**CODE OF CONDUCT FOR COUNCIL EMPLOYEES (Legislated)**

**COUNCIL POLICY**

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<td>13 February 2018</td>
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<td>As determined by Parliament</td>
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<td>25 October 2012</td>
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<td>13 March 2007 – item 81.1.3b</td>
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**GAZETTAL**

IN Government Gazette No. 48, dated 13 February 2018, page 782, the Code of Conduct for Council Employees was amended to come into operation from the 2 April 2018 as set out in Schedule 2A is prescribed.

The gift amount or benefit amount has been gazetted as $50.

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**Code of Conduct for Council Employees**

*Published by the Minister for Planning for the purposes of Section 110(1) of the Local Government Act 1999.*

**This Code of Conduct is to be observed by all Council employees.**

Council employees must comply with the provisions of this Code in carrying out their functions as public officials. It is the personal responsibility of Council employees to ensure that they are familiar with, and comply with, the standards in the Code at all times. All Councils are expected to provide training and education opportunities that will assist their employees to meet their responsibilities under the Local Government Act 1999.

This Code does not exclude the operation of the *Fair Work Act 1994*, the rights of employees and their Unions to pursue industrial claims, or any relevant Awards or Enterprise Agreements made under the *Fair Work Act 1994*. This Code does not affect the jurisdiction of the Industrial Relations Commission.
PART 1 - PRINCIPLES

1. Principles - Overarching Statement

This part does not constitute separate enforceable standards of conduct.

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

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

Council employees will perform their official duties in such a manner as to ensure that public confidence and trust in the integrity and impartiality of their Council is strong.

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

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

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

PART 2 - CONDUCT

2 Conduct required of Council employees

In line with ‘PART 1 - Principles’ of this Code, the following behaviour is considered essential to upholding the principles of good governance in Councils.

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

Council employees must also comply with all relevant statutory requirements within the Local Government Act 1999, the Work Health and Safety Act 2012 and other Acts. A failure to comply with these statutes, as identified within this Part, can also constitute a ground for disciplinary action against the employee, including dismissal, under Section 110(5) of the Local Government Act 1999.
Schedule 2A – Code of Conduct for Employees

1 – Gifts and Benefits

1 An employee of a Council must not seek out or receive a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation on the part of the employee to a person or influence the employee in the performance or discharge of the employee’s functions or duties.

2 If an employee of a Council receives a gift or benefit of an amount greater than the amount determined by the Minister (from time to time), by notice in the Gazette, the employee must provide details of the gift or benefit to the Chief Executive Officer of the Council in accordance with the requirements of the Chief Executive Officer.

3 The Chief Executive Officer of a Council must maintain a register of gifts and benefits received by employees of the Council and must ensure that the details of each gift and benefit provided under this clause are included in the register.

4 A register maintained under this clause must be –
   i. Made available for inspection at the principal office of the Council during ordinary office hours without charge; and
   ii. Published on a website determined by the Chief Executive Officer.

5 A register maintained under this clause:
   i. Need not include information available in another register published by, or available to inspection at, the Council or otherwise available under the Act; and
   ii. May include information by reference to another register or document, provided the register or document is published by, or available for inspection at, the Council and the register maintained under the clause identifies that other register or document.

6 For the purposes of this clause, gift or benefit received by a person related to an employee of a Council will be treated as a gift or benefit (as the case requires) received by the employee.

7 Unless the contrary intention appears, terms and expressions used in this clause and in Schedule 3 of the Act have the same respective meanings in this clause as they have in that Schedule, provided that a reference in Schedule 3 to a member will be taken, for the purposes of this clause, to be a reference to an employee.

(Note – The Act requires that certain gifts and benefits must be disclosed by employees and recorded on the Register of Interests relating to employees.)
2 Complaints

1. A complaint alleging that an employee of a Council has contravened or failed to comply with the code set out in this Schedule must be dealt with in accordance with a policy prepared and maintained by the Council relating to complaints against employees.

2. The policy referred to subclause (1) must nominate a person or persons to whom complaints are to be given and, in the case of a complaint against the Chief Executive Officer of the Council, must provide for the complaint to be given to the Principal Member of the Council, except in circumstances where it would be inappropriate to do so (for example, if the matter to which the complaint relates must be key confidential under an Act or law).
APPENDIX - CRIMINAL MATTERS

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

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

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

Breaches of the Local Government Act 1999

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

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

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

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

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

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

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

- bribery or corruption of public officers;
- threats or reprisals against public officers;
- abuse of public office;
- demanding or requiring benefit on basis of public office; and
- offences relating to appointment to public office.

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

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

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

Local Government (General) (Employee Code of Conduct) Variation Regulations 2018

under the Local Government Act 1999

Contents

Part 1—Preliminary

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Schedule 2A—Code of conduct for employees

1 Gifts and benefits
2 Complaints

Part 1—Preliminary

1—Short title

These regulations may be cited as the Local Government (General) (Employee Code of Conduct) Variation Regulations 2018.

2—Commencement

These regulations will come into operation on 2 April 2018.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of Local Government (General) Regulations 2013

4—Variation of regulation 8A—Code of conduct for employees

Regulation 8A—delete "published by the Minister in the Gazette on the day on which this regulation is made (and as in force on that day) is adopted as a code of conduct to be observed by the employees of all councils" and substitute:

set out in Schedule 2A is prescribed
5—Insertion of Schedule 2A

After Schedule 2 insert:

Schedule 2A—Code of conduct for employees

1—Gifts and benefits

(1) An employee of a council must not seek out or receive a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation on the part of the employee to a person or influence the employee in the performance or discharge of the employee's functions or duties.

(2) If an employee of a council receives a gift or benefit of an amount greater than the amount determined by the Minister (from time to time), by notice published in the Gazette, the employee must provide details of the gift or benefit to the chief executive officer of the council in accordance with any requirements of the chief executive officer.

(3) The chief executive officer of a council must maintain a register of gifts and benefits received by employees of the council and must ensure that the details of each gift and benefit provided under this clause are included in the register.

(4) A register maintained under this clause must be—

(a) made available for inspection at the principal office of the council during ordinary office hours without charge; and

(b) published on a website determined by the chief executive officer.

(5) A register maintained under this clause—

(a) need not include information available in another register published by, or available for inspection at, the council or otherwise available under the Act; and

(b) may include information by reference to another register or document, provided the register or document is published by, or available for inspection at, the council and the register maintained under this clause identifies that other register or document.

(6) For the purposes of this clause, a gift or benefit received by a person related to an employee of a council will be treated as a gift or benefit (as the case requires) received by the employee.

(7) Unless the contrary intention appears, terms and expressions used in this clause and in Schedule 3 of the Act have the same respective meanings in this clause as they have in that Schedule, provided that a reference in Schedule 3 to a member will be taken, for the purposes of this clause, to be a reference to an employee.

Note—

The Act requires that certain gifts and benefits must be disclosed by employees and recorded on the Register of Interests relating to employees.
2—Complaints

(1) A complaint alleging that an employee of a council has contravened or failed to comply with the code set out in this Schedule must be dealt with in accordance with a policy prepared and maintained by the council relating to complaints against employees.

(2) The policy referred to in subclause (1) must nominate a person or persons to whom complaints are to be given and, in the case of a complaint against the chief executive officer of the council, must provide for the complaint to be given to the principal member of the council, except in circumstances where it would be inappropriate to do so (for example, if the matter to which the complaint relates must be kept confidential under an Act or law).

Note—

1 Chapter 13 Part 2 of the Act requires a council to develop and maintain policies, practices and procedures for dealing with (among other things) complaints about the actions of employees of the council.

2 The code set out in this Schedule is in addition to and does not—

(a) limit the operation of the Fair Work Act 1994; or

(b) operate to lessen any rights or obligations on employees or employers under the Fair Work Act 1994 or any award, industrial agreement or contract of employment; or

(c) affect the jurisdiction of the South Australian Employment Tribunal conferred under the Fair Work Act 1994.

Note—

As required by section 10AA(2) of the Subordinate Legislation Act 1978, the Minister has certified that, in the Minister’s opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

following consultation with the Local Government Association of South Australia and as further required under section 110 of the Act and with the advice and consent of the Executive Council on 13 February 2018

No 43 of 2018

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