



# *Governance and Policy Manual – Elected Members*



## **Version 2:**

Version	Change
1	Full Review – 30 <sup>th</sup> July 2021 [C2021-079]
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Elected Members Induction and Guidelines

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## Preface

Corporate governance is a system of processes through which an organisation makes decisions and how it directs, controls and monitors its operations. The systems are complex and are required by legislation. The Governance Manual will assist the Council to achieve its commitment to excellence in governance. The manual links the respective roles under the Local Government Act and other relevant legislation with the suite of available governance documents. It is designed to provide guidance and information to the major participants in all functions and governance processes of the Council.

It will act as:

- an introduction for new Councillors and staff members to the governance framework and processes for the Council.
- a guide and reference for Councillors in performing their duties as elected representatives;
- a document establishing clear guidelines for the day to day governance of the Council.
- a basis to monitor the performance of the Council and administration in working towards excellence in governance.

The manual has been based on a number of existing governance frameworks, but in particular “Excellence in Governance for Local Government” produced by the Local Government Managers Australia and CPA Australia.

The Manual is divided into four parts:

- Part One: Overview of Corporate Governance and Principles
- Part Two: Integrated Planning and Reporting
- Part Three: Detailed Guidelines for good governance practice
- Part Four: Key documents, policies and procedures relevant to Elected Members

The Governance Manual will form the basis for an annual corporate governance review by Council which will assess the effectiveness of the Elected Members and Administration in achieving good governance.

## Part One - Overview of Corporate Governance

### Governance in the Legislative Environment

Local Governments in Western Australia are required to make report and implement decisions, according to the provisions of the Local Government Act 1995 (the Act). Other legislation regulates the way in which a local government exercises its authority in areas such as Town Planning, Environmental Health, Cat and Dog Control, Emergency Management, Litter Control, Bush Fire, and Building Control.

The Act defines the roles and responsibilities of Elected Members and the CEO to ensure a local government fulfils its obligations and exercises its powers and functions appropriately. Section 3.1 (1) of the act prescribes the general function of a local government is to provide for the good government of persons in its district.

To facilitate good government, Shires develop strategies and policies, and provide mechanisms and processes for their implementation. This manual establishes the policies and processes by which the Elected Members and the CEO Officer undertake their respective roles.

### **DEFINITION OF 'GOOD GOVERNANCE'**

Good governance is about the processes for making and implementing decisions. It's not about making 'correct' decisions, but about the best possible process for making those decisions.

Good decision-making processes, and therefore good governance, share several characteristics. All have a positive effect on various aspects of local government including consultation policies and practices, meeting procedures, service quality protocols, Councillor and officer conduct, role clarification and good working relationships. Ref

<http://www.goodgovernance.org.au>

### **EXCELLENCE IN GOVERNANCE**

Excellence in governance occurs when it is underpinned by accountability, integrity, openness and commitment to sustainability. It involves a focus on clarity of roles and responsibilities, robust systems which support both internal and external accountability and public access to decision making and information. From a Local Government perspective, the establishment of a governance framework reinforces the statutory authority and responsibilities of Council as a corporate body and assists Elected Members and professional officers in the delivery of quality services.

Central to the achievement of these outcomes is the engagement of key stakeholders and intended beneficiaries in the development and implementation of initiatives for the betterment of local communities. Effective outcomes are best achieved where the role and focus of Elected Members as a collective corporate body, is directed to policy formulation and strategic development. The role of the officers is to implement the policies and strategies of the Council through an accountable, effective and efficient application of resources and assets.

### **COUNCIL GOVERNANCE STATEMENT**

Governance is based on the understanding the Council, CEO and staff have different roles and responsibilities which, when combined, create the environment for effective management and

operation of the Council. It recognises good governance does not only apply to internal procedures but ultimately reflects in the satisfaction of the residents and other stakeholders of the Shire both now and into the future.

## **COUNCIL GOVERNANCE FRAMEWORK**

The fundamental objective of a corporate governance framework is to promote stability, confidence and consistency of process by providing role clarity and certainty of direction for the Elected Members and administrative office holders of the Council. The basis for this governance framework can be found in strategic documents and associated operational mechanisms which have been developed and implemented pursuant to roles and functions prescribed by the Local Government Act 1995 (The Act) and arising from the vision, mission, values and goals enunciated in the Strategic Community Plan.

### **Good Governance Principles and Practice**

Clear principles govern how decisions are made by the whole organisation. Decisions should be based on the principles to ensure all governance processes and practices reflect the overarching principles of operation. Elected Members and staff must take specific responsibility for governance in their own activities to achieve best practice in governance and alignment with the agreed principles. The following practices relate to the five principles of operation and the achievement of effective governance.

#### **Principle 1 - Vision and Organisational Culture**

- There is a positive organisational culture promoting openness and honesty, in which questioning is encouraged and accountability is clear.
- The Council is united in a clear vision and positive culture, which respects the natural and built heritage of the Council as well as community needs and aspirations.
- Strategic Community Plan is produced through a comprehensive and inclusive process, which is inclusive of all sectors of the local government region.

#### **Principle 2 - Roles, responsibilities and relationships**

- There is clarity about the roles of local government and there exists a sophisticated approach to defining and implementing these.
- There are effective and appropriate working relationships promoted and supported within and between the Shire President, Councillors, CEO and Administration.
- There is a demonstrated respect for different roles of the various elements of the Shire and the need for positive working relationships between these elements.

#### **Principle 3 - Decision-making and management**

- Ensure there are effective decision-making processes in place to reflect the transparency and accountability which underpin excellence in governance.
- There should be robust and transparent financial management established and maintained to meet local government's accountability to its stakeholders, particularly in terms of stewardship of community assets, both now and into the future.

- An effective approach to the identification, assessment, monitoring and management of risks should be established and maintained.
- Appropriate delegations should be implemented and maintained.
- There should be an active performance management system in place to enable Elected Members and staff to be openly accountable for their performance.
- Demonstrating exemplary leadership qualities through effective decision-making and related management processes reflecting transparency, integrity and sustainability.

#### **Principle 4 - Accountability**

- Appropriate consultation should be undertaken to reflect the scope and potential impact of the matter. It should respect the position and opinion of all stakeholders. The outcomes of the consultation should be taken into account when the decision is made, and feedback should be provided to those who participated.
- The Council must account for its activities and have systems to support this accountability.
- The established internal structures be maintained to provide for independent review of processes and decision-making to assist the Council to meet its accountability to stakeholders.
- There should be methods for accounting for all local government activities, including installing and maintaining systems which reinforce accountability and communicate outcomes achieved to the community.

#### **Principle 5 -Commitment to Sustainability**

- The Council will endeavour to keep up to date with all processes, methodologies and technologies which can achieve improved outcomes for the Shire.
- Awareness of practices will lead to improved resource management, environmental protection and rehabilitation, stronger communities and added economic value will be raised within the Council and staff, and across the community.
- The potential environmental, social and economic impact of any project or decision will be considered.
- Making the right decisions for both now and for future generations, in careful monitoring of progress to avoid negative impact, and, in ensuring a positive change for improved results and outcomes.

#### **GOOD GOVERNANCE PRACTICE**

The increasing level of scrutiny now being directed to the operations and activities of public bodies has created a need for full and open disclosure of the governance systems, which exist within these organisations. Accountability is an essential element of good governance and applies to Elected Members and CEO alike.

From a political perspective, accountability requires the Shire President and Councillors of the Council be accessible to residents and ratepayers so they may be responsive to community issues and needs. As the governing body of the Shire, the Council has the ultimate responsibility for ensuring compliance with legislation and regulations.

It is the CEO's responsibility to ensure Council is provided with unbiased and relevant, professional advice and information on which decisions are made. The CEO is also responsible

for the management of staff, financial resources and the maintenance of effective and efficient systems, procedures and processes which are necessary to meet the accountability requirements of the Council. Accountability is unachievable without effective stewardship of the Shire's financial, physical, intellectual and natural heritage assets. Stewardship refers to the planning and management required ensuring optimum use of assets to serve existing community needs and provide a lasting legacy for future generations. It requires innovation, reflected in strategies designed to encourage sustainable growth and prosperity, which are compatible with the unique character and focus of the Shire.



## Part Two – Integrated Planning and Reporting

### Integrated Planning and Reporting Principles and Processes

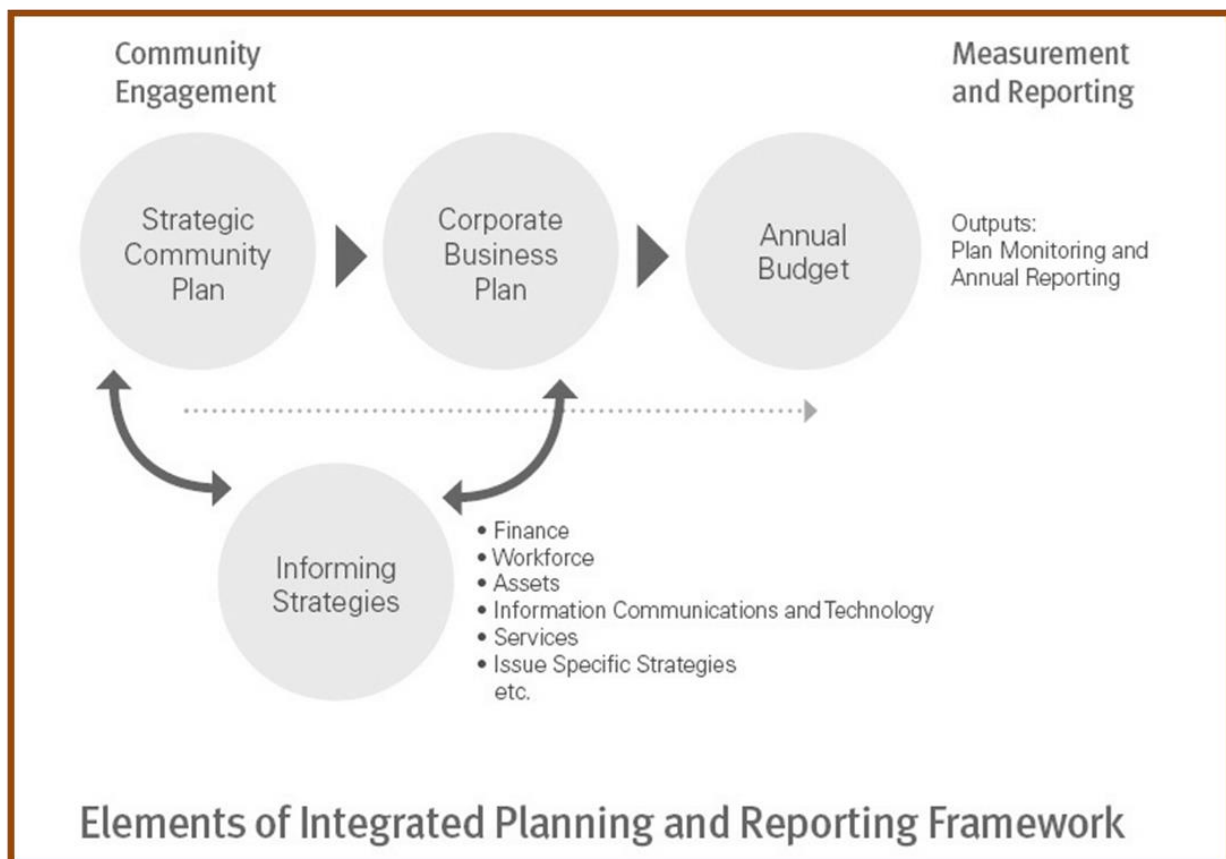
The Integrated planning and reporting principles and practices give local governments a framework for establishing local community and regional priorities and underpinning them through the Shire's long term planning processes, capital and major projects and operational functions.

They are supported in regulations of the Local Government Act 1995 Section S5.56 (1) A “plan for the future” and Regulations on how to achieve have been made under S5.56 (2):

- That Local Governments develop a Strategic Community Plan that links community aspirations with the Council's long term strategy.
- That the Local Government has a Corporate Business Plan linking to long term financial planning that integrates asset management, workforce planning and specific Council plans (Informing Strategies) with the strategic plan.

Regulation changes were implemented in August 2011 with full compliance required by 30 June 2013

For further information re Integrated Planning and Reporting copy or paste this reference into your internet explorer to connect to the WA Department of Local Government and Communities. <https://www.dlqc.wa.gov.au/CommunityInitiatives/Pages/Integrated-Planning-and-Reporting.aspx>



## **STRATEGIC COMMUNITY PLAN**

The Strategic Community Plan must be at least a 10year plan, which generally responds to three main questions put to the community and to the Shire:

- Where are we now?
- Where do we want to be?
- How do we get there?

The plan prioritises community aspirations considering things such as:

- Economic objectives
- Leadership Objectives
- Community Objectives
- Environment Objectives
- Additional factors as appropriate to identified changes in environment or demographics.

### Community Input

Opportunities will be provided to enable the community to have input into the plan for the future through advertising, communication and consultation processes.

## **CORPORATE BUSINESS PLAN**

The Corporate Business Plan activates the Strategic Community Plan by responding to:

- Council's distillation and prioritisation of the community's short, medium and long term aspirations.
- Existing operational plans, priorities and external factors impacting on resourcing.
- The assessment and integration of services and business area plans.

The process through which the Corporate Business Plan is developed incorporates:

- The priorities for the first four years of the Strategic Community Plan
- General operations and discretionary services
- Requirements of the Informing Strategy Plans\*

\*It is planned for 4-year terms and reviewed annually for relevance and affordability

## **INFORMING STRATEGIES**

These consist of the:

- Asset Management Plan
- Long Term Financial Plan
- Workforce Management Plan

These strategies / plans support the integrated planning process by informing the consultation processes with data and information about capacity, capability and affordability of current services and functions. They facilitate resourcing of ongoing services and functions, growth and community aspirations. All above mentioned plans need to be integrated and underpinned by common assumptions and agreed projections.

## Shire Community Vision and Mission

**Vision:** Inclusive and peaceful, prosperous and strong

**Mission:** To be a standard bearer for honest, equitable and efficient local government, delivering innovative, timely and appropriate services to secure economic sustainability and community wellbeing

## Shire Strategic Key Focus Areas and Objectives

**Social Objective** - an educated, respectful and inclusive community and a place where people feel they belong.

**Environment Objective** - an environment that is managed well and appreciated by all

**Economy Objective** - a modern and sustainable economy that provides for our growing community.

**Civic Leadership Objective** - To be a Shire that serves our community with integrity and leadership

Ref Strategic Community Plan 2013 – 2023 – (To be reviewed after each update of Strategic Plan)

## Part Three – Detailed Guidelines for Governance Practice

### Vision and Organisational Culture

#### Vision

“There is a clear vision and Strategic Community Plan produced through a comprehensive and inclusive process which is owned by all sectors of the Local Government”. The Council vision as stated in Part 1 drives the culture of the organisation. The vision has been generated as a united focus for the Shire. Governance decisions and practice must at all times contribute towards achievement of the vision.

#### Organisational Culture

There is a positive culture to promote openness and honesty, in which questioning is encouraged and accountability is clear.

The principles introduced in Part 1 will be demonstrated as an integral part of the organisational culture. If all individuals involved in our Local Governance apply the values, the culture of the organisation will provide the greatest opportunity of achieving excellence in governance. In addition, the Elected Members and staff will strive to achieve the following eight elements within its organisational culture:

#### Effectiveness in Management Structures and Practices

- A good management structure will be maintained based on the organisation’s vision, with clear roles and responsibilities.
- Responsibility and accountability will be delegated appropriately down the organisation.
- Management will support clarity in responsibility and accountability and focus on outcomes.
- There will be effective and efficient processes and systems in place.

#### Good Communication and Feedback Opportunities

- Good relationships will be developed between the various parts of the Shire.

#### Learning and Development

- Decision making processes will incorporate appropriate consultation, knowledge management and involvement.
- There will be learning and development programs for Elected Members and Officers designed to meet their skills and knowledge requirements.

## Ethical Behaviour and Conduct

- The Code of Conduct and ethics will be owned and lived, particularly by leaders throughout the organisation.
- The Council, Shire President, CEO and senior management will be models of appropriate behaviour.

## Conflict of Interest Management

- An effective induction program will reinforce the organisation's culture so all people associated with the organisation recognise where conflict of interest may arise and how relevant action can be taken.
- There will be agreement about different, yet complementary, roles of Councillors and officers.

## Support for Frankness and Openness

- Opportunities will be provided for open and frank exchange between Elected Members, management and staff.
- Effective feedback mechanisms from the community will be established and maintained.

## Confidentiality

- Where issues of confidentiality arise, the Shire will be transparent about instances where confidentiality will be protected.

## Innovation

- The Shire will recognise it operates in a changing environment and therefore must be aware of opportunities in those changes required to improve the way the Shire operates.
- The Shire staff will be encouraged to take reasonable efforts to keep abreast of current best practice and up to date technologies.

## Roles, Responsibilities and Relationships

### Working Relationships

“There are effective working relationships promoted and supported within and between the Shire President, councillors, CEO and administration”.

Effective working relationships are promoted and/or supported by and between the Shire President, councillors, CEO and staff. It is a requirement staff contact by Elected Members is made through the CEO. Should an Elected Member wish to contact any staff member directly, a request shall first be made to the CEO, who will assess the request and advise the Elected Member of his/her decision.

Good corporate governance requires clear identification and definitions of responsibility and a clear understanding of relationships between the organisation’s stakeholders and those responsible for managing its resources.

Very important relationships are those between:

- The Shire President and the Councillors;
- Elected Members and Elected Members;
- The Shire President and the CEO;
- Elected Members and the CEO.

Effective relationships are achieved and maintained at the Shire through:

- Parties agreeing on and respecting the differences in their roles.
- Protocols being established based on the agreements about roles and responsibilities being followed.
- Information and discussion about the various roles being included in Councillors’ induction processes.
- Goodwill on the part of all parties to make governance work and being a prepared to tackle problems when they arise.
- A common understanding the political activities of Council are legitimate as local government is a formal level of government and Councillors are accountable to their constituents as well as to the Shire as a whole.
- Councillors have to be able to address these accountability requirements in a constructive manner.

## Council - Roles and Responsibilities

Under the Act Council is a body corporate with perpetual succession, a common seal, and is charged with responsibilities. The Shire has interpreted these responsibilities as they are contained in the Act in conjunction with the Shire's governance framework and this governance framework and statement document provides the following guidance on the range and scope of these following roles:

**(a) Directs and controls the Shire affairs.**

This role encompasses strategic planning mechanisms to ensure the continued viability and performance of the organisation, the setting of strategic goals for the organisation and the monitoring of the Shire's performance against these strategic goals.

**(b) Is responsible for the performance of the Shire functions.**

This role provides for the Council to bear the ultimate responsibility for the performance of the Shire's functions, but not its day to day operations, which are the responsibility of the CEO. The Council exercises this responsibility through the development of appropriate governance frameworks, including delegations of authority, and in the determination of an appropriate organisational structure in consultation with the CEO.

**(c) Oversees the allocation of the Shire finances and resources.**

The Council exercises this role by adopting the Shire's budget and long-term financial plans. It is advised by officers of the Shire who are responsible for the development of appropriate financial controls and strategic documents.

**(d) Determines the Shire policies.**

The role of Council in setting policy is most effective when policies are developed in consultation with the CEO who will then implement them through the development of appropriate management practices and work processes with staff.

Council policy should set the standards for the organisation to achieve and make strategic policy decisions to guide staff in their decision-making processes.

## Role of Elected Representation

The Council consists of eight members including the Shire President. Councillors are elected by the community. The Shire President is elected by the Councillors. Local Government elections are conducted biennially on a fixed date prescribed by the Act, with candidates elected to the office of Councillor for a four (4) year period. The Council elected President is for a two (2) year period.

Each individual Councillor has a legislative requirement to fulfil this role. This governance framework provides guidance to Councillors on how they perform this role at the Shire.

Individually Councillors have a responsibility to act as a conduit between the community and the Shire. Not only must they represent the interest of the broader community on the Council, but also as community leaders they must always represent the interests of the Shire.

While Councillors may be elected from an individual location of the Shire, their primary obligation is to represent the interests of the broader community. It is not appropriate for individual Councillor's constituent concerns to interfere with their decision-making processes in providing good governance of the Shire as a whole.

Councillors are responsible and ultimately accountable for long term financial planning, the annual budget and monitoring financial performance. In doing so, each individual elected member accepts a joint and individual responsibility for the financial outcomes.

Accountability and transparency is also facilitated through the standards and behaviour maintained by members – most notably, through their adherence to legislation governing declarations of financial and other interest where these arise, together with associated implications for participation in any debate.

Elected Members rely on:

- Financial advice and information from administration;
- Input from internal and external auditors.

Elected Members must also seek whatever additional information they need to make informed decisions through appropriate channels.



## Responsibilities of Council

The responsibilities of Council can be categorised into the following three key areas:

**Legislative** - If considered necessary, the Council is responsible for adopting local laws to reflect current community standards and provide for the good governance of the Shire. Council when making local laws must be aware of their legislative effect.

**Executive** - The Council is responsible for overseeing the executive functions of the Shire and determines appropriate policies, strategies and functions for the CEO to implement.

**Quasi - judicial** - The Council is responsible for applying factual situations to the legislative regime in a quasi-judicial manner under the Local Government Act, Town Planning and Development Act and other relevant legislation.

### **Accountability, stewardship, sustainability and innovation focus.**

Accountability objectives are most effectively pursued where the focus of Elected Members of Council centres upon:

- Strategic planning, policy development and defining scope for delegation of powers and functions;
- Allocating the Shire's resources to the CEO;
- Monitoring performance of the Shire against adopted strategies and objectives;
- Representing the interests of the community;
- Appointing the CEO and participating in the performance review process of this officer.

Accordingly, the Council is required to be accountable and transparent by undertaking deliberations and making resolutions within a framework which is factually based, non-prejudicial and relevant to issues at hand.

## Limitation of Member Liability

The Shire has the legal capacity of a natural person. As such, the Shire may instigate legal proceedings in its corporate name and have proceedings taken against it. Section 9.56 of the Act, (as below) specifies the limitation Councillors must be aware of when taking office.

Section 9.56 of the WA Local Government Act 1995 Division 4 — Protection from liability

Certain persons protected from liability for wrongdoing 9.56.

1. A person who is — (a) a member of the council, or of a committee of the council, of a local government; (b) an employee of a local government; or (c) a person appointed or engaged by a local government to perform functions of a prescribed office or functions of a prescribed class, is a protected person for the purposes of this section.
2. An action in tort does not lie against a protected person for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act or under any other written law.
3. The protection given by this section applies even though the thing done in the performance or purported performance of a function under this Act or under any other written law may have been capable of being done whether or not this Act or that law had been enacted.
4. This section does not relieve the local government of any liability that it might have for the doing of anything by a protected person.
5. In this section — (a) a reference to the doing of anything includes a reference to the omission to do anything; 314 Local Government Act 1995 No. 74 s. 9.57 (b) a reference to the doing of anything by a protected person in the performance or purported performance of a function under any written law other than this Act is limited to a reference to the doing of anything by that person in a capacity described in subsection (1) (a), (b) or (c), as the case may be.

It is largely due to such legislative-based requirements local governments have embraced strategies designed to mitigate the liability of members and officers, with liability insurance protection and risk management now serving as a significant element of corporate governance frameworks.

It is for these reasons many organisations have developed and implemented processes for identifying, analysing and mitigating risks, which could prevent the achievement of business objectives. These organisations have put control activities in place to manage risk throughout the organisation by developing risk management plans which cover activities as diverse as (yet not limited to) reviews of operating performance, information technology and management information systems.

### The Role of the Shire President – Section 2.8 of the Act

- preside at meetings in accordance with the Act;
- provide leadership and guidance to the community;
- carry out civic and ceremonial duties on behalf of the Shire;
- speak on behalf of the Shire;
- perform such other functions as are given to the Shire President by the Act or any other written law;
- liaise with the CEO on the Shire affairs and the performance of its functions; and
- otherwise fulfil the role of Councillor.

### The Role of the Deputy Shire President – Section 2.9 of the Act

Perform the functions of the Office of Shire President if it is vacant or perform the functions of the Shire President if the Shire President is not available or is unable or unwilling to perform the functions.

### Statutory Role of Councillors – Section 2.10 of the Act

- represent the interests of electors, ratepayers and residents of the Shire;
- provide leadership and guidance to the Shire community;
- facilitate communication between the community and the Council;
- participate in the Shire decision making processes at Council and Committee meetings; and
- perform such other functions as are given to a Councillor by this Act or any other written law.

### Role of the CEO Role – Section 5.41 of the Act

- advise the Council in relation to the functions of the Shire under the Act and other written laws;
- ensure advice and information is available to the Council to ensure informed decisions can be made;
- cause Council decisions to be implemented;
- manage the day to day operations of the Shire;
- liaise with the Shire President on the Shire affairs and the performance of the Shire's functions;
- speak on behalf of the Shire if the Shire President agrees;

- be responsible for the employment, management, supervision, direction and dismissal of other employees (subject to Section 5.37 (2) in relation to senior employees);
- ensure records and documents of the Shire are properly kept for the purposes of the Act, or any other written law; and
- perform any other function specified or delegated by the Shire or imposed under the Act or any other written law as a function to be performed by the CEO.

Section 5.42 of the Act enables the Shire to delegate in writing to the CEO, the capacity to exercise any of its powers or duties, with the exception of those relating to:

- actions in which decisions of an absolute majority or a 75% majority of the Council is required;
- acceptance of a tender which exceeds an amount as determined by the Council;
- appointment of an auditor;
- acquisition or disposal of any property valued at an amount exceeding an amount determined by the Council for the purposes of this paragraph;
- any of the Council's powers under Sections 5.98A, 5.99A or 5.100 (determining fees, allowances and expenses of members and Committee members);
- borrowing money on behalf of the Shire;
- hearing or determining an objection of a kind referred to in Section 9.5;
- (carrying out any power or duty requiring the approval of the Minister or the Governor); or
- such other powers or duties as may be prescribed.

This clear separation of elected member and CEO roles and responsibilities as identified within the Act reinforces good governance principles. It also ensures the Shire adheres to all statutory requirements whilst meeting the expectations of its community.

### Executive Management Role

In undertaking its functions and responsibilities, Council is supported by the CEO and an Senior Staff. The Executive Management Team, comprising of the CEO and staff as determined by the CEO, meets regularly as a basis for ensuring effective coordination of the Shire's operations and implementation of Council resolutions. These meetings are complemented by operational meetings (Administration meetings and works tool box meetings) to enable management information dissemination and to receive feedback from officers.

## Decision Making

### Agenda Setting

- an effective and efficient strategic planning process which produces owned strategic goals; and
- processes being in place which ensures Council plans are properly implemented.

### Information Gathering

- ensuring the information gathered is sufficient to allow a decision to be made;
- ensuring an effective process within the administration to convert information into advice;
- providing good quality and timely Council reports, which provide the necessary information, options and clear recommendations. The reports will always incorporate the corporate view of the issue in question, the financial impacts, effects on Integrated Plans, consultation and any risks;
- having workable and productive consultation processes in place ensures decision-makers are aware of the views of those whom the decision affects;
- a sound process for identifying and distilling data into appropriate information;
- agendas being structured so as to facilitate good decision-making processes.

### Opinion Formation

- This will be achieved through ensuring Elected Members understand the issues and have enough information provided to make an informed decision.

### Decision-making

- Council and committee meetings being well chaired and conducted in accordance with Council Standing Orders Local Law 2016;
- facilitating participation and involvement while ensuring debate is relevant and succinct;
- robust debate which ensures all issues are aired. Although it is robust, the debate is conducted with courtesy and respect;
- the Chair attempting to find common ground amongst Elected Members; opportunities being available for the community to participate appropriately;
- delegations where appropriate.

### Implementation

- decisions being implemented in a timely manner;
- solidarity amongst the Councillors once a decision has been made;
- confidentiality being maintained wherever necessary.

## Financial Management

“There should be robust and transparent financial management established and maintained to meet local government’s accountability to its stakeholders, particularly in terms of stewardship of community assets, both now and into the future”.

The Council will achieve this by:

- Ensuring management have service delivery strategies to reflect the services and projects identified for the relevant financial year as shown in the Corporate Plan.
- Approve each year’s annual budget in accordance with the adopted service delivery strategies as shown in the Corporate Plans and the Long-Term Financial Plan.
- Council, through policy, will determine the appropriate mix between borrowing for capital works and funding them from revenue. Council will consider the implications of its decisions on the level of capital works and asset maintenance.

## Funding Strategic Objectives

Section 5.56 of the Act requires a local government to prepare a plan for the future. The Council must know the direction it is going long term. Its vision and goals must be properly reflected in the Strategic Community Plan. Council will take its final decisions about the content of the Strategic Community Plan based on an understanding of the long-term financial consequences of their decisions.

## Long-Term Financial Planning

Elected Members, sitting as Council, will determine the Long-Term Financial Plan, and be accountable for the process of developing it. The delivery of the services identified in the Long-Term Financial Plan will be in accordance with the Shire’s strategic direction. The financial strategy should be consistent with the Council’s Strategic Community Plan and it must be able to fund its projects, functions and service improvements. Information will be presented to Council by officers through reports to enable Council to make informed decisions.

The Shire’s Long-Term Financial Plan will detail the significant programs and activities to be undertaken by the Shire over the next ten years and roll on each year with amendments and additions. The Plan provides a broad overview of where financial resources of the Shire will be directed over this period and the manner in which these activities will be funded. The implementation of a Long-Term Financial Plan (LTFP) can be used to align capital and operating expenditure requirements with income streams and comply with Council’s rating strategy and policy incorporated in the LTFP.

## **The Rating System**

The rating system at the Shire will reflect the Council's strategy and vision for the future of the Shire. The rating levels and mix will represent a fair distribution of the rate burden across the community. Council's approach to rating will incorporate the concept of intergenerational equity; (i.e. the way the rating burden is spread between current and future generations of ratepayers of the Shire). Council will be informed whether the rates outcome, which was envisaged in the LTFP, is still appropriate and consistent with all objectives of the Strategic Community Plan. Mindful of the role outlined under Section 2.10 of the Act, Councillors must assess if the budget delivers what the Council wishes to achieve.

## **Annual Budget**

Developed as part of sound business management, the annual budget provides a framework for allocation of financial, physical and staff resources required in pursuing the Shire's objectives for the proceeding twelve-month period. The Manager Finance and Corporate Services (MFCS) will annually develop a budget preparation timetable and process to meet Council's statutory requirements and give enough time to resolve major issues. The CEO and MFCS will ensure Council and staff are given adequate time to have the opportunity to work through key issues. Council's Long-Term Financial Plan will provide broad guidance for the budget. The Long-Term Financial Plan will be reviewed at least annually to incorporate the long term impact of any significant changes or decisions which are not consistent with the current plan.

## **Statutory Compliance**

The Shire recognises when decisions are made by Council, when resolutions are acted upon and when performance outcomes are reported, it is important the requirements of any legislation and/or regulations are complied with, especially because of the reporting requirements of the Compliance Audit Return. Compliance will be pursued through ensuring the integrity of the key financial planning and reporting mechanisms which underpin the Shire's operations – especially the Annual Budget and Annual Report.

Compliance with key financial and statutory requirements is assessed through the audit schedule conducted in accordance with the Act by professionally qualified internal and external parties as appointed by the Shire. Financial reporting to Council will, as a minimum, be in accordance with its statutory requirements.

## **Content**

The focus of financial reports to Council is to provide accurate information about the Shire's overall financial position. Councillors, when considering the financial reports, will satisfy themselves the information they are given reflects the actual situation of the Shire. Councillors will ensure they understand sufficiently about the financial indicators for them to ask appropriate questions and interpret the responses.

## **Annual Report**

The Annual Report has its basis in the Act, but also serves as the vehicle by which the Shire can evaluate, monitor, control, improve and report on the outcome of its activities over a particular financial year. The Annual Budget should reflect the priorities expressed in the Strategic Community Plan and the Annual Report should indicate the extent to which those priorities have been achieved.

## **Services and Funds**

Council will:

- have appropriate user charges for its services and facilities.
- be mindful of the proportion of financial resources required to meet operational and capital costs for the Shire.
- comply with government policy.
- where appropriate, seek to obtain other avenues of financial assistance such as grants, being mindful of financial and management obligations of accepting any grant
- ensure costs can be recognised, recorded and recovered appropriately.

## **Capital Works Debt Servicing**

- Key assets will be maintained.
- Any borrowing must be sustainable and not impose an unacceptable level of debt servicing.
- Council will be informed on the proportion of financial resources required to service debt and decide whether it is appropriate for the Shire.

## **Accountability and Policy**

- Council will meet legislative and financial reporting requirements.
- Council will meet accountability requirements to the community in terms of stewardship of assets.
- Council will strive to achieve best practice in financial policies and practices.
- Council will strive to leave an appropriate legacy for future Councils.

## **Audit**

The Local Government Act 1995 (the Act) requires all local governments establish an audit and risk committee. This committee plays a key role in assisting a local government to fulfil its governance and oversight responsibilities in relation to financial reporting, internal control structure, risk management systems, legislative compliance, ethical accountability and the internal and external audit functions. Ref: Audit in Local Government - The appointment,



## **Risk Management**

An effective approach to the identification, assessment, monitoring and management of risks should be established and maintained. The Shire's performance in implementing effective risk management strategies and adherence to sound business practice is reinforced through access to independent legal advice (as required), the completion of the annual statutory Compliance Audit Report (internal) and the annual financial audit undertaken by professional, external auditors as required by the Act. The Shire also maintains a wide range of assets that include infrastructure assets; real property; financial assets; information, intellectual property, natural and heritage assets.

As required by regulations, the Shire takes an active approach to risk management in the conduct of its business through the implementation of a number of specific and organisation wide initiatives. This risk management strategy involves the Shire identifying, collating and treating all the identified risk (internal and external) to ensure a coordinated approach to effectively minimise business, financial and physical liability to the Shire's operations. The Council will ensure the risk management program is of the standard required to meet its fiduciary obligations to:

- safeguard assets
- ensure there are enough monies to meet its financial obligations when due prevent and detect fraud
- ensure accuracy and completeness of accounting records.

## **Delegations**

Effective delegations should be implemented and maintained. Delegations of authority are required in order to provide officers of the Shire with the power to exercise duties and make determinations. It is essential Council's delegations are performed in accordance with the adopted governance framework and are compliant with relevant legislation. The Shire is required to keep records on the exercise of its delegations. Council may delegate authority to the CEO and other nominated officers under the provisions of the following legislations (yet not limited to), the Local Government Act 1995, Local Government (Miscellaneous Provisions) Act 1960, Building Act 2011, Health Act 1911, Strata Titles Act 1985, Caravan Parks and Camping Grounds Regulations 1987, Bushfire Act 1954, Emergency Management Act, Litter Control Act, Dog Act, Cat Act and the Shire, Town Planning Scheme to perform some of its functions and duties.

The Local Government Act and associated regulations allow the CEO to sub-delegate to any other officer the authority to perform functions and duties exercisable by the CEO under the Local Government Act or have been delegated to the CEO by the Council.

This is in accord with a governance framework whereby officers are responsible to the CEO and the CEO is responsible to Council. The CEO is also responsible for the implementation of Council decisions and may delegate some of this responsibility to other officers of the Shire.

All delegations are to be recorded in a register established for the purpose (as required by the Act) and reviewed annually. The CEO will advise Council of any decisions made under delegated authority.

Under the provisions of Town Planning Scheme Council may delegate authority to certain officers other than the CEO. If such a delegation is exercised Council shall be advised.

## Accountability

“Local government must account for its activities and have systems to support this accountability”

Excellence in governance is based on the premise of those who are involved in governance being held accountable for what they do. Accountability at the Shire means the Elected Members and management taking responsibility for their performance.

Elected Members and management at the Shire accept they are accountable under legislation in terms of how the Council operates and reports. This also extends to other measures such as:

- Risk management systems implemented and maintained to ensure community assets are protected.
- Internal and external audits and Finance & Audit committee focused towards providing assurances to all stakeholders the processes and procedures are being adhered to and financial reports are accurate.
- Consultation and policies to support good decision making by ensuring Elected Members are aware of the views of those who will be affected by any decision.

## Operational and Strategic Performance Management

There should be an active performance management system in place to enable Elected Members and staff to be openly accountable for their performance.

The Shire hope to establish a range of mechanisms to ensure performance is measured, reviewed and improved and thereby enable remedial action to be taken, where necessary. The Shire is committed to the development of appropriate performance measures in financial policies and strategic plans to ensure long term viability. Ongoing financial performance will continue to be monitored through internally and externally based systems and processes. Effective coordination between the strategic and operational elements will be maintained through a regular report to Council which is based on the Strategic Community Long Term Financial Plans.

## CEO Performance Management

The CEO is appointed by the Council and is directly accountable to it. The Council is accountable for setting the CEO's performance plan and subsequent monitoring of his or her performance. This responsibility belongs to Council sitting as the Council and is not the responsibility of individual Elected Members.

Council appoints a CEO's Performance Review Working Group which is responsible for:

- Determining and setting in place an appropriate review process.
- Undertaking a performance appraisal of the CEO in accordance with the provisions of Section 5.38 of the Local Government Act 1995 and in accordance with the terms and conditions of the employment contract of the CEO.

- The Working Group will then report to the full Council its determination on the performance appraisal for Council input and endorsement for:
- Negotiating and setting goals, objectives, key performance indicators and changes to the remuneration package within the terms of the CEO's contract.
- Any goals, objectives, key performance indicators or remuneration package changes so negotiated, and set, must be acknowledged in writing by both the Shire President and the CEO.

### **Independent Review**

Local governments should continue with existing internal structures to provide for independent reviews of processes and decision-making to assist the Council to meet its accountability to stakeholders". Independent Reviews will be sought as appropriate through Internal and external auditors as appropriate.

### **Customer Consultation**

"Consultation should be undertaken appropriate to the scope and potential impact of the matter. It should respect the position and opinion of all stakeholders. The outcomes of the consultation should be taken into account when the decision is made, and feedback should be provided to those who participated." It reflects the core values (i.e. Respect, Openness, Teamwork, Leadership and Excellence) as important elements in serving the needs of residents and ratepayers.

The Shire is prepared to explore new and innovative methods of service delivery in order to provide improved access to information and enhance customer interaction.

The Shire is committed to fostering high levels of public awareness of its activities, by providing its residents and ratepayers with access to a wide range of information. Any policy or planning developments will be fully inclusive of the affected areas.

In addition to meeting the state wide and local public notice requirements prescribed by the Act in respect to proposals and activities, the Shire will also ensure information is available by electronic means. The Shire will utilise the local press for notifying residents about important issues. Information will also be posted on its official notice board located at the Administration Centre. The Shire Newsletter will continue in its role as a mechanism for disseminating information and encouraging feedback on key strategies, projects and significant Shire events.

The Shire's website at: [www.yalgoo.wa.gov.au](http://www.yalgoo.wa.gov.au) will serve as the focal point for providing up to date information and service delivery information to ratepayers and residents.

Public consultation involving residents and ratepayers is facilitated by the Shire through a range of mechanisms which include; information provision, consultation, public comment, Ordinary, Special and Annual General Meetings.

## Support for Elected Members in the Governance Process

Elected Members are encouraged to attend professional development offered by the Local Government Department, WA Local Government Association or any other appropriate body/individual to better enable them to carry out their duties. Professional development needs, advice or resources can be facilitated by the CEO or relevant delegated officers.

### **Standards of Conduct**

The Shire Code of Conduct provides Councillors and Staff at the Shire with consistent guidelines for an acceptable standard of professional conduct. The Code addresses the broader issue of ethical responsibility and encourages greater transparency and accountability in the operations of the Council and Administration.

The Code is complementary to the principles adopted in the Local Government Act 1995 and regulations which incorporates four fundamental aims to result in:

- Better decision-making by Council;
- Greater community participation in the decisions and affairs of Council;
- Greater accountability by Council to its communities; and
- More efficient and effective organisation.

The Code requires a commitment to ethical and professional behaviour and outlines principles in which individual and collective responsibilities may be based. The Shire of Yalgoo's Code of Conduct is found in Section Four of this Governance and Policy Manual.

### **Enforcement of the Code**

Any Elected Member, Committee Member or Council employee having concerns with regard to an actual, perceived, potential, intended or unintended breach of either the specific provisions or the spirit of the Code of Conduct, or any provisions of the Local Government Act 1995 or such regulations or local laws created there under or any other relevant legislation, should discuss those concerns with the Shire President for Elected Members or CEO for Council employees.

Such reports shall be treated in the strictest confidence until such time as an appropriate investigation has been undertaken. Any actions taken as a result of a breach will be made in accordance with the provisions of any applicable legislative requirements and the local government's responsibilities as an employer.

It should be noted the Corruption and Crime Commission Act 2003 requires the reporting to the Commission by all public sector agencies of suspected "misconduct" within their agency. Misconduct generally occurs when a public officer abuses authority for personal gain or to cause a detriment to another person or acts contrary to the public interest.

## **Reporting Alleged Breaches of the Code**

- Councillors will report an alleged breach by a Councillor or employee to the President who will in turn refer the alleged breaches by an employee to the CEO.
- Employees will report an alleged breach by a Councillor or employee to the CEO who will in turn refer alleged breaches by a Councillor to the President.
- Councillors and employees will report an alleged breach by the CEO to the President.
- Councillors will report an alleged breach by the President to the Deputy President.

## **Responsibility for Upholding the Code**

- All Council members have a shared responsibility for upholding the Code.
- The President is responsible for dealing with alleged breaches of the Code by a Councillor or the CEO.
- The CEO is responsible for dealing with an alleged breach by an employee.
- The Deputy President is responsible for dealing with an alleged breach by the President.

## **Dealing with Alleged Breaches**

- All alleged breaches will be investigated promptly while the issue is current.
- The investigation of an alleged breach will be dealt with in a sensitive nature, guided by the principles of natural justice and will be investigated in confidence.
- When investigating an alleged breach, the investigator will maintain all records of the investigation.
- A breach of the Code will be dealt with in a manner deemed appropriate by the investigator taking into consideration the nature and the seriousness of the breach.
- After investigating the alleged breach, the investigator will advise the relevant parties of the outcome.

## Part Four – Key Documents, Policies and Procedures for Council

### Policy 1.1 – Shire of Yalgoo Code of Conduct for Council Members, Committee Members and Candidates

History	Adopted 19 July 2007
Former Policy	1.1 November 2020 Governance Organisational Policy Manual C2021-0413 Code of Conduct
Amended / confirmed	Review 30 <sup>th</sup> July 2021

#### Policy Statement

This Policy is adopted in accordance with section 5.104 of the Local Government Act 1995.

#### Division 1 — Preliminary provisions

##### 1. Citation

This is the Shire of Yalgoo Code of Conduct for Council Members, Committee Members and Candidates.

##### 2. Terms used

(1) In this code —

**Act** means the Local Government Act 1995;

**candidate** means a candidate for election as a council member;

**complaint** means a complaint made under clause 11(1);

**publish** includes to publish on a social media platform.

(2) Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

#### Division 2 — General principles

##### 3. Overview of Division

This Division sets out general principles to guide the behaviour of council members, committee members and candidates.

##### 4. Personal integrity

(1) A council member, committee member or candidate should —

- (a) act with reasonable care and diligence; and
  - (b) act with honesty and integrity; and
  - (c) act lawfully; and
  - (d) identify and appropriately manage any conflict of interest; and
  - (e) avoid damage to the reputation of the local government.
- (2) A council member or committee member should —
- (a) act in accordance with the trust placed in council members and committee members; and
  - (b) participate in decision making in an honest, fair, impartial and timely manner; and
  - (c) actively seek out and engage in training and development opportunities to improve the performance of their role; and
  - (d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.

## **5. Relationship with others**

- (1) A council member, committee member or candidate should —
- (a) treat others with respect, courtesy and fairness; and
  - (b) respect and value diversity in the community.
- (2) A council member or committee member should maintain and contribute to a harmonious, safe and productive work environment.

## **6. Accountability**

A council member or committee member should —

- (a) base decisions on relevant and factually correct information; and
- (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
- (c) read all agenda papers given to them in relation to council or committee meetings; and
- (d) be open and accountable to, and represent, the community in the district.



## **Division 3 — Behaviour**

### **7. Overview of Division**

This Division sets out —

- (a) requirements relating to the behaviour of council members, committee members and candidates; and
- (b) the mechanism for dealing with alleged breaches of those requirements.

### **8. Personal integrity**

(1) A council member, committee member or candidate —

- (a) must ensure that their use of social media and other forms of communication complies with this code; and
- (b) must only publish material that is factually correct.

(2) A council member or committee member —

- (a) must not be impaired by alcohol or drugs in the performance of their official duties; and
- (b) must comply with all policies, procedures and resolutions of the local government.

### **9. Relationship with others**

A council member, committee member or candidate —

- (a) must not bully or harass another person in any way; and
- (b) must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government; and
- (c) must not use offensive or derogatory language when referring to another person; and
- (d) must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and
- (e) must not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.

### **10. Council or committee meetings**

When attending a council or committee meeting, a council member, committee member or candidate —

- (a) must not act in an abusive or threatening manner towards another person; and

- (b) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and
- (c) must not repeatedly disrupt the meeting; and
- (d) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and
- (e) must comply with any direction given by the person presiding at the meeting; and
- (f) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.

#### **11. Complaint about alleged breach**

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
- (2) A complaint must be made —
  - (a) in writing in the form approved by the local government; and
  - (b) to a person authorised under subclause (3); and
  - (c) within 1 month after the occurrence of the alleged breach.
- (3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.

#### **12. Dealing with complaint**

- (1) After considering a complaint, the local government must, unless it dismisses the complaint under clause 13 or the complaint is withdrawn under clause 14(1), make a finding as to whether the alleged breach the subject of the complaint has occurred.
- (2) Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard.
- (3) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
- (4) If the local government makes a finding that the alleged breach has occurred, the local government may —
  - (a) take no further action; or
  - (b) prepare and implement a plan to address the behaviour of the person to whom the complaint relates.
- (5) When preparing a plan under subclause (4)(b), the local government must consult with the person to whom the complaint relates.
- (6) A plan under subclause (4)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following —
  - (a) engage in mediation;

- (b) undertake counselling;
  - (c) undertake training;
  - (d) take other action the local government considers appropriate.
- (7) If the local government makes a finding in relation to the complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of —
- (a) its finding and the reasons for its finding; and
  - (b) if its finding is that the alleged breach has occurred — its decision under subclause (4).

### **13. Dismissal of complaint**

- (1) The local government must dismiss a complaint if it is satisfied that —
- (a) the behaviour to which the complaint relates occurred at a council or committee meeting; and
  - (b) either —
    - (i) the behaviour was dealt with by the person presiding at the meeting; or
    - (ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.
- (2) If the local government dismisses a complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of its decision and the reasons for its decision.

### **14. Withdrawal of complaint**

- (1) A complainant may withdraw their complaint at any time before the local government makes a finding in relation to the complaint.
- (2) The withdrawal of a complaint must be —
- (a) in writing; and
  - (b) given to a person authorised under clause 11(3).

### **15. Other provisions about complaints**

- (1) A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.
- (2) The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division.

## Division 4 — Rules of conduct

### 16. Overview of Division

- (1) This Division sets out rules of conduct for council members and candidates.
- (2) A reference in this Division to a council member includes a council member when acting as a committee member.

### 17. Misuse of local government resources

- (1) In this clause —

**electoral purpose** means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*;

**resources** of a local government includes —

- (a) local government property; and
  - (b) services provided, or paid for, by a local government.
- (2) A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

### 18. Securing personal advantage or disadvantaging others

- (1) A council member must not make improper use of their office —
  - (a) to gain, directly or indirectly, an advantage for the council member or any other person; or
  - (b) to cause detriment to the local government or any other person.
- (2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or *The Criminal Code* section 83.

### 19. Prohibition against involvement in administration

- (1) A council member must not undertake a task that contributes to the administration of the local government unless authorised by the local government or the CEO to undertake that task.
- (2) Subclause (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

### 20. Relationship with local government employees

- (1) In this clause —

**local government employee** means a person —

- (a) employed by a local government under section 5.36(1) of the Act; or

- (b) engaged by a local government under a contract for services.
- (2) A council member or candidate must not —
  - (a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or
  - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or
  - (c) act in an abusive or threatening manner towards a local government employee.
- (3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.
- (4) If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means —
  - (a) make a statement that a local government employee is incompetent or dishonest; or
  - (b) use an offensive or objectionable expression when referring to a local government employee.
- (5) Subclause (4)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.

## 21. Disclosure of information

- (1) In this clause —
  - closed meeting** means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;
  - confidential document** means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;
  - document** includes a part of a document;
  - non confidential document** means a document that is not a confidential document.
- (2) A council member must not disclose information that the council member —
  - (a) derived from a confidential document; or
  - (b) acquired at a closed meeting other than information derived from a non confidential document.
- (3) Subclause (2) does not prevent a council member from disclosing information —

- (a) at a closed meeting; or
- (b) to the extent specified by the council and subject to such other conditions as the council determines; or
- (c) that is already in the public domain; or
- (d) to an officer of the Department; or
- (e) to the Minister; or
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

**22. Disclosure of interests**

(1) In this clause —

***interest*** —

- (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and
  - (b) includes an interest arising from kinship, friendship or membership of an association.
- (2) A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —
- (a) in a written notice given to the CEO before the meeting; or
  - (b) at the meeting immediately before the matter is discussed.
- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —
- (a) that they had an interest in the matter; or
  - (b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.
- (5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —
- (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
  - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.

- (6) Subclause (7) applies in relation to an interest if —
  - (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or
  - (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.
- (7) The nature of the interest must be recorded in the minutes of the meeting.

**23. Compliance with plan requirement**

If a plan under clause 12(4)(b) in relation to a council member includes a requirement referred to in clause 12(6), the council member must comply with the requirement.

**Complaint About Alleged Breach Form -  
Code of conduct for council members, committee members and  
candidates**

Schedule 1, Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021*

- NOTE:** A complaint about an alleged breach must be made —
- (a) in writing in the form approved by the local government
  - (b) to an authorised person
  - (c) within one month after the occurrence of the alleged breach.

Name of person who is making the complaint:
Name: _____ <div style="display: flex; justify-content: space-around; width: 100%;"><span><u>Given Name(s)</u></span><span><u>Family Name</u></span></div>

Contact details of person making the complaint:
Address: _____
Email: _____
Contact number: _____

Name of the local government (city, town, shire) concerned:

Name of council member, committee member, candidate alleged to have committed the breach:



<b>State the full details of the alleged breach. Attach any supporting evidence to your complaint form.</b>
<b>Date of alleged breach:</b>
_____ / _____ / 20_____

<b>SIGNED:</b>
<b>Complainant's signature:</b> .....
<b>Date of signing:</b> _____ / _____ / 20_____

<b>Received by Authorised Officer</b>
<b>Authorised Officer's Name:</b> .....
<b>Authorised Officer's Signature:</b> .....
<b>Date received:</b> _____ / _____ / 20_____

**NOTE TO PERSON MAKING THE COMPLAINT:**

This form should be completed, dated and signed by the person making a complaint of an alleged breach of the Code of Conduct. The complaint is to be specific about the alleged breach and include the relevant section/subsection of the alleged breach.

The complaint must be made to the authorised officer within one month after the occurrence of the alleged breach.

**Signed complaint form is to be forwarded to: [ceo@yalgoo.wa.gov.au](mailto:ceo@yalgoo.wa.gov.au) or 37 Gibbons St, YALGOO WA 6635**

# Policy 1.1b – Shire of Yalgoo Code of Behavior Complaint Management Policy

History	New
Former Policy	1.1 November 2020 Governance Organisational Policy Manual C2021-0413 Code of Conduct
Amended / confirmed	Review 30 <sup>th</sup> July 2021

## Policy Objective

To establish, in accordance with Clause 15(2) of the *Local Government (Model Code of Conduct) Regulations 2021* and the Shire of Yalgoo Code of Conduct for Council Members, the procedure for dealing with complaints about alleged breaches of the behaviour requirements included in Division 3 of the Shire of Yalgoo Code of Conduct for Council Members, Committee Members and Candidates.

To give effect to the Shire of Yalgoo’s commitment to an effective, transparent, fair and accessible complaints handling process that supports high standards of behaviour of Council Members, Committee Members and Candidates.

## Policy Scope

This Policy applies to complaints made in accordance with Clause 11 of the Shire of Yalgoo Code of Conduct for Council Members, Committee Members and Candidates.

This Policy applies to Council Members, Committee Members, Candidates and any person who submits a complaint in accordance with this Policy.

## Definitions

**Act** means the *Local Government Act 1995*.

**Behaviour Complaints Committee** means the Committee established by the Council in accordance with s.5.8 of the Act for the purpose of dealing with Complaints. The role of the Behaviour Complaints Committee is outlined in Part 2.3 of this Policy.

**Behaviour Complaints Officer** means a person authorised in writing [*by Council resolution or by the CEO exercising delegated authority*] under clause 11(3) of the Code of Conduct to receive complaints and withdrawals of complaints. The role of the Behaviour Complaints Officer is addressed in Part 2.1 of this Policy.

**Breach** means a breach of Division 3 of the Shire of Yalgoo's Code of Conduct for Council Members, Committee Members and Candidates.

**Candidate** means a candidate for election as a Council Member, whose nomination has been accepted by the Returning Officer under s.4.49 of the Act, but does not include a Council Member who has nominated for re-election. A person is a Candidate from the date on which their nomination is accepted, until the Returning Officer declares the election result in accordance with s.4.77 of the Act.

**Candidate Complaint** means a Complaint alleging a Breach by a Candidate. Candidate Complaints are dealt with in Part 3.2 of this Policy.

**Code of Conduct** means the Shire of Yalgoo's Code of Conduct for Council Members, Committee Members and Candidates.

**Committee** means a committee of Council, established in accordance with s.5.8 of the Act.

**Committee Member** means a Council Member, employee of the Shire of Yalgoo's or other person who has been appointed by the Council to be a member of a Committee, in accordance with s.5.10(1) of the Act. A person is a Committee Member from the date on which they are appointed, until their appointment expires or is terminated by Council resolution.

**Complaint** means a complaint submitted under Clause 11 of the Code of Conduct.

**Complainant** means a person who has submitted a Complaint in accordance with this Policy.

**Complaint Assessor** means the Behaviour Complaints Officer or a person appointed by the Behaviour Complaints Officer in accordance with Part 2.2 and Part 3.8 of this Policy.

**Complaint Documents** means the Complaint Form and any supporting information, evidence, or attachments provided by the Complainant.

**Complaint Form** means the form approved under clause 11(2)(a) of the Code of Conduct *[by Council resolution or by the CEO exercising delegated authority]*.

**Council** means the Council of the Shire of Yalgoo.

**Council or Committee Meeting** means a formal meeting of the Council or a Committee that is called and convened in accordance with the Act. It does not include informal meetings, such as workshops or briefings.

**Council Member** means a person who is currently serving a term of office as an elected member of the Council in accordance with the Act.

**Finding** means a finding made in accordance with clause 12(1) of the Code of Conduct as to whether the alleged Breach has or has not occurred.

**Plan** means a Plan that may be prepared and implemented under clause 12(4)(b) of the Code of Conduct, to address the behaviour of the person to whom the complaint relates (the Respondent), if a Finding has been made that a Breach has occurred.

**Response Documents** means the response provided by the Respondent to the Complaint, and includes any supporting information or evidence that is supplied.

## Policy Statement

### **1. Principles**

#### **1.1. Procedural fairness**

The principles of procedural fairness, or natural justice, will apply when dealing with a Complaint under this Policy. In particular:

the Respondent will be afforded a reasonable opportunity to be heard before any findings are made, or a plan implemented;

the decision maker should be objective and impartial, with an absence of bias or the perception of bias; and

any findings made will be based on proper and genuine consideration of the evidence.

#### **1.2. Consistency**

The application of this Policy should lead to consistency in process and outcomes. While each Complainant and Respondent will be dealt with according to their circumstances, and each Complaint considered and determined on its merits, similar circumstances will result in similar decisions.

#### **1.3. Confidentiality**

There is no direct statutory provision for confidentiality of behaviour breach allegations under the Act or Local Government (Model Code of Conduct) Regulations 2021. However the Shire of Yalgoo will take the following steps to protect both the Complainant and Respondent.

In order to allow the Respondent to understand and respond to the complaint against them, the name of the Complainant will be provided to the Respondent, unless the Complainant provides reasons this should not occur.

The Complainant's contact information will not be provided to the Respondent.

The Complainant's name and contact information will not be included in any publicly available documents such as meeting agenda or minutes.

The Complainant should be aware that Complaint Documents may be subject to an FOI request, noting that they must be consulted before any documents are released, and exemptions may apply.

## **1.4. Accessibility**

The Shire will ensure that information on how to make a complaint, including this Policy, is available at the Shire's Administration Building and on the Shire's website. The Shire will make information available in alternative formats if requested.

Any person wishing to make a complaint may contact the Behaviour Complaints Officer if they require assistance in completing the complaint form or otherwise navigating the complaints process.

The Shires Behaviour Complaints Officer is the Chief Executive Officer who can be contacted on 0417 484 840 or [ceo@yalgoo.wa.gov.au](mailto:ceo@yalgoo.wa.gov.au)

## **2. Roles**

### **2.1. Behaviour Complaints Officer**

The Behaviour Complaints Officer is authorised in accordance with clause 11(3) of the Code of Conduct to accept complaints and withdrawal of complaints.

The Behaviour Complaints Officer is not an advocate for the complainant or the respondent. The Behaviour Complaints Officer provides procedural information and assistance to both Complainant and Respondent.

The Behaviour Complaints Officer will liaise with and provide administrative support to a Complaint Assessor appointed under this Policy.

The Behaviour Complaints Officer will liaise with the Local Government to facilitate the calling and convening of Council or Behaviour Complaints Committee meetings if required.

In undertaking their functions, the Behaviour Complaints Officer will apply the Principles of this Policy.

### **2.2. Complaint Assessor**

The Complaint Assessor is appointed by the Behaviour Complaints Officer in accordance with Part 3.8 of this Policy if, by their own opinion, the Behaviour Complaints Officer believes they are unable to act as a Complaint Assessor due to an actual or perceived bias.

The Complaint Assessor will be an impartial third party who will undertake the functions specified in this Policy if the Behaviour Complaints Officer does not believe they can act impartially or that they have sufficient time or experience to carry out an investigation. In undertaking their functions, the Complaint Assessor will apply the Principles of this Policy.

The Behaviour Complaints Officer may appoint a Complaint Assessor at any point during this process with notice to all parties that this has occurred.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to manage the administrative requirements of dealing with the Complaint in accordance with this Policy.

A Complaint Assessor should request a written response from the Respondent and review all documents provided (the Complaint Documents, any Local Government Records identified by the Behaviour Complaints Officer, and Response Documents). If they believe an investigation is required the scope of the investigation shall be determined by the Behaviour Complaints Officer in accordance with the Shires Budget and Purchasing Policy.

### **2.3. Behaviour Complaints Committee**

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the Act for the purpose of dealing with Complaints.

The Behaviour Complaints Committee is a Committee of Council Members only. The membership and purpose of the Behaviour Complaints Committee is outlined in the Complaints Committee Terms of Reference.

#### **Behaviour Complaints Committee Terms of Reference**

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the *Local Government Act 1995* (the Act) for the purpose of dealing with Behaviour Complaints made under Division 3 of the Shire of Yalgoo's Code of Conduct for Council Members, Committee Members and Candidates (Code of Conduct).

The extent of authority provided to the Behaviour Complaints Committee is specified in the relevant Delegated Authority, and includes:

- Dismissing a behaviour complaint in accordance with clause 13 of the Code of Conduct and providing reasons for any such dismissal.
- Making a Finding as to whether an alleged complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than it did not occur [*clause 12(3) of the Code of Conduct*].
- Determining reasons for such a Finding.
- Where a Finding is made that a breach has occurred, determining:
  - To take no further action; or
  - Prepare and implement a plan to address the behaviour of the person to whom the complaint relates.

The extent of authority of the Behaviour Complaints Committee is limited by Condition of the Delegated Authority.

## **Membership**

The Complaints Committee is a Committee of Council Members only in accordance with s.5.9(2)(a) of the Act.

Membership of the Behaviour Complaints Committee will comprise of all Council Members with the following condition:

The Delegated Authority Condition prescribes that if an appointed Committee Member is identified in the Complaint as either the Complainant or the Respondent, they are to recuse themselves from the Committee's Function by providing an apology. From the remaining Committee Members the Presiding Member of the Committee is determined by the following order; Shire President, Shire Deputy President, Councillor with longest continuous service or as nominated by the committee, with a blind draw if contested.

## **Meeting Schedule**

Meetings are to be scheduled as required by the CEO as Behaviour Complaints Officer in consultation with the Committee Presiding Member.

## **Delegated Authority**

The Behaviour Complaints Committee will act under Delegated Authority in accordance with s.5.16 of the Act. The delegation is recorded in the Shire Register of Delegations.

It is a Condition of Delegated Authority that the Behaviour Complaints Committee will be unable to exercise delegated authority if the Complainant or Respondent attend as a Complaints Committee Member.

## **Committee Governance**

Complaints Behaviour Committee meetings are required to:

- be called and convened by the CEO, as required, in consultation with the Committee's Presiding Member;
- make the Committee Notice Papers and Agenda publicly available [s.5.94(p), s.5.96A(f)], with the exception of agenda content that relates to that part of the meeting which will be closed to members of the public under s.5.23(2) [Admin.r.14]; and
- make Committee minutes publicly available [s.5.94(n), s.5.96A(h)], with the exception of Minutes content that relates to that part of the meeting which was closed to the public or was determined as confidential under s.5.23(2).

### 3. Procedure

#### 3.1. Making a complaint

Any person may make a Complaint alleging that a Council Member, Committee Member or Candidate has behaved in a way that constitutes a breach of Division 3 of the Code of Conduct *[clause 11(1) of the Code of Conduct]*.

A Complaint must be made within one (1) month after the alleged Breach *[clause 11(2)(c) of the Code of Conduct]*.

A Complaint must be made by **completing the Behaviour Complaint Form in full** and providing the completed forms to the Behaviour Complaints Officer.

A Complaint must be made in accordance with the Complaint Form and specify which requirement(s) of the Code of Conduct is alleged to have been breached.

A Complaint is required to include the name, signature and contact details of the Complainant therefore anonymous complaints cannot be accepted.

Where a Complaint Form omits required details, the Behaviour Complaints Officer will invite the Complainant to provide this information in order for the Complaint to be progressed.

Where a Complaint is made more than 1 month after the alleged breach, the Behaviour Complaints Officer will give the Complainant written notice that the Complaint cannot be made *[clause 11(2)(c) of the Code of Conduct]*.

#### 3.2. Candidate Complaints

A Complaint in relation to a Candidate must be made in accordance with 3.1, above, but cannot be dealt with unless the Candidate is subsequently declared elected as a Council Member.

Within 7 days after receiving a Candidate Complaint, the Behaviour Complaints Officer will provide written notice:

To the Complainant confirming receipt, and advising of the procedure for candidate complaints; and

To the Respondent, including a summary of the complaint, and advising of the procedure for candidate complaints.

No action will be taken until the results of the election are declared by the Returning Officer. If the respondent is elected, then the complaint will be dealt with in accordance with this Policy. Timeframes that would otherwise commence on the receipt of a Complaint will be taken to commence on the election date.

If the Respondent is not elected, the Behaviour Complaints Officer will provide the Complainant with notice that the Respondent has not been elected and that the Complaint cannot be dealt with *[clause 15(1) of the Code of Conduct]*.



### **3.3. Withdrawing a Complaint**

A Complainant may withdraw their Complaint at any time before a Finding has been made in relation to the Complaint [*clause 14 of the Code of Conduct*].

A Complainant may withdraw a Complaint by advising the Behaviour Complaints Officer in writing that they wish to do so.

After receiving a written withdrawal of the Complaint, the Behaviour Complaints Officer will take all necessary steps to terminate the process commenced under this Policy.

### **3.4. Notice to Complainant**

Within 7 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Complainant that:

- confirms receipt of the Complaint;
- outlines the process that will be followed and possible outcomes;
- explains the application of limited confidentiality to the complaint;
- includes a copy of this Policy; and
- if necessary, seeks clarifications or additional information; and
- an offer as outlined in this policy to accept and participate in or decline an Alternative Dispute Resolution.

If the Complainant agrees to an Alternative Dispute Resolution, the Behaviour Complaints Officer will advise the Complainant of the process in accordance with Part 3.6 of this Policy.

### **3.5. Notice to Respondent**

Within 14 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Respondent that:

- advises that a Complaint has been made in accordance with the Code of Conduct and this Policy;
- includes a copy of the Complaint Documents;
- outlines the process that will be followed, the opportunities that will be afforded to the Respondent to be heard and the possible outcomes;
- includes a copy of this Policy; and
- if applicable, advises that further information has been requested from the Complainant and will be provided in due course.

If the Complainant has agreed to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will ask the Respondent if they are also willing to participate in accordance with Part 3.6 of this Policy.

### **3.6. Alternative Dispute Resolution**

The Shire of Yalgoo recognises that Alternative Dispute Resolution may support both parties to reach a mutually satisfactory outcome that resolves the issues giving rise to the Complaint. Alternative Dispute Resolution requires the consent of both parties to the Complaint and may not be appropriate in all circumstances.

To commence the process, the Behaviour Complaints Officer will, as the first course of action upon receiving a complaint, offer the Complainant and the Respondent the option of Alternative Dispute Resolution. If both parties agree to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will pause the formal process.

The objective of Alternative Dispute Resolution will be to reach an agreed resolution that satisfies the Complainant that the formal process is no longer required, allowing them to withdraw the Complaint, in accordance with Part 3.3 of this Policy. For example, an offer by a Respondent to issue a voluntary apology in response to a Complaint, even in the absence of a request from the Complainant, qualifies for consideration as Alternative Dispute Resolution.

If Alternative Dispute Resolution is commenced, both the Complainant and Respondent may decline to proceed with the process at any time. The process may also be terminated on the advice of a third party who is providing assistance to the Local Government, such as a facilitator or mediator.

If Alternative Dispute Resolution is terminated or does not achieve an agreed outcome that results in the withdrawal of the Complaint, the Behaviour Complaints Officer will resume the formal process required under this Policy.

In any case the Behaviour Complaints Officer will act as intermediary and specify a time/cost threshold. For example if no agreement between the parties occurs within a reasonable timeframe, then the Alternative Dispute Resolution will be deemed as unsuccessful, and the formal complaints procedure will resume.

### **3.7. Order of Complaints**

Complaints will normally be dealt with in the order in which they are received.

If more than one Complaint is received that relates to the same alleged behaviour, the Behaviour Complaints Officer may decide to progress those Complaints concurrently.

### **3.8. Appointment of Complaints Assessor**

If Alternative Dispute Resolution is not commenced, is terminated or does not achieve an agreed outcome resulting in the withdrawal of the Complaint, the Behaviour Complaints Officer will appoint a suitably qualified and experienced Complaint Assessor, in accordance with the Shire's Purchasing Policy.

The Behaviour Complaints Officer will endeavour to appoint a Complaint Assessor within a reasonable period. The Behaviour Complaints Officer will provide written notice of the appointment to the Complainant and the Respondent.

The Behaviour Complaints Officer will undertake procurement in accordance with the Local Government's Purchasing Policy, based on sufficiently detailed guidance on suitable qualifications and experience, if Part 2.2 of this Policy requires them to do so.

### **3.9. Search of Local Government Records**

The Complaint Assessor may request the Behaviour Complaints Officer to search for any relevant records in the Shire's Record Management System.

In particular, if the behaviour is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Officer will be requested to identify any Local Government records that provide evidence that may support a decision as to whether:

the behaviour occurred at a Council or Committee Meeting,

the behaviour was dealt with by the person presiding at the meeting, and/or

the Respondent has taken remedial action in accordance with the Shire of Yalgoo Standing Orders.

The Complaints Assessor must provide the Respondent with a copy of any records that are identified. In addition, where a clarification or additional information has been sought from the Complainant by either the Behaviour Complaints Officer or the Complaint Assessor, copies must also be provided to the Respondent.

### **3.10. Assessment of the Complaint**

The Complaint Assessor will undertake an assessment of the Complaint in accordance with the process outlined in the Notices given under Part 3.4 and Part 3.5 of this Policy.

The Complaint Assessor must ensure that the Respondent is provided with a reasonable opportunity to be heard before forming any opinions, or drafting the Complaint Report or recommendations. Indicatively the Respondent should provide a response within 14 days in writing unless another format is reasonable. The Complaints Assessor is to exercise their professional skill and judgment in that regard.

### **3.11. Complaint Report**

The Complaint Assessor will prepare a Complaint Report that will:

- outline the process followed, including how the Respondent was provided with an opportunity to be heard;
- include the Complaint Documents, the Response Documents and any relevant Local Government Records as attachments; and

- include recommendations on each decision that may be made by the Complaints Committee; and
- include reasons for each recommendation, with reference to Part 4 of this Policy.

If the Complaint Report recommends that a Plan is prepared and implemented in accordance with clause 12(4)(b) of the Code of Conduct and Part 4.4 of this Policy, the Complaint Report must include a Proposed Plan.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to include the Complaint Report in the Agenda for a meeting of the Complaints Committee. The Behaviour Complaints Officer will be responsible for preparation of an Officer Report with the Complaint Report provided as a confidential attachment. The recommendations of the Complaint Report will be provided as the Officer Recommendations.

The Respondent is to be provided with the draft Complaint Report so that they can make one final submission within 7 days, before the Complaint Assessor finalises the Complaint Report.

### 3.12. Complaints Committee Meeting

The Agenda will be prepared on the basis that the part of the meeting that deals with the Complaint Report will be held behind closed doors in accordance with s.5.23(2) of the Act.

The Behaviour Complaints Committee will consider the Complaint Report and attachments and give due regard to the recommendations.

In accordance with Regulation 11(d)(a) of the *Local Government (Administration) Regulations 1996*, reasons for any decision that is significantly different from the Officer Recommendation must be recorded in the meeting minutes.

The Local Government is required to include reasons when providing notice of its decisions under clauses 12(4), 12(7) and 13 of the Code of Conduct. The Complaint Report is required to provide reasons for each of its recommendations, which become the Officer Recommendations.

If the behaviour that is the subject of the Complaint is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Committee will determine whether or not to dismiss the Complaint in accordance with Clause 13 of the Code of Conduct and Part 4.2 of this Policy.

If the Behaviour Complaints Committee dismisses a Complaint, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the decision and the reasons for the decision in accordance with clause 13(2) of the Code of Conduct. This concludes the process for this Complaint.

If the Complaint is not dismissed, the Behaviour Complaints Committee will consider the Complaint and make a Finding as to whether the alleged Breach that is the subject of the Complaint has or has not occurred, in accordance with clause 12 of the Code of Conduct and Part 4.3 of this Policy.

If the Behaviour Complaints Committee finds that the alleged Breach **did not** occur, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of

the Finding and the reasons for the Finding in accordance with clause 12(7)(a) of the Code of Conduct. This concludes the process for this Complaint.

If the Behaviour Complaints Committee finds that the alleged breach **did** occur, the Committee will decide whether to take no further action in accordance with clause 12(4)(a) of the Code of Conduct or prepare a plan to address the behaviour in accordance with clause 12(4)(b) of the Code of Conduct and Part 4.4 of this Policy.

If the Behaviour Complaints Committee decides to take no further action, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of this decision and the reasons for the Finding in accordance with clause 12(7)(a) of the Code of Conduct. This concludes the process for this Complaint.

If the Behaviour Complaints Committee decides to prepare a Plan, the Committee will first consult with the Respondent in accordance with clause 12(5)\* of the Code of Conduct. The Behaviour Complaints Committee will consider any submissions made by the Respondent before preparing and implementing a Plan.

\*In actioning clause 12(5) of the Code of Conduct, the Respondent may be invited to make an oral submission or provide a written response. If the final decision to implement a Plan is referred to a subsequent meeting of the Committee, the Complaints Assessor or Behavioural Complaints Officer may provide a report attaching the written response and potentially make an associated recommendation as to the effect of a Plan.

### **3.13. Compliance with Plan Requirement**

The Behaviour Complaints Officer will monitor the actions in timeframes set out in a Plan.

Failure to comply with a requirement included in a Plan is a minor breach under section 5.105(1) of the Act and clause 23 of the Code of Conduct.

The Behaviour Complaints Officer must provide a report advising Council of any failure to comply with a requirement included in a Plan.

## **4. Decision Making**

### **4.1. Objective and Principles**

All decisions made under this Policy will reflect the Policy Objectives and the Principles included in Part 1 of this Policy.

### **4.2. Dismissal**

The Behaviour Complaints Committee must dismiss a Complaint in accordance with clause 13(1)(a) and (b) of the Code of Conduct if it is satisfied that -

- (a) the behaviour to which the Complaint relates occurred at a Council or Committee Meeting; and
- (b) either —
  - (i) the behaviour was dealt with by the person presiding at the meeting; or
  - (ii) the Respondent has taken remedial action in accordance with the Shire of Yalgoo Meeting Procedures and Standing Orders.

### **4.3. Finding**

A Finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur [*clause 12(3) of the Code of Conduct*].

This may involve first considering whether the behaviour occurred, on the balance of probabilities, and then whether that behaviour constituted a breach of a requirement of Division 3 of the Code of Conduct.

### **4.4. Action**

In deciding whether to take no further action, or prepare and implement a Plan, the Complaints Committee may consider:

- the nature and seriousness of the breach(es);
- the Respondent's submission in relation to the contravention;
- whether the Respondent has breached the Code of Conduct knowingly or carelessly;
- whether the Respondent has breached the Code of Conduct on previous occasions;
- likelihood or not of the Respondent committing further breaches of the Code of Conduct;
- personal circumstances at the time of conduct;
- need to protect the public through general deterrence and maintain public confidence in Local Government; and
- any other matters which may be regarded as contributing to or the conduct or mitigating its seriousness.

### **4.5. Plan Requirements**

The Proposed Plan may include requirements for the Respondent to do one (1) or more of the following:

- engage in mediation;
- undertake counselling;
- undertake training;
- take other action the Complaints Committee considers appropriate (e.g. an apology).

The Proposed Plan should be designed to provide the Respondent with the opportunity and support to demonstrate the professional and ethical behaviour expected of elected representatives expressed in the Code of Conduct.

The Proposed Plan may also outline:

- the actions to be taken to address the behaviour(s);
- who is responsible for the actions;
- any assistance the Local Government will provide to assist achieve the intent of the Plan; and
- a reasonable timeframe for the Plan action(s) to be addressed by the Respondent.

#### **4.6. Relevant Legislation**

Local Government Act 1995

Local Government (Model Code of Conduct) Regulations 2021

## Policy 1.2 – Standing Orders

History	Adopted 19 July 2007
Former Policy	1.2 November 2020 Governance Organisational Policy Manual
Amended / confirmed	Review 30 <sup>th</sup> July 2021

### Objective

To set down rules of debate for Council or Committee meetings that satisfy the needs of the Shire of Yalgoo and create a framework for the smooth functioning of meetings.

### Policy Statement

#### **1. Interpretation**

In this policy, unless the contrary intention appears, “absolute majority” “CEO” “committee” “council” “councillor” “local government” “motion” “meeting” “member” “president” “presiding member” “prescribed,” shall be interpreted as defined in the Local Government Act 1995.

“Agenda” means a customary list of matters for consideration by the Council or Committee.

“Clause” means each numbered clause of this policy.

“Deputation” means any persons appearing before the Council or a Committee on specific business, other than within the time set aside at the commencement of the meeting for submissions and questions from members of the public.

“Reports” means committee or officer reports supported by a précis, administrative comment (where appropriate) and recommendations that are included in the agenda for Council consideration.

“Standing Orders” means this text.

#### **2. Proceedings to be Conducted According to Standing Orders**

The proceedings and business of the Council shall be conducted in accordance with the Act, regulations and any other State or Federal law, and where not specifically prescribed, according to this policy.

#### **3. Notice of Meeting – Members to Receive Notice**

Notice of a Council or Committee meeting shall be given by the CEO in accordance with the Act by means of an agenda setting out the matters for consideration.



#### **4. Notices of Motion – Councillor**

A councillor may bring forward business in the form of a written motion, which shall be given to the Chief Executive Officer, either at the meeting previous to the meeting at which it is intended to move the motion, or at any time thereafter, up to 24 hours before the close of the agenda.

#### **5. Agenda**

Notice required in clause 3 shall be in the form of an agenda setting out the matters for consideration and decision by the council which shall be closed by the CEO at such a time to ensure compliance with the requirements of the Act.

#### **6. Urgent Business**

General business will not be admitted to Council. In cases of urgency or other special circumstances, where a matter cannot or should not be deferred until the next meeting, urgent items may, with the consent of a majority of Elected Members present, be heard and dealt with. Any such business shall be in the form of a clear motion, and the President may require such a motion to be written and signed by the Councillor or officer proposing the motion or recommendation.

#### **7. Deputations**

Persons wishing to appear before Council or a Committee as a deputation should apply to the CEO at least one week before the date of the meeting, specifying the purpose of the deputation and the number of persons in the deputation. Deputations may be permitted at the discretion of the Presiding Member or by a resolution of the Council or Committee (as the case may not be). Not more than two members of a deputation may address the Council or Committee, except to answer questions from members of the Council or Committee. The Presiding Member may receive deputations at any time to suit the order of business, general convenience or good conduct of the meeting.

#### **8. Ordinary Meeting – Order of Business**

As far as practicable, proceedings of the ordinary meeting of the Council shall be:

- Declaration of Opening/Announcement of Visitors
- Record of Attendance/Apologies/Leave of Absence
- Disclosures of Interest
- Public Question Time
- Response to Questions Taken on Notice
- Questions Without Notice
- Petitions/Deputations/Presentations/Submissions
- Notice of Matters to be Discussed Behind Closed Doors

- Applications for Leave of Absence
- Announcements Concerning Meetings Attended
- Confirmation of Minutes
- Minutes of Committee Meetings
- Reports of Officers
- Notices of Motion
- Previous Notice received
- For Consideration at the Following Meeting
- Urgent Business
- Matters for which the Meeting may be Closed
- Next Meeting
- Meeting Closure

### **9. Public Conduct at Meetings**

- a) Any person or persons may attend meetings of Council provided that there is no expression of dissent, approval or level of conversation that interrupts the proceedings of Council (except by any person making public statements or asking a question in accordance with clause 7).
- b) In the event of an interruption, the Presiding Member may request that the person or the persons cease to do so. If they do not comply, the Presiding Member may direct that the person or persons immediately withdraw from the meeting room. Failure to comply with such a direction shall constitute an offence against these Standing Orders.

### **10. Role of the Presiding Member**

- a) The Presiding Member may direct attention to any matter of interest or relevance to the business of the meeting or propose a change to order of business. Any member may move that a change in order of business proposed by the Presiding Member not be accepted and if carried by majority of members present, the propose change in order will not take place.
- b) The Presiding Member may take part in a discussion upon any question before the council, subject to the same conditions as applicable to any Councillor.
- c) To preserve order, when the Presiding Member indicates a wish to speak during the progress of a debate, any member then speaking shall immediately cease. Every person present shall observe silence in order that the Presiding Member may be heard without interruption. This clause is not to be used by the Presiding Member in the exercise of the right to take part in Council discussion.
- d) A Councillor may move a motion to disagree with a ruling made by the Presiding Member. The Presiding Member must immediately call for a seconder and put the motion without debate.

## **11. Maintenance of Order**

- a) Members shall speak of each other and staff during this meeting by their respective titles of President, Councillor or CEO. Members shall not impute motives or use offensive or objective expressions in reference to any member, officer of the council, or any other person.
- b) If a member commits a breach of the preceding clause, the Presiding Member, or the Council by resolution, may require that member to withdraw unreservedly any offending comment and to make a satisfactory apology. If the member refuses to do so, the Presiding Member shall direct the member to cease speaking.
- c) A Councillor wishing to address a meeting shall indicate by raising a hand. When invited by the Presiding Member to do so the councillor may address the Council through the Presiding Member.
- d) Councillors shall restrict remarks to the matter under discussion, or to an explanation or point of order.
- e) All addresses shall be limited to maximum of five minutes. Extension of time is permissible only with the agreement of the majority of members.
- f) No member shall interrupt another member whilst speaking unless to raise a point of order or call attention to the absence of a quorum.

## **12. Procedures for Debate of Motions**

- a) It shall be the function of the Presiding Member to determine the majority opinion of the Councillors present at a meeting of any motion placed before the meeting.
- b) As determined by the Presiding Member, recommendations presented on the business paper and serially numbered, may be offered to the meeting as a block for Council endorsement and such motions, with or without amendment, may be moved and seconded as a whole as a motion of the Council. Each item adopted by the Council shall become a resolution of the Council and shall be recorded in the minutes.
- c) Block voting shall not apply in cases where an absolute majority voting is required by the Act.
- d) Before debate is opened, the motion must be moved and seconded. A motion not being seconded is to be considered and recoded as lapsed.
- e) The elected member moving a motion is not under any obligation to move the recommendation of an Officer, but shall give due consideration to the Officer's recommendation on the matter, which may be moved verbatim, or with changes to the wording. If the Officer's recommendation is varied, either in the original motion or by formal amendment, the elected member moving the motion must also provide the reason for variation, to be recorded in the Minutes, as required by the Act.
- f) When a motion is under debate, no further motion shall be accepted.
- g) The Presiding Member will call speakers to a motion in the following order:
  - (i) The mover to state the motion;

- (ii) A seconder to the motion;
- (iii) The mover to speak to the motion;
- (iv) The seconder to speak to the motion;
- (v) A speaker against the motion;
- (vi) A speaker for the motion;
- (vii) Other speakers against and for the motion, alternating in view, if any;
- (viii) Mover takes right of reply which closes debate

h) If the Presiding Member believes sufficient discussion has taken place even though all members may not have spoken, he may offer the right of reply to the mover to close the debate.

### **13. Procedural Motions**

To expedite meetings of Council, procedural motions are not required to be in writing but must be moved and seconded –

- a) “That the Council do now adjourn until (state time and date).” If carried, will clause the meeting to stand adjournment as specified to any other time not more than seven days from date of adjournment.
- b) “That the motion be now put.” If carried without amendment requires the Presiding Member to offer the mover the right of reply, and then immediately put the motion to the meeting. If carried during debate on an amendment requires the Presiding Member to put the motion without any right of reply.
- c) “That the Councillor be heard no longer heard.” If carried this motion requires the Presiding Member not to allow the speaker to speak any further on the motion, excepting the right of reply if the speaker was the mover of the motion.
- d) “That the ruling of the Presiding Member be disagreed with.” If carried this will cause the ruling of the Presiding Member to be reversed, and for the meeting to proceed accordingly. Such a motion cannot be moved in the case of the Presiding Member’s adjournment of the meeting to regain order.
- e) “That the Council meet behind closed doors.” If carried this will cause the public and any officer or employees the Council determines to leave the room, unless remaining with the consent of Council.
- f) “That Standing Order (clause or clauses to be stated) be suspended.” If carried will cause the procedure of these Standing Orders to be suspended in part or in the whole.
- g) “That the matter lay on the table until (specify meeting).” If carried, has the effect that all consideration and discussion of the matter is deferred until the meeting specified.

### **14. Decision Making Processes**

- a) Amendments – Any number of amendments may be proposed to a motion, but whenever any amendment is made upon a motion, no second or subsequent amendment shall be moved or considered until the first amendment has been disposed of.
- b) Foreshadowed Motion – During the course of debate on an amendment to a motion, a member may give notice of intention to move a motion or amendment when the question before the meeting is decided.
- c) Motion – If an amendment to a motion is carried, the motion as amendment shall then be submitted as the motion, and shall become the question before the meeting upon which any member may speak and any further amendment may be moved.
- d) Consent of Secunder Required to Accept Alteration of Wording – The mover of a motion may not alter the wording of the motion without the consent of the seconder.
- e) Withdrawal of Motion and Amendments – Council may, without debate, grant leave to withdraw a motion or amendment upon request of the mover of the motion or amendment and with the approval of the seconder provided that there is no voice expressed to the contrary view by any member, in which case discussion on the motion or amendment shall not continue.
- f) Limitation of Motion and Amendments – Where an amendment has been proposed to a motion, the motion shall not be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.
- g) Right of Reply – The mover of a motion shall have the right to reply. After the mover of the motion has commenced the reply, no other member shall speak on the question. The reply must be confined to rebutting arguments raised by previous speakers and no new matter may be introduced.
- h) All Members to Vote – Save where the Act otherwise provides, at every meeting of the Council every member shall vote, and if any member who is entitled to vote fails to vote, the Presiding Member shall call upon the member to vote.
- i) Method of Taking Vote – In putting the questions to the council, the Presiding Member may ask whether there is no objection to the motion, and if not the motion is deemed carried unanimously. If objection is raised to the motion, the Presiding Member shall put the question as often as necessary to determine the decision from a show of hands before declaring a decision.
- j) Declaration of Vote – The Presiding Member shall declare the vote to be carried or lost, stating the number of votes in favour and against the motion.

## **15. Points of Order**

- a) Procedure – Upon a matter of order a Councillor may raise a point of order including interrupting the speaker. A Councillor shall immediately cease speaking while the Presiding Member considers the point of order.
- b) Definition – The following definitions shall constitute a point of order –
- Discussion of a matter not before the Council or Committee.
  - Use of offensive or insulting language.

- Violation of any provision of this policy, provided that the Councillor raising the point of order states the standing order believed to be breached.
- c) Ruling – The Presiding Member shall give a decision on any point of order after the point has been raised by upholding or rejecting it. The ruling of the Presiding Member shall final, unless a majority of the members support a motion of dissent with the ruling.
- d) Precedence – All points of order take precedence over any other debate and until decided, and suspends the consideration of every other matter.

## **16. Committees of Council**

- a) The Council shall, at the first meeting held after each ordinary election day, review all appointed committees.
- b) Power and Duties – The power and duties of Committees shall be defined and delegated to them by resolution carried by absolute majority of the Council and recorded in the Delegations Register. The constitution and practice of the Committees shall accord with the Act.
- c) Recommendations of Committees – The recommendations of a Committee shall be presented to the next appropriate Council meeting.
- d) Inspection of Plans – All plans referred to in any recommendation of the Committee shall lay on the table of the Council Chamber for inspection by Councillors at the meeting at which the matter is being considered.
- e) Rights and Responsibilities of Councillors who are not Committee Members – Councillors who are not members of a committee may attend all meetings of all Committees and may participate only at the invitation of the Presiding Member but may not vote. Travel expenses are payable only to Councillors who are members of the Committee unless specifically authorised by Council by resolution prior to the committee meeting.

## **17. Chief Executive Officer – Duty**

It is the duty of the Chief Executive Officer to draw the attention of the Council, any breach or likely breach of these standing orders even if it requires interrupting any person who may be speaking.

## Policy 1.3 – Authorised Meetings Payment Claim

History	Adopted 19 April 2007
Former Policy	1.3 November 2020 Governance Organisational Policy Manual
Amended / confirmed	Review 30 <sup>th</sup> July 2021

### Objective

To establish the basis upon which Council will reimburse travel and other expenses (accommodation and meals) pursuant to section 5.98 of the Local Government Act 1995 (Discretionary Expenses).

### Policy Statement

Council will reimburse travel and other reasonable expenses where Members of Council have been appointed as delegates by resolution of Council as well as where there is a requirement for a Councillor to attend interviews for senior staff or CEO positions.

## Policy 1.4 – Council Chamber Usage (and Citizenship Dress Code)

History	unknown
Former Policy	1.4 November 2020 Governance Organisational Policy Manual & Resolution C2020-1010 Citizenship Ceremony Dress Code
Amended / confirmed	Review 30 <sup>th</sup> July 2021

### Objective

To establish usage protocols for the Council Chambers

### Policy Statement

1. The Council Chambers are not available for general use.
2. Where the meeting involves the Shire as an organisation or is of importance to the Shire, the CEO has discretion to approve use of the Chambers, for example
  - meetings with/by visitors (e.g. parliamentarians, government agencies, developers etc)
  - administrative – audit, consultants, meetings requiring additional privacy etc.
3. No meals are to be consumed in the Chambers.
4. Citizenship Ceremonies are ordinarily held in the Yalgoo Shire Council Chambers to fulfil the requirements of the Australian Citizenship Ceremonies Code and provide a venue of significance.
5. Dress Code for Citizenship Ceremonies - The attire of attendees at citizenship ceremonies should reflect the significance of the occasion. Smart Casual, National/Cultural dress welcome.



## Policy 1.4b – Portraits in Council Chambers

History	Adopted 22 November 1999
Former Policy	1.5 November 2020 Governance Organisational Policy Manual
Amended / confirmed	Review 30 <sup>th</sup> July 2021

### Policy Statement

That, subject to the agreement by the immediate families, the portraits of Presidents and members of fifteen years of service or more of the Council of the Shire of Yalgoo or the Yalgoo Roads Board be exhibited in the Council Chambers.

## Policy 1.5 – Councillors Recognition of Service

History	Adopted November 2007
Former Policy	1.6 November 2020 Governance Organisational Policy Manual
Amended / confirmed	Review 30 <sup>th</sup> July 2021

Objective To recognise the service of, and show appreciation to, departing Councillors.

The Minister for Local Government must give Councillors written exemption from the requirement to declare a financial interest prior to any change to this Policy.

This Policy is a Financial Interest as defined by the Local Government Act s.5.60 and 5.60A and an exemption from the Minister under s.5.69, is therefore required prior to any amendment, alteration or revocation of the Policy whatsoever. Although Councillors are able to claim travel, meeting expenses etc as of right, it is considered appropriate that there be some recognition from the Shire on behalf of the community, for their commitment to the district. Where qualifying, enquiries should also be made through the Department of Local Government to obtain a Certificate of Appreciation from the Minister.

A report was made to DLGC regarding an omission in good faith to seek the necessary ministerial exemption regarding declaration of interest for the recommendation to the December 2013 meeting to make a change to this policy.

### Policy Statement

1. Each departing Councillor shall receive an appropriate plaque or certificate of service.
2. The CEO is to arrange a suitable gift for departing Councillors, as per section 34AC of the Local Government (Administration) Regulations 1996.
3. Presentation of the plaque or certificate and gift will generally be made at the final meeting being attended by the Councillor, or at the Annual Shire Christmas function.
4. Multiple terms of service as a member of Council are to be considered individually according to each period, and not cumulatively.
5. Where qualifying, application for a Certificate of Appreciation from the Minister is to be made through the Department of Local Government.

## Policy 1.6 – Council Representation in External Organisations and Committees

History	Adopted 21 August 2008
Former Policy	1.7 November 2020 Governance Organisational Policy Manual
Amended / confirmed	Review 30 <sup>th</sup> July 2021

### Objective

To ensure that Council is represented by an authorised nominee at meetings, by specifying the organisations and order of precedence to represent Council.

### Policy Statement

1. Council nominates people to the external organisations or committees listed in the table below at the first meeting following an Ordinary Election or from time to time as required.
2. Nominations as Council representatives to external organisations are to be reviewed at the first meeting following the ordinary Local Government elections, and new nominations to be delegates until the meeting following the next ordinary Local Government elections, subject to the provisions of the Local Government Act.
3. Should a representative or deputy representative resign their nomination or become disqualified to continue as a Councillor, their nomination lapses immediately, and Council will decide a new nomination at the next meeting.
4. Subject to the Constitution or Rules of the Organisation, if precedence needs to be determined due to unavailability or for some other reason, the order of priority will be:
  - a) Council's nominated representative/s
  - b) Council's nominated deputy representative/s
  - c) President
  - d) Deputy President
  - e) Councillors or the CEO as determined by the President

<b>Organisation or Committee</b>	<b>Delegates</b>
External - Murchison Vermin Regional Council	Cr G Payne Cr P Lawson
External - Murchison Country Zone of WALGA	Cr G Payne Cr G Trenfield Deputy Cr R Valenzuela
External - Mid West Regional Road Group	Cr R Valenzuela Cr P Lawson Deputy Cr G Payne
External - Murchison Sub Group of the MWRRG	Cr R Valenzuela Cr P Lawson Deputy Cr G Payne
External - Gunduwa Conservation Association (EGRCA)	Cr P Lawson Cr T Hodder
External - Development Assessment Panel	Cr R Valenzuela Cr G Trenfield Alternate Cr G Payne Alternate Cr T Hodder
Yalgoo Arts & Cultural Committee	Cr G Payne Cr G Simpson Cr T Hodder CEO Community Member – Becky Phillips
External - Murchison Executive Group	CEO
Shire of Yalgoo Finance and Audit Committee (Audit and Risk)	All Councillors
Chief Bushfire Control Officer	CEO
Brigade Captain and Deputy Bushfire Control Officer Yalgoo (North)	Craig Holland
Brigade Captain and Deputy Bushfire Control Officer Paynes Find (South)	David Rocke
External - Mid-West Local Government Emergency Management Network (MWLGEMN) & LEMC	Cr R Valenzuela Cr G Payne Officer appointed by the CEO
Yalgoo Tourism Committee	Cr G Payne Cr G Trenfield Cr T Hodder CEO Community Member – Vacant Community Member - Vacant
CEO Performance Committee	All Councillors

Development Assessment Panel members are by Ministerial appointment following council nomination, with compulsory training required. Members of this committee are not put forward for re-nomination.

Delegates of Committees and Representatives to external bodies should be aware of the policies and reference documents guiding the operation of those groups.

## Policy 1.7 – Elected Members Records Capture and Management

History	Adopted 28 August 2009
Former Policy	1.8 November 2020 Governance Organisational Policy Manual
Amended / confirmed	Review 30 <sup>th</sup> July 2021

### Objective

To meet the obligations imposed on elected members and the organisation by the State Records Office under the State Records Act.

### Policy Statement

State Records Office policy which imposes the obligations on elected members and the organisation under the State Records Act, as advised on 30 July 2009, is –

In relation to the recordkeeping requirements of local government elected members, records must be created and kept which properly and adequately record the performance of member functions arising from their participation in the decision-making processes of Council and Committees of Council.

This requirement should be met through the creation and retention of records of meetings of Council and Committees of Council of local government and other communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business, local governments must ensure that appropriate practices are established to facilitate the ease of capture and management of elected members' records up to and including the decision making processes of Council.

Each elected member is responsible for determining which records are required for capture and management, and submission of the record to the CEO, for storage.

The Shire as an organisation, in meeting its obligations to facilitate the capture and management of elected member records will –

- provide a collection point readily accessible to each elected member to deposit the required materials
- materials collected will be separated according to elected member and financial year of deposit
- for electronic records (emails, digital photos etc), a CD suitable for backup of all electronic records will be provided at least once per year,
- the CD then to be deposited with other required materials,
- where a copy of the record is to be retained by the elected member, photocopying or other duplicate as necessary, will be provided without charge.

Access to the records created may be required, and is to be facilitated by the CEO:

- as permitted under various legislation such as the Local Government Act, the Freedom of Information Act etc
- by order of an authorised body such as the Standards Panel or a Court of law etc,
- by a representative an authorised body such as the Ombudsman or Crime and Corruption Commission etc.

#### Comment

In effect, any form of record which may affect accountability or contribute to a decision or action made as a Councillor must be retained. These records may be –

- physical – a letter, a handwritten note, a photo someone sends to you to in explanation/complaint, an agenda where you have made notes on various items, etc
- electronic – an email or document sent as an attachment to an email, digital photo, an e-file that is sent for review or comment
- audio – message left on your answering machine, although this is likely to be unusual, since rarely are many details left in a message, but it is a record.

The records are not only those you receive, but also those that you create, such as:

- a note of a conversation where someone asked you to pursue a specific matter,
- a letter that you write in the capacity of Councillor,
- an email you send as a Councillor

The records only need to relate to those “affecting the accountability of the Council and the discharge of its business up to and including the decision-making processes of Council”. It is the elected members decision and judgement as to what extent this applies, and it is suggested that this not be further defined.

The principles of relevance and ephemerality apply, for example –

- a note to remind you to phone a person is ephemeral, but notes of the conversation may not be
- a copy of an agenda that has no notes made is irrelevant, as the document can be reproduced by the Shire
- a promotional brochure or conference information is not relevant

## Policy 1.8 – Shire Logo

History	Adopted 26 November 2009
Former Policy	1.9 November 2020 Governance Organisational Policy Manual Second Logo adopted 25 <sup>th</sup> June 2021 – C2021-0616
Amended / confirmed	Review 30 <sup>th</sup> July 2021 – C2021-079

### Objective

The Shire's logo is copyright to the Shire, and this Policy is intended to provide guidance concerning use of the logo.



### Policy Statement

1. The logos of the Shire are displayed on this page. The first should be given precedence and progressively replace the second in new revisions of publications.
2. The logo should be used –
  - on all Shire publications, letterheads, promotional materials etc
  - where the Shire has provided sponsorship or support for a program, activity or advertisement e.g. – scholarship programs, ICP support etc
3. Private use of the logo is not permitted unless approved.
  - Private use of the logo will only to be permitted where there is some identifiable benefit to the Shire or community. The proposed use benefits the Shire or community through promotion of the district, directly or indirectly, for example –
  - permitted on a tourism promotion brochure indicating a facility or event is located within the Shire
  - not permitted on private communications, advertising etc
  - on materials which are provided by the Shire, or
  - without the prior approval of the CEO
4. Approval for use of materials provided by the Shire or for private use of the logo may be withdrawn if Council is of the opinion that it is being misused or is for an inappropriate purpose.

For example to imply Shire support of a specific service, activity etc in preference to others, where no such support has been given; or to imply Council authorisation or endorsement of a specific person or position, where no such endorsement has been given.

## Policy 1.9 – Community Engagement and Consultation

History	Unknown
Former Policy	1.11 November 2020 Governance Organisational Policy Manual
Amended / confirmed	Review 30 <sup>th</sup> July 2021

### Objectives

To provide guidance to Councillors and Officers in planning, implementing and reviewing community engagement and consultation for key projects, strategic planning and policy development. This will ensure informed decision-making, transparency, timely and effective communication with key stakeholders and the general community.

This policy sets out the governing principles for community engagement and consultation that underpin the Integrated Planning and Reporting framework to ensure the strategic direction of the organisation is with in keeping with community values and aspirations.

### Policy Statement

- Council is committed to providing leadership and a strong commitment to information sharing, consultation and active participation of the community in contributing to the decision making process.
- Council acknowledges the right of the community to access information, provide feedback, be consulted and actively participate in strategic planning or in key projects of service development. Council's obligations to respond to the community when exercising these rights will be clearly stated in specific consultation processes.
- Objectives for, and limits to, information, consultation and active participation during planning, project and key service development will be defined from the outset. The respective roles and responsibilities of the community (including individuals and groups) and Council (including Councillors and officers) will be made clear as well as to who makes final decisions once the information is analysed.
- The approach for specific consultations will be tailored to the target audiences and consider all other factors outlined in this policy.
- Consultation will be undertaken as early in the planning process as possible to allow to widen the scope of consultation and to improve the outcomes. Adequate time will be made available for consultation to be effective.
- Information provided by Council during planning, project and key service development will be objective, complete and accessible. All those involved in a consultation process will have equal treatment when exercising their rights of access to information and participation.

Council will ensure adequate financial, human and technical resources are available to make a consultation initiative effective. The allocation of resources will be considered in relation to

Further policies and other relevant information to be discovered or developed as appropriate.



- Broader budgetary restraints and the implications to existing priorities. Council will support its officers in consultation initiatives.
- Consultation on specific planning, project and key service development will be coordinated across Council to enhance knowledge management, ensure policy coherence, avoid duplication and reduce the risk of “consultation fatigue” within the community.
- Council will be accountable for the use made of input from a consultation process. Council will ensure consultation processes are open, transparent and amenable to external scrutiny and review.
- Council will actively and openly evaluate its consultation processes and practices in planning, project and key service development. The results of evaluation will directly impact upon future consultation initiatives.

Associated Policies, Frameworks and Legislation  
 DLGC WA Integrated Planning and Reporting Framework 2011  
 Local Government Act (1995) – Regulation S5.56(2)

#### Outcomes

Measures of success of consultation will include assessments of whether:

- The interests of all parties have been served;
- Expectations concerning the process have been met;
- Consensus, consent and commitment have emerged;
- The process has encouraged generation of the best options;
- Objective criteria have been used to assess the different options under consideration;
- Understanding has been enhanced;
- Relationships between Council and the community and within the community have been enhanced.
- The decision resulting from the consultation has been stable and enduring.

#### Responsibility

Responsibility for the implementation of this policy rests with the Council, CEO and staff of the Shire.

## Policy 1.10 – Organisational Risk Management

History	Unknown
Former Policy	1.12 November 2020 Governance Organisational Policy Manual
Amended / confirmed	Review 30 <sup>th</sup> July 2021

### Objective

The purpose of risk management is to develop a culture, processes and structures that are directed towards the effective management of potential opportunities and adverse effects. It also is designed to reduce the potential costs of risk by reducing liability, preventing litigation and improving loss control. Risk management is a key process in developing the strategic direction of the shire.

The key drivers for risk management are the councillor's responsibility for due diligence as good corporate governance practice and the due diligence requirements by the insurance industry which impacts on the cost of insurance.

### Policy Statement

This Policy should be read in conjunction with the Shire of Yalgoo Organisational Risk Management Plan.

The Council is committed to managing risk in the Shire and will implement the principles of the ISO 31000: 2019 Risk Management Standard as the minimum standard.

It is understood by the Shire that risk management is the systematic application of management policies, procedures and practices to the tasks of establishing the context, identifying, analysing, evaluating, treating, monitoring and communicating risk.

The Audit and Risk Committee will be responsible for ensuring there is a Risk Management Plan for the Shire. The Council recognises that adequate resources are needed to implement the risk management program.

The officer responsible for the Risk Management systems and processes of the Shire must ensure that all risk management processes and assessments are fully documented and managed through the records management system.

### References

Risk Management Standard AS / ISO 31000 2019 \_ Standards Australia

### Scope

This policy covers all the operations of the Shire, including corporate governance, legal compliance, infrastructure, business risks, capital assets, finances, information technology, human resources, service delivery and events management.

### Risk Management Objectives

- To develop and implement the principles and practices of the risk management standard. Management
- To define the Shire's tolerance to risk and communicate it throughout the Shire.
- To communicate with the community about the Shire's approach to risk.
- To protect and enhance the reputation of the council.
- To develop a risk management plan which is aligned to the integrated planning processes.

## Responsibilities

Audit and Risk Committee is responsible for:

- Ensuring there is a risk management plan for the Shire,
- Establishing the risk tolerance level of the Shire adopted by council.

CEO: is responsible for:

- Reporting to the Council on the implementation progress of the risk management standard and ongoing management of risks in the organisation on a pre-determined frequency basis.
- Communicating the policy to all Councillors, employees, contractors and consultants
- full implementation of risk management throughout the Shire,
- ensuring that the Risk Management Policy is adopted, communicated throughout the Shire, and included in induction programs.
- ensuring that the Risk Management Policy and Plan are reviewed annually
- Displaying a copy of the policy on staff notice boards or through other relevant communication mediums
- Ensuring that risk management is a standard agenda item at all meetings including toolbox meetings.
- Development of risk management skills through training and education.
- Development of risk management skills through training and education.
- Identifying and measuring performance indicators for risk management that cascade from the risk management plan to position descriptions and performance appraisals.
- Establishing and maintaining the central risk register (hardcopy or electronic)
- Establishing and maintaining the strategic risk planning register

Management are responsible for:

- Identifying and assessing all the potential risks in their area of responsibility.
- Collating, assessing, treating and reporting to the risk management committee of all areas and tasks under their responsibility.

Employees are responsible for:

- To comply with the Shire's risk management policy and procedures.
- To attend the risk management training.
- Actively participate in the risk management program and organisational performance review and evaluation program.
- Actively participate in the Shire's continuous improvement program

#### Documentation

The Council, CEO and Officers will ensure that all risk management processes, assessments and plans are fully recorded throughout the Shire.

#### Organisational Risk Management Plan

#### **Guidance Note**

This Risk Management Plan is to be used by the Council, Executive and Line Managers, Staff, Contractors and Volunteers to ensure the effective management of Strategic and Operational Risk across the Organisation in decision making, project management, operations and events.

## Policy 1.11 Media Communications Policy

History	Unknown
Former Policy	1.13 November 2020 Governance Organisational Policy Manual
Amended / confirmed	Review 30 <sup>th</sup> July 2021

### Objectives

This policy details legislative obligations and establishes protocols applicable to the Shire's official communications with our community, to ensure the Shire of Yalgoo is professionally and accurately represented and to maximise a positive public perception of the Shire of Yalgoo

### Policy Statement

This policy applies to:

1. Communications initiated or responded to by the Shire of Yalgoo with our community; and
2. Council Members when making comment in either their Shire of Yalgoo role or in a personal capacity about matters relevant to the Shire of Yalgoo.

### Official Communications

The purposes of the Shire's official communications include:

- Sharing information required by law to be publicly available.
- Sharing information that is of interest and benefit to the Community.
- Promoting Shire of Yalgoo events and services.
- Promoting Public Notices and community consultation / engagement opportunities.
- Answering questions and responding to requests for information relevant to the role of the Shire.
- Receiving and responding to community feedback, ideas, comments, compliments and complaints.

The Shire's official communications will be consistent with relevant legislation, policies, standards and the positions adopted by the Council. Our communications will always be respectful and professional.

The Shire will use a combination of different communication modes to suit the type of information to be communicated and the requirements of the community or specific audience, including:

- Website;
- Advertising and promotional materials;
- Media releases prepared for the Shire President, to promote specific Shire of Yalgoo positions;

- Social media; and
- Community newsletters, letter drops and other modes of communications undertaken by the Shire's Administration at the discretion of the CEO.

### Speaking on behalf of the Shire of Yalgoo

The Shire President is the official spokesperson for the Shire of Yalgoo, representing the Local Government in official communications, including; speeches, comment, print, electronic and social media. [s.2.8(1)(d) of the Local Government Act 1995]

Where the Shire President is unavailable, the Deputy Shire President may act as the spokesperson. [s.2.9 and s.5.34 of the Local Government Act 1995]

The CEO may speak on behalf of the Shire, where authorised to do so by the Shire President. [s.5.41(f) of the Local Government Act 1995]

The provisions of the Local Government Act 1995 essentially direct that only the Shire President, or the CEO if authorised, may speak on behalf of the Local Government. It is respectful and courteous to the office of Shire President to refrain from commenting publicly, particularly on recent decisions or contemporary issues, until such time as the Shire President has had opportunity to speak on behalf of the Shire of Yalgoo.

Communications by Council Members and employees, whether undertaken in an authorised official capacity or as a personal communication, must not:

- bring the Shire of Yalgoo into disrepute, [Rules of Conduct Reg.3(d)];
- compromise the person's effectiveness in their role with the Shire in line with the relevant code of conduct;
- imply the Shire's endorsement of personal views [s.2.8(1)(d) of the Local Government Act 1995];
- imply the Council Member or employee is speaking on behalf of the Shire unless authorised to do so; [s.2.8(1)(d) of the Local Government Act 1995]; or
- disclose, without authorisation, confidential information [s.5.93 of the Local Government Act 1995].

Social media accounts or unsecured website forums must not be used to transact meetings which relate to the official business of the Shire of Yalgoo. [State Records Act 2000 / Local Government Record Keeping Plan, s's 5.23(2) and 5.93 of the Local Government Act 1995].

Council member communications must comply with the Code of Conduct and the Local Government (Rules of Conduct) Regulations 2007.

### Responding to Media Enquires

All enquiries from the Media for an official Shire of Yalgoo comment, whether made to an individual Council Member or Employee, must be directed to the CEO or a person authorised by the CEO. Information will be coordinated to support the Shire President or CEO (where authorised) to make an official response on behalf of the Shire.

Council Members may make comments to the media in a personal capacity – refer to clause 7.1 below.

## Website

The Shire of Yalgoo will maintain an official website, as our community's on-line resource to access to the Shire's official communications.

## Social Media

The Shire of Yalgoo uses Social Media to facilitate interactive information sharing and to provide responsive feedback to our community. Social Media will not however, be used by the Shire to communicate or respond to matters that are complex or relate to a person's or entity's private affairs.

The Shire of Yalgoo maintains the following Social Media accounts (delete / add as relevant to each local government):

- Social networks, including - Facebook
- Media Sharing networks, including – Instagram, and YouTube

The Shire of Yalgoo may also post and contribute to Social Media hosted by others, so as to ensure that the Shire's strategic objectives are appropriately represented and promoted.

The Shire actively seeks ideas, questions and feedback from our community however, we expect participants to behave in a respectful manner. The Shire of Yalgoo will moderate its Social Media accounts to address and where necessary delete content deemed to be:

- Offensive, abusive, defamatory, objectionable, inaccurate, false or misleading;
- Promotional, soliciting or commercial in nature;
- Unlawful or incites others to break the law;
- Information which may compromise individual or community safety or security;
- Repetitive material copied and pasted or duplicated;
- Content that promotes or opposes any person campaigning for election to the Council, appointment to official office, or any ballot;
- Content that violates intellectual property rights or the legal ownership of interests or another party; and
- Any other inappropriate content or comments at the discretion of the Shire.

Where a third party contributor to a Shire of Yalgoo social media account is identified as posting content which is deleted in accordance with the above, the Shire may at its complete discretion block that contributor for a specific period of time or permanently.

The Shire will use appropriate forms of social media to communicate and advise its community in relation to emergency management.

## Presidential Social Media Official Accounts

The Shire supports the President in using official social media account/s to assist the President in fulfilling their role under Section 2.8 of the Local Government Act 1995, to speak on behalf of the Shire. The content will be administered and moderated in accordance with this Media Policy, by the Chief Executive Officer. (These official social media accounts of the Shire of must not be used by the President for personal communications.

## Record Keeping and Freedom of Information

Official communications undertaken on behalf of the Shire, including on the President and Shire's social media accounts and third-party social media accounts, must be created and retained as local government records in accordance with the Shire's Record Keeping Plan and the State Records Act 2000. These records are also subject to the Freedom of Information Act 1992.

Council Member communications that relate to their role as a Council Member are subject to the requirements of the Shire's Record Keeping Plan and the State Records Act 2000. Council Members are responsible for transferring these records to the Shire's administration. Council Member records are also subject to the Freedom of Information Act 1992.

## Personal Communications

Personal communications and statements made privately; in conversation, written, recorded emailed, texted or posted in personal social media, have the potential to be made public, whether intended or not.

On the basis that personal or private communications may be shared or become public at some point in the future, Council Members should ensure that their personal or private communications do not breach the requirements of this policy, the Code of Conduct and the Local Government (Rules of Conduct) Regulations 2007.

## Council Member Statements on Shire Matters

A Council Member may choose to make a personal statement publicly on a matter related to the business of the Shire of Yalgoo.

Any public statement made by a Council Member, whether made in a personal capacity or in their Local Government representative capacity, must:

1. Clearly state that the comment or content is a personal view only, which does not necessarily represent the views of the Shire of Yalgoo.
2. Be made with reasonable care and diligence [Rules of Conduct Reg.3(a)];
3. Be lawful, including avoiding contravention of; copyright, defamation, discrimination or harassment laws;



4. Be factually correct [Rules of Conduct Reg.3(b) and (f)];
5. Avoid damage to the reputation of the local government [Rules of Conduct Reg.3(d)];
6. Not reflect adversely on a decision of the Council [Local Government's Meeting Procedures and Code of Conduct>>];
7. Not reflect adversely on the character or actions of another Council Member or Employee [Rules of Conduct Reg.10(3), [Local Governments Meeting Procedures and Code of Conduct];
8. Maintain a respectful and positive tone and not use offensive or objectionable expressions in reference to any Council Member, Employee or community member [Local Government Code of Conduct].

A Council Member who is approached by the media for a personal statement may request the assistance of the CEO.

Comments which become public and which breach this policy, the Code of Conduct or the Local Government (Rules of Conduct) Regulations 2007, may constitute a minor breach of the Local Government Act 1995 [refer s.5.105] and may be referred for investigation.

That with authority from the Shire President or the Chief Executive Officer, individual Councillors are authorised to make press releases or act as spokesperson on behalf of Council.

That the Chief Executive Officer regularly keeps rate payers and residents informed of Council activities via the Local Newspaper.

That the Chief Executive Officer advertises in the Local Newsletter the names and telephone numbers of each Councillor at least once a year.

# Policy 1.12 – Councillors IT Equipment Condition of Use and Purchase

History	26 <sup>th</sup> October 2018
Former Policy	1.15 November 2020 Governance Organisational Policy Manual 31 January 2019 (C2019-0111)
Amended / confirmed	Review 30 <sup>th</sup> July 2021

## Objective

iPads are assigned to Shire of Yalgoo Councillors, where needed for effective and efficient communication, essential to the conduct of Council business.

## Policy Statement

This Policy defines the boundaries for the ‘acceptable use’ of Council provided tablets, laptops, iPads.

### 1. General Use Conditions

- All iPads are the property of the Shire of Yalgoo and must be used in compliance with applicable licences, notices, contracts and agreements.
- Council provided IT equipment must not be used for electioneering purposes.
- Theft or loss of the Shires IT equipment is to be reported immediately to the CEO.
- Councillors should read the care and maintenance instructions in the User Guide included with their iPads.
- iPads are provided for Council work, limited personal use is acceptable.
- Councillors must not install or download or transmit software programmes, screensavers, system components, graphics, pictures, movies, audio files or similar files without permission from the Chief Executive Officer. Virus protection measures to be implemented.
- Councillors are not allowed to use the issued iPad in an illegal, illicit or offensive manner.
- Councillors must report immediately to the Chief Executive Officer any incorrect or inappropriate communication transmitted and or received.
- If the Councillor is not returned to office, all Council provided equipment must be returned to Council on the first business day following Council elections.
- The Shire of Yalgoo is responsible for insurances, support, maintenance and repairs of the iPads.

### 2. Purchase of Equipment.

A retiring elected member on expiry of office has an option to purchase the equipment supplied at its written down value (based on a 25% annual depreciation rate) or \$250 whichever is the greater.

## Policy 1.13 – Standards for CEO Recruitment Performance and Termination

History April 2021  
Former Policy C2021-0412  
Amended / confirmed Review 30<sup>th</sup> July 2021

### Objective

This Policy is adopted in accordance with section 5.39B of the Local Government Act 1995.

### Policy Statement

#### Division 1 — Preliminary provisions

##### 1. Citation

These are the Shire of Yalgoo Standards for CEO Recruitment, Performance and Termination.

##### 2. Terms used

###### (1) In these standards —

**Act** means the Local Government Act 1995;

**additional performance criteria** means performance criteria agreed by the local government and the CEO under clause 16(1)(b);

**applicant** means a person who submits an application to the local government for the position of CEO;

**contract of employment** means the written contract, as referred to in section 5.39 of the Act, that governs the employment of the CEO;

**contractual performance criteria** means the performance criteria specified in the CEO's contract of employment as referred to in section 5.39(3)(b) of the Act;

**job description form** means the job description form for the position of CEO approved by the local government under clause 5(2);

**local government** means the Shire of Yalgoo;

**selection criteria** means the selection criteria for the position of CEO determined by the local government under clause 5(1) and set out in the job description form;

**selection panel** means the selection panel established by the local government under clause 8 for the employment of a person in the position of CEO.

- (2) Other terms used in these standards that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

## Division 2 — Standards for recruitment of CEOs

### 3. Overview of Division

This Division sets out standards to be observed by the local government in relation to the recruitment of CEOs.

### 4. Application of Division

- (1) Except as provided in subclause (2), this Division applies to any recruitment and selection process carried out by the local government for the employment of a person in the position of CEO.
- (2) This Division does not apply —
  - (a) if it is proposed that the position of CEO be filled by a person in a class prescribed for the purposes of section 5.36(5A) of the Act; or
  - (b) in relation to a renewal of the CEO's contract of employment, except in the circumstances referred to in clause 13(2).

### 5. Determination of selection criteria and approval of job description form

- (1) The local government must determine the selection criteria for the position of CEO, based on the local government's consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of the local government.
- (2) The local government must, by resolution of an absolute majority of the council, approve a job description form for the position of CEO which sets out —
  - (a) the duties and responsibilities of the position; and
  - (b) the selection criteria for the position determined in accordance with subclause (1).

6. Advertising requirements

- (1) If the position of CEO is vacant, the local government must ensure it complies with section 5.36(4) of the Act and the Local Government (Administration) Regulations 1996 regulation 18A.
- (2) If clause 13 applies, the local government must advertise the position of CEO in the manner referred to in the Local Government (Administration) Regulations 1996 regulation 18A as if the position was vacant.

7. Job description form to be made available by local government

If a person requests the local government to provide to the person a copy of the job description form, the local government must —

- (a) inform the person of the website address referred to in the Local Government (Administration) Regulations 1996 regulation 18A(2)(da); or
- (b) if the person advises the local government that the person is unable to access that website address —
  - (i) email a copy of the job description form to an email address provided by the person; or
  - (ii) mail a copy of the job description form to a postal address provided by the person.

8. Establishment of selection panel for employment of CEO

- (1) In this clause —

**independent person** means a person other than any of the following —

- (a) a council member;
  - (b) an employee of the local government;
  - (c) a human resources consultant engaged by the local government.
- (2) The local government must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.
- (3) The selection panel must comprise —
- (a) council members (the number of which must be determined by the local government); and
  - (b) at least 1 independent person.

9. Recommendation by selection panel
  - (1) Each applicant's knowledge, experience, qualifications and skills must be assessed against the selection criteria by or on behalf of the selection panel.
  - (2) Following the assessment referred to in subclause (1), the selection panel must provide to the local government —
    - (a) a summary of the selection panel's assessment of each applicant; and
    - (b) unless subclause (3) applies, the selection panel's recommendation as to which applicant or applicants are suitable to be employed in the position of CEO.
  - (3) If the selection panel considers that none of the applicants are suitable to be employed in the position of CEO, the selection panel must recommend to the local government —
    - (a) that a new recruitment and selection process for the position be carried out in accordance with these standards; and
    - (b) the changes (if any) that the selection panel considers should be made to the duties and responsibilities of the position or the selection criteria.
  - (4) The selection panel must act under subclauses (1), (2) and (3) —
    - (a) in an impartial and transparent manner; and
    - (b) in accordance with the principles set out in section 5.40 of the Act.
  - (5) The selection panel must not recommend an applicant to the local government under subclause (2)(b) unless the selection panel has —
    - (a) assessed the applicant as having demonstrated that the applicant's knowledge, experience, qualifications and skills meet the selection criteria; and
    - (b) verified any academic, or other tertiary level, qualifications the applicant claims to hold; and
    - (c) whether by contacting referees provided by the applicant or making any other inquiries the selection panel considers appropriate, verified the applicant's character, work history, skills, performance and any other claims made by the applicant.
  - (6) The local government must have regard to, but is not bound to accept, a recommendation made by the selection panel under this clause.

10. Application of cl. 5 where new process carried out
- (1) This clause applies if the local government accepts a recommendation by the selection panel under clause 9(3)(a) that a new recruitment and selection process for the position of CEO be carried out in accordance with these standards.
  - (2) Unless the local government considers that changes should be made to the duties and responsibilities of the position or the selection criteria —
    - (a) clause 5 does not apply to the new recruitment and selection process; and
    - (b) the job description form previously approved by the local government under clause 5(2) is the job description form for the purposes of the new recruitment and selection process.

11. Offer of employment in position of CEO

Before making an applicant an offer of employment in the position of CEO, the local government must, by resolution of an absolute majority of the council, approve —

- (a) the making of the offer of employment to the applicant; and
- (b) the proposed terms of the contract of employment to be entered into by the local government and the applicant.

12. Variations to proposed terms of contract of employment

- (1) This clause applies if an applicant who is made an offer of employment in the position of CEO under clause 11 negotiates with the local government a contract of employment (the negotiated contract) containing terms different to the proposed terms approved by the local government under clause 11(b).
- (2) Before entering into the negotiated contract with the applicant, the local government must, by resolution of an absolute majority of the council, approve the terms of the negotiated contract.

13. Recruitment to be undertaken on expiry of certain CEO contracts

- (1) In this clause —

**commencement day** means the day on which the Local Government (Administration) Amendment Regulations 2021 regulation 6 comes into operation.

- (2) This clause applies if —

- (a) upon the expiry of the contract of employment of the person (the incumbent CEO) who holds the position of CEO —

- (i) the incumbent CEO will have held the position for a period of 10 or more consecutive years, whether that period commenced before, on or after commencement day; and
- (ii) a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position was carried out, whether that process was carried out before, on or after commencement day;

and

- (b) the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.
- (3) Before the expiry of the incumbent CEO's contract of employment, the local government must carry out a recruitment and selection process in accordance with these standards to select a person to be employed in the position of CEO after the expiry of the incumbent CEO's contract of employment.
- (4) This clause does not prevent the incumbent CEO's contract of employment from being renewed upon its expiry if the incumbent CEO is selected in the recruitment and selection process referred to in subclause (3) to be employed in the position of CEO.

#### 14. Confidentiality of information

The local government must ensure that information provided to, or obtained by, the local government in the course of a recruitment and selection process for the position of CEO is not disclosed, or made use of, except for the purpose of, or in connection with, that recruitment and selection process.

### Division 3 — Standards for review of performance of CEOs

#### 15. Overview of Division

This Division sets out standards to be observed by the local government in relation to the review of the performance of CEOs.

#### 16. Performance review process to be agreed between local government and CEO

- (1) The local government and the CEO must agree on —
- (a) the process by which the CEO's performance will be reviewed; and
  - (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.



- (2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 17, 18 and 19.
- (3) The matters referred to in subclause (1) must be set out in a written document.

#### 17. Carrying out a performance review

- (1) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.
- (2) The local government must —
  - (a) collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and
  - (b) review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

#### 18. Endorsement of performance review by local government

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

#### 19. CEO to be notified of results of performance review

After the local government has endorsed a review of the performance of the CEO under clause 18, the local government must inform the CEO in writing of —

- (a) the results of the review; and
- (b) if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.

### Division 4 — Standards for termination of employment of CEOs

#### 20. Overview of Division

This Division sets out standards to be observed by the local government in relation to the termination of the employment of CEOs.

21. General principles applying to any termination

- (1) The local government must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.
- (2) The local government must accord a CEO procedural fairness in relation to the process for the termination of the CEO's employment, including —
  - (a) informing the CEO of the CEO's rights, entitlements and responsibilities in relation to the termination process; and
  - (b) notifying the CEO of any allegations against the CEO; and
  - (c) giving the CEO a reasonable opportunity to respond to the allegations; and
  - (d) genuinely considering any response given by the CEO in response to the allegations.

22. Additional principles applying to termination for performance related reasons

- (1) This clause applies if the local government proposes to terminate the employment of a CEO for reasons related to the CEO's performance.
- (2) The local government must not terminate the CEO's employment unless the local government has —
  - (a) in the course of carrying out the review of the CEO's performance referred to in subclause (3) or any other review of the CEO's performance, identified any issues (the performance issues) related to the performance of the CEO; and
  - (b) informed the CEO of the performance issues; and
  - (c) given the CEO a reasonable opportunity to address, and implement a plan to remedy, the performance issues; and
  - (d) determined that the CEO has not remedied the performance issues to the satisfaction of the local government.
- (3) The local government must not terminate the CEO's employment unless the local government has, within the preceding 12 month period, reviewed the performance of the CEO under section 5.38(1) of the Act.

23. Decision to terminate

Any decision by the local government to terminate the employment of a CEO must be made by resolution of an absolute majority of the council.

24. Notice of termination of employment

- (1) If the local government terminates the employment of a CEO, the local government must give the CEO notice in writing of the termination.
- (2) The notice must set out the local government's reasons for terminating the employment of the CEO.

## Policy 1.14 Council Member Continuing Professional Development Policy

History	New
Former Policy	3.2 Conference and Training March 2020 Policy Manual removed
Amended / confirmed	Review 30 <sup>th</sup> July 2021

### Objective

To give effect to the Shire's commitment to facilitate continuing professional development of Council Members, which enhances their knowledge and develops their skills, thus augmenting Council's capacity for well-informed decision-making and the provision of good government for our community.

This policy provides a framework to assist Council Members to identify and access relevant training and defines the expenses that will be paid by the Shire.

This policy supports compliance with sections 5.127 and 5.128 of the Local Government Act 1995 (the Act), which require Local Governments to prepare and adopt a policy in relation to the continuing professional development of Council Members, and to provide annual reports on training.

This policy applies to Council Member training and continuing professional development, including mandatory training required under s.5.126 of the Act.

### Policy Statement

#### 1. Budget Allocations

The Shire of Yalgoo Annual Budget will include an annual allocation to provide the opportunity for Elected Members to participate in appropriate training and development, including the minimum requirements for mandatory training as legislated.

The allocation is to be used for:

- Council Member Induction, dealt with under Part 2 of this Policy;
- Mandatory Council Member Training, dealt with under Part 3 of this Policy, and
- Council Capacity Building, dealt with under Part 4 of this Policy.

An allocation for each Council Member to be used for individual Continuing Professional Development, as specified under Part 5 of this Policy. Council Members may select training and professional development to be funded from this allocation, subject to approval in accordance with this Policy.

Unexpended allocations at the end of a financial year will not be carried forward to the next financial year.

Any professional development proposal that exceeds an individual Council Member's allocation will be referred for Council decision. Alternatively, the Council Member may choose to privately fund any shortfall. This will not be eligible for reimbursement from a future budget allocation.

## 2. Council Member Induction

Following each election, the Shire of Yalgoo will conduct a comprehensive induction program, providing newly elected Council Members with information that will support them to understand Council Member roles and responsibilities; legislative obligations; personal responsibilities; and strategic direction of the Local Government. Continuing/previously elected Council Members are encouraged to participate in nominated elements of the induction program, to assist in fostering a team culture and to refresh their understanding.

## 3. Mandatory Council Member Training

Council Members are required to complete the Council Member Essentials Course within 12-months from the day on which they are elected, unless exempt under Regulation 36 of the Local Government (Administration) Regulations 1996. Council Members should confirm with the Chief Executive Officer whether they are eligible for an exemption.

The Shire's preferred provider is WALGA, and course delivery is available electronically. Council Members will be provided with enrolment options and the Shire will coordinate bookings and arrangements to implement their selection.

Where a majority of Council Members would prefer face to face training, the Shire may arrange on-site or regional delivery and may coordinate this in cooperation with neighbouring Local Governments to achieve cost savings.

Council Members who are not yet required to complete the Mandatory Training may still choose to participate, with associated costs attributed to the Whole of Council Training and Development budget allocation.

## 4. Council Capacity Building

Within 6 months after an election, a Council Workshop prior to an ordinary meeting will be convened to enable Council Members to collaboratively develop a program of Council Capacity Building. Courses and conferences are to be discussed to guide eligibility under part 5.

The program developed at the workshop will form the basis for regular training provided to all Council Members as a group, to encourage Council to focus on continuous improvement in its function as a governing body and to address the outcomes set out in Part 6 of this policy.

The CEO will coordinate training in accordance with the agreed program, with details of dates and delivery modes to be determined in consultation with Council Members.

## 5. Continuing Professional Development

Attendance at the annual Western Australian Local Government Association Convention will be included in the Annual Budget for all Councillors. It is expected that up to 4 Councillors attend this event as per the Attendance at Conferences Policy however other delegates may be decided by Council Resolution.

Council generally authorizes the following list of conferences and workshops where sufficient budget allocation has been made and the events are Western Australia based:

- West Australian Local Government Association and Australian Local Government Association conferences.
- Special 'one off' conferences called for or sponsored by the West Australian Local Government
- Association and/or Australian Local Government Association on important issues.
- Annual conferences of the major professions in local government and other institutions of relevance to local government activities.
- Municipal Training Service's Councillor Induction Program.
- West Australian Local Government Association Elected Member Training and Development.
- Other local government-specific training courses, workshops and forums, relating to such things as understanding the roles/responsibilities of Elected Members, meeting procedures, Strategic Community Plans, Financial Reporting etc.

#### Providers

Continuing Professional Development should be delivered by industry recognised training providers, peak bodies or professional organisations.

#### Outcomes

In order to be eligible for approval under this policy, Continuing Professional Development must be relevant to the role of a Council Member, and offer demonstrable benefit to the Council as a governing body, the Shire as an organisation, and the broader community.

This includes Continuing Professional Development that:

- Enhances the understanding of Council Member roles and responsibilities, and/or the role and function of Local Government;
- Assists Council Members to develop knowledge and skills in relation to the strategic objectives of the Shire;
- Enables Council Members to further develop personal and professional skills necessary for excellence in performance of the Council Member role; or
- Supports Council Members in developing and maintaining positive and healthy communication, team culture and relationships, to facilitate excellent teamwork to achieve outcomes that deliver good government for the Shire of Yalgoo community.

### 5.1 Application and Approval

#### Request for approval

Council Members who wish to attend training or professional development may make application by providing the following details to the CEO and Shire President in writing:

- a) Course or event title, provider or organiser name, location and date;
- b) Copy of, or link to program, course outline or other summary of content;

- c) An outline of the anticipated benefits of attendance, with reference to the eligibility criteria in this policy; and
- d) Total estimated costs including accommodation, travel and sundry expenses.

Applications, including all required details, are to be submitted in reasonable time for registration. Where possible, the Shire will seek to take advantage of reduced prices for early registration.

#### Approval

Approval for Council Member attendance may be granted by:

- (a) the Chief Executive Officer where the:
  - (i) application complies with this policy and the course has been discussed in the workshop described in Part 4;
  - (ii) event is to be held within Western Australia; and
  - (iii) the Council Member has sufficient funds available in their professional development allocation to meet all costs of attendance.
- (b) resolution of Council where the:
  - (i) application has been refused by the Chief Executive Officer;
  - (ii) application does not comply with this policy;
  - (iii) estimated costs of attendance exceed the available balance of the Council Member's annual professional development allocation; or
  - (iv) event is to be held outside of Western Australia.

#### Limitations

Training and continuing professional development is for the purpose of enhancing a Council Member's performance of their role. Therefore, in some instances, approval may not be granted where attendance conflicts with scheduled Council or Committee meetings (i.e. a meeting where important strategic decisions are required or where the meeting may lack a quorum), unless Council has otherwise resolved.

Where attendance at a particular training or professional development event would require an extended absence, no more than two Council Members may attend, unless Council has otherwise resolved.

Approval will not be granted for training or continuing professional development that is scheduled to occur in the last six months of a Council Member's term of office.

#### 5.2 Sharing of knowledge

In order to realise the maximum benefit for the Shire Council Members will provide a report on their attendance, key features and benefits of the training or professional development within

one month after completion. Council Members may include ideas and innovations identified through the professional development for discussion at future Council Member workshops, where the matter relates to the Shire's strategic objectives.

Knowledge sharing may be provided as a presentation or verbal update to an informal Council workshop, or a written report provided to the Chief Executive Officer and circulated to all Council Members. Where relevant, copies of resources obtained at the event may also be provided to the Chief Executive Officer for circulation to all Council Members.

## 6. Registration, travel and expenses

The Shire will be responsible for the costs associated with training or professional development approved in accordance with this policy, as detailed in this section.

### Event Registration and Bookings

Travel, registration fees and accommodation are to be arranged directly by Shire administration.

Council Members are not to pay such costs and seek reimbursement, except in the case of an emergency or unique circumstances and subject to the Chief Executive Officer's prior approval.

### Travel

Where travel is involved, the actual costs of travel to and from the event venue are to be met by the Shire in accordance with the current WA Salaries and Allowances Tribunal Determination for Local Government CEOs and Elected Members (the Determination).

Travel arrangements are to be by the most cost effective and reasonably convenient mode.

A Council Member may seek approval to travel within Western Australia by private motor vehicle and be reimbursed for vehicle costs in accordance with the Determination. Approval may only be granted where the cost is approximately equivalent to the most cost effective mode of travel.

A Council Member may choose to upgrade the mode of travel, however additional costs incurred are to be paid to the Shire by the Council Member before the Shire confirms the booking/s.

### Registration

Registration fees may include, where applicable, event registration, conference program dinners, technical tours and accompanying workshops identified within the event program.



## Accommodation

Reasonable accommodation will be booked for the Council Member for a room at or in close proximity to the event venue and within the expenditure limitations prescribed in the Determination.

If it is not reasonable to expect travel to occur on the day of the event, the booking may allow for arrival the day prior to commencement, and departure the day following the close of the event.

A Council Member may choose to upgrade their accommodation standard or extend their visit for personal reasons, however additional costs are to be paid to the Shire by the Council Member (including any additional associated or travel costs) prior to the Shire confirming the booking.

## Loyalty Program and Reward Points

Council Members are not to obtain personal benefit from expenditure of Shire funds and must not claim personal frequent flyer or accommodation loyalty points for air travel or accommodation paid for by the Shire.

## Meals and Incidental Expenses

Funding for meals and incidental expenses is to be provided in accordance with the Determination.

Meal expenses are to be interpreted as reasonable expenses incurred for the purchase of breakfast, lunch and dinner where these meals are not provided at the event or in travel. When meals are included and have been paid for as part of the registration fee or accommodation costs, claims for alternative meals at venues other than the event will not to be paid by the Shire.

Incidental taxi, economy ride share or public transport modes of transport (i.e. to / from airport, event venue) may be claimed for reimbursement on submission of receipts.

In lieu of reimbursement, Council Members may request a cash advance prior to departure. This is conditional upon the Council Member providing a written acquittal and supporting receipts to the CEO within 7 days of return from travel. If a Council Member fails to provide a reasonable and satisfactory acquittal inclusive of unspent funds, the value of the un-acquitted funds will be incurred as a debt invoiced to the Council Member.

## Travel Insurance – Intrastate, Interstate and International

Subject to policy wording and conditions, Council Members are covered by the Shire's corporate travel protection for the duration of their travel relevant to attendance at the approved event, including any incidental private travel taken either side or during the event.

Council Members should review the conditions of the Shire's corporate travel protection policy and member certificate to determine whether it is adequate for their personal needs and circumstances, and so that the Shire and/or the Council Member can make any necessary alternative arrangements.

#### Accompanying persons/entertainment costs

Council Members are responsible and will be required to pay all costs associated with an accompanying person attending an event (including conference dinners and functions).

The Shire may coordinate accompanying person bookings and registrations for travel, accommodation and the event / function, with costs incurred to be paid to the Shire by the Council Member prior to the Shire confirming the booking/s.

#### Booking Change / Modification Costs

Costs incurred for changing or modifying a booking for travel or accommodation, where the change or modification is:

- a. At the request of the Council Member, are to be paid by the Council Member; or
- b. A requirement or for the convenience of the Shire are to be paid by the Shire.

#### Cancellations

Costs incurred for cancellation of registration, travel or accommodation, where the cancellation is:

- a. At the request of the Council Member, are to be attributed to the Council Member's individual allocation; or
- b. A requirement or for the convenience of the Shire are to be paid by the Shire.

#### 7. Report on training

The Shire is required to produce a report detailing the training completed by Council Members during each financial year, in accordance with s.5.127 of the Act.

The report will include the following details of both mandatory training and continuing professional development completed by Council Members:

- Name of Council Member;
- Date of election;
- Whether the Council Member is required to complete Mandatory Training, and if applicable, the due date for completion and date of completion;
- Title of each training course or module completed or event/conference attended;
- The date attended or completed;

- The training provider or event/conference organiser;
- The cost of attendance; and
- Location of the training or event.

The report will be provided to Council Members for their information, before being published on the Shire’s website within one month of the end of the financial year.

## 8. Council Member Commitment

Council Members are committed to:

- Take a positive approach to identifying opportunities for improvement and professional development.
- Prepare for, participate in and complete professional development and training approved/booked under this policy.
- Apply the benefits of professional development to fulfilling their Council Member role, including by sharing their knowledge with other Council Members.
- Make reasonable efforts to confirm their availability, or otherwise, to the CEO before booking deadlines.
- When requested, advise the CEO of alternative dates / times that they would be available to facilitate their participation in training.
- Advise the CEO, at the earliest opportunity, if they are unable to attend planned / booked training. Where training costs are unable to be refunded, applicable costs will be debited to the individual Council Member’s allocation.

## 9. Policy Review

In accordance with s.5.128 of the Act, this policy will be provided for Council’s review following each ordinary election. The Shire will ensure the policy review occurs within the first 6-months following each ordinary election.

## Policy 1.14b Attendance at Events Policy

The Policy should be read in conjunction with Policy 1.14 Council Member Continuing Professional Development Policy

History	March 2020 Policy Manual
Former Policy	3.2C Conference and Training March 2020 Policy Manual removed
Amended / confirmed	Review 30 <sup>th</sup> July 2021
Amended / confirmed	Amended 28 <sup>th</sup> January 2022 2022-01-15 ( <i>Walga Convention</i> )

Objectives

- To introduce policy to address section 5.90A. of the Local Government Act 1995 Policy for attendance at events
- To provide elected members and staff with consistent guidelines to ensure transparency, relevance, and value for money for ratepayers.

## Policy Statement

In developing the Attendance at Events Policy, council needs to actively consider the purpose of and benefits to the community from council members and CEOs attending events. The policy should not be used to intentionally circumvent conflict of interests which may arise from attending events hosted by a provider who will have a significant matter before council. The Attendance at Events policy is to enable council members to attend events as a representative of council without restricting their ability to participate in council meetings.

This policy addresses attendance at any events, including concerts, conferences, functions or sporting events, whether free of charge, part of a sponsorship agreement, or paid by the local government. The purpose of the policy is to provide transparency about the attendance at events of council members and the Chief Executive Officer (CEO).

Attendance at an event in accordance with this policy will exclude the gift holder from the requirement to disclose an interest if the ticket is above \$300 and the donor has a matter before council. Any gift received that is less than \$300 (either one gift or cumulative over 12 months from the same donor) also does not need to be disclosed as an interest. Receipt of the gift will still be required under the gift register provisions.

## LEGISLATION

### 5.90A. Policy for attendance at events

In this section — event includes the following —

- a) a concert
- b) a conference
- c) a function
- d) a sporting event,
- e) an occasion of a kind prescribed for the purposes of this definition.

A local government must prepare, and adopt\* a policy that deals with matters relating to the attendance of council members and the CEO at events, including —

- a) the provision of tickets to events; and
- b) payments in respect of attendance; and
- c) approval of attendance by the local government and criteria for approval; and
- d) any prescribed matter.

A local government may amend\* the policy.

\*Absolute majority required.

When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.

The CEO must publish an up-to-date version of the policy on the local government's official website.

#### Provision of tickets/admittance to events - Invitation

All invitations or offers of tickets for a council member or CEO to attend an event should be in writing and addressed to the Chief Executive Officer. Invitations made directly to an Elected Member are to be handed to the Chief Executive Officer for action to be taken in accordance with this Policy.

Any other invitation or offer of tickets not addressed to an Elected Member or the Chief Executive Officer in general is not captured by this policy and must be disclosed in accordance with the gift and interest provisions in the Act.

A list of events and attendees authorised by the local government in advance of the event is recorded in Attachment A.

#### Approval of Attendance

In deciding on attendance at an event, the Council will consider:

- who is providing the invitation or ticket to the event,
- the location of the event in relation to the local government (within the district or out of the district),
- the role of the council member or CEO when attending the event (participant, observer, presenter) and the value of their contribution,
- whether the event is sponsored by the local government,
- the benefit of local government representation at the event,
- the number of invitations / tickets received, and
- the cost to attend the event, including the cost of the ticket (or estimated value of the event per invitation) and any other expenses such as travel and accommodation.

Decisions to attend events in accordance with this policy will be made by simple majority or by the CEO in accordance with any authorisation provided in this policy or policy 1.14 Council Member Continuing Professional Development Policy.

#### Payments with Respect to Attendance

Where an invitation or ticket to an event is provided free of charge, the local government may contribute to reasonable expenses for attendance, such as travel and accommodation, for events outside the district if the council determine attendance to be of public value.

6.1 For any events where a member of the public is required to pay, unless previously approved and listed in Attachment A, the council will determine whether it is in the best

interests of the local government for a council member or the CEO or another officer to attend on behalf of the council.

- 6.2 If the council determines that a council member or CEO should attend a paid event, the local government will pay the cost of attendance and reasonable expenses, such as travel and accommodation.
- 6.3 Where partners of an authorised local government representative attend an event, any tickets for that person, if paid for by the local government, must be reimbursed by the representative unless expressly authorised by the council.

#### Limits on the WALGA Convention

- Accommodation by capped to the amount of the event registration
- Meal amounts be limited to \$60 per councillor for each breakfast, lunch and dinner where a meal is not provided as part of the event registration
- Accommodation will only be provided on the night before a conference or event that starts prior to 1pm the following day.
- Accommodation will only be covered where registered training or activities occur after 1pm or it exceeds 8.5 hours including travel.
- A verbal or written report is required at the following Council Meeting for tours or sessions attended that are not part of the main program.

An information sheet is to be provided to all staff and Councillors prior to attending.

Attachment A

Event Description	Date of event	Approved Attendee/s	Approved contribution
Western Australian Local Government Association (WALGA) Annual Conference and AGM	Annual Event	President, Deputy President 2 x Elected Members CEO	Registration, Accommodation, Travel, Meals and other reasonable cost & living expenses such as parking and laundry.  Alcohol will only be covered if it is purchased with a meal and is worth less than 50% of the cost of the whole meal.
Zone Conferences	Periodical	President, Deputy President Elected Members CEO	Registration, Accommodation, Travel, Meals and other reasonable cost & living expenses such as parking and laundry.  Alcohol will only be covered if it is purchased with a meal and is worth less than 50% of the cost of the whole meal.
State Government events such as Budget announcements or regional tourism launches	Ongoing	President Deputy President CEO	Registration, Accommodation, Travel, Meals and other reasonable cost & living expenses such as parking and laundry.  Alcohol will only be covered if it is purchased with a meal and is worth less than 50% of the cost of the whole meal.
WALGA Road Conference	Annual Event	President Deputy President 2 x Elected Members CEO Works Foreman	Registration, Accommodation, Travel, Meals and other reasonable cost & living expenses such as parking and laundry.  Alcohol will only be covered if it is purchased with a meal and is worth less than 50% of the cost of the whole meal.

Form 4 Register of gifts and contributions to travel - Section 5.82 of the Local Government Act 1995

Name of relevant person making disclosure	Description of gift	Name of person who made gift	Address of person who made gift	Date gift was received	Estimated value of gift at time it was made	Nature of relationship between relevant person and person who made gift

Section 5.83 of the Local Government Act 1995 Name of relevant person making disclosure	Description of contribution	Name of person who made contribution	Address of person who made contribution	Date contribution was received	Estimated value of contribution at time it was made	Nature of relationship between relevant person and person who made contribution	Description of travel	Date of travel