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CODE OF CONDUCT FOR EMPLOYEES

POLICY

This Code of Conduct (Code) is a public declaration of the principles of good conduct and standards of behaviour that The Flinders Ranges Council has decided its stakeholders could reasonably expect of Council employees to demonstrate in the performance of their duties and functions.

This Code has been developed with regard to Part 4 of the *Local Government Act 1999*, in consultation with employees and the relevant registered industrial associations representing the interests of Council employees. A copy of Part 4 of the *Local Government Act 1999* is included as Appendix 1.

The standards in this Code of Conduct are in addition to any statutory requirements of the *Local Government Act 1999* or any other relevant Act or Regulation.

1. Statement of the General Duty of Council Employees

The general duty of Council employees is to act honestly and with reasonable care and diligence in the performance and discharge of their functions and duties. Council employees must not make improper use of information acquired or make improper use of their position as an employee of Council.

It is the personal responsibility of Council employees to ensure that they are familiar with, and comply with, the standards in the Code at all times. Council will provide training and education opportunities that will assist employees to meet their responsibilities under the *Local Government Act 1999*.

This Code does not exclude the operation of the *Fair Work Act 1994*, the rights of employees and their Union to pursue industrial claims, or any relevant Awards or Enterprise Agreements made under the *Fair Work Act 1994*. This Code does not affect the jurisdiction of the Industrial Relations Commission.

2. Statement of Commitment

Council employees have a commitment to serve the best interests of the people within the Council community and to discharge their duties conscientiously and to the best of their ability.


Council employees will act with honesty and integrity in every aspect of their work and be open and transparent when making decisions or providing advice to Council.

Council employees will perform their official duties in such a manner as to ensure that public confidence and trust in the integrity and impartiality of their Council is strong and enhances the role and image of the Council and Local Government generally

Council employees will respect the law, and the resolutions made by the elected member body of the Council.

In addition to all legislative requirements, employees of The Flinders Ranges Council recognise the requirements of this Code of Conduct as the standards that will be adopted in the performance of their functions and duties.

The Council's Chief Executive Officer will make reasonable endeavours to ensure that employees have current knowledge of both statutory requirements and best practices relevant to their position.

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Council employees will make reasonable endeavours to ensure that they have such current knowledge of both statutory requirements and best practices relevant to their position as is drawn to their attention by Council.

3. Principles of this Code of Conduct

In line with 'Part 2—Statement of Commitment', the following behaviour is considered essential to upholding the principles of good governance in Councils.

A failure to comply with any of these behaviours can constitute a ground for disciplinary action against the employee, including dismissal, under section 110(5) of the *Local Government Act 1999*.

Council employees must also comply with all relevant statutory requirements within the *Local Government Act 1999*, the *Work Health and Safety Act 2012* and other Acts. A failure to comply with these statutes, as identified within this Part, can also constitute a ground for disciplinary action against the employee, including dismissal, under section 110(5) of the *Local Government Act 1999*.


Council employees will:

General behaviour

- 3.1. Act honestly in the performance of official duties at all times, as required by section 109(1) of the *Local Government Act 1999*;
- 3.2. Act with reasonable care and diligence in the performance of official duties, as required by section 109(2) of the *Local Government Act 1999*;
- 3.3. Discharge duties in a professional manner;
- 3.4. Act in a way that generates community trust and confidence in the Council;
- 3.5. Act in a reasonable, just, respectful and non-discriminatory way when dealing with all people; and
- 3.6. Ensure that personal interests, including financial interests, do not influence or interfere with the performance of their role.

Responsibilities as an employee of Council

- 3.7. Comply with all relevant Council policies, codes and resolutions of which they have been made aware, relevant to their particular role;
- 3.8. Deal with information received in their capacity as a Council employee in a responsible manner;
- 3.9. Endeavour to provide accurate information to the Council and to the public at all times;
- 3.10. Take all reasonable steps to ensure that the information upon which employees make decisions or actions are based is factually correct and that all relevant information has been obtained and is considered;
- 3.11. Not release or divulge information that the Council or Chief Executive Officer of the Council has ordered be kept confidential, or that the Council employee should reasonably know is information that is confidential, including information that is considered by the Council or the Chief Executive Officer in confidence, subject to the *Ombudsman Act 1972* and the *Independent Commissioner Against Corruption Act 2012*;
- 3.12. Not make improper use of information, including confidential information, acquired by virtue of their position;
- 3.13. Ensure that relationships with external parties do not amount to interference by improper influence, affecting judgement, decisions and/or actions;
- 3.14. Comply with all lawful and reasonable directions given by a person with authority to give such directions; and
- 3.15. Only make public comment in relation to their duties when specifically authorised to do so, and restrict such comment to factual information and professional advice.

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Relationships within Council

- 3.16. Not make any public criticism of a personal nature of fellow Council employees or Council members;
- 3.17. Take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons, as required by the *Work Health and Safety Act 2012*; and
- 3.18. Direct any allegations of breaches of the Code of Conduct for Council Members to the Chief Executive or nominated delegate/s.

Gifts and Benefits (as per Statutory Code of Conduct for Employees – Schedule 2A of the Local Government (General) Regulations 2013) – Appendix 3

- 3.19. Council employees must not:
 - 3.19.1. Seek gifts or benefits of any kind;
 - 3.19.2. Accept any gift or benefit that may reasonably create a sense of obligation on their part or may be reasonably perceived to be intended to or would reasonably be likely to influence them in carrying out their public duty; and
 - 3.19.3. Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the Council.
- 3.20. Notwithstanding Code 3.19.3, Council employees may accept hospitality provided in the context of performing their duties, including:
 - 3.20.1. Free or subsidised meals, beverages or refreshments of reasonable value provided in conjunction with:
 - 3.20.1.1. Council work related events such as training, education sessions, workshops and conferences; and
 - 3.20.1.2. Council functions or events; and
 - 3.20.1.3. Social functions organised by groups such as Council committees and community organisations.
 - 3.20.2. Invitations to and attendance at local social, cultural, or sporting events; and
- 3.21. Where any Council employee receives a gift or benefit of more than a value published in the *Government Gazette* by the Minister from time to time, details of each gift or benefit must be recorded within a gifts and benefits register maintained by the Council's Chief Executive Officer. This register must be made available for inspection at the principal office of the Council and on the Council website.

Use of Council Resources

- 3.22. Council employees using Council resources must do so effectively and prudently when undertaking Council work;
- 3.23. Council employees must not use Council resources, including the services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate; and
- 3.24. Council employees must not use public funds or resources in a manner that is irregular or unauthorised.

Register of Interests


- 3.25. An employee of the Council must adhere to the statutory requirements to lodge a primary return and submit an ordinary return in accordance with sections 113, 114 and 115 of the *Local Government Act 1999* if they have been declared by the Council to be subject to these provisions.

Chief Executive Officer

- 3.26. The Chief Executive Officer must act in accordance with the provisions specific to their position within the *Local Government Act 1999* at all times.

Complaints

- 3.27. Any person may make a complaint about a Council employee under this Code.

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- 3.28 Complaints about an employee's behaviour that is alleged to have breached this Code should be brought to the attention of the Chief Executive Officer of the Council, or a delegated person.
- 3.29 Complaints about a Chief Executive Officer's behaviour that is alleged to have breached the Code should be brought to the attention of the Council's Principal Member.
- 3.30 A complaint may be investigated and resolved according to the disciplinary processes of that Council.
- 3.31 In considering the lodgement of a complaint against a Council employee for a breach of the Code, Public Officers should be mindful of the obligations outlined in the *Independent Commissioner Against Corruption—Directions and Guidelines*.
- 3.32 Nothing in this code in any way derogates from the rights of an employee or duties of an employer under the *Fair Work Act 1994*, other legislation, an award, an industrial agreement or contract of employment.

4. **Availability of Policy**

This Policy will be available for inspection at the Council Offices during ordinary business hours at no charge and a copy may be purchased for a fee as set annually by the Council.

Copies of this policy will also be available from the Council's website www.frc.sa.gov.au

5. **Responsibilities**

The Chief Executive Officer responsible for this policy.

Any enquiries in relation to this Code of Conduct should be directed to the Chief Executive Officer.

6. **Legislation**


Local Government Act 1999
Local Government (General) Regulations 2013
Fair Work Act 1994
Work Health and Safety Act 2012
Independent Commissioner Against Corruption Act 2012
Ombudsman Act 1972

7. **References**

Council Policy G1.7 - Information Privacy
Council Policy G1.12 - WHS & IM
Council Policy G1.14 - Whistleblowers Protection
Council Policy G1.16 - Copyright Protection
Council Policy G1.18 - Fraud and Corruption
Council Policy G1.20 - Customer Service Goals
Council Policy G1.27 - Social Media
HR Policy HR.01 - Equal Employment Opportunity
HR Policy HR.02 - Fair Treatment
HR Policy HR.03 - Email Internet Access
HR Policy HR.04 - Use of Council Vehicles
HR Policy HR.05 - Employee Training


8. **REVIEW**

To be reviewed within 12 months after a General Election, in line with legislation and any legislative changes or by resolution of Council..

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Adopted by Council 8 May 2018
Resolution 105/2018

Review Date	Version Number	Change	Resolution
14 August 2012	v1	Adopted by Council	164/2012
13 February 2014	Statutory	Legislated Code of Conduct	
8 May 2018	v2	New policy adopted by Council	105/2018
21 March 2023	3	Formatting and Act references updated	46/2023

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APPENDIX 1

LOCAL GOVERNMENT ACT, 1999

Part 4—Employee integrity and behaviour

Division 1—Employee integrity

Subdivision 1—General

108—Interpretation

In this Subdivision—

employee of a council includes a person working for the council on a temporary basis;


registered industrial association means an industrial association or organisation registered under a law of the State or of the Commonwealth.

109—General duty and compliance

- (1) An employee of a council must at all times act honestly in the performance of official duties.
- (2) An employee of a council must at all times act with reasonable care and diligence in the performance of official duties.
- (3) An employee of a council must comply with the integrity provisions relating to employees.
- (4) Contravention of, or failure to comply with, an integrity provision by an employee of a council constitutes a ground for suspending, dismissing or taking other disciplinary action against the employee.

110A—Duty to protect confidential information

- (1) An employee or former employee of a council must not disclose information or a document—
 - (a) in relation to which there is an order of a council or council committee in effect under section 90 or 91(7) requiring the information or document to be treated confidentially; or
 - (b) that the employee or former employee knows, or ought reasonably to know, is information or a document that is otherwise required to be treated confidentially.
- (2) Nothing in subsection (1) prohibits the disclosure of information or a document where the disclosure is required or authorised by law.

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Subdivision 2—Register of Interests

111—Application of Subdivision

This Subdivision applies to—

- (a) the chief executive officer of a council; and
- (b) any other officer, or any other officer of a class, declared by a council to be subject to the operation of this Subdivision.

112—Interpretation

In this Subdivision—

prescribed officer means an officer within the ambit of a declaration under section 111(b);

Register means a Register of Interests kept for the purposes of this Subdivision;

return period, in relation to an ordinary return of a person, means—

- (a) in the case of a person whose last return was a primary return—the period between the date of the primary return and 30 June next following; and
- (b) in the case of any other person—the period of 12 months expiring on 30 June on or within 60 days after which the ordinary return is required to be submitted.

113—Lodging of primary returns

Each person to whom this Subdivision applies must, within 30 days after appointment (not being a reappointment), submit a primary return—

- (a) in the case of the chief executive officer—to the principal member of the council;
- (b) in the case of a prescribed officer—to the chief executive officer.

114—Lodging of ordinary returns

Each person to whom this Subdivision applies must, on or within 60 days after 30 June in each year, submit an ordinary return—

- (a) in the case of the chief executive officer—to the principal member of the council;
- (b) in the case of a prescribed officer—to the chief executive officer.

115—Form and content of returns

- (1) A return must be in the prescribed form and contain the prescribed information.
- (2) A person who has submitted a return under this Subdivision may at any time submit a change or variation in the information appearing on the Register in respect of the person or a member of his or her family.

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116—Register of Interests

- (1) The chief executive officer must maintain a Register of Interests and must cause to be entered in the Register all information furnished pursuant to this Subdivision (including by the chief executive officer).
- (2) If a person to whom this Subdivision applies (other than the chief executive officer) fails to submit a return to the chief executive officer within the time allowed by this Subdivision, the chief executive officer must as soon as practicable notify the person, in writing, of that fact.

117—Provision of false information

A person who submits a return under this Subdivision that is to the knowledge of the officer false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

118—Inspection of Register

The chief executive officer must, at the request of a member of the council, permit the member to inspect the Register.


119—Restrictions on disclosure

- (1) A person must not disclose to any other person any information furnished pursuant to this Subdivision unless the disclosure—
 - (a) is necessary for the purposes of the preparation or use of the Register by the chief executive officer; or
 - (b) is made at a meeting of the council, a council committee or a subsidiary of the council.
- (2) Despite any other provision of this Act—
 - (a) the public must be excluded from attendance at any part of a meeting of the council, a council committee or a subsidiary of the council where information is disclosed under subsection (1)(b); and
 - (b) any part of the minutes of a meeting of the council, a council committee or a subsidiary of the council which contains information disclosed under subsection (1)(b) is not available for public inspection under this Act.

Subdivision 2A—Gifts and benefits

119A—Register of gifts and benefits

- (1) An employee of a council must not seek out or receive a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation to a person on the part of the employee or influence the employee in the performance or discharge of the employee's functions or duties.
- (2) If an employee of a council receives a gift or benefit of an amount greater than the amount determined by the Minister (from time to time), by notice in the Gazette, the employee must provide details of the gift or benefit to the chief executive officer of the council in accordance with any requirements of the chief executive officer.


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- (3) The Minister must consult with the LGA before publishing a notice under subsection (2).
- (4) The chief executive officer of a council must maintain a register of gifts and benefits received by employees of the council and must ensure that the details of each gift and benefit provided under this section are included in the register.
- (5) A register maintained under this section—
 - (a) need not include information available in another register published by, or available for inspection at, the council or otherwise available under the Act; and
 - (b) may include information by reference to another register or document, provided the register or document is published by, or available for inspection at, the council and the register maintained under this clause identifies that other register or document.
- (6) For the purposes of this section, a gift or benefit received by a designated person or entity in relation to an employee of a council will be treated as a gift or benefit (as the case requires) received by the employee.
- (7) For the purposes of this section—
 - (a) 2 or more separate gifts or benefits received by an employee or a designated person or entity in relation to the employee from the same person during a financial year are to be treated as 1 gift or benefit (as the case requires) received by the employee; and
 - (b) 2 or more separate transactions to which an employee or a designated person or entity in relation to the employee is a party with the same person during a financial year under which the employee or the designated person has had the use of property of the other person (whether or not being the same property) during a financial year are to be treated as 1 transaction under which the employee has had the use of property of the other person during the financial year.
- (8) Unless the contrary intention appears, terms and expressions used in this section and in Schedule 3 have the same respective meanings in this section as they have in that Schedule, provided that a reference in Schedule 3 to a member will be taken, for the purposes of this clause, to be a reference to an employee.


Subdivision 3—Conflict of interest

120—Conflict of interest

- (1) The chief executive officer of a council who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties—
 - (a) must disclose the interest to the council; and
 - (b) must not, unless the council otherwise determines during a council meeting that is open to the public, act in relation to the matter.

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- (2) An employee of a council (other than the chief executive officer) who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties—
- (a) must disclose the interest to the chief executive officer; and
 - (b) must not, unless the chief executive officer otherwise determines, act in relation to the matter.
- (3) It is a defence to a charge for an offence against subsection (1) or (2) to prove that the defendant was, at the time of the alleged offence, unaware of the interest.
- (4) If an employee is entitled to act in relation to a matter by virtue of subsection (2)(b) and the employee is providing advice or making recommendations to the council or a council committee on the matter, the employee must also disclose the relevant interest to the council or council committee.
- (5) An employee has an interest in a matter if the employee, or a person with whom the employee is closely associated, would, if the employee acted in a particular manner in relation to the matter, receive or have a reasonable expectation of receiving a direct or indirect pecuniary benefit or a non-pecuniary benefit or suffer or have a reasonable expectation of suffering a direct or indirect pecuniary detriment or a non-pecuniary detriment.
- (6) A person is closely associated with an employee of a council—
- (a) if that person is a body corporate of which the employee is a director or a member of the governing body; or
 - (b) if that person is a proprietary company in which the employee is a shareholder; or
 - (ba) a family company of the employee (within the meaning of Schedule 3); or
 - (bb) a family trust of the employee (within the meaning of Schedule 3); or
 - (c) if that person is a beneficiary under a trust or an object of a discretionary trust of which the employee is a trustee; or
 - (d) if that person is a partner of the employee; or
 - (e) if that person is the employer or an employee of the employee; or
 - (f) if that person is a person with whom the employee has entered into, is seeking to enter into, or is otherwise involved in a negotiation or tendering process in connection with entering into, an agreement for the provision of professional or other services for which the employee would be entitled to receive a fee, commission or other reward; or
 - (g) if that person is a relative of the employee.
- (7) However, an employee, or a person closely associated with an employee, will not be regarded as having an interest in a matter—
- (a) by virtue only of the fact that the employee or person—
 - (i) is a ratepayer, elector or resident in the area of the council; or

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- (ii) is a member of a non-profit association, other than where the employee or person is a member of the governing body of the association or organisation; or
- (b) in a prescribed circumstance.
- (8) In this section—
- employee*** of a council includes—
- (a) a consultant engaged by the council; and
- (b) a person working for the council on a temporary basis;
- non-profit association*** means a body (whether corporate or unincorporate)—
- (a) that does not have as its principal object or one of its principal objects the carrying on of a trade or the making of a profit; and
- (b) that is so constituted that its profits (if any) must be applied towards the purposes for which it is established and may not be distributed to its members,
- and includes the LGA.
- (9) For the purposes of subsection (6)(e) and (f), employment with the council is to be disregarded.

Division 2—Employee behaviour

120A—Behavioural standards


- (1) A council may prepare and adopt standards (the ***employee behavioural standards***) that—
- (a) specify standards of behaviour to be observed by employees of councils; and
- (b) provide for any other matter relating to behaviour of employees of councils.
- (2) An employee behavioural standard must not diminish a right or employment condition under an Act, award, industrial agreement or contract of employment.
- (3) An employee of a council must comply with the council's employee behavioural standards.
- (4) A council may from time to time alter its employee behavioural standards, or substitute new employee behavioural standards.
- (5) Before a council—
- (a) adopts employee behavioural standards; or
- (b) alters, or substitutes, its employee behavioural standards,
- the council must consult with any registered industrial association that represents the interests of employees of councils on the employee behavioural standards, alteration or substituted standards (as the case may be).


- (6) A council must, within 6 months after the conclusion of each periodic election—
- (a) in the case of a council that has employee behavioural standards in effect under this section—review the operation of the employee behavioural standards; or
 - (b) in any other case—consider whether it should adopt employee behavioural standards.

Division 4—Protection from personal liability

121—Protection from personal liability

- (1) No civil liability attaches to an employee of a council for an honest act or omission in the exercise, performance or discharge, or purported exercise, performance or discharge, of powers, functions or duties under this or other Acts.
- (2) A liability that would, but for this section, attach to an employee of a council attaches instead to the council.

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APPENDIX 2

CRIMINAL MATTERS

The matters within this appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for Council Employees.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this document only in order to provide a complete overview of the standards of conduct and behaviour expected of Council employees.

Alleged breaches of matters outlined in this appendix should be reported to the Office for Public Integrity in the first instance.

Breaches of the *Local Government Act 1999*

Provision of false information

A Council employee who submits a return under Chapter 7 Part 4 Subdivision 2 (Register of Interests) and that is to the knowledge of the employee false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence (Section 117).

Restrictions on disclosure

A Council employee must not disclose to any other person any information furnished pursuant to Chapter 7 Part 4 Subdivision 2 (Register of Interests) unless the disclosure is necessary for the purposes of the preparation or use of the Register by the Chief Executive Officer or is made at a meeting of the Council, a Council committee or a subsidiary of the Council (Section 119(1)).

Conflict of Interest

The Chief Executive Officer of a Council who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the Council and must not, unless the Council otherwise determines during a Council meeting that is open to the public, act in relation to the matter (Section 120(1)).

An employee of the Council (other than the Chief Executive Officer) who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the Chief Executive Officer and must not, unless the Chief Executive Officer otherwise determines, act in relation to the matter (Section 120(2)).


If an employee is entitled to act in relation to a matter and the employee is providing advice or making recommendations to the Council or a Council committee on the matter, the employee must also disclose the relevant interest to the Council or Council committee (Section 120(4)).

Breaches of other Acts

Acting in his or her capacity as a public officer, a Council employee shall not engage in conduct, whether within, or outside the state, that constitutes corruption in public administration as defined by Section 5 of the *Independent Commissioner Against Corruption Act 2012*, including:

An offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:

- bribery or corruption of public officers;
- threats or reprisals against public officers;

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- abuse of public office;
- demanding or requiring benefit on basis of public office; and
- offences relating to appointment to public office.

Any other offence, including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935*, committed by a public officer while acting in his or her capacity as a public officer, or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or to an attempt to commit such an offence.

Any of the following in relation to an offence referred to in a preceding paragraph:

- aiding, abetting, counselling or procuring the commission of the offence;
- inducing, whether by threats or promises or otherwise, the commission of the offence;
- being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence; and
- conspiring with others to effect the commission of the offence.

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