only to be withheld under sub-clause (1) if the effect of the change proposed in a notice of motion would be that the decision would be revoked or would become substantially different.
- (3) The Council or a committee shall not vote on a motion to revoke or change a decision of the Council or committee whether the motion of revocation or change is moved with or without notice, if at the time the motion is moved or notice is given:-
 - (a) action has been taken to implement the decision; or
 - (b) where the decision concerns the issue of an approval or the authorisation of a licence, permit or certificate, and where that approval or authorisation of a licence, permit or certificate has been put into effect by the Council in writing to the applicant or the applicant's agent by an employee of the local government authorised to do so;

without having considered a statement of impact prepared by or at the direction of the CEO of the legal and financial consequences of the proposed revocation or change.

PART 15 - PRESERVING ORDER

15.1 The Person Presiding to Preserve Order

The person presiding is to preserve order, and may call any member or other person in attendance to order, whenever, in his or her opinion, there is cause for so doing.

15.2 Demand for Withdrawal

A member at a meeting of the Council or a committee may be required by the person presiding, or by a decision of the Council or committee, to apologise and unreservedly



withdraw any expression which is considered to reflect offensively on another member or an employee, and if the member declines or neglects to do so, the person presiding may refuse to hear the member further upon the matter then under discussion and call upon the next speaker.

15.3 Points of Order - When to Raise - Procedure

Upon a matter of order arising during the progress of a debate, any member may raise a point of order including interrupting the speaker. Any member who is speaking when a point of order is raised, is to immediately stop speaking while the person presiding listens to the point of order.

15.4 Points of Order - When Valid

The following are to be recognised as valid points of order:

- (a) that the discussion is of a matter not before the Council or committee;
- (b) that offensive or insulting language is being used;
- (c) drawing attention to the violation of any written law, or policy of the local government, provided that the member making the point of order states the written law or policy believed to be breached.

15.5 Points Of Order - Ruling

The person presiding is to give a decision on any point of order which is raised by either upholding or rejecting the point of order.

15.6 Points of Order - Ruling Conclusive, Unless Dissent Motion is Moved

The ruling of the person presiding upon any question of order is final, unless a majority of the members support a motion of dissent with the ruling.

15.7 Points of Order Take Precedence

Notwithstanding anything contained in these Standing Orders to the contrary, all points of order take precedence over any other discussion and until decided, suspend the consideration and decision of every other matter.

15.8 Precedence of Person Presiding

- (1) When the person presiding indicates a wish to speak during the progress of a debate, any member of the Council or committee then speaking, or offering to speak, is to immediately cease speaking and every member of the Council or committee present shall preserve strict silence so that the person presiding may be heard without interruption.
- (2) Subclause (1) is not to be used by the person presiding to exercise the right provided in clause 9.3, but to preserve order.



15.9 Right of the Person Presiding to Adjourn Without Explanation to Regain Order

- (1) If a meeting ceases to operate in an orderly manner, the person presiding may use discretion to adjourn the meeting for a period of up to fifteen minutes without explanation, for the purpose of regaining order. Upon resumption, debate is to continue at the point at which the meeting was adjourned. If, at any one meeting, the person presiding has cause to further adjourn the meeting, such adjournment may be to a later time on the same day or to any other day.
- (2) Where debate of a motion is interrupted by an adjournment under sub-clause (1), in the case of a Council meeting -
 - (a) the names of members who have spoken in the matter prior to the adjournment are to be recorded; and
 - (b) the provisions of clause 9.5 apply when the debate is resumed.

PART 16 - ADJOURNMENT OF MEETING

16.1 Meeting May be Adjourned

The Council or a committee may decide to adjourn any meeting to a later time on the same day, or to any other day.

16.2 Limit to Moving Adjournment

No member is to move or second more than one motion of adjournment during the same sitting of the Council or committee.

16.3 Unopposed Business - Motion for Adjournment

On a motion for the adjournment of the Council or committee, the person presiding, before putting the motion, may seek leave of the Council or committee to proceed to the transaction of unopposed business.

16.4 Withdrawal of Motion for Adjournment

A motion or an amendment relating to the adjournment of the Council or a committee may be withdrawn by the mover, with the consent of the seconder, except that if any member objects to the withdrawal, debate of the motion is to continue.

16.5 Time To Which Adjourned

The time to which a meeting is adjourned for want of a quorum, by the person presiding to regain order, or by decision of the Council, may be to a specified hour on a particular day or to a time which coincides with the conclusion of another meeting or event on a particular day.



PART 17 - COMMITTEES OF THE COUNCIL

17.1 Establishment and Appointment of Committees

A committee is not to be established except on a motion setting out the proposed functions of the committee and either –

- (a) the names of the Council members, employees and other persons to be appointed to the committee; or
- (b) the number of Council members, employees and other persons to be appointed to the committee and a provision that they be appointed by a separate motion.

17.2 Appointment of Deputy Committee Members

- (1) The Council may appoint one or more persons to be the deputy or deputies, as the case may be, to act on behalf of a member of a committee whenever that member is unable to be present at a meeting thereof and where two or more deputies are so appointed they are to have seniority in the order determined by the Council.
- (2) Where a member of a committee does not attend a meeting thereof a deputy of that member, selected according to seniority, is entitled to attend that meeting in place of the member and act for the member, and while so acting has all the powers of that member.

17.3 Presentation of Committee Reports

When the report or recommendations of a committee are placed before the Council, the adoption of recommendations of the committee is to be moved by –

- (a) the Presiding Member of the Committee if the Presiding Member is a Council member and is in attendance; or
- (b) a Council member who is a member of the committee, if the Presiding Member of the Committee is not a Council member, or is absent; or
- (c) otherwise, by a Council member who is not a member of the committee.

17.4 Reports of Committees - Questions

When a recommendation of any committee is submitted for adoption by the Council, any member of the Council may direct questions directly relating to the recommendation through the person presiding to the Presiding Member or to any member of the committee in attendance.

17.5 Permissible Motions on Recommendation From Committee

A recommendation made by or contained in the minutes of a committee may be adopted by the Council without amendment or modification, failing which, it may be –



- (a) rejected by the Council and replaced by an alternative decision; or
- (b) amended or modified and adopted with such amendment or modification; or
- (c) referred back to the committee for further consideration.

PART 18 - ADMINISTRATIVE MATTERS

18.1 Suspension of Standing Orders

- (1) The Council or a committee may decide, by simple majority vote, to suspend temporarily one or more of the Standing Orders.
- (2) The mover of a motion to suspend temporarily any one or more of the Standing Orders is to state the clause or clauses to be suspended, and the purpose of the suspension.

18.2 Cases not Provided for in Standing Orders

The person presiding is to decide questions of order, procedure, debate, or otherwise in cases where these Standing Orders and the Act and Regulations are silent. The decision of the person presiding in these cases is final, except where a motion is moved and carried under clause 11.1(f).

PART 19 - COMMON SEAL

19.1 The Council's Common Seal

- (1) The CEO is to have charge of the common seal of the local government, and is responsible for the safe custody and proper use of it.
- (2) The common seal of the local government may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the President and the CEO or a senior employee authorised by him or her.
- (3) The common seal of the local government is to be affixed to any local law which is made by the local government.
- (4) Any person who uses the common seal of the local government or a replica thereof without authority commits an offence.

Penalty \$1,000



Document Control

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Related Documents:	Nil



Policy Position 1.5 – Elected Member Training and Professional Development (EM1.5)

PREAMBLE

Under the *Local Government Act 1995*, all Councils are required to adopt a policy in relation to the continuing professional development of Elected Members, with a requirement that an up-to-date version of the policy be available on the Shire's website and the policy complying with any prescribed policy, if any.

There is no current prescribed policy, nor any proposed by the Department, at this time.

In addition the Shire is required to report on the training completed by Elected Members each financial year, and that report is to be published on the Shire's website within 1 month after the end of the financial year.

STATUTORY ENVIRONMENT

Continuing Professional Development observes the statutory requirements of the *Local Government Act 1995*, S5.127 and S5.128

1.5.1 ELECTED MEMBER TRAINING

Policy Objective

To ensure that Elected Members of the Shire of Kent receive appropriate information and training to enable them to understand and undertake their responsibilities and obligations.

Policy Statement

The Shire of Kent recognises the importance of providing Elected Members with the knowledge and resources that will enable them to fulfil their role in accordance with statutory compliance and community expectations and make educated and informed decisions.

Pursuant to the *Local Government Act 1995*, Elected Members must complete Council Member Essentials which incorporates the following training units:

- a) Understanding Local Government;
- b) Conflicts of Interest;
- c) Serving on Council;
- d) Meeting Procedures and Debating; and
- e) Understanding Financial Report and Budgets.

Council's preferred provider for the training is WALGA (WA Local Government Association).

All units and associated costs will be paid for by the Shire and must be completed by 30 June in the year immediately following the elected Member's election. The training is valid for a period of five years.

Additionally, the Shire will publish, on the Shire's website, training undertaken by all Elected Members within one month after the end of the financial year pursuant to *Local Government Act 1995*.



It is Council's preference that the training is undertaken via the eLearning method which is the more cost efficient form of delivery. It is acknowledged however that there may be Elected Members who prefer to receive training face-to-face and/or opportunities to attend training which is being delivered in the region or in the Perth metropolitan area.

Procedures

Considerations for approval of the training or professional development activity include:

- The costs of attendance including registration, travel and accommodation, if required;
- The Budget provisions allowed and the uncommitted or unspent funds remaining;
- Any justification provided by the applicant when the training is submitted for approval;
- The benefits to the Shire of the person attending;
- Identified skills gaps of elected members both individually and has a collective;
- Alignment to the Shire's Strategic Objectives; and
- The number of Shire representatives already approved to attend.

Consideration of attendance at training or professional development courses, other than the online Council Member Essentials, which are deemed to be approved, are to be assessed as follows:

- Events for the Shire President must be approved by the Deputy Shire President, in conjunction with the CEO; and
- Events for Councillors must be approved by either the Council or the Shire President, in conjunction with the CEO.

Note well: any expenditure commitments associated with training or professional development must be performed by and authorised through the CEO.

Document Control

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Related Documents:	Nil

Policy Position 1.6 – Standards for CEO Recruitment, Performance and Termination (EM1.6)



1.6.1 CEO RECRUITMENT, PERFORMANCE AND TERMINATION

1. Citation

These are the Shire of Kent Standards for CEO Recruitment, Performance and Termination.

2. Terms used

- a) In these Standards—

Act means the *Local Government Act 1995*;

additional performance criteria means performance criteria agreed by the local government and the CEO under clause 16(1)(b);

applicant means a person who submits an application to the local government for the position of CEO;

CEO means the local government's Chief Executive Officer;

contract of employment means the written contract, as referred to in section 5.39 of the Act, that governs the employment of the CEO;

contractual performance criteria means the performance criteria specified in the CEO's **contract of employment** as referred to in section 5.39(3)(b) of the Act;

job description form means the job description form for the position of CEO approved by the local government under clause 5(2);

local government means the [insert name of local government];

selection criteria means the selection criteria for the position of Chief Executive Officer determined by the local government under clause 5(1) and set out in the job description form;

selection panel means the selection panel established by the local government under clause 8 for the employment of a person in the position of CEO.

- b) Other terms used in these standards that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears

Division 2 – Standards for recruitment of CEO's

3. Overview of Division

This Division sets out standards to be observed by the local government in relation to the recruitment of CEOs.

4. Application of Division

This Division sets out standards to be observed by the local government in relation to the recruitment of CEOs.

- (1) Except as provided in subclause (2), this Division applies to any recruitment and selection process carried out by the local government for the employment of a person in the position of CEO.
- (2) This Division does not apply —
 - (a) if it is proposed that the position of CEO be filled by a person in a class prescribed for the purposes of section 5.36(5A) of the Act; or
 - (b) in relation to a renewal of the CEO's contract of employment, except in the circumstances referred to in clause 13(2).

5. Determination of selection criteria and approval of job description form

- (1) The local government must determine the selection criteria for the position of CEO, based on the local government's consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of the local government.
- (2) The local government must, by resolution of an absolute majority of the council, approve a job description form for the position of Chief Executive Officer which sets out —
 - (a) the duties and responsibilities of the position; and
 - (b) the selection criteria for the position determined in accordance with subclause (1).

6. Advertising requirements

- (1) If the position of CEO is vacant, the local government must ensure it complies with section 5.36(4) of the Act and the *Local Government (Administration) Regulations 1996* regulation 18A.
- (2) If clause 13 applies, the local government must advertise the position of CEO in the manner referred to in the *Local Government (Administration) Regulations 1996* regulation 18A as if the position was vacant.

7. Job description form to be made available by local government

If a person requests the local government to provide to the person a copy of the job description form, the local government must —

- (a) inform the person of the website address referred to in the *Local Government (Administration) Regulations 1996* regulation 18A(2)(da); or
- (b) if the person advises the local government that the person is unable to access that website address —
 - (i) email a copy of the job description form to an email address provided by the person; or
 - (ii) mail a copy of the job description form to a postal address provided by the person

8. Establishment of selection panel for employment of CEO

- (1) In this clause —
independent person means a person other than any of the following —
 - (a) a council member;
 - (b) an employee of the local government;
 - (c) a human resources consultant engaged by the local government.
- (2) The local government must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.
- (3) The selection panel must comprise —



- (a) council members (the number of which must be determined by the local government); and
- (b) at least 1 independent person.

9. Recommendation by selection panel

- (1) Each applicant's knowledge, experience, qualifications and skills must be assessed against the selection criteria by or on behalf of the selection panel.
- (2) Following the assessment referred to in subclause (1), the selection panel must provide to the local government —
 - (a) a summary of the selection panel's assessment of each applicant; and
 - (b) unless subclause (3) applies, the selection panel's recommendation as to which applicant or applicants are suitable to be employed in the position of CEO.
- (3) If the selection panel considers that none of the applicants are suitable to be employed in the position of CEO, the selection panel must recommend to the local government —
 - (a) that a new recruitment and selection process for the position be carried out in accordance with these standards; and
 - (b) the changes (if any) that the selection panel considers should be made to the duties and responsibilities of the position or the selection criteria.
- (4) The selection panel must act under subclauses (1), (2) and (3) —
 - (a) in an impartial and transparent manner; and
 - (b) in accordance with the principles set out in section 5.40 of the Act.
- (5) The selection panel must not recommend an applicant to the local government under subclause (2)(b) unless the selection panel has —
 - (a) assessed the applicant as having demonstrated that the applicant's knowledge, experience, qualifications and skills meet the selection criteria; and
 - (b) verified any academic, or other tertiary level, qualifications the applicant claims to hold; and
 - (c) whether by contacting referees provided by the applicant or making any other inquiries the selection panel considers appropriate, verified the applicant's character, work history, skills, performance and any other claims made by the applicant.
- (6) The local government must have regard to, but is not bound to accept, a recommendation made by the selection panel under this clause.



10. Application of cl.5 where new process carried out

- (1) This clause applies if the local government accepts a recommendation by the selection panel under clause 9(3)(a) that a new recruitment and selection process for the position of CEO be carried out in accordance with these standards.
- (2) Unless the local government considers that changes should be made to the duties and responsibilities of the position or the selection criteria —
 - (a) clause 5 does not apply to the new recruitment and selection process; and
 - (b) the job description form previously approved by the local government under clause 5(2) is the job description form for the purposes of the new recruitment and selection process

11. Offer of employment in position of CEO

Before making an applicant an offer of employment in the position of CEO, the local government must, by resolution of an absolute majority of the council, approve —

- (a) the making of the offer of employment to the applicant; and
- (b) the proposed terms of the contract of employment to be entered into by the local government and the applicant.

12. Variations to proposed terms of contract of employment

- (1) This clause applies if an applicant who is made an offer of employment in the position of CEO under clause 11 negotiates with the local government a contract of employment (the negotiated contract) containing terms different to the proposed terms approved by the local government under clause 11(b).
- (2) Before entering into the negotiated contract with the applicant, the local government must, by resolution of an absolute majority of the council, approve the terms of the negotiated contract.

13. Recruitment to be undertaken on expiry of certain CEO contracts

- (1) In this clause —

commencement day means the day on which the *Local Government (Administration) Amendment Regulations 2021* regulation 6 comes into operation.

- (2) This clause applies if —
 - (a) upon the expiry of the contract of employment of the person (the incumbent CEO) who holds the position of CEO —
 - (i) the incumbent CEO will have held the position for a period of 10 or more consecutive years, whether that period commenced before, on or after commencement day; and
 - (ii) a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position was carried out, whether that process was carried out before, on or after commencement day;

and

- (b) the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.
- (3) Before the expiry of the incumbent CEO's contract of employment, the local government must carry out a recruitment and selection process in accordance with these standards to select a person to be employed in the position of CEO after the expiry of the incumbent CEO's contract of employment.
- (4) This clause does not prevent the incumbent CEO's contract of employment from being renewed upon its expiry if the incumbent CEO is selected in the recruitment and selection process referred to in subclause (3) to be employed in the position of CEO.

14. Confidentiality of information

The local government must ensure that information provided to, or obtained by, the local government in the course of a recruitment and selection process for the position of CEO is not disclosed, or made use of, except for the purpose of, or in connection with, that recruitment and selection process.

Division 3 – Standards for review of performance of CEO's

15. Overview of Division

This Division sets out standards to be observed by the local government in relation to the review of the performance of CEOs.

16. Performance review process to be agreed between local government and CEO

This Division sets out standards to be observed by the local government in relation to the recruitment of CEOs.

- (1) The local government and the CEO must agree on —
 - (a) the process by which the CEO's performance will be reviewed; and
 - (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.
- (2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 17, 18 and 19.
- (3) The matters referred to in subclause (1) must be set out in a written document.

17. Carrying out a performance review

- (1) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.
- (2) The local government must —
 - (a) collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and

- (b) review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

18. Endorsement of performance review by local government

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

19. CEO to be notified of results of performance review

After the local government has endorsed a review of the performance of the CEO under clause 18, the local government must inform the CEO in writing of —

- (a) the results of the review; and
- (b) if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.

Division 4 – Standards for termination of employment of CEO's

20. Overview of Division

This Division sets out standards to be observed by the local government in relation to the termination of the employment of CEOs.

21. General principles applying to any termination

- (1) The local government must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.
- (2) The local government must accord a CEO procedural fairness in relation to the process for the termination of the CEO's employment, including —
 - (a) informing the CEO of the CEO's rights, entitlements and responsibilities in relation to the termination process; and
 - (b) notifying the CEO of any allegations against the CEO; and
 - (c) giving the CEO a reasonable opportunity to respond to the allegations; and
 - (d) genuinely considering any response given by the CEO in response to the allegations.

22. Additional principles applying to termination for performance-related reasons

- (1) This clause applies if the local government proposes to terminate the employment of a CEO for reasons related to the CEO's performance.
- (2) The local government must not terminate the CEO's employment unless the local government has —
 - (a) in the course of carrying out the review of the CEO's performance referred to in subclause (3) or any other review of the CEO's performance, identified any issues (the performance issues) related to the performance of the CEO; and



- (b) informed the CEO of the performance issues; and
 - (c) given the CEO a reasonable opportunity to address, and implement a plan to remedy, the performance issues; and
 - (d) determined that the CEO has not remedied the performance issues to the satisfaction of the local government.
- (3) The local government must not terminate the CEO's employment unless the local government has, within the preceding 12-month period, reviewed the performance of the CEO under section 5.38(1) of the Act.

23. Decision to terminate

Any decision by the local government to terminate the employment of a CEO must be made by resolution of an absolute majority of the council.

24. Notice of termination of employment

- (1) If the local government terminates the employment of a CEO, the local government must give the CEO notice in writing of the termination.
- (2) The notice must set out the local government's reasons for terminating the employment of the CEO.

A copy of these Standards is to be placed on the local government's official website, pursuant to Section 5.39B(6) of the Local Government Act 1995

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