



TOWN OF  
**BASSENDEAN**  
*Home by the Swan*

**CODE OF CONDUCT**

**FOR COUNCILLORS  
COMMITTEE MEMBERS  
&  
EMPLOYEES**

**Adopted by Council 26 April 2017**



**TOWN of BASSENDEAN**  
**CODE OF CONDUCT - COUNCILLORS, COMMITTEE MEMBERS AND EMPLOYEE**

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## **VISION 2030**

By the Year 2030, the Town is widely recognised as an ideal, highly accessible urban hub location in which to participate in a cohesive, vibrant, and diverse community lifestyle and thriving local business economy within a high quality built and natural environment.

## **OUR VIRTUES**

The Town of Bassendean's virtues reflect how we should perform and behave in our day-to-day work and service to the community. They are the heart of our organisation and guide and help us when making decisions on how we strive to lead and serve the community.

### **➤ Team Work**

Providing support to one another, working cooperatively and respecting one another's view. Conflict is brought up into the open and dealt with constructively.

### **➤ Professionalism**

Take pride and ownership in all that we do and say. At all times we act with integrity, being reliable and responsible, mutual respect for others' expertise. We do not upset one another intentionally, always endeavouring to present negative feedback constructively.

### **➤ Respect for Others**

Value each other's differences. Demonstrate mutual respect, supporting diversity of skills, backgrounds and perspectives.

### **➤ Honesty**

Being open, honest and reliable in everything we do. All concerns are constructive with solutions offered. Each employee is entitled to express their views without interruption.



## **INDEX**

VISION 2030 .....	3
OUR VIRTUES .....	3
1.0 INTRODUCTION .....	5
2.0 GENERAL PRINCIPLES AND ETHICAL STANDARDS.....	5
3.0 CONDUCT OF COUNCIL MEMBERS, COMMITTEE MEMBERS & EMPLOYEES .....	6
3.1 Roles and Personal Behaviour .....	6
3.2 Official Information, Recordkeeping and Communications .....	7
3.3 Use of Confidential Information .....	8
3.4 Procurement and use of Public Resources .....	9
4.0 CONFLICT AND DISCLOSURE OF INTERESTS.....	11
4.1 Conflict of Interests.....	11
4.2 Disclosure of Interest (Affecting Impartiality) .....	13
5.0 DISCLOSURE OF GIFTS, NOTIFIABLE GIFTS & TRAVEL CONTRIBUTIONS .....	14
5.1 Gifts.....	15
5.2 Disclosure of gifts .....	16
5.3 Disclosure of travel contributions.....	17
6.0 FRAUDULENT OR CORRUPT BEHAVIOUR .....	18
6.1 Breaches of the Code by employees.....	19
6.2 Breaches of the Code by Elected Members and Committee Members .....	19
6.3 Reporting Misconduct to the Corruption & Crime Commission	20
6.4 Public Interest Disclosure Act 2003.....	21
Annexure 1 – Flow Chart Guide Council Members & Employees .....	23
Annexure 2 – Code of Conduct Declaration.....	27
Annexure 3 – Complainant Details Form – Code of Conduct .....	28

## **1.0 INTRODUCTION**

The Code of Conduct provides a framework for behaviour that must be observed in the wide range of interactions and scenarios experienced in the conduct of the Town of Bassendean activities. The Code of Conduct does not establish a rule for every situation, but provides guidance and a basis of expectation for good public administration by council members, committee members and employees of the Town of Bassendean.

The Code of Conduct does not override or affect legislation applicable to the operations of the Town of Bassendean, in particular the Local Government Act 1995, and the Local Government (Rules of Conduct) Regulations 2007.

This Code of Conduct applies to every individual council member, committee member and employee of the Town of Bassendean.

## **2.0 GENERAL PRINCIPLES AND ETHICAL STANDARDS**

The local community and the public in general are entitled to expect that the following general principles should be used to guide council members, committee members and employees of the Town of Bassendean in their behaviours:

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

The Public Sector Commission has developed a range of practical tools to assist people with good decision making. These are simple but fundamental questions that are central to ethical and accountable public sector decision making.

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

The Local Government (Rules of Conduct) Regulations 2007 is the principal set of regulations governing the behaviour of Elected Members of Council.

### 3.0 CONDUCT OF COUNCIL MEMBERS, COMMITTEE MEMBERS & EMPLOYEES

#### 3.1 Roles and Personal Behaviour

The role and behaviour of council members and committee members is different to the role of employees of the Town of Bassendean.

##### **Council and Committee Members**

In essence, the Council decides policy objectives and the results it desires to achieve and, subject to any specific directions from the Council, the CEO (and employees) has responsibility to put these policy decisions into practical effect.

Council and Committee members are expected to:

- (a) act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code of Conduct;
- (b) 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 their committee duties, which may cause or is likely to cause any reasonable person unwarranted offence or embarrassment;
- (c) respect the title of elected office, referring to the Mayor and Councillors by their formal title whilst in the public arena, and thereafter as circumstances dictate. The Mayor is to be addressed as either Mr/Madam Mayor or His/Her Worship the Mayor;
- (d) always act with fidelity to the committee and not publicly reflect adversely upon any decision of the committee, the Council in terms of its consideration of committee agenda items or those officers who support the committee in their role as committee support members;
- (e) 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. Similarly, council members, committee members and employees shall not take advantage of their position to improperly disadvantage or cause detriment to the local government or any other person.
- (f) not be absent from three (3) consecutive ordinary meetings of a committee of which they are a member, except while on approved leave of absence.
- (g) prepare for, attend and actively participate in strategy and briefing sessions as well as Council meetings;
- (h) be a member of at least one Council committee consisting of council members only and prepare for, attend and actively participate in its meetings.



**TOWN of BASSENDEAN  
CODE OF CONDUCT - COUNCILLORS, COMMITTEE MEMBERS AND EMPLOYEE**

- (i) Council and committee members should represent and promote the interest of the community as a whole.

## **Employees**

A prime responsibility of employees of the Town of Bassendean is to assist (through the CEO) council and committee members in their decision-making role. Employees should always provide frank and professional advice without fear or favour.

Employees will recognise that council members' and committee members' views and opinions reflect viewpoints that should be considered in conjunction with professional opinion. Employees will therefore make every effort to assist council members and committee members in the performance of their role, and with the support of the CEO, achieve the satisfactory resolution of issues that members may raise in the performance of their official role.

Conduct that is required of employees includes (but is not limited to):

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

## **3.2 Official Information, Recordkeeping and Communications**

The Town of Bassendean has a number of policies relating to Official Information, Recordkeeping and Communications. These include:

- Policy 6.9 Publications by Individual Councillors
- Policy 6.12 Communication and Consultation with Community Stakeholders
- Policy 6.22 Councillor Contact with Administration
- Policy 6.23 Recordkeeping Plan
- Policy 6.25 Councillors' contact with Developers

These policies are available on the Town of Bassendean's website at:

[www.bassendean.wa.gov.au/Profiles/bassendean/Assets/ClientData/Document-Centre/Policies/Leadership\\_and\\_Governance.pdf](http://www.bassendean.wa.gov.au/Profiles/bassendean/Assets/ClientData/Document-Centre/Policies/Leadership_and_Governance.pdf)

The policies are to be used by Councillors and staff to ensure integrity, security and appropriate communications of local government information.

In addition to the above policies, it is appropriate that councillors, committee members and employees abide by the following principles:

- ensure that information obtained or created is trustworthy and accurate;
- ensure that information is accurately recorded and stored consistently with relevant laws and the Recordkeeping Plan;
- apply due diligence in the collation and assessment of relevant information;
- only use any information by the local government impartially and in good faith;
- not make improper use of any information acquired by the local government to gain advantage or cause detriment for anyone;
- not misrepresent the policies or use organisational information improperly to gain advantage for someone;
- not disclose any information discussed during a confidential session of a local government meeting unless it ceases to be confidential;
- exercise caution when participating as private citizens in public debate and commentary so as not to be perceived as representing their local government, unless authorised; and
- exercise caution in using social media to ensure that in their communications they do not act contrary to the General Principles and Ethical Standards, or breach the Code of Conduct requirements. The misuse of information, or confidential information, gained as a council member, committee member or employee, to cause detriment to the Town or another person or to gain directly or indirectly an advantage for another person, applies to communications by social media as well and could result in prosecution under Section 5.93 of the Local Government Act 1995 which carries penalties of \$10,000 or imprisonment for 2 years.

### **3.3 Use of Confidential Information**

All documents of the Town of Bassendean that are marked 'CONFIDENTIAL' or 'NOT FOR PUBLICATION' or any information or documentation that is not in the public domain and marked with a clear message that the document is intended for the recipient only, are confidential to the Town of Bassendean and shall not be published, copied, reproduced or the contents released to another person, in whole or in part, in any manner whatsoever.





Due discretion shall be exercised by all those who have access to confidential or sensitive information. Every matter dealt with by, or brought before, a meeting sitting behind closed doors, shall be treated as strictly confidential, and shall not without the authority of the Council be disclosed to any person other than the council members and/or employees of the Town (and in the case of employees only so far as may be necessary for the performance of their duties) prior to the discussion of the matter at a meeting of the Council held with open doors.

*The matters that are dealt with by Council and closed to the public (confidential matters) are included in section 5.23(2) & (3) of the Local Government Act.*

Nothing in this section prevents a council member from disclosing confidential information:

- To a legal practitioner for the purpose of obtaining legal advice; or
- If the disclosure is permitted by law.

### **3.4 Procurement and use of Public Resources**

The Town expects all employees to perform their duties efficiently and utilise public resources prudently. Purchases and use of goods and services should only be made in a fair and equitable manner and appropriately recorded. All employees are required to comply with the requirements of the Procurement Procedure Manual as amended from time to time.

#### **Procurement**

The Town also has a Purchasing Policy, which is available on the website at:

[www.bassendean.wa.gov.au/Profiles/bassendean/Assets/ClientData/Document-Centre/Policies/Leadership\\_and\\_Governance.pdf](http://www.bassendean.wa.gov.au/Profiles/bassendean/Assets/ClientData/Document-Centre/Policies/Leadership_and_Governance.pdf)

The Policy objectives are as follows:-

1. Meets the requirements of the *Local Government Act 1995* and the Local Government (Functions and General) Regulations 1996 to establish a framework of operational standards for contracts to purchase goods and services;
2. Sets out the requirements for acceptable forms of quotation, and the recording of documents and information, for contracts to purchase goods and services;
3. Is designed to ensure that the Town receives value for money as a result of its purchasing activities; and
4. Aims to deliver a high level of accountability whilst providing a flexible, efficient and effective and transparent procurement framework.

Key outcomes are:

- ensuring value for money in Town of Bassendean contracting and purchasing;
- ensuring there is transparency in Town of Bassendean contracting and purchasing;
- minimising the risk to the Town of Bassendean from purchasing and contracting through the application of a robust risk management mechanism ensuring that the products and services it purchases are in line with the Town's objectives for a sustainable future and that can support markets for environmentally preferred products and services, support products with minimum packaging and contribute to improved environmental quality and progress towards sustainability;
- ensure that the purchasing framework promotes the sustainable use of resources and reduce negative impacts; and
- to efficiently manage the replacement of the Town of Bassendean's vehicle fleet.

### **Public Resources**

The Town expects that councillors, committee members and employees must consider the following when considering the use of the Town's resources:-

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

*Applicable legislation - the provisions of the Local Government (Financial Management) Regulations 1996 in relation to procedures for making and receiving payments, and the Local Government (Functions and General) Regulations 1996 in relation to tender and procurement.*

*The Town of Bassendean Procurement Procedure Manual 2016.*

## 4.0 CONFLICT AND DISCLOSURE OF INTERESTS

Council members, committee members and employees will comply with the requirements for the disclosure of interest as described in the Local Government Act 1995. Councillor and relevant persons should note their requirements under sections 5.60A, 5.60B, 5.61 and 5.62 of the Local Government Act 1995.

### 4.1 Conflict of Interests

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

The following '6Ps' were developed by the WA Integrity Coordinating Group to assist employees to assess whether they have an interest that they are required to disclose as it could pose a potential, actual or perceived conflict of interest. In the first instance, employees could be asked to understand the '6Ps' and ask themselves the following questions:

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



The Town of Bassendean expects that councillors, committee members and employees should ensure that there is no actual or perceived conflict or incompatibility between the important fulfilment of their public or professional duties and either their personal interests or those persons closely associated to them.

Section 5.60-5.62 of the Local Government Act provides for the specific Disclosures of Interest for councillors and committee members and employees. In particular, this relates to:

- **When a person has an interest** - deals with a relevant person or closely associated person.
- **Financial Interest** - results in a financial gain, loss or detriment for the person.
- **Proximity Interest** - land which the person has any estate or interest and is:
  - adjoining the person's land;
  - common boundary;
  - across a thoroughfare; and
  - part of a thoroughfare that has a common boundary with the person's land.
- **Indirect Financial Interest**- financial relationship with the person.
- **Closely associated persons**- defines the manner of a closely associated person and includes:
  - partnerships;
  - employer;
  - beneficiary under a trust;
  - body corporate; and
  - family member or de facto partner if the spouse or de facto partner living with the relevant person.

Section 5.63 of the Local Government Act provides for some interests that need not be disclosed by councillors, committee members or employees.

### **Employees**

Employees of the Town should ensure that there is no actual or perceived conflict or incompatibility between their professional duties and either their personal interests or those persons closely associated to them.

- a) All employees have a duty of fidelity and good faith towards the Town.

An employee must make written disclosure and receive written permission from the CEO before acting in or taking up an interest (direct or indirect) in any capacity in any trade, business or occupation whatsoever, other than the business of the Town, that may interfere with or compromise the employee's performance.

In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of public duties must be scrupulously avoided.

- b) Employees must notify the CEO in writing prior to undertaking a dealing in land in the area of the Council (other than purchasing the principal place of residence, or site for such purpose.)
- c) Employees who exercise a regulatory, inspectorial or other discretionary function must make disclosure before dealing with relatives or close friends and, whenever possible, or in doubt, should disqualify themselves from dealing with those persons. This disclosure must be made to their Director.

#### **4.2 Disclosure of Interest (Affecting Impartiality)**

- 1. Councillors, committee members and employees are required to disclose any interest, where the interest could, or could reasonably be perceived to, adversely affect the impartiality of the employee having the interest and includes an interest arising from kinship, friendship or membership of an association.
- 2. Where a council and or committee member or employee has an interest in a matter that may affect impartiality, and that matter is to be discussed at a council or committee meeting that person shall disclose the nature of the interest:
  - a) in writing to the CEO before the meeting; or
  - b) at the meeting immediately before the matter is discussed.
- 3. Where an employee who has given advice, or will give advice in respect to any matter to be discussed at a council or committee meeting but not attended by the employee, the employee shall disclose the nature of any interest the employee has in the matter:
  - a) in a written notice given to the CEO before the meeting; or
  - b) at the time the advice is given.
- 4. The employee is exempt from the requirement to disclose an interest in 2 or 3 above if:
  - a) the employee's failure to disclose occurs because the employee did not know he or she had an interest in the matter; or

- b) the employee's failure to disclose occurs because the employee did not know the matter in which he or she had an interest would be discussed at the meeting and the employee discloses the nature of the interest as soon as possible after becoming aware of the discussion of the matter.
5. Where an employee has made a written disclosure as required by 2 or 3 above to the CEO, then:
- a) The CEO is to provide the written notice to the presiding person of the meeting; and
  - b) immediately before the matter is discussed at the meeting, the presiding person is to advise the meeting of the disclosures and its nature.
6. If:
- (a) to comply with a requirement made under subregulation (2), the nature of a person's interest in a matter is disclosed at a meeting; or
  - (b) a disclosure is made as described in subregulation (4)(b) at a meeting; or
  - (c) to comply with a requirement made under subregulation (5)(b), a notice disclosing the nature of a person's interest in a matter is brought to the attention of the persons present at a meeting,

the nature of the interest is to be recorded in the minutes of the meeting.

## **5.0 DISCLOSURE OF GIFTS, NOTIFIABLE GIFTS & TRAVEL CONTRIBUTIONS**

In general, council members, committee members and employees shall not seek or accept (either directly or indirectly) any immediate or future gift, reward, donation, hospitality or benefit (referred to generically as gifts for the following paragraphs) for themselves or for any other person or body as a result of their employment with, or appointment to a committee of, the Town of Bassendean.

Attached at Annexure 1, are 4 flowcharts dealing with gifts and contributions to travel that have been developed by Civic Legal and the City of Vincent. These charts are a practical guide for councillors, committee members and employees and are designed to show which of the provisions apply to them.

For the purposes of this section of the Code of Conduct, the following applies:

## 5.1 Gifts

(1) In this regulation:

**'activity involving a Town of Bassendean discretion'** means an activity:

- \* that cannot be undertaken without an authorisation from the Town of Bassendean; or
- \* by way of commercial dealing with the Town of Bassendean.

**'gift'** has the meaning given to that term in section 5.82(4) of the Act, except that it does not include:

- \* a gift from a **relative**, as defined in section 5.74(1) (a) & (b) of the Act; 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'**, in relation to a person who is a council member, means:

- \* a gift worth \$300 or more; or
- \* a gift that is one of 2 or more gifts given to the council member 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 a council member, means:

- \* a gift worth \$300 or more; or
- \* a gift is one of 2 or more gifts given to the council member by the same person within a period of 6 months that are in total worth \$300 or more.

(2) A person who is a council member must not accept a prohibited gift from a person:

- who is undertaking or seeking to undertake; or
- who it is reasonable to believe is intending to undertake,

an activity involving the Town of Bassendean's discretion.

(3) A person who is a council member and who accepts a notifiable gift from a person:

- who is undertaking or seeking to undertake; or
  - who it is reasonable to believe is intending to undertake activity involving the Town of Bassendean's discretion must, within 10 days of accepting the gift, notify the CEO of the acceptance in accordance with sub regulation (4).
- (4) Notification of the acceptance of a notifiable gift is to be in writing and is to include:
- (a) the name of the person who gave the gift; and
  - (b) the date on which the gift was accepted; and
  - (c) a description, and estimated value, of the gift; and
  - (d) the nature of the relationship between the person who is a council member and the person who gave the gift; and;
  - (e) 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
    - estimated value; and
    - the date of acceptance,

of each other gift accepted within the six-month period.

The CEO must maintain a register of gifts in which details of notices received under sub regulation (4) are recorded and can be viewed by the public at 48 Old Perth Road, Bassendean.

When estimating the value of the gift it is important that the full value is taken into consideration, this includes all hidden costs. The cost should also include that of a partner, if the partner has been invited to accompany the employee, council member or committee member.

Nothing within the Code prevents gifts from being received by an employee, council member or committee member that exceeds \$300, provided the gift remains the property of the Town.

## **5.2 Disclosure of gifts**

- (1) A person who is a council member must disclose each gift received by the person during the transitional period.- *means the period beginning on 1 July 2015 and ending at the close of assent day;*
- (2) The disclosure is to be made in writing to the CEO;
- (3) The disclosure is to be made within 28 days after assent day;
- (4) The disclosure is to include the following:
  - (a) a description of the gift;



- (b) the name and address of the person who made the gift;
  - (c) the date on which the gift was received;
  - (d) the estimated value of the gift at the time it was made; and
  - (e) the nature of the relationship between the person who is a Council member and the person who made the gift.
- (5) Nothing in this regulation requires a person to disclose a gift received by the person if:
- (a) the amount of the gift did not exceed \$200 unless:
    - (i) the gift was one of 2 or more gifts made by one person at any time during the year; and
    - (ii) the sum of those 2 or more gifts exceeded \$200; or
  - (b) the donor was a relative of the person.
- (6) For the purposes of sub regulation (5)(a), the amount of a gift comprising property, other than money, or the conferral of a financial benefit is to be treated as being an amount equal to the value of the property or the financial benefit at the time the gift was made.
- (7) The CEO must maintain a register of gifts received during the transitional period in which details of disclosures made under this regulation are recorded.  
*[Regulation 14 inserted in Gazette 4 Mar 2016 p. 661-2.]*

### **5.3 Disclosure of travel contributions**

- (1) A person who is a Council member must disclose each travel contribution received by the person during the transitional period.
  - (2) The disclosure is to be made in writing to the CEO.
  - (3) The disclosure is to be made within 28 days after assent day.
  - (4) The disclosure is to include the following:
    - (a) a description of the contribution;
    - (b) the name and address of the person who made the contribution;
    - (c) the date on which the contribution was received;
    - (d) the estimated value of the contribution at the time it was made;
    - (e) the nature of the relationship between the person who is a council member and the person who made the contribution;
    - (f) a description of the travel; and
    - (g) the date of travel.
- (5) Nothing in this regulation requires a person to disclose a travel contribution if:
- (a) the contribution was made from Commonwealth, State or local government funds; or
  - (b) the contribution was made by a relative of the person; or



**TOWN of BASSENDEAN**  
**CODE OF CONDUCT - COUNCILLORS, COMMITTEE MEMBERS AND EMPLOYEE**

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- (c) the contribution was made in the ordinary course of an occupation of the person which is not related to the person's duties as a council member; or
- (d) the amount of the contribution did not exceed \$200 unless:
- (i) the contribution was one of 2 or more contributions made by one person at any time during the year; and
  - (ii) the sum of those 2 or more contributions exceeded \$200;
- or
- (e) the contribution was made by a political party of which the person was a member and the travel was undertaken for the purpose of political activity of the party, or to enable the person to represent the party.
- (6) For the purposes of sub regulation (5)(d), the amount of a contribution (other than a financial contribution) is to be treated as being an amount equal to the value of the contribution at the time the contribution was made.
- (7) The CEO must maintain a register of travel contributions received during the transitional period in which details of disclosures made under this regulation are recorded.

## **6.0 FRAUDULENT OR CORRUPT BEHAVIOUR**

Community confidence in local government decision making can be lost when fraudulent or corrupt behaviour occurs. To ensure against the risk of fraudulent or corrupt behaviour, the Town's councillors, committee members and employees are expected to:

- not engage in any fraudulent or corrupt behaviour;
- report any information about actual or potentially fraudulent, corrupt or illegal activities to their manager or chief executive officer;
- report suspected breaches of the Code of Conduct;
- Abide by the Town's policies and procedures;
- Not engage in any deliberate or intentional wrongdoing that is improper, dishonest or fraudulent and includes:
  - conflict of interest;
  - failure to disclose acceptance of gifts or hospitality;
  - acceptance of a bribe;
  - misuse of internet or email;
  - release of confidential or private information or intellectual property;

- fraudulent or corrupt conduct that will target the Town from internal or external parties;
- the misappropriation of assets;
- the manipulation of financial reporting (either internal or external to the Department); and
- corruption involving abuse of position for personal gain.

This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position for personal financial benefit.

The theft of property belonging to an entity by a person or persons internal to the entity by where deception is not used is also considered 'fraud' for the purposes of this Standard.

*Applicable legislation: The Local Government Act 1995 and subsidiary legislation, The Criminal Code, Corruption, Crime and Misconduct Act 2003 and Public Interest Disclosure Act 2003; the Department of Local Government and Communities Fraud and Corruption Control Framework.*

## **6.1 Breaches of the Code by employees**

Any person who has reason to believe that the personal behaviour of an employee breaches the standards of conduct set out in the Code, may refer the matter to the CEO or their Manager or Director, who will consider the matter and deal with it in accordance with the procedures or practices of the Town and any applicable law concerning employees.

Any person who has reason to believe that the personal behaviour of the CEO breaches the standards of conduct set out in the Code, may refer the matter to the Director of Corporate Services, who will consider the matter and deal with it in accordance with the procedures or practices of the Town and any applicable law.

Each report of a breach is to be dealt with quickly and fairly in accordance with the principles of procedural fairness.

## **6.2 Breaches of the Code by Elected Members and Committee Members**

A breach by an elected member of the *Local Government (Rules of Conduct) Regulations 2007* may be reported to the Town's Complaints Officer (the CEO) in accordance with the prescribed Complaints Form as determined from time to time. Such complaints will be dealt with under Division 9 of Part 5 of the *Local Government Act 1995*.

Any person who has reason to believe that the personal behaviour of an elected member breaches the standards of conduct set out in the Code, other than those matters set out in the *Local Government (Rules of Conduct) Regulations 2007*, may refer the matter to the CEO, who will consider the matter and deal with it as he or she sees fit.

Any person who has reason to believe that the personal behaviour of a committee member breaches the standards of conduct set out in the Code, may refer the matter to the CEO, who will consider the matter and deal with it as he or she sees fit.

### **6.3 Reporting Misconduct to the Corruption & Crime Commission**

The CEO, being a 'principal officer of a notifying authority' (for the purposes of the *Corruption and Crime Commission Act 2003*) has a statutory obligation to report to the Corruption and Crime Commission:

- (a) a allegation of misconduct ; or
- (b) any situation that otherwise comes to his or her attention involving misconduct,

where the CEO suspects on reasonable grounds concerns or may concern misconduct and is of relevance or concern to the CEO in his or her official capacity.

Notwithstanding, any elected member, committee member, employee or any other person may report directly to the Corruption & Crime Commission any matter which that person suspects on reasonable grounds concerns or may concern misconduct that:

- (a) has or may have occurred;
- (b) is or may be occurring;
- (c) is or may be about to occur or
- (d) is likely to occur.

Section 4 of the *Corruption and Crime Commission Act 2003* defines the instances when 'misconduct' occurs. Misconduct occurs if:

- (a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment;
- (b) a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person;
- (c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years imprisonment; or
- (d) a public officer engages in conduct that:

**TOWN of BASSENDEAN  
CODE OF CONDUCT - COUNCILLORS, COMMITTEE MEMBERS AND EMPLOYEE**

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- (i) adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct;
- (ii) constitutes or involves the performance of his or her functions in a manner that is not honest or impartial;
- (iii) constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer; or
- (iv) involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person,  
and constitutes or could constitute:
  - (v) an offence against the *Statutory Corporations (Liability of Directors) Act 1996* or any other written law; or
  - (vi) a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the *Public Sector Management Act 1994* (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).

Section 3 of the *Corruption and Crime Commission Act 2003* defines 'serious misconduct' as misconduct of a kind described in section 4(a), (b) or (c) of the *Corruption and Crime Commission Act 2003*.

#### **6.4 Public Interest Disclosure Act 2003**

The *Public Interest Disclosure Act 2003* facilitates the reporting of public interest information and provides protection for those who report this information under that Act.

The Town:

- (a) does not tolerate corrupt or other improper conduct, including mismanagement of public resources, in the exercise of the public functions of the Town, by its members, employees or contractors;
- (b) is committed to the aims and objectives of the *Public Interest Disclosure Act 2003*;
- (c) strongly supports disclosures being made by elected members, committee members or employees as to corrupt or other improper conduct;
- (d) will take all reasonable steps to provide protection to elected members, committee members and employees who make disclosures from any detrimental action in reprisal for the making of a public interest disclosure; and



**TOWN of BASSENDEAN**  
**CODE OF CONDUCT - COUNCILLORS, COMMITTEE MEMBERS AND EMPLOYEE**

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- (e) does not tolerate any of its elected members, committee members, employees or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures.

Elected members, committee members and employees are encouraged to contact the Town's nominated Public Interest Disclosure Officer to seek guidance on their disclosure and to lodge completed Public Interest Disclosure forms.

A person who makes an appropriate disclosure of public interest information to the Town's nominated Public Interest Disclosure Officer under section 5 of the *Public Interest Disclosure Act 2003*:

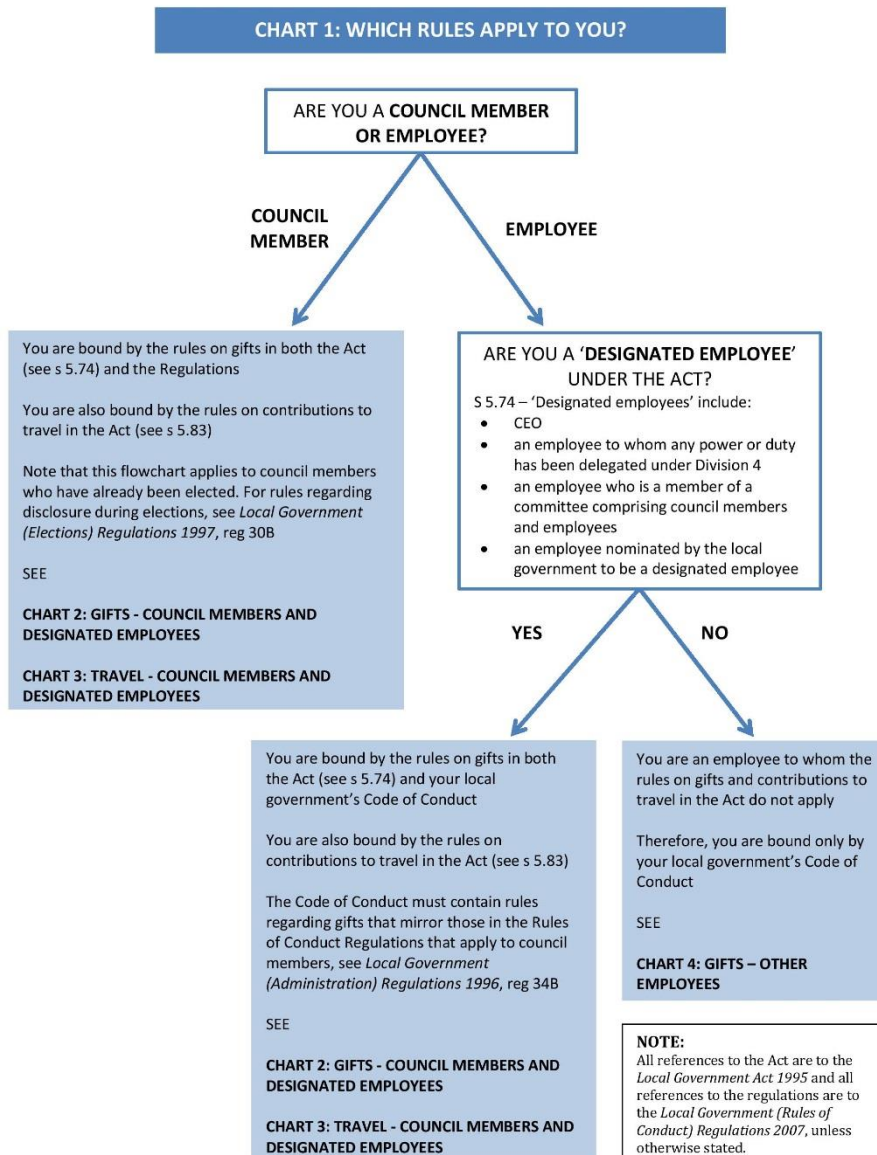
- (a) incurs no civil or criminal liability for doing so;
- (b) is not, for doing so, liable:
  - (i) to any disciplinary action under a written law;
  - (ii) to be dismissed;
  - (iii) to have his or her services dispensed with or otherwise terminated; or
  - (iv) for any breach of duty of secrecy or confidentiality or any other restriction on disclosure (whether or not imposed by a written law) applicable to the person (Section 13).

If you require assistance with the interpretation or clarification of any part of this document please contact the Director Corporate Services on 9377 8012 or email [mcostarella@bassendean.wa.gov.au](mailto:mcostarella@bassendean.wa.gov.au).

## Annexure 1 – Flow Chart Guide Council Members & Employees

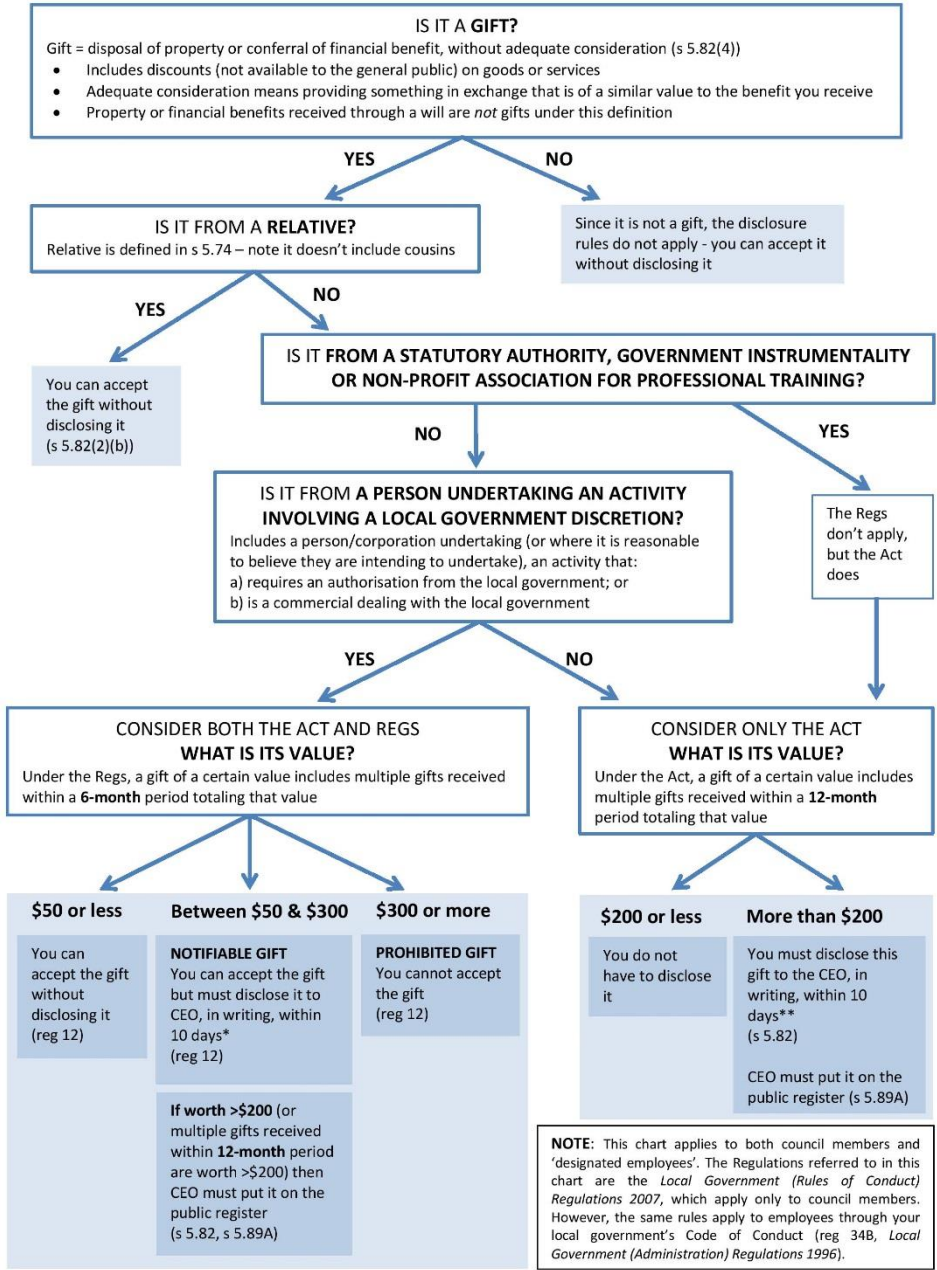
### DEALING WITH GIFTS AND CONTRIBUTIONS TO TRAVEL

#### A Four-Chart Guide for Council Members and Employees



**DISCLAIMER**  
This flowchart is only a guide. Please refer to the relevant sections of the Act and Regulations and seek legal advice for your particular circumstances.  
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**CHART 2: GIFTS - COUNCIL MEMBERS AND DESIGNATED EMPLOYEES**

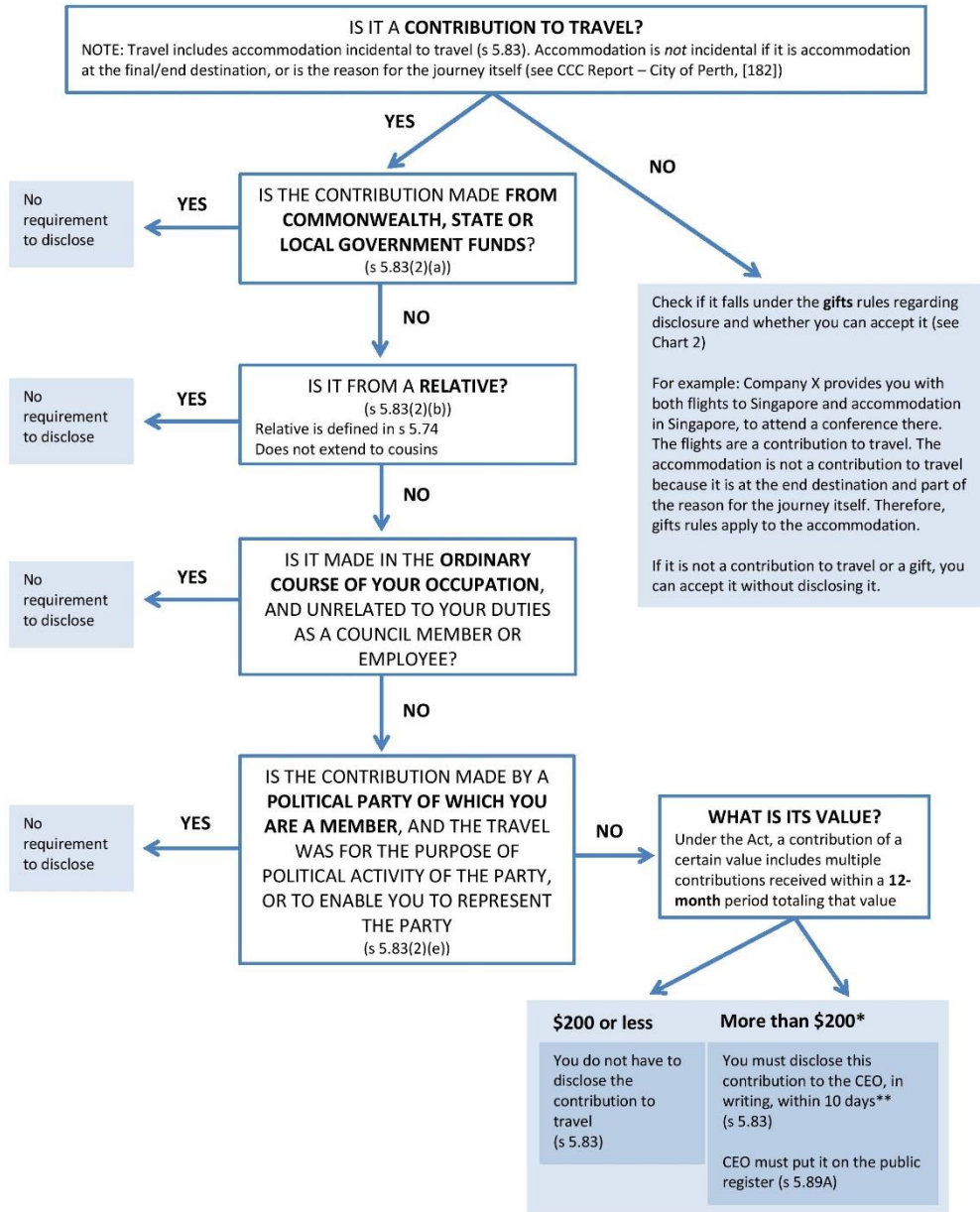


**DISCLAIMER**  
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\* See reg 12 for specific disclosure requirements  
\*\* See s 5.82(1) for specific disclosure requirements



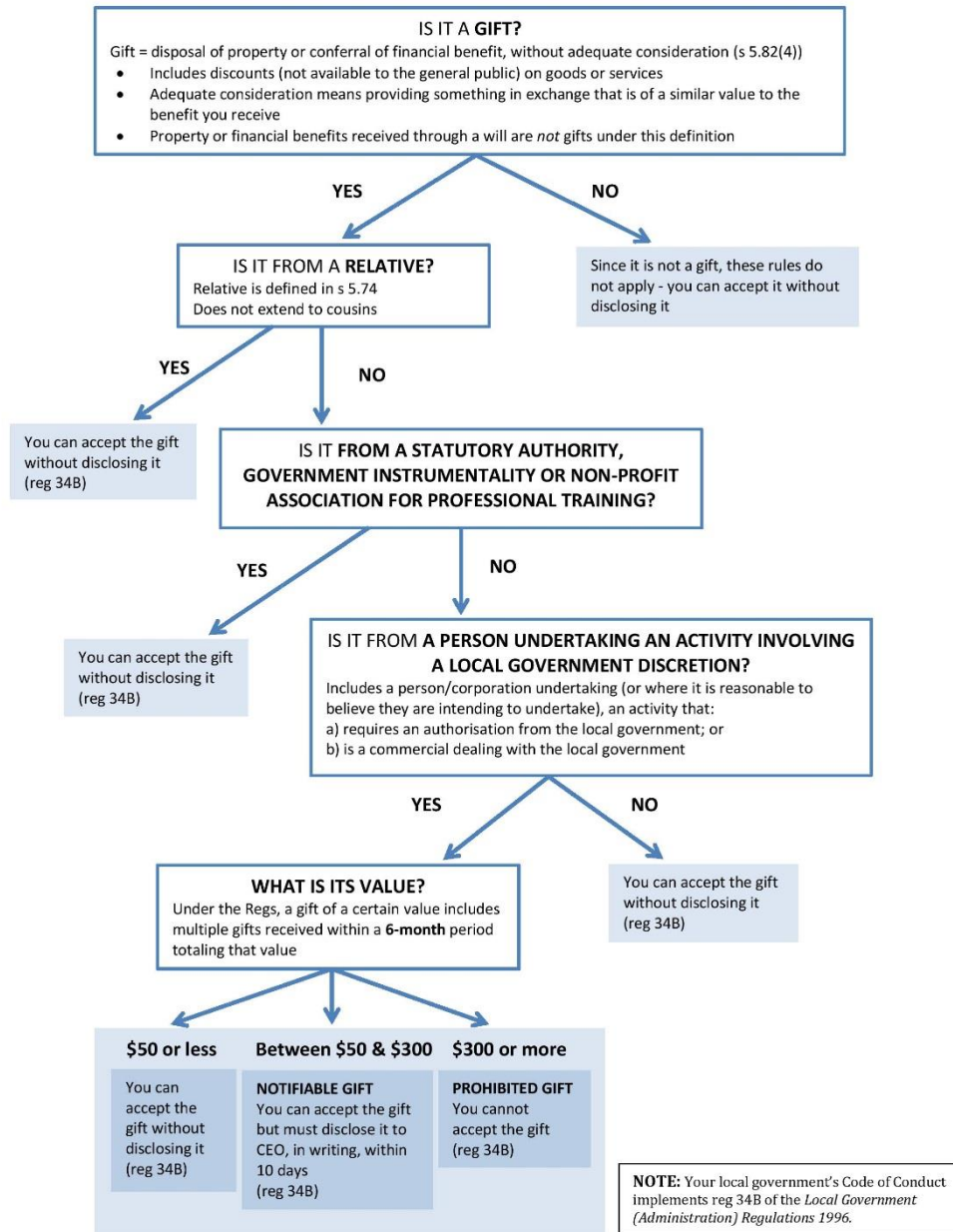
**CHART 3: TRAVEL - COUNCIL MEMBERS AND DESIGNATED EMPLOYEES**



**DISCLAIMER**  
This flowchart is only a guide. Please refer to the relevant sections of the Act and Regulations and seek legal advice for your particular circumstances.  
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\* Disclosure limits are set by reg 26, *Local Government (Administration) Regulations 1996*  
\*\* See s 5.83 for specific disclosure requirements

**CHART 4: GIFTS - OTHER EMPLOYEES**



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## **Annexure 2 – Code of Conduct Declaration**

### **CODE OF CONDUCT DECLARATION**

**Declaration:**

I \_\_\_\_\_

have read and understand the conditions of the Town of Bassendean Code of Conduct and hereby agree to abide by the requirements of this document.

DATE: \_\_\_\_\_

SIGNED: \_\_\_\_\_

*Note: Please sign and date the above declaration and return.*



**Annexure 3 – Complainant Details Form – Code of Conduct**

**COMPLAINANT DETAILS FORM**  
**CODE OF CONDUCT**

NOTE TO PERSON MAKING THE COMPLAINT: This form should be completed, dated and signed by the person making a complaint of a breach of the Town's Code of Conduct and should be submitted with the complaint when it is given to the Complaints Officer of the Town of Bassendean.

NOTE TO COMPLAINTS OFFICER: The person complained about is not entitled to, and must not, be sent or provided with, a copy of the form (or any address or contact details in it) submitted by a person making a complaint. However the Freedom of Information Commissioner may consider it in the public interest to provide the document on request either in full or edited.

<b>DETAILS OF PERSON WHO IS MAKING THE COMPLAINT</b>
Name: _____ _____ Given Name(s) _____ Family Name
Address: _____ _____ Postcode: _____
Telephone No.(s) _____ (Hm) _____ (Wk) _____ (Mob)
Email address: _____

<b>NAME OF PERSON ALLEGED TO HAVE COMMITTED BREACH</b>
Name: _____ _____ Given Name(s) _____ Family Name
Address: _____ _____ Postcode: _____
Telephone No.(s) _____ (Hm) _____ (Wk) _____ (Mob)
Email address: _____

<b>DATE OF INCIDENT</b> /      /
<b>WITNESS DETAILS:</b> If there is/are any person(s) who witnessed the alleged breach, and who <u>is/are willing to provide information</u> , state the name and contact details of each such person:
Name: _____ _____ Given Name(s) _____ Family Name



TOWN of BASSENDEAN  
CODE OF CONDUCT - COUNCILLORS, COMMITTEE MEMBERS AND EMPLOYEE

Address: _____		
_____		Postcode: _____
Telephone	No.(s)	_____ (Hm) _____ (Wk)
_____ (Mob)		
Email address: _____		

**SIGNED** .....  
**Complainant**

<b>DETAILS OF THE ALLEGED BREACH OF THE TOWN'S CODE OF CONDUCT</b>	
<b>(Attach any additional information, where necessary.)</b>	