



Western Australia

Local Government Act 1995

## **Local Government (Rules of Conduct) Regulations 2007**



## **Local Government (Rules of Conduct) Regulations 2007**

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## **Local Government (Rules of Conduct) Regulations 2007**

### **Part 1 — General**

#### **1. Citation**

These regulations are the *Local Government (Rules of Conduct) Regulations 2007*<sup>1</sup>.

#### **2. Commencement**

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Local Government (Official Conduct) Amendment Act 2007* section 11 comes into operation.

#### **3. General principles to guide the behaviour of council members**

- (1) General principles to guide the behaviour of council members include that a person in his or her capacity as a council member should —
  - (a) act with reasonable care and diligence; and
  - (b) act with honesty and integrity; and
  - (c) act lawfully; and
  - (d) avoid damage to the reputation of the local government; and
  - (e) be open and accountable to the public; and
  - (f) base decisions on relevant and factually correct information; and

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- (g) treat others with respect and fairness; and
  - (h) not be impaired by mind affecting substances.
- (2) The general principles referred to in subregulation (1) are for guidance of council members but it is not a rule of conduct that the principles be observed.

**4.        Contravention of certain local laws**

- (1) In this regulation —  
*local law as to conduct* means a local law relating to conduct of people at council or committee meetings.
- (2) The contravention of a local law as to conduct is a minor breach for the purposes of section 5.105(1)(b) of the Act.

## Part 2 — Rules of conduct

### Division 1 — Preliminary

*[Heading inserted in Gazette 4 Mar 2016 p. 659.]*

#### 5. Rules of conduct

- (1) This Part contains the rules of conduct referred to in section 5.104(1) of the Act.
- (2) The rules of conduct apply to a council member whether or not acting as a committee member.

### Division 2 — Rules of conduct: general

*[Heading inserted in Gazette 4 Mar 2016 p. 660.]*

#### 6. Use of information

- (1) In this regulation —  
***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 to clearly show that the information in the document is not to be disclosed;  
***non-confidential document*** means a document that is not a confidential document.
- (2) A person who is a council member must not disclose —
  - (a) information that the council member derived from a confidential document; or
  - (b) information that the council member acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subregulation (2) does not prevent a person who is 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.

**7. Securing personal advantage or disadvantaging others**

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

**8. Misuse of local government resources**

A person who is a council member must not either directly or indirectly use the resources of a local government —

- (a) for 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*; or
- (b) for any other purpose,

unless authorised under the Act, or authorised by the council or the CEO, to use the resources for that purpose.



**9. Prohibition against involvement in administration**

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

**10. Relations with local government employees**

- (1) A person who is a council member must not —
  - (a) direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's 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 person who is a local government employee in the person's capacity as a local government employee.
- (2) Subregulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.
- (3) If a person, in his or her capacity as a council member, is attending a council meeting, committee meeting or other organised event and members of the public are present, the person must not, either orally, in writing or by any other means —
  - (a) make a statement that a local government employee is incompetent or dishonest; or
  - (b) use offensive or objectionable expressions in reference to a local government employee.
- (4) Subregulation (3)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.

**11. Disclosure of interest**

- (1) In this regulation —

***interest*** means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

- (2) A person who is a council member and who has an interest in any matter to be discussed at a council or committee meeting attended by the 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) Subregulation (2) does not apply to an interest referred to in section 5.60 of the Act.

- (4) Subregulation (2) does not apply if —

- (a) a person who is a council member fails to disclose an interest because the person did not know he or she had an interest in the matter; or
- (b) a person who is a council member fails to disclose an interest because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person disclosed the interest as soon as possible after the discussion began.

- (5) If, under subregulation (2)(a), a person who is a council member discloses an interest in a written notice given to the CEO before a meeting then —

- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present

immediately before a matter to which the disclosure relates is discussed.

(6) If —

- (a) under subregulation (2)(b) or (4)(b) a person's interest in a matter is disclosed at a meeting; or
- (b) under subregulation (5)(b) notice of a person's interest in a matter is brought to the attention of the persons present at a meeting,

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

## **12. Gifts**

(1) In this regulation —

***activity involving a local government discretion*** means an activity —

- (a) that cannot be undertaken without an authorisation from the local government; or
- (b) by way of a commercial dealing with the local government;

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

- (a) a gift from a relative as defined in section 5.74(1) of the Act; or
- (b) a gift that must be disclosed under regulation 30B of the *Local Government (Elections) Regulations 1997*; or
- (c) a gift from a statutory authority, government instrumentality or non-profit association for professional training;

***notifiable gift***, in relation to a person who is a council member, means —

- (a) a gift worth between \$50 and \$300; or

- (b) a gift that is one of 2 or more gifts given to the council member by the same person within a period of 6 months that are in total worth between \$50 and \$300;

***prohibited gift***, in relation to a person who is a council member, means —

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

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

- (a) who is undertaking or seeking to undertake; or
- (b) who it is reasonable to believe is intending to undertake,

an activity involving a local government discretion.

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

- (a) who is undertaking or seeking to undertake; or
- (b) who it is reasonable to believe is intending to undertake,

an activity involving a local government discretion must, within 10 days of accepting the gift, notify the CEO of the acceptance in accordance with subregulation (4).

- (4) Notification of the acceptance of a notifiable gift is to be in writing and is to include —

- (a) the name of the person who gave the gift; and
- (b) the date on which the gift was accepted; and
- (c) a description, and the estimated value, of the gift; and
- (d) the nature of the relationship between the person who is a council member and the person who gave the gift; and
- (e) if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift” (whether or not it is also a notifiable gift under paragraph (a) of that definition) —

- (i) a description; and
  - (ii) the estimated value; and
  - (iii) the date of acceptance,
- of each other gift accepted within the 6 month period.
- (5) The CEO must maintain a register of gifts in which details of notices received under subregulation (4) are recorded.

### Division 3 — Rules of conduct: transitional period

*[Heading inserted in Gazette 4 Mar 2016 p. 660.]*

#### 13. Terms used

In this Division —

**address** has the meaning given in section 5.74(1) of the Act;

**assent day** means the day on which the *City of Perth Act 2016* receives the Royal Assent;

**designated employee** has the meaning given in section 5.74(1) of the Act;

**gift** has the meaning given in section 5.82(4) of the Act;

**political party** has the meaning given in section 5.83(4) of the Act;

**relative** has the meaning given in section 5.74(1) of the Act;

**transitional period** means the period beginning on 1 July 2015 and ending at the close of assent day;

**travel** has the meaning given in section 5.83(4) of the Act;

**travel contribution**, in relation to a person, means a financial or other contribution that has been made to any travel undertaken by the person.

*[Regulation 13 inserted in Gazette 4 Mar 2016 p. 660-1.]*

#### 14. Disclosure of gifts

- (1) A person who is a council member must disclose each gift received by the person during the transitional period.

- (2) The disclosure is to be made in writing to the CEO.
- (3) The disclosure is to be made within 28 days after assent day.
- (4) The disclosure is to include the following —
  - (a) a description of the gift;
  - (b) the name and address of the person who made the gift;
  - (c) the date on which the gift was received;
  - (d) the estimated value of the gift at the time it was made;
  - (e) the nature of the relationship between the person who is a council member and the person who made the gift.
- (5) Nothing in this regulation requires a person to disclose a gift received by the person if —
  - (a) the amount of the gift did not exceed \$200 unless —
    - (i) the gift was one of 2 or more gifts made by one person at any time during the year; and
    - (ii) the sum of those 2 or more gifts exceeded \$200;
  - or
  - (b) the donor was a relative of the person.
- (6) For the purposes of subregulation (5)(a), the amount of a gift comprising property, other than money, or the conferral of a financial benefit is to be treated as being an amount equal to the value of the property or the financial benefit at the time the gift was made.
- (7) The CEO must maintain a register of gifts received during the transitional period in which details of disclosures made under this regulation are recorded.

*[Regulation 14 inserted in Gazette 4 Mar 2016 p. 661-2.]*

## **15. Disclosure of travel contributions**

- (1) A person who is a council member must disclose each travel contribution received by the person during the transitional period.

- (2) The disclosure is to be made in writing to the CEO.
  - (3) The disclosure is to be made within 28 days after assent day.
  - (4) The disclosure is to include the following —
    - (a) a description of the contribution;
    - (b) the name and address of the person who made the contribution;
    - (c) the date on which the contribution was received;
    - (d) the estimated value of the contribution at the time it was made;
    - (e) the nature of the relationship between the person who is a council member and the person who made the contribution;
    - (f) a description of the travel;
    - (g) the date of travel.
  - (5) Nothing in this regulation requires a person to disclose a travel contribution if —
    - (a) the contribution was made from Commonwealth, State or local government funds; or
    - (b) the contribution was made by a relative of the person; or
    - (c) the contribution was made in the ordinary course of an occupation of the person which is not related to the person's duties as a council member; or
    - (d) the amount of the contribution did not exceed \$200 unless —
      - (i) the contribution was one of 2 or more contributions made by one person at any time during the year; and
      - (ii) the sum of those 2 or more contributions exceeded \$200;
- or

- (e) the contribution was made by a political party of which the person was a member and the travel was undertaken for the purpose of political activity of the party, or to enable the person to represent the party.
- (6) For the purposes of subregulation (5)(d), the amount of a contribution (other than a financial contribution) is to be treated as being an amount equal to the value of the contribution at the time the contribution was made.
- (7) The CEO must maintain a register of travel contributions received during the transitional period in which details of disclosures made under this regulation are recorded.

*[Regulation 15 inserted in Gazette 4 Mar 2016 p. 662-4.]*



### **Notes**

- <sup>1</sup> This is a compilation of the *Local Government (Rules of Conduct) Regulations 2007* and includes the amendments made by the other written laws referred to in the following table.

### **Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Local Government (Rules of Conduct) Regulations 2007</i>	21 Aug 2007 p. 4203-16	r. 1 and 2: 21 Aug 2007 (see r. 2(a)) Regulations other than r. 1 and 2: 21 Oct 2007 (see r. 2(b) and <i>Gazette</i> 21 Aug 2007 p. 4173)
<i>Local Government (Rules of Conduct) Amendment Regulations 2016</i>	4 Mar 2016 p. 659-64	r. 1 and 2: 4 Mar 2016 (see r. 2(a)) Regulations other than r. 1 and 2: 5 Mar 2016 (see r. 2(b))

**Defined terms**

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**Defined terms**

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
activity involving a local government discretion .....	12(1)
address .....	13
assent day .....	13
closed meeting .....	6(1)
confidential document.....	6(1)
designated employee.....	13
gift.....	12(1), 13
interest.....	11(1)
local law as to conduct.....	4(1)
non-confidential document .....	6(1)
notifiable gift .....	12(1)
political party .....	13
prohibited gift .....	12(1)
relative .....	13
transitional period .....	13
travel .....	13
travel contribution.....	13