



CODE OF CONDUCT FOR EMPLOYEES

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1. Introduction

The Shire of Gingin Code of Conduct (the Code) provides employees with clear guidelines for the standards of professional conduct expected of them in carrying out their functions and responsibilities.

The Code addresses the broader issue of ethical responsibility and encourages transparency and accountability. The Code expresses the Shire of Gingin's commitment to high standards of ethical and professional behaviour and outlines the principles in which individual responsibilities are based.

The Code is complementary to the principles adopted in the *Local Government Act 1995* (the Act) and associated regulations, which incorporate four fundamental aims:

- (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.*

1.1 Statutory environment

The Code addresses the requirement in section 5.51A of the *Local Government Act 1995* (the Act) for the CEO to prepare and implement a code of conduct to be observed by employees of the local government, and includes the matters prescribed in Part 4A of the *Local Government (Administration) Regulations 1996*.

The Code should be read in conjunction with the Act and associated regulations. Employees should ensure that they are aware of their statutory responsibilities under this and other legislation.

1.2 Application

For the purposes of the Code, the term "employees" includes persons employed by the Shire of Gingin under s. 5.36(1) of the *Local Government Act 1995* or engaged by the Shire of Gingin under a contract for services. The Code applies to all employees, including the CEO, while on the local government's premises or while engaged in local government-related activities.

Clause 3.15 of the Code (Gifts), does not apply to the CEO. The CEO is subject to the requirements of the *Local Government Act 1995* Part 5, Division 6 in relation to gifts and gift disclosures.



2. Values

All Shire of Gingin employees are expected to conduct themselves in accordance with the Shire's Corporate Values and to display the following behaviours:

- T Teamwork
Work in collaboration to achieve our goals.
- R Respect
Work together with honesty and empathy towards others.
- A Accountability
Take ownership of and responsibility for what we do.
- C Commitment
Be professional and diligent in what we do.
- K Knowledge
Be skilled and innovative in what we do and continue to learn.

3. Code of Conduct

3.1 Role of Employees

The role of employees in local government is determined by the functions of the CEO as set out in s.5.41 of the Act.

5.41 Functions of CEO

The CEO's functions are to:

- (a) *advise the council in relation to the functions of a local government under this Act and other written laws;*
- (b) *ensure that advice and information is available to the council so that informed decisions can be made;*
- (c) *cause council decisions to be implemented;*
- (d) *manage the day to day operations of the local government;*
- (e) *liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;*
- (f) *speak on behalf of the local government if the mayor or president agrees;*
- (g) *be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);*
- (h) *ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- (i) *perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*

[Local Government Act 1995]



3.2 Principles affecting employment by the Shire of Gingin

The principles set out in section 5.40 of the Act apply to the employment of the Shire of Gingin's employees:

5.40 Principles affecting employment by local governments

The following principles apply to a local government in respect of its employees –

- (a) *employees are to be selected and promoted in accordance with the principles of merit and equity; and*
- (b) *no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage; and*
- (c) *employees are to be treated fairly and consistently; and*
- (d) *there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the Equal Opportunity Act 1984 or any other ground; and*
- (e) *employees are to be provided with safe and healthy working conditions in accordance with the Occupational Safety and Health Act 1984; and*
- (f) *such other principles, not inconsistent with this Division, as may be prescribed.*

[Local Government Act 1995]

3.3 Personal Behaviour

Employees will:

- (a) act, and be seen to act, properly, professionally and in accordance with the requirements of the law, the terms of this Code and all policies of the Shire of Gingin;
- (b) perform their duties impartially and in the best interests of the Shire of Gingin, uninfluenced by fear or favour;
- (c) act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the Shire of Gingin and the community;
- (d) make no allegations which are improper or derogatory (unless true and in the public interest);
- (e) refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment; and
- (f) always act in accordance with their obligation of fidelity to the Shire of Gingin.

3.4 Honesty and Integrity

Employees will:

- (a) observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- (b) be frank and honest in their official dealings with each other; and



- (c) report any dishonesty or possible dishonesty on the part of any other employee to their Executive Manager or the CEO in accordance with this Code and the Shire of Gingin's policies.

3.5 Performance of Duties

While on duty, employees will give their whole time and attention to the Shire of Gingin's business and ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably both on them and on the Shire of Gingin.

3.6 Compliance with Lawful and Reasonable Directions, Decisions and Policies

- (a) Employees will comply with any lawful and reasonable direction given by any person having authority to make or give such an order, including but not limited to their Coordinator, Manager, Executive Manager or the CEO.
- (b) Employees will give effect to the lawful decisions and policies of the Shire of Gingin, whether or not they agree with or approve of them.

3.7 Administrative and Management Practices

Employees will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

3.8 Intellectual Property

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

3.9 Recordkeeping

Employees will ensure complete and accurate local government records are created and maintained in accordance with the Shire of Gingin's Recordkeeping Plan.

3.10 Dealing with Other Employees

- (a) Employees will treat other employees with respect, courtesy and professionalism, and refrain from behaviour that constitutes discrimination, bullying or harassment.
- (b) Employees must be aware of, and comply with their obligations under relevant law and the Shire of Gingin's policies regarding workplace behaviour and occupational safety and health.
- (c) Employee behaviour should reflect the Shire of Gingin's values and contribute towards creating and maintaining a safe and supportive workplace.

3.11 Dealing with community

- (a) Employees will treat all members of the community with respect, courtesy and professionalism.
- (b) All Shire of Gingin services must be delivered in accordance with the Shire's Customer Service Charter and any other relevant policies and procedures, and any issues resolved promptly, fairly and equitably.



3.12 Professional Communications

- (a) All aspects of communication by employees (including verbal, written and electronic), involving the Shire of Gingin's activities should reflect the status, values and objectives of the Shire of Gingin and the Shire's Customer Service Charter.
- (b) Communications should be accurate, polite and professional and, where relevant, be consistent with the Shire's Corporate Style Guide.

3.13 Personal Communications and Social Media

- (a) Personal communications and statements made privately in conversation, written, recorded, emailed or posted in personal social media, have the potential to be made public, whether intended or not.
- (b) Employees must not, unless undertaking a duty in accordance with their employment, disclose information, make comments or engage in communication activities about or on behalf of the Shire of Gingin, its Councillors, employees or contractors which breach this Code.
- (c) Employee comments which become public and breach the Code of Conduct, or any other operational policy or procedure, may constitute a disciplinary matter and may also be determined as misconduct which may need to be reported in accordance with the *Corruption, Crime and Misconduct Act 2003*.

3.14 Personal Presentation

Employees are expected to comply with professional, neat and responsible dress standards at all times, in accordance with relevant Shire of Gingin policies and procedures.

3.15 Gifts

- (a) Application

This clause does not apply to the CEO.

- (b) Definitions

In this clause –

activity involving a local government discretion has the meaning given to it in 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.

[r.19AA *Local Government (Administration) Regulations 1996*]



associated person has the meaning given to it in the *Local Government (Administration) Regulations 1996*;

associated person means a person who –

- (a) is undertaking or seeking to undertake an activity involving a local government discretion; or
- (b) it is reasonable to believe, is intending to undertake an activity involving a local government discretion.

[r.19AA *Local Government (Administration) Regulations 1996*]

gift has the meaning given to it in the *Local Government (Administration) Regulations 1996*;

gift –

- (a) has the meaning given in section 5.57; but
- (b) does not include –
 - (i) a gift from a relative as defined in section 5.74(1); or
 - (ii) a gift that must be disclosed under the *Local Government (Elections) Regulations 1997* regulation 30B; or
 - (iii) a gift from a statutory authority, government instrumentality or non-profit association for professional training; or
 - (iv) a gift from WALGA, the Australian Local Government Association Limited (ABN 31 008 613 876), the Local Government Professionals Australia WA (ABN 91 208 607 072) or the LG Professionals Australia (ABN 85 004 221 818);

[r.19AA *Local Government (Administration) Regulations 1996*]

gift means –

- (a) a conferral of a financial benefit (including a disposition of property) made by 1 person in favour of another person unless adequate consideration in money or money's worth passes from the person in whose favour the conferral is made to the person who makes the conferral; or
- (b) a travel contribution;

travel includes accommodation incidental to a journey;

travel contribution means a financial or other contribution made by 1 person to travel undertaken by another person.

[s.5.57 *Local Government Act 1995*]



relative, in relation to a relevant person, means any of the following –

- (a) a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant of the relevant person or of the relevant person's spouse or de facto partner;
- (b) the relevant person's spouse or de facto partner or the spouse or de facto partner of any relative specified in paragraph (a),

whether or not the relationship is traced through, or to, a person whose parents were not actually married to each other at the time of the person's birth or subsequently and whether the relationship is a natural relationship or a relationship established by a written law;

[s.5.74(1) Local Government Act 1995]

prohibited gift has the meaning given to it in the *Local Government (Administration) Regulations 1996*;

prohibited gift, in relation to a local government employee, means –

- (a) a gift worth the threshold amount or more; or
- (b) a gift that is 1 of 2 or more gifts given to the local government employee by the same person within a period of 1 year that are in total worth the threshold amount or more;

[r.19AA Local Government (Administration) Regulations 1996]

In addition, for the purposes of this Code of Conduct **prohibited gift** also means any gift of cash, regardless of the amount.

reportable gift means:

- (i) a gift worth more than \$25 but less than \$300; or
- (ii) a gift that is 1 of 2 or more gifts given to the local government employee by the same person within a period of 1 year that are in total worth more than \$25 but less than \$300.

threshold amount has the meaning given to it in the *Local Government (Administration) Regulations 1996*, subject to the CEO's determination under subclause (c);

threshold amount, for a prohibited gift, means \$300 or a lesser amount determined under regulation 19AF.

[r.19AA Local Government (Administration) Regulations 1996]

- (c) Determination

In accordance with Regulation 19AF of the *Local Government (Administration) Regulations 1996*, the CEO has chosen not to determine a lesser threshold amount for prohibited gifts.

- (d) Employees must not accept a prohibited gift from an associated person.
- (e) An employee who accepts a reportable gift from an associated person is to notify the CEO in accordance with subclause (g) and within 10 days of accepting the gift.



- (f) All accepted gifts are to be surrendered to the organisation via the Office of the CEO. Surrendered items will be either be offered to all staff as raffle prizes during the year, or otherwise shared amongst staff as the CEO deems appropriate.
- (g) The notification of the acceptance of a reportable gift must be made using the Shire's electronic disclosure system (Attain) if the employee has a Shire of Gingin email address. If the employee does not have a Shire email address then disclosure must be made using a hard copy disclosure form which is available from the Intranet or by contacting Governance.
- (h) The CEO will maintain a register of reportable gifts and record in it details of notifications given to comply with subclause (e).
- (i) The CEO will arrange for the register maintained under subclause (h) to be published on the Shire of Gingin's official website.
- (j) As soon as practicable after a person ceases to be an employee, the CEO will remove from the register all records relating to that person. The removed records will be retained for a period of at least 5 years.

3.16 Conflict of Interest

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.*

[r.19AA Local Government (Administration) Regulations 1996]

A conflict of interest is a conflict between an employee's personal interests (whether financial or due to kinship, friendship or association) and the impartial fulfilment of their professional duties. A conflict may be:

- Actual – where a direct conflict exists between current official duties and personal interests; or
- Perceived – where it could appear to others that personal interests are improperly influencing the performance of duties, regardless of whether this is in fact the case.

3.16.1 Disclosure of Interest - Generally

- (a) Employees will ensure that there is no actual or perceived conflict of interest between their personal interests and the impartial fulfilment of their professional duties. Examples of where a conflict of interest may arise include (but are not limited to):
 - Where an employee intends to engage in private work;
 - Involvement in recruitment and selection activities;
 - Lodging of a building or development application;
 - Inspection and regulation functions; and
 - Procurement activities.



- (b) In particular:
 - (i) Employees will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Shire of Gingin, without first disclosing the interest in writing. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
 - (ii) Employees will disclose in writing any intention to undertake a dealing in land which is within the district of the Shire of Gingin, or which may otherwise be in conflict with the local government's functions (other than purchasing the principal place of residence).
 - (iii) Employees who exercise a recruitment or any other discretionary function (including where a delegated decision making power exists) will disclose, in writing, any actual (or perceived) conflict of interest before dealing with relatives or friends and will disqualify themselves from dealing with those persons.
- (c) All disclosures must be made to the CEO, and a determination will be made as to whether an actual or perceived conflict exists.
- (d) All disclosures will be registered with Governance and a copy of any resulting employment conditions (if any are imposed) will be communicated in writing to the employee.
- (e) Employees will conduct themselves in an apolitical manner and refrain from political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity.

3.16.2 Disclosure of Financial Interests

- (a) All employees will apply the principles of disclosure of interest as contained within the Act.
- (b) Employees who have been delegated a power or duty, have been nominated as 'designated employees' or provide advice or reports to Council or committees must ensure that they are aware of, and comply with, their statutory obligations under the Act.

3.16.3 Disclosure of Impartiality Interests

- (a) Any employee who has an interest in any matter to be discussed at a council or committee meeting or briefing session to be attended by the employee must disclose the nature of the interest either in a written notice given to the CEO before the meeting, or at the meeting immediately before the matter is discussed.
- (b) Any employee who has given, or will give, advice in respect of any matter to be discussed at a council or committee meeting or briefing session not attended by the employee must disclose the nature of the interest either in a written notice given to the CEO before the meeting, or at the time the advice is given.
- (c) A requirement described under (a) and (b) excludes an interest referred to in s.5.60 of the Act.



- (d) An employee is excused from the requirements of (a) and (b) if the employee fails to disclose the nature of an interest because they did not know and could not reasonably be expected to know:
 - (i) that they had an interest in the matter; or
 - (ii) that the matter in which they had an interest would be discussed at the meeting and they disclosed the nature of the interest as soon as possible after the discussion began.
- (e) Where an employee discloses an interest in a written notice given to the CEO before a meeting in accordance with (a) and (b), then:
 - (i) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
 - (ii) 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.

3.17 Secondary Employment

An employee must not engage in secondary employment (including paid and unpaid work) without receiving the prior written approval of the CEO in accordance with any operational policy relating to secondary employment.

3.18 Use and Disclosure of Information

- (a) Employees must not access, use or disclose information held by the Shire of Gingin except as directly required for, and in the course of, the performance of their duties.
- (b) Employees will handle all information obtained, accessed or created in the course of their duties responsibly, and in accordance with this Code and the Shire of Gingin's policies and procedures.
- (c) Employees must not access, use or disclose information to gain improper advantage for themselves or another person or body, in ways which are inconsistent with their obligation to act impartially and in good faith, or to improperly cause harm, detriment or impairment to any person, body, or the Shire of Gingin.
- (d) Due discretion must be exercised by all employees who have access to confidential, private or sensitive information.
- (e) Nothing in this section prevents an employee from disclosing information if the disclosure:
 - (i) is authorised by the CEO or the CEO's delegate; or
 - (ii) is permitted or required by law.

3.21 Improper or Undue Influence

- (a) Employees will not take advantage of their position to improperly influence Councillors 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.



- (b) Employees must not take advantage of their position to improperly influence any other person in order to gain undue or improper (direct or indirect) advantage or gain, pecuniary or otherwise, for themselves or for any other person or body.
- (c) Employees must not take advantage of their positions to improperly disadvantage or cause detriment to the local government or any other person.

3.22 Use of Shire of Gingin Resources

- (a) In this clause –

Shire of Gingin resources includes local government property and services provided or paid for by the Shire of Gingin;

local government property has the meaning given to it in the Act.

local government property means anything, whether land or not, that belongs to, or is vested in, or under the care, control or management of, the local government.

[s1.4 Local Government Act 1995]

- (b) Employees will:
 - (i) be honest in their use of the Shire of Gingin's resources and must not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
 - (ii) use the Shire of Gingin's resources entrusted to them effectively, economically, in the course of their duties and in accordance with relevant policies and procedures; and
 - (iii) not use the Shire of Gingin's resources (including the services of employees) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so and appropriate payments are made (as determined by the CEO).

3.23 Use of Shire of Gingin Finances

- (a) Employees are expected to act responsibly and exercise sound judgment with respect to matters involving the Shire of Gingin's finances.
- (b) Employees will use Shire of Gingin finances only within the scope of their authority, as defined by relevant position descriptions, policies and procedures and administrative practices.
- (c) Employees with financial management responsibilities will comply with the requirements of the *Local Government (Financial Management) Regulations 1996*.
- (d) Employees exercising purchasing authority will comply with the Shire of Gingin's Purchasing Policy and the systems and procedures established by the CEO in accordance with regulation 5 of the *Local Government (Financial Management) Regulations 1996*.
- (e) Employees will act with care, skill, diligence, honesty and integrity when using local government finances.
- (f) Employees will ensure that any use of Shire of Gingin finances is appropriately documented in accordance with relevant policies and procedures, including the Shire of Gingin's Recordkeeping Plan.



3.24 Reporting of Suspected Breaches of the Code of Conduct

Employees may report suspected breaches of the Code, in writing, to any Executive Manager or the CEO. If the breach involves the CEO then the report must be submitted to the Executive Manager Corporate and Community Services.

Any report of a suspected breach of the Code must include the following information:

- (a) The name of the person alleged to have breached the Code;
- (b) The behaviours that have been witnessed that are evidence of the alleged breach of the Code;
- (c) Any other evidence that may be of relevance to the investigation of the alleged breach; and
- (d) The clause/s or principle/s within the Code that have allegedly been breached.

3.25 Suspected Breaches of the Code of Conduct

Any employee who suspects a breach of the Code may refer the matter to their Executive Manager or the CEO, who will consider the matter and deal with it in accordance with the management protocols, procedures and/or practices of the Shire and any applicable law concerning employees.

3.26 Reporting of Suspected Unethical, Fraudulent, Dishonest, Illegal or Corrupt Behaviour

- (a) Employees may report suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour to their Executive Manager or the CEO in accordance with relevant policies and procedures.
- (b) In accordance with the *Corruption, Crime and Misconduct Act 2003*, if the CEO suspects on reasonable grounds that the alleged behaviour may constitute misconduct as defined in that Act, the CEO will notify:
 - (i) the Corruption and Crime Commission, in the case of serious misconduct; or
 - (ii) the Public Sector Commissioner, in the case of minor misconduct.
- (c) Employees, or any person, may also report suspected serious misconduct to the Corruption and Crime Commission or suspected minor misconduct to the Public Sector Commissioner.
- (d) Employees, or any person, may also make a Public Interest Disclosure to report suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour, using the Shire of Gingin's Public Interest Disclosure Procedure published on the Shire's website.

3.27 Handling of Suspected Unethical, Fraudulent, Dishonest, Illegal or Corrupt Behaviour

Suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour will be dealt with in accordance with the appropriate Shire of Gingin policies and procedures and, where relevant, in accordance with the lawful directions of the appropriate statutory body.

GOVERNANCE REFERENCES

Statutory Compliance	<i>Local Government Act 1995</i> – s. 5.51A <i>Local Government (Administration) Regulations 1996</i> – Part 4A
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	<i>Equal Opportunity Act 1984</i> <i>Occupational Safety and Health Act 1984</i>
Industry Compliance	N/A
Organisational Compliance	Operational Policies [see <i>Corporate Policy Manual</i>]: All relevant HR-related policies Council Policies [see <i>Council Policy Manual</i>]: 1.23 Record Keeping 2.31 Transaction Cards 3.10 Purchasing Shire of Gingin Public Interest Disclosure Procedure



ADMINISTRATION

Review Cycle	5 years	Next Review	2027
Department	Office of the CEO		

Version	Decision Reference	Synopsis
1.	Approved by CEO Sept 2022	New Code of Conduct introduced.
2.	Approved by CEO Jul 2023	New cl.3.16.2 inserted.



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