



CORPORATE POLICY NO 1.1

CODE OF CONDUCT FOR COUNCILLORS

STATEMENT

The Southern Metropolitan Regional Council (SMRC) is a regional local government organisation constituted under the Local Government Act 1995. It was formed in recognition of the fact that some services and facilities can be provided in a more efficient and responsive way through joint venture arrangements.

All local governments in Western Australia, including regional local governments, are required to have a Code of Conduct by law (see section 5.103 of the Act). This Code is based on the *Local Government (Rules of Conduct) Regulations 2007* and replaces the SMRC Code of Conduct for Elected Members and Employees adopted by the Council on 29 March 2007.

In adopting this Code, the SMRC is giving an undertaking that conduct will reflect the high standards expected of public officials by the regional community. As representatives of the region, the SMRC wish to maintain a strong reputation for integrity.

SCOPE

This Code of Conduct applies to all of SMRC and provides a guide for expected behaviour of Council Members. It encourages a commitment to ethical and professional behaviour and should be read in conjunction with the Policy, Plan and Investigation Guidelines for Misconduct, Fraud and Corruption Prevention.

The Code applies only to persons/individuals appointed as a Council Member being a person who is not a SMRC Committee Member or an employee, as there is a separate Code for each of these personnel. For ease of reference, the CEO and Senior Management are covered under the Code of Conduct for Employees.

OBJECTIVES

To provide Councillors with clear guidelines on their expected behaviour and conduct while engaged in performing their duties at SMRC. These guidelines are in addition to the stipulations of the *Local Government Act 1995* and associated Regulations and Guidelines, or any other terms of engagement under which they have been elected.

DEFINITIONS

Council Member	Is a person appointed to the Southern Metropolitan Regional Council in accordance with the Local Government Act 1995 and the SMRC Establishment Agreement		
Resources	Means funds, facilities, employees and equipment, and any other relevant Policies, such as the Information & Communications Technology Usage Policy		
In clause 1.7 Disclosure of Interest Affecting Impartiality, and in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996:			
Interest	Means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association		
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In clause 2 Gifts, and in accordance with Regulation 34B of the Local Government (Administration) Regulations 1996:

Activity involving a local government discretion	Means an activity: <ol style="list-style-type: none"> that cannot be undertaken without an authorisation from the local government; or by way of commercial dealing with the local government
Gift	Has the meaning given to that term in S5.82(4) except that it does not include: <ol style="list-style-type: none"> a gift from a relative as defined in S 5.74(1); or a gift that must be disclosed under Regulation 30B of the Local Government (Elections) Regulations 1997; or a gift from a statutory authority, government instrumentality or non-profit association for professional training
Notifiable Gift	<ol style="list-style-type: none"> a gift worth between \$50 and \$300; or a gift that is one of two or more gifts given to the same individual by the same person within a period of six months that are in total worth between \$50 and \$300; or a gift that is a moderate act of hospitality i.e. a gift of a hospitality-type nature such as corporate box or tickets to a sporting event, or a dinner, which is worth between \$50 and \$300
Prohibited Gift	<ol style="list-style-type: none"> a gift worth \$300 or more; or a gift that is one or two or more gifts given to the same employee by the same person within a period of six months that are in total worth \$300 or more; or a gift that is a moderate act of hospitality i.e. a gift of a hospitality-type nature such as corporate box or tickets to a sporting event, or a dinner, which is worth \$300 or more

1. ROLE OF A COUNCIL MEMBER

The primary role of a Council Member is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the Southern Metropolitan Regional Council will be the focus of the Council Member's public life.

The Role of Council Members as set out in S 2.10 of the Local Government Act 1995 follows:

"A Councillor —

- Represents the interests of electors, ratepayers and residents of the district;*
- Provides leadership and guidance to the community in the district;*
- Facilitates communication between the community and the council;*
- Participates in the local government's decision-making processes at council and committee meetings; and*
- Performs such other functions as are given to a Councillor by this Act or any other written law."*

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A Council Member is part of the team in which the community has placed its trust to make decisions on its behalf and the community is therefore entitled to expect high standards of conduct from its elected representatives. In fulfilling the various roles, Council Members activities will focus on:

- achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- achieving sound financial management and accountability in relation to the Southern Metropolitan Regional Council’s finances;
- ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents’ concerns;
- working with other governments and organisations to achieve benefits for the community at both a local and regional level;
- having an awareness of the statutory obligations imposed on Council Members and on Local Governments.

In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

1.2 Role of Council

The Role of the Council is in accordance with S 2.7 of the Local Government Act 1995:

1. The Council —
 - a. Directs and controls the local government’s affairs; and
 - b. Is responsible for the performance of the local government’s functions.
2. Without limiting subsection (1), the council is to —
 - a. Oversee the allocation of the local government’s finances and resources; and
 - b. Determine the local government’s policies.

2. 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*.

Regulation 3(1) of the Rules of Conduct Regulations provides as follows:

General principles guide the behaviour of council members include that a person in his or her capacity as a council member (committee member) should –

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

2.1 Performance of Duties

Council Members will:

- a. exercise reasonable care and diligence in the performance of his or her role;
- b. be as informed as possible about the functions of the Council, and treat all members of the community honestly and fairly.
- c. be consistent in his or her decision making but must treat all matters on individual merits, in an honest and fair manner and;
- d. accept and acknowledge it is their responsibility to observe any direction the SMRC may adopt in terms of advancing and promoting the objectives of the Council to which they have been appointed.

2.2 Personal Behaviour

Council Members will:

- a. act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
- b. perform his or her duties impartially and in the best interests of the SMRC;
- c. act in good faith and fidelity in the interests of the SMRC and the community and;
- d. make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct, in the performance of the Council Member’s role, which may cause any reasonable person unwarranted offence or embarrassment;
- e. always act in accordance with their obligation of fidelity to the Southern Metropolitan Regional Council; and
- f. represent and promote the interests of the Southern Metropolitan Regional Council, while recognising their special duties to their own constituents.

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2.3 Honesty and Integrity

Council Members will:

- a. observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- b. bring to the notice of the chairman of the SMRC any dishonesty or possible dishonesty on the part of any other committee member, or councillor, and in the case of an employee to the Chief Executive Officer; and
- c. be frank and honest in their official dealing with each other.

2.4 Compliance with Lawful Policies

Council Members will:

- a. Comply with any lawful order given by any person having authority to make or give the order, with any doubts as to the propriety of the order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the CEO; and
- b. Give effect to the lawful policies of the SMRC, whether or not the Council Member agrees with or approves of them.

2.5 Administrative and Management Practices

Council Members will ensure compliance with proper and reasonable administration practices and conduct, as well as professional and responsible management practices.

2.6 Communication and Public Relations

As a representative of the community, Council Members need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of Council. In doing so, Council Members will acknowledge that:

- a. Information of a confidential nature must not be communicated until it is no longer treated as confidential;
- b. Information relating to decisions of the Council on approvals, permits and so on must only be communicated in an official capacity by a designated employee of the SMRC; and
- c. Information concerning adopted policies, procedures and decisions of the SMRC is conveyed accurately.
- d.
 - i. Councillors are **not** permitted to make unauthorised comment on any issue relating to the Southern Metropolitan Regional Council to any media outlet. This includes any publication or broadcast program that transmits to the public through any type of distribution method, including 'on-line' media. Any such requests for information made to the Councillor should be directed to the Community Engagement and Communications Officer.
 - ii. Councillors should abide by the Media Statements policy in relation to any communication with any media outlet.

2.7 Relationships between Council Members and Employees

An effective Council Member will work as part of the SMRC team with the Chief Executive Officer and SMRC employees. That teamwork will only occur if Council Members and employees have a mutual respect and co-operate with each other to achieve the SMRC's corporate goals and implement the

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SMRC’s strategies. To achieve that position, Council Members need to observe their statutory obligations which include, but are not limited to, the following:

- i. accept that his or her role is not a management or administrative one;
- ii. acknowledge that he or she has no capacity to individually direct SMRC employees to carry out particular functions; and
- iii. refrain from publicly criticising employees in a way that casts aspersions on their professional competence and credibility.

2.8 Prohibition against involvement in administration

Council Members will not make improper use of the Southern Metropolitan Regional Council’s office:

- a. A person who is a Council Member must not undertake a task that contributes to the administration of the SMRC unless authorised by the Council or by the CEO to undertake that task.
- b. a. above does not apply to anything that a Council Member does as part of the deliberations at a Council meeting.

3. DISCLOSURE OF INTEREST AFFECTING IMPARTIALITY

A Council Member who has an interest in any matter to be discussed at a Council 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.

A Council Member is excused from a requirement made under items a. or b. to disclose the nature of an interest if -

- i. The Council Member's failure to disclose occurs because the Council Member did not know he or she had an interest in the matter; or
- ii. The Council Member's failure to disclose occurs because the Council Member did not know the matter in which he or she had an interest would be discussed at the meeting and the Council member discloses the interest as soon as possible after the discussion began.

If a Council Member discloses an interest in written notice given to the CEO before the meeting then;

- i. Before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- ii. At the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before a matter to which the disclosure related is discussed.

A Council Member’s interest disclosed at a meeting will be recorded in the minutes of the meeting.

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4. GIFTS

- a. A Councillor must not accept 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
 - that requires the person to obtain any authorisation from SMRC;
 - by way of contract between the person and SMRC; or
 - by way of providing any service to SMRC.
- b. A Councillor may accept a notifiable 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
 - that requires the person to obtain any authorisation from SMRC;
 - by way of contract between the person and SMRC; or
 - by way of providing any service to SMRC.
- c. Any Councillor who accepts a notifiable gift from a person referred to in b. or c. above is, within 10 days of accepting the gift, to notify their direct Manager or CEO of the acceptance. The notification of the acceptance of a notifiable gift must be in writing and include –
- i. the date on which the gift was accepted;
 - ii. the name of the person(s) who received the gift;
 - iii. the name of the person(s) who gave the gift; and
 - iv. a description of the gift;
 - v. the estimated value of the gift;
 - vi. the nature of the relationship between the person who is an employee and the person who gave the gift; and
 - vii. 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) –
 - a description; and
 - the estimated value; and
 - the date of acceptance,
 of each other gift accepted within the six month period.

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- d. Councillors who accept a notifiable gift by way of a moderate act of hospitality shall also record this in the Gifts Register.
- e. Councillors are not to accept a gift, other than a notifiable gift, for themselves or for any other person or body, from a person who has undertaken business with SMRC within the last 12 months. 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. The CEO is to maintain a register of notifiable gifts and record in it all details of notifications given to comply with a requirement made under item e., including the date of entry into the Register.
- g. This clause does not prevent the acceptance of a gift on behalf of the SMRC in the course of performing professional or ceremonial duties in circumstances where the gift is presented in whole to the SMRC, entered into the Register of Notifiable Gifts and used or retained exclusively for the benefit of the SMRC.

5. PERSONAL BENEFIT

5.1 Use of Confidential Information

Council Members 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, or to improperly cause harm or detriment to any person or organization.

LOCAL GOVERNMENT (RULES OF CONDUCT) REGULATIONS 2007 - REG 6

6. Use of information

(1) In this regulation —

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 to clearly show that the information in the document is not to be disclosed;

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

(2) A person who is a Council Member must not disclose —

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

(3) Sub-regulation (2) does not prevent a person who is a Council Member from disclosing information —

- (a) at a closed meeting; or

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- (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.

5.2 Use of SMRC Resources

Council Members will:

- a. Be scrupulously honest in his or her use of the SMRC’s resources and must not misuse them or permit their misuse;
- b. Not use the SMRC’s resources (including the services of the SMRC’s employees) for private purposes, unless properly authorised to do so, and appropriate payments are made (as determined by the CEO).

5.3 Misuse of SMRC Resources

Council Members will not either directly or indirectly use the resources of the SMRC:

- a. For the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the *Local Government Act*, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*; or
- b. For any other purpose, unless authorised under the *Local Government Act*, or authorised by the Council or the CEO, to use the resource for that purpose.

5.4 Securing personal advantage or disadvantaging others

Council Members will not make improper use of the Council Member’s office:

- a. to gain directly or indirectly an advantage for the person or any other person; or;
- b. to cause detriment to the council or any other person.

5.5 Intellectual Property

The title to Intellectual Property in all duties relating to contracts of Council Members will be assigned to the Southern Metropolitan Regional Council upon its’ creation unless otherwise agreed by a separate contract.

5.6 Improper or Undue Influence

Council Members will not take advantage of their position to improperly influence other Committee Members, Councillors and Staff 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.

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6. MATTERS NOT DEALT WITH BY THIS CODE

6.1 The Act

Certain conduct and actions by Councillors constitute an offence under the *Local Government Act* and are not dealt with by this Code.

6.2 Rules of Conduct Regulations

Councillors are required by the Rule of Conduct Regulations to observe the Rules of Conduct prescribed in those regulations. Where the rules are contradicted in this Code, the Rules of Conduct Regulations apply.

7. CONTRAVENTION OF THIS CODE

7.1 A person who has reason to believe that a Councillor has contravened a provision of this Code may complain to the CEO.

7.2 Procedure for making and dealing with a complaint

The procedure to be followed by a person making a complaint is to be found in s5.107(1-3) and subsections 5.114(1-2) of the *Local Government Act 1995* (Official Conduct Amendment Act 2007). This includes completing Official Conduct Form 1 or 2.

8. REFERENCES & REVIEW

Policy No	1.1 Code of Conduct for Councillors	
Statutory Compliance	<ul style="list-style-type: none"> ▪ Local Government Act 1995 ▪ Local Government (Rules of Conduct) Regulations 2007 – Reg 11 & 12 ▪ Local Government (Administration) Regulations 1996 (Regs 34B and 34C) 	
Organisational Compliance	<ul style="list-style-type: none"> ▪ Misconduct, Fraud & Corruption Prevention Policy 	
Related Documents	<ul style="list-style-type: none"> • Misconduct, Fraud & Corruption Investigation Guidelines • Misconduct, Fraud & Corruption Prevention Plan 	
Approved by	Regional Council 23 Nov 2017 – Resolution No: 17.11.03	
Next Revision Date	November 2019	
Policy Administration	Responsible Officer	Review Cycle
Corporate Services	Chief Executive officer	Biennial
Risk Rating	High	
Location of document	SMRC Website – Key Documents - Policies SMRC Website – Members Area Staff Intranet SMRC, 9 Aldous Place, Booragoon – Corporate Services RRRC, 350 Bannister Road, Canning Vale – staff room	

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DOCUMENT CONTROL REGISTER

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2007/03	Original	1	MAF	MAF	29/3/2007
2008/11	Review	2	HRO	MAF	
2011/10	Update	3	CSM	DCS	27/10/2011
2013/10	Review	4	EMCS	EXCS	24/10/2013
2015	Review	5	EMCS	CEO	26/11/2015
2017	Review	6	A/EMCS	CEO	23/11/2017

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