



CODE OF CONDUCT

**FOR COUNCILLORS
COMMITTEE MEMBERS
AND
EMPLOYEES**

Adopted by Council 24 March 2015



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

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1	24 March 2015	Section 2.0, GENERAL PRINCIPLES AND ETHICAL STANDARDS, new last paragraph.	R Jarvis



OBJECTIVE:

To provide guidance to council members, committee members and employees in relation to:

- * The duties and responsibilities that apply to each; and
- * The minimum standard of conduct that the Town expects from council members, committee members and employees.

RESPONSIBLE OFFICERS:

The Mayor and the Chief Executive Officer.



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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; and
- b) act with honesty and integrity; and
- c) act lawfully; and
- d) avoid damage to the reputation of the Town of Bassendean; 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.

The general principles referred to above are for guidance of those governed by the Code of Conduct. Here, it should be noted that it is not a rule of conduct that the principles be observed.

Council members, committee members and employees should 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 which follow. The misuse of information, or confidential information, gained as an employee, council member or committee member 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.



3.0 CONDUCT OF COUNCIL MEMBERS, COMMITTEE MEMBERS AND EMPLOYEES

3.1 *Relationships and Roles*

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

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.

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 to achieve the satisfactory resolution of issues that members may raise in the performance of their official role.

3.2 *Use of Confidential Information*

Council members, committee members and employees shall not use confidential information to gain improper advantage for themselves or another person or body in ways which are inconsistent with their obligation to act impartially in the public interest; or to improperly cause harm, detriment or impairment to any person, body, or the Council.

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.

All documents of the Town of Bassendean that are marked 'CONFIDENTIAL' or 'NOT FOR PUBLICATION' or 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 without the express permission of the Council or the CEO.

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.

3.3 *Improper or Undue Influence*

Council members, committee members and employees shall not take advantage of their position to improperly influence any other person in order to gain undue or improper (direct or



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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 positions to improperly disadvantage or cause detriment to the local government or any other person.

3.4 Personal Behaviour

Council members and employees shall:

- (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 in particular;
- (b) perform their duties impartially to the best of their ability and in the best interests of the community, uninfluenced by fear or favour;
- (c) deal with all sections of the community in an open, honest and forthright manner;
- (d) act in good faith (ie, honestly, for the proper purpose and without exceeding their powers) in the interests of Council and the community; and shall be particularly mindful to avoid interference in commercial relationships between developers and objectors or between developers competing for the right to develop;
- (e) 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 official or professional duties, which may cause or is likely to cause any reasonable person unwarranted offence or embarrassment;
- (f) 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.
- (g) always act in accordance with their obligations of fidelity to the Council and not publicly reflect adversely upon any decision of the Council or Council staff.
- (h) where practicable, be available for discussion with members of the public following Council and Committee meetings.

In addition, Council members are expected to:

- (a) prepare for, attend and actively participate in strategy and briefing sessions as well as Council meetings;
- (b) attend electors meetings; and
- (c) be a member of at least one Council committee consisting of Council members only and prepare for, attend and actively participate in its meetings.

Committee members shall:

- (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 in particular when involved in committee matters;



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- (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; and
- (e) 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.

Council members should represent and promote the interest of the community as a whole.

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.



4.1 Conflict of Interests

Employees of the Town of Bassendean 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.

- (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.

Employees shall comply with the Local Government (Functions and General) Regulations 1996, in any instance where they are involved in any manner with tendering for a Council contract.

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)

Employees of the Town of Bassendean 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.

1. Where an employee has an interest in a matter that may affect impartiality, and that matter is to be discussed at a council or committee meeting attended by the employee, the employee 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.



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2. 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.
3. The employee is exempt from the requirement to disclose an interest in 1 or 2 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.
4. Where an employee has made a written disclosure as required by 1 or 2 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.

5.0 GIFTS AND ACTS OF HOSPITALITY

In general, 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.

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

'actively involving a Town of Bassendean discretion' means:

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



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'gift' – does not include:

- * a gift from a relative;
- * an electoral gift under regulation 30B of the Local Government (Elections) Regulations 1997; and
- * a gift from a statutory authority, government instrumentality or not for profit association for professional training.

'notifiable gift' means:

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

'prohibited gift' means:

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

An employee or committee member should refrain from accepting a prohibited gift from a person who:

- is undertaking or seeking to undertake an activity involving the Town of Bassendean's discretion; or
- it is reasonable to believe is intending to undertake an activity involving the Town of Bassendean's discretion.

Where an employee or committee member accepts a notifiable gift from a person who:

- is undertaking or seeking to undertake an activity involving the Town of Bassendean's discretion; or
- it is reasonable to believe is intending to undertake an activity involving the Town of Bassendean's discretion,

the employee or committee member must notify the CEO within 10 days of receiving the gift.

The notification made by council members, committee members and employees is to include the following details, and shall be entered into the register as follows:



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- name of person who gave the gift; and
- the date on which the gift was accepted or refused; and
- a description, and estimated value of the gift; and
- the nature of the relationship between the person who is the employee or committee member and the person who gave the gift; and
- where the gift is a notifiable gift, but is two or more gifts in a six month period from the same person:
 - > a description
 - > estimate value; and
 - > the date of acceptance/refusal

The CEO shall maintain a register of notifiable gifts offered and accepted or rejected and prohibited gifts offered and rejected by council members, committee members and employees of the Town.

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 exceed \$300, provided they remain the property of the Town.

6.0 PERFORMANCE OF DUTIES AND COMPLIANCE WITH LAWFUL ORDERS

While on duty, employees shall give their time and attention to Town business and ensure that their work is carried out efficiently, economically and effectively in accordance with their directions, duties, Council and Town policies and corporate objectives.

In particular, employees shall ensure that file notes are drafted and placed on record immediately following discussions on issues of substance with persons other than employees, Council members or committee members. Such issues shall include matters before the Council, matters impacting on the Council or the Town itself, and matters affecting the public interest.

Employees shall at all times ensure that their standard of work and manner reflects favourably both on them and the Council.

In the conduct of their duties, employees are encouraged to develop networks within the local government industry, to encourage and assist their peers, and promote goodwill between local governments.



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Employees shall obey any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the CEO.

Employees should give effect to and uphold the lawful policies of the Council, whether or not they agree with or approve of them.

7.0 WHISTLEBLOWER PROTECTION

Protection of Employees Reporting Unacceptable or Illegal Behaviour

The CEO is to ensure that employees who report unacceptable or illegal behaviour of council members or employees (that is, whistleblowers) are not in any way disadvantaged or victimised because of their actions.

7.1 *Public Interest Disclosure Act 2003*

Council members and employees must be aware of the Public Interest Disclosure Act 2003, which provides people who make disclosures of public interest information with certain immunities, protections and remedies and imposes certain responsibilities. A summary of these rights and responsibilities appear as Annexure 1 to this Code.

7.2 *Corruption and Crime Commission Act 2003*

Council members and employees must be aware that matters of misconduct and/or corruption may be reported to the Corruption and Crime Commission (CCC) and those protections are afforded to persons who make such reports. It is an offence to:

- (a) victimise any person who has given evidence to or helps the CCC;
- (b) dismiss or prejudice any person for having appeared before or having given evidence to the CCC;
- (c) cause injury or detriment to any person for having appeared before or having given evidence to the CCC.



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8.0 ENFORCEMENT OF THE CODE

Any person who has reason to believe that a council member, committee member or an employee of the Town of Bassendean has committed a breach of the Code of Conduct may complain about the breach to the Town's designated complaints officer as determined in accordance with the Local Government (Rules of Conduct) Regulations 2007.

If the designated complaints officer is the CEO, and the complaint under this code is against the CEO, the complaint is to be directed to the Director Corporate Service. If the designated complaints officer is a senior employee other than the CEO, the complaint against the complaints officer is to be directed to the CEO.

The complaint is to be made in writing on the form that appears as Annexure 3 to this Code, giving details of:

- a) who is making the complaint;
- b) who is alleged to have committed the breach;
- c) the contravention that is alleged to have resulted in the breach; and
- d) any other relevant information

Within 14 days of receiving the complaint, the complaints officer must:

- a) give the person making the complaint a written acknowledgement that the complaint has been received; and
- b) give the person whom the complaint is being made a copy of the complaint.

As soon as practicable from acknowledging the complaint, the complaints officer is to carry out a thorough investigation, having regard to procedural fairness and natural justice. While undertaking the thorough investigation, the complaints officer may engage the services of appropriate persons.

At the completion of the investigation, the complaints officer shall advise the outcomes of the investigation to:

- a) CEO, if the investigating officer is not the CEO; and
- b) person subject of the complaint, and
- c) person who made the complaint.

If the complaint is about a council member, the report is to be presented to the Council.

Any actions taken as a result of a proven breach of the Code of Conduct will be made in accordance with the provisions of any applicable legislation or common law provisions that governs the operations of the Town, its council members, committee members and its employees.

The Corruption and Crime Commission Act 2003, requires the CEO to notify the Commission of matters relating to reasonably suspected misconduct. Definitions of 'misconduct' and 'serious misconduct' are provided in the Act and appear as Annexure 2 to this Code of Conduct.

ANNEXURE 2

DEFINITIONS OF 'MISCONDUCT' AND 'SERIOUS MISCONDUCT'

Section 4 Corruption and Crime Commission Act 2003

4. "Misconduct", meaning of

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 -
 - (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



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- (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 Corruption and Crime Commission Act 2003 "serious misconduct"- means misconduct of a kind described in section 4(a), (b) or (c).

Public Interest Disclosure Act



Immunities

If you make a disclosure under the *Public Interest Disclosure Act 2003* (the Act) you will not incur any civil or criminal liability for doing so and will not be liable for any disciplinary action under a written law, or be dismissed, or have your services dispensed with or otherwise terminated or be liable for any breach of a duty of secrecy or confidentiality or any other restriction on disclosure (whether or not imposed by a written law) applicable to you. Making a disclosure under the Act does not affect your liability for any wrongdoing you have been involved in.

You must believe your information is or may be true

You must believe on reasonable grounds that the information you have is or may be true. The information you have must be more than a mere suspicion and tend to show that wrongdoing is, has or is about to occur.

It is an offence to make a false or misleading disclosure and the penalty for doing so is \$12,000 or imprisonment for one year.

Protections

A person must not reveal information that might identify or tend to identify anyone as a person who has made a disclosure under the Act. There are certain exceptions including where:

- the person consents to the release of such information
- it is necessary to do so to enable the matter to be investigated effectively
- it is necessary having regard to the principles of natural justice.

If you make a disclosure under the Act and it is necessary to reveal your identity, the PID officer will take all reasonable steps to notify you in advance. Apart from the exceptions outlined above, it is an offence for anyone to reveal the identity of the discloser and the person about whom the disclosure has been made. Both carry a penalty of \$24,000 or imprisonment for 2 years.

Under the Act, it is the Chief Executive Officer of a public authority who must provide you with protection against detrimental action. Detrimental action includes action causing, comprising or involving injury, damage, or loss; intimidation or harassment; adverse discrimination, disadvantage, or adverse treatment in relation to a person's career, profession, employment, trade or business; or a reprisal.

You must keep the matter confidential

You can minimise the risk of anyone taking detrimental action against you by keeping your intentions to make a disclosure to yourself — be discreet.

Once you have made a public interest disclosure you must maintain confidentiality of the information. This means you cannot go to the media or any other person with information contained in your disclosure or you will risk losing your protection and you may incur a penalty.

You may speak with the PID officer or anyone conducting an investigation into the matter.

If you believe it is necessary to speak to another person about some aspects of your disclosure, contact the PID officer first and discuss the matter with them.

You must not disclose the identity of the person about whom your disclosure is made

In addition to protecting your identity, the Act protects the identity of the person about whom your disclosure is made.

You must not reveal any information about the person named in your disclosure to anyone other than the PID officer with whom you lodged your disclosure or anyone investigating the matter. If you do you may commit an offence which carries a penalty of \$24,000 or two years imprisonment.

Remedies

A person who takes or threatens to take detrimental action against another because or substantially because anyone has made, or intends to make, a disclosure of public interest information under the Act commits:

- an offence of reprisal which carries a penalty of \$24,000 or imprisonment for 2 years
- an act of victimisation which may be lodged with the Equal Opportunity Commission or dealt with as a tort.

If you believe you have suffered detrimental action or that someone is threatening detrimental action against you, advise the PID officer with whom you lodged your disclosure. The PID officer can provide you with information on how to take action.

You must assist the investigator

Where you are able to, you must assist a person investigating the matter to which your disclosure relates by supplying them with any information requested, whether orally or in writing and within such period as specified by them. It is not your role to investigate the matter and you must not obtain evidence illegally or in such a manner as to expose yourself to any risk.

Notification

The Act requires you be informed within 3 months of making your disclosure of the action taken or proposed to be taken in relation to the disclosure. You will also be notified of the outcome of an investigation [where one is undertaken] and any action that has been taken or is proposed to be taken as a result of the investigation and the reason for taking the action.

This information sheet is a summary only. Potential disclosers are urged to speak to their PID officer or visit the PID website for further information.



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.

