

Council Policy & Procedures – Elected Member Communications

1. Policy Statement

- (1) No elected member other than the Mayor, is to speak with the media on behalf of Council without the consent of the Mayor.
- (2) If elected members do speak with the media they shall represent the view of Council and shall not express a personal point of view for the purpose of gaining personal or election advantage.
- (3) The City of Albany has established formal communication protocols and procedures. Elected members are encouraged to utilise those protocols and procedures to support the City of Albany in its administration.
- (4) In all public oral and written statements (including media) elected members should:
 - (a) Respect the decision making processes and decisions of Council;
 - (b) Accurately convey information concerning decisions of Council;
 - (c) Clarify whether or not they are representing Council or presenting a personal viewpoint as a private citizen;
 - (d) Take care when expressing personal views to show respect for Council;
 - (e) Avoid criticism of individuals in a way that reflects on those individuals' competence or integrity, and which may give rise to a City of Albany liability;
 - (f) Ensure they do not commit Council or the City of Albany to a course of action or expenditure of City resources, including staff time, without the prior endorsement of Council.

2. Scope

Elected members of Council.

3. Legislation Relating to This Policy

The *Local Government Act 1995* which is also complemented by guidelines and handbooks produced by the Department of Local Government (WA).

- *State Records Act 2000 (WA)*
- *Privacy Act 1988 (C'th)*
- *Freedom of Information Act 1992 (WA)*

4. Review

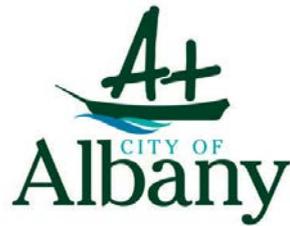
The Chief Executive Officer is to review the policy on or before 1 October 2013.

5. Procedures

- (1) **Categorisation of Correspondence.** The processing of the following categories of communications is dealt with as follows:
- (a) **Category One.** Correspondence from Government Ministers and other members of Parliament:
 - (i) copy to Mayor for information
 - (ii) copy to CEO
 - (iii) Mayoral Liaison Officer, working with the Chief Executive Officer to draft reply for Mayor for signature.
 - (b) **Category Two.** Correspondence from the general public in relation to Council business:
 - (i) copy to Mayor for information
 - (ii) copy to particular named councillors for information
 - (iii) copy to Chief Executive Officer if relating to City of Albany business
 - (iv) Mayoral Liaison Officer, working with the Chief Executive Officer to draft reply for Mayor for signature.
- (2) **Use of mayor Letterhead.** Mayoral letterhead is to be used only by the Mayor, in their official capacity.
- (3) **Relations with the Public and the Media.** The Act recognises the role of the Mayor as the principal spokesperson of the Council.

Version Control

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Council Guideline

Elected Member Induction Manual

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Dear Elected Member,

This manual has been specifically compiled for the benefit of elected members for the City of Albany. Your suggestions for improvements to this manual will be welcomed.

I hope your experience as a member of the Council is everything you hope it will be.

Chief Executive Officer

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INTRODUCTION

Welcome to the City of Albany Local Government. By standing for and being elected to the City of Albany Council you have committed to making a difference to our community and having your say on behalf of your constituents in local government decision making.

LEGISLATIVE AND LEGAL MATTERS

Local Government Act 1995 and Regulations

The [Local Government Act 1995](#) (the Act) is the principal legislation which guides elected members and staff conduct and performance in their roles as officers of a local government.

A full copy of the Local Government Act and its Regulations can be sourced from: <http://www.slp.wa.gov.au/>

Elected members found to be in breach of the Act or its Regulations may face penalties ranging from public censure and providing a public apology, through to an order to undertake training, or prison and monetary fines.

Code of Conduct

Council's Code of Conduct for elected members, as required by Section 5.103 of the Act provides guidance of the acceptable standard of professional conduct of elected members.

All elected members are required to sign a copy of the Code of Conduct and provide that to the Chief Executive Officer.

- [Code of Conduct 2011](#)

The Code of Conduct supplements the [Local Government \(Rules of Conduct\) Regulations 2007](#).

Role of Council

Under the Act the role of Council is focused on decision making. In its decision making role, Council is responsible for setting Council policy and strategic direction, actively shaping the community and ensuring the Chief Executive Officer is effectively "running" the City through good stewardship of assets, transparent arrangements and in line with legislative obligations. Council also has a duty to monitor and evaluate the effectiveness of such policies and the performance of the Chief Executive Officer in implementing policies.

Role of individual elected members

The role of Mayor or councillor involves a commitment to constituents to achieve effective local government which improves the City of Albany community.

An elected member who wishes to have a particular matter addressed must raise the matter at a Council meeting in an attempt to obtain a Council decision to reallocate resources or rearrange priorities to achieve the required result. If the proposal does not have the support of the Council then the elected member has to accept the majority view.

Sections 2.8 of the Act explains the role of the Mayor and section 2.10, that of other elected members.

Leadership of the Mayor

While the Act sets out the role of the Mayor, it is for the Mayor to determine how they believe they best perform that role.

City of Albany elected members have previously expressed a view that they seek the following attributes of leadership in the Mayor:

- Communicating with individual councillors on a regular basis.
- Unifying the Council and motivating councillors.
- Fairly and firmly controlling the debate at meetings.
- A strong political voice for Albany in dealing with other levels of government.
- A strong voice in promoting Albany tourism and businesses, including promoting business investment.
- Speaking positively on behalf of Council.

Role of Chief Executive Officer

The Chief Executive Officer is responsible for implementing Council decisions. The Chief Executive Officer has delegated powers and responsibilities to do this. The specific delegations are detailed in the Delegations Register. For effective governance the Chief Executive Officer must be able to partner with elected members in a very real and productive manner. The role and functions of the Chief Executive Officer are set out in the Act.

The appointment of other officers is the responsibility of the Chief Executive Officer. While the local government is responsible for appointing the Chief Executive Officer, the Chief Executive Officer has responsibility ensuring all other employees are suitably experienced and qualified for their position. The Chief Executive Officer, in appointing officers must act within allocated resources as resolved by Council.

While the Chief Executive Officer is responsible for implementing the City's strategic and operational plans and reporting to Council, the Council has the ability to call for a report on a particular matter to be provided to it.

In fulfilling their responsibilities, the Chief Executive Officer should act "without fear of favour" offering advice and guidance to Council and individual elected members that is impartial and "apolitical".

With that said, with regard to State and Federal politics an effective Chief Executive Officer keeps an eye on the political environment. A Chief Executive Officer's awareness of those political environments serves to strengthen Council's ability to leverage State or Federal matters that affects the local government.

Delegations

An element of decision making by local governments dealt with under the Act is the power of delegation. Under section 5.42 of the Act a local government can delegate (with certain exceptions) its powers to the Chief Executive Officer. That power may not be delegated to an individual elected member except in his or her capacity as a committee member.

A decision made pursuant to a delegation has the same force and effect as one made by the person or body that granted delegation.

Once power is delegated to the Chief Executive Officer, it is then a matter for the Chief Executive Officer to exercise power under section 5.44 of the Act to further delegate powers if they wish to other officers.

The Act requires all delegations to be in writing. In addition to this, sections 5.46 specifies that all delegations made by a local government and the Chief Executive Officer must be recorded in a register of delegations which is open to public inspection.

Section 5.43 of the Act stipulates what a Council cannot delegate to a Chief Executive Officer. This includes:

- Any power or duty that requires a decision of an absolute majority or special majority of the Council.
- Accepting a tender which exceeds an amount determined by Council. (For City of Albany that is \$250 000)
- Any powers determining fees, expenses and allowances for elected members or committee members.
- Borrowing money on behalf of the City of Albany.

Financial Interest Returns

Your attention is drawn to Division 6 – Disclosure of Financial Interests – of the Act. A Financial Interests Handbook can be sourced from the Department of Local Government's website: www.dlg.wa.gov.au.

Under law you are required to submit a Primary and Annual Returns. The Primary Return will be circulated to all elected members immediately after the election and you are required to complete this form and return it to the Chief Executive Officer as soon as possible.

You are also required to update this information in an Annual Return each year during your term of office. A copy of the form will be supplied to you for completion at the appropriate time.

“Factions” on Council

As the report of the 1997 Royal Commission into the City of Wanneroo stated:

*“ if members of any group of councillors vote with a collective will rather than individually bring their judgement to bear on the issues before them in the interests of the community then their conduct was improper...**the proper role of every councillor (is) to take a strong stance on issues of importance in accordance with the actual merits of the matter. Action taken or an attitude adopted for no better reason than to destabilise an opposing faction, however, unworthy that faction may be, is inappropriate conduct and not part of the proper role of a councillor.**”*

The Royal Commissioner also said:

“one of the many drawbacks of factional divisions on Council (is) the tendency towards petty back-biting conduct which destabilises a council and brings it into disrepute”. (Bold emphasis is applied by the City of Albany).

Obligations at Law

As an elected member you have both legislative and general obligations at law.

All local governments operate within the context of Australia's legal system. There are two main sources of law in the Australian legal system, being legislation (statute law) and common law.

Electronic technology provides an extremely efficient tool to quickly gain some understanding of the breadth of issues covered by legislation and common law. Access State Government legislation at www.slp.wa.gov.au or Austlii <http://www.austlii.edu.au>.

Statute law is law made by Parliament. It includes primary legislation, made by Parliament itself and subsidiary legislation, made by those with delegated authority by Parliament to make subsidiary legislation. While the Act is important primary legislation affecting local governments, there are many other Acts which confer powers and impose obligations on local governments. This is an area of law which is constantly changing.

AGENDA ITEM 1.6 REFERS

Subsidiary legislation includes Regulations (such as the *Local Government (Financial Management) Regulations 1996*), proclamations made by the Governor in Council, other statutory instruments made by Ministers, and local laws made by local governments. Subsidiary legislation provides more detail to enable Acts to be implemented.

Common law is law made by the courts. It originated in England and is based on established customs and “case law” over many years. It includes areas of law that have an impact on the day-to-day operation of local governments, such as property and contract law, industrial relations law, commercial law, the law of negligence and administrative law which deals with the rules of law governing the operation of government.

With regard to contract law, in addition to common law the Act deals with the procedures to be followed by local governments when entering into contracts. Local government contracting is also governed by the other State and Commonwealth Legislation (such as the *Fair Trading Act 1997 (WA)* and the *Trade Practices Act 1974 (C’th)*).

The local government is a body corporate (section 2.5(2)), consisting of a mayor, or president and other councillors (section 2.6).

As a body corporate, the general position is that a contract entered into by the Council does not bind any Council member or officer personally, and that acts or omissions of the Council may impose liability on the corporate body but not on members or officers personally. There are, however, some situations in which members or officers could have personal liability, where their own action is the direct cause of loss or injury, or if they go beyond what is authorised by the Act or beyond the scope of authority which has been delegated to them.

As a body corporate, the only way a local government can operate is by decisions of its members collectively at a legally convened meeting, or delegated authority provided to the Chief Executive Officer. This means all elected members collectively share executive power and it is only when they come together as a Council and make decisions that they become a corporate entity and gain this power.

Two of the most important administrative law reforms in Western Australia are the *Freedom of Information Act 1992* and the *State Administrative Tribunal Act 2004*. The Freedom of Information Act provides individuals with the right of access to government information. The State Administrative Tribunal Act establishes a comprehensive system for the review of administrative decisions making by State agencies and local governments in Western Australia.

Civil law includes negligence and defamation. An unfounded allegation which damages the reputation of another person made by an elected member may be defamatory. Most defamation actions are conducted as civil proceedings in which an awarded of damages is sought as compensation. However, section 345(1) of the Criminal Code of Western Australia establishes an offence of criminal defamation. Section 345 states:

- (1) *A person who, without lawful excuse, publishes matter defamatory of another living person (the victim) —*
- (a) *knowing the matter to be false or without having regard to whether the matter is true or false; and*
 - (b) *intending to cause serious harm to the victim or any other person or without having regard to whether such harm is caused, is guilty of a crime and is liable to imprisonment for 3 years.*

Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.

(For defamation purposes, “publishes” simply means to communicate to another person.)

In respect of the above it is necessary to understand that an allegation made by an elected member because they believe it to be true and in the public interest may not protect the member from legal action. An allegation is a very serious matter and will only be considered “true” when the proper investigating authority, or a court, makes a finding to that effect. If an elected member has evidence of improper conduct by another person (such as dishonesty or corruption), their responsibility is to report the matter to the Corruption and Crime Commission, not to make any allegation about the matter in the absence of a investigative findings by the appropriate authoritative body.

Other actions which may be unlawful may also be investigated by the Corruption and Crime Commission. Under the *Corruption and Crime Commission Act* “misconduct’ occurs where a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by two or more years’ imprisonment...”.

Public Interest Disclosure Act 2003

This Act facilitates the disclosure of public interest information, to provide protection for those who make disclosures and for those the subject of disclosure. The definition of “Public Authority” includes a local government.

Public interest disclosure means information in relation to the performance of a public function, a public authority, officer, or public sector contractor that is, has been, or proposes to be, involved in:

- Improper conduct;
- A substantial unauthorised, irregular use of, or substantial mismanagement of, public resources;
- An act or omission that involves a substantial and special risk, such as:
 - Injury to public health;
 - Prejudice to public safety; or
 - Harm to the environment.

For the purposes of the *Public Interest Disclosures Act 2003*, an elected member is a “public officer”.

Local Laws

A local law is a law adopted by a local government for the good government of the area. Through local law, a local government can permit or licence activities it wants to regulate, create offences for unacceptable behaviour and allow for the issue of compliance or abatement notices.

In Western Australia proposed local laws must be first agreed to by the Department of Local Government and then submitted to the State Parliament’s Joint Standing Committee on Delegated Legislation. The Joint Standing Committee has responsibility to scrutinise the local law. Scrutiny by the Joint Standing Committee and disallowance of the local law by the State are accountability mechanisms to guard against the passing of local laws that are unlawful.

The Act sets out a uniform procedure to apply throughout the State in the making of local laws. While the procedure is the same State wide, the onus is on each local government to make local laws which suit its local needs.

Among the major principals underlying the local law making process are that the process:

- Is consistent with an effective, efficient and accountable local government system;
- Is consistent with state and federal laws;
- Has clear objectives, is quality driven, maintains the confidence of the public and has appropriate mechanisms in place for achieving the objectives.

As local law created by a local government has the force of law. The local government can enforce those local laws in the courts and can prosecute for a breach of them.

National Competition Policy (NCP)

The introduction of National Competition Policy (NCP) has had a major impact on local government. NCP resulted from the findings and recommendations of the National Competition Policy review (the 'Hilmer Report'), which investigated ways to remove barriers to competition within Australia.

NCP involves the concepts of competitive neutrality, full cost pricing and commercialisation; and the requirement that government businesses identify any anti-competitive practices. The theory is that some government businesses would be conducted more efficiently if they were subject to the competitive pressures of the private sector or, alternately, that the prices being charged within these operations are distorted in the sense that they contain hidden subsidies or surcharges as compared to the prices which would be charged if the services were provided by the private sector. The NCP requires local government business activities to be on a commercial footing and competitively neutral.

Insurance

To ensure they have the benefit of insurance cover, elected members have a duty to act prudently while performing duties connected with or on behalf of the Council.

The Mayor and elected members and their spouse/partner are covered by personal accident insurance whilst engaged in any activity directly or indirectly connected with or on behalf of the Council, including whilst travelling directly to and from such activity. Elected members engaged in any Council activity are also generally covered by insurance against liability to pay civil damages, claimants' legal costs and the costs incurred in defending a claim.

An insurance contract is one of "utmost good faith". That is, both parties are required to perform the contract in good faith with the requirement that the insured will make formal disclosure of all matters relevant to the insurer's consideration of whether to accept or continue with the risk. Failure to provide appropriate disclosure could lead to the insurer declining to indemnify the insured completely, or a reduced amount. The duty to disclose arises before the contract is entered, as well as when the contract is renewed, extended or varied.

If there is a reasonable possibility of a claim notice, must be given by the Chief Executive Officer to the insurer as soon as practicable, and before expiry of the policy period. Delay in providing that notice containing all relevant facts could result in the claim being denied.

Media Comment

Under the provisions of the Act, the Mayor is the spokesperson to the media on Council matters. Individual elected members are not permitted to speak about or on behalf of Council.

Access to Information

Elected members may access certain documents beyond that which the general public can access, including the right to inspect any Council document dealing with Council business, providing it is relevant to a matter being discussed by Council.

The member who obtains such information is not to use the information for their own interests, unconnected with Council activities, or to the detriment of Council. In deciding what is proper and reasonable access, a legal opinion on this issue states:

“The Council has a right to determine for itself what documents and correspondence a Councillor is entitled to inspect. In the absence however of such a decision, whether such a right exists, is properly determined by the Councillor’s need to know the information contained in the correspondence or document.

Whilst there are no Australian court decisions directly on this point, the position in England is quite clear. The appropriate test has been dubbed the “need to know” test, which was examined by the House of Lords in R v Birmingham City District Council 1983 1 All ER 497 where it was held that:

A Councillor was entitled to have access to documents that were relevant to a particular committee of which he was a member provided that he had a good reason for such access; and

A Councillor has no automatic right of access to documents of a committee of which he is not a member but could gain access to that information if he established that the information sought was needed by him to enable him to properly discharge his duties as a Councillor.

The Chief Executive Officer must ensure that in granting elected members access to information there is compliance with the law, including State and Federal Privacy laws. This requires the Chief Executive Officer to ascertain why the elected member is seeking access, the precise nature of the request and the particular information sought, together with any required consents from individuals the subject of the information being requested.

If the request establishes motivation outside the general guideline of assisting the member in the proper discharge of their responsibilities, or is otherwise unlawful, the Chief Executive Officer is entitled to refuse such a request.

Confidential Information, including Legal Opinions and Advice

The City of Albany routinely has a need to obtain legal advice or opinion. It is often the case that to protect the City’s legal professional privilege, the advice or even extracts from it, should not be in the public arena or be made the subject of public debate. Examples of such advices would include advice with respect to defamation, allegations of criminal activity, possible litigation against or by the City, or negotiations on commercial or contractual matters. In these circumstances, public circulation of the advice or other information could jeopardise and be prejudicial to action that the City takes.

Council Policies

Policies are reviewed every four years or earlier if required. Council policies can be downloaded from the City’s website: <http://www.albany.wa.gov.au/az-quickfind/policies-database>

DAY TO DAY COUNCILLOR MATTERS

Absence from Council Meetings

If the Mayor or an elected member is to be absent from an Ordinary Council Meeting, he/she should apply for leave of absence at an Ordinary Council Meeting prior to the one for which leave of absence is sought.

Access to the City’s North Road Office and Councillors’ Workstation

Normal office hours of the City’s administration centre is 9:00am–5:00pm Monday to Friday. It is suggested for your own convenience, and as a matter of courtesy, that if you wish to meet with the Chief Executive Officer or the Chief Executive Officer’s delegate, you telephone beforehand and make an appointment to ensure the particular officer is available.

Elected members access the North Road Office via the Councillors’ Workstation. Elected members will be issued with a security disk, which will permit unlimited access to that workstation area. To enter the building you swipe your security disc over the sensor **once** and then open the door to the Councillors’ Workstation.

If accessing the Councillors’ Workstation on the weekends or out of hours you will need to set the alarm system when **leaving** the building. On leaving the building, close the door of the Councillors’ Workstation; scan your disk over the sensor **three** times. A red light will appear to confirm the alarm is on. Please be careful **entering** the building - if you scan your disk three times or more you will be given access but the alarm will go off, which will activate a security callout. If you are on the inside of the building and you are not sure if the alarm is still on, check the display panel as red indicator lights will be glowing if the alarm is activated. Please contact the Mayoral Liaison Officer if you would like further clarification regarding access and security.

As a general courtesy to staff, please do not wander through the building to find an officer; the Mayoral Liaison Officer will phone the Chief Executive Officer or their delegate and they will meet you in the Councillors’ Workstation.

Use of and access to the Mayor’s office is entirely at the discretion of the Mayor.

Elected Member Fees/Allowances

Under legislation, elected members may receive fees for attendance and reimbursement for the cost of internet access, telephone calls, travel and childcare expenses.

The Mayor and Deputy Mayor receive additional allowances with the Deputy Mayor receiving 25% of the Mayor’s allowance. Elected members receive their allowances on a quarterly basis in arrears. These allowances will be paid directly into your bank account.

The current budgeted allowances are shown below:

	Mayoral Sitting Fee	Mayoral Allowance	Deputy Mayoral Allowance	Council Sitting Fee	Communications Allowance	IT Allowance	Mayoral Vehicle	Per Annum
Mayor	\$14 000	\$42 200			\$1 800	\$1 000	\$20 000	\$65 000
Deputy Mayor			\$10 550	\$7 000	\$1 800	\$1 000		\$20 300
Councillors				\$7 000	\$1 800	\$1 000		\$9 800

Communications Allowance

This allowance enables you to provide community members and City staff with an efficient way of communicating with you. It can include operating a mobile phone and email system.

The preferred method of communication is email or if urgent, phone. It is your responsibility to notify the City of Albany of the best way to communicate information to you.

Information Technology (IT) Allowance

The IT allowance is for the purchase of IT equipment and software to effectively communicate with City staff and community members.

Upon completion of a member's term the equipment purchased under the IT allowance remains the property of the member.

Reimbursement of Travel and Other Costs

Elected members can be reimbursed for travel costs associated with performing their duties such as travel to and from Council functions and meetings. These will be reimbursed according to a log of travel that elected members must keep and submit to the Mayoral Liaison Officer. The reimbursement amount is calculated on the type of vehicle and kilometres travelled.

For travel out of the City of Albany, elected members **must have receipts** for fuel, accommodation and meal expenses. Claims for meals are to be made in accordance with the Elected Member Travel Expenses Claim form.

Elected members can also claim the cost of child care in certain circumstances.

Travel log and expense claim forms can be downloaded from the City of Albany website:

- [Elected Member Travel Expenses Claim Form](#)
- [Elected Member Quarterly Mileage Claim Form](#)
- [Elected Member Quarterly Child Care Expense Claim Form](#)

Business Cards

Soon after the election, elected members will be issued with City of Albany Council business cards. These cards are provided for Council business use only. They are not to be used for electioneering or private business purposes.

Contact List

Please ensure that you provide your contact details as soon as possible to the Mayoral Liaison Officer. Your contact details will enable staff and fellow elected members to provide you with appropriate advice of upcoming activities.

City of Albany staff receive a number of requests from community members also seeking this information. It is important that we have this information available as soon as possible. Your details will also appear on the City of Albany website.

Dates for your Diary

- Australia Day Ceremony – 26 January
- Anzac Day – 25 April
- U.S. Submariners' Memorial Service – late May
- Local Government Week – August
- Christmas Pageant and Concert – early December
- New Year's Eve Concert and Fireworks – 31 December

Dress Standards

A certain standard of dress is expected for Council functions and meetings. Lounge suit standard, i.e. slacks, jacket and tie for males and equivalent for females is encouraged for meetings. Other official occasions may necessitate more formal wear and official invitations will advise of dress standards.

Entertainment of Guests

Generally the Mayor will entertain Council guests in the Mayor's office. Should elected members wish to entertain guests, specific arrangements should be made on each occasion with the Mayoral Liaison Officer. The Councillors' Workstation is available for any informal meetings.

Elected Member Diary Commitments - Ceremonies, Celebrations and Civic Functions

Elected Members are encouraged to monitor the *Weekly Councillor Diary Update* for information regarding Council meetings and civic functions including ceremonies, receptions and celebrations for the forthcoming month. An update is provided by the Mayoral Liaison Officer each Friday by email and a hard copy is placed in your workstation in box.

From time to time elected members will be invited to attend events and meetings relating to Council business, or where the presence of a councillor is sought.

If you are elected by Council as it's representative for an event or meeting, the travel and other expenses of attending will be paid in addition to your elected member budgeted allowances.

Elected Members' Information Bulletin

Members are provided with a elected members' Information Bulletin which can be found in the Councillors' Workstation. This Information Bulletin may contain additional information relating to items in Council meeting papers and other information such as communications on a particular subject between the City and another entity regarding a commercial venture.

Gifts and Memorabilia

A supply of small gifts and memorabilia bearing the City of Albany logo, can be obtained from the Mayor Liaison Officer. Please note the Mayor Liaison Officer can only issue gifts if approval is given by the Mayor or Chief Executive Officer.

Guidelines

The Department of Local Government and the Western Australia Local Government Association (WALGA) provided publications to guide elected members in the performance of their duties. You are encouraged to regularly review the Department's www.dlg.wa.gov.au and WALGA's www.walga.asn.au website in that regard.

Information management processes between elected members and staff

Under legislation, the Mayor and councillors are to direct their enquiries to the Chief Executive Officer, as the only employee of Council. If contact is requested with any other staff member, the Chief Executive Officer is to be consulted.

The Chief Executive Officer has implemented a corporate information management process for addressing elected member enquiries.

The purpose of this process is to improve responsiveness to requests, ensuring accountability, "tracking" information in the City's document management systems and alleviating duplication of staff effort and resources. A centralised approach to administering information requests also ensures that appropriate staff answer the question, contributing to informed decision-making by elected members.

If an elected member asks for information or advice directly from a City of Albany employee other than under guidelines made by the Chief Executive Officer, employees have been advised to notify the Chief Executive Officer about the request as soon as practicable.

The Chief Executive Officer also has to ensure that requests for information or advice from individual elected members versus Council (as a whole) do not significantly disrupt City of Albany work priorities.

Appointments with relevant City of Albany staff can be arranged through the Mayoral Liaison Officer or the Councillor Liaison Officer.

Induction and training

Soon after the election, and periodically over the period of your term, the Chief Executive Officer will facilitate induction and ongoing education for elected members. While attendance is not mandatory, it is encouraged. Attendance also assists in building a strong Council team, both as a governance body and as a “social” team.

There are also a number of external training courses available for elected members. Please liaise with the Mayor Liaison Officer if you wish to attend this training. For example, the Western Australian Local Government Association ([WALGA](#)) runs a series of training programs specifically designed for elected members.

All elected members are allocated an annual training and development budget. You may use that budget for such training. Any amount over that allocation would have to be paid by you personally.

Mail and other Corporate documents

Any mail addressed to the Mayor and elected members will be registered on the City’s corporate records system. The only exception is mail addressed with the caveat “*Personal For*” “*Private*” or “*Confidential*”.

Under the City’s information and knowledge management systems, elected members are required to provide significant records for registration in the City’s corporate records management system.

If you receive mail that requires an official reply regarding the administration of the City it should be handed to the Chief Executive Officer (or Mayoral Liaison Officer) for action (in which case it will be registered on the City’s corporate records system). The Chief Executive Officer will reply to the correspondence, but specific reference will be made in the reply to the fact that the letter was provided to the City by you.

Name Badges

Name badges are provided for elected members and their spouse/partner. Badges are ordered immediately following the election and are usually available within two weeks. Temporary name badges will be available to wear until your permanent badge (carrying the City of Albany logo) is available.

Your name badge will carry the name you specified for use on the ballot papers. However, if you wish a different form of your name to be used, please advise the Mayoral Liaison Officer as soon as possible as badges will be ordered very soon after the election. Please also contact the Mayoral Liaison Officer immediately if you lose your badge and need a replacement.

Parking

Elected members are encouraged to park at the rear of the North Road Office for Civic Events and Council meetings, to ensure the maximum number of car parking bays is available for use by the public at the front of the building.

Requests for City Services

Elected members will, from time to time, receive requests from residents for some particular matter to be dealt with (for example: a street tree to be pruned, increasing the temperature of the pool water, installing particular audio equipment in the library, a pothole, or foot path repaired, additional City support to particular community groups, increased opening hours at rural refuse sites, or a street sign replaced).

Please contact the Council Liaison Officer who will organise a customer service request or raise the matter with the Chief Executive Officer, on your behalf. If the request is of a more significant, complicated or involved nature, then it can be raised directly with the Chief Executive Officer.

The Chief Executive Officer is always available to give the Mayor and elected members advice on how a matter could be dealt with.

Seating Arrangements in Chamber

For Ordinary and Special Council meetings, the elected members will be seated at the main table in the Council Chambers. The Chief Executive Officer will allocate a position for all members regarding seating position.

Smoking

Smoking is generally **prohibited in all City of Albany buildings and grounds**. This includes almost the entire grounds of the North Road Office, except a small area at the rear of the Council chamber which has been designated as a smoking area.

If you use this smoking area please ensure you do not deposit cigarette butts on the ground, but dispose of them correctly.

Sister City/Friendship Agreements

The City maintains a small number of active civic relationships based upon benefits that may accrue to the City, including trade, tourism, cultural, educational and sporting activities.

The City has four active affiliations to which it is a signatory, being:

- **Nichinan (Japan)** - A "Synergetic & Friendship Agreements" based on the export of blue gum plantation woodchips was signed in 1998. The City of Albany, Albany Port Authority and Albany Chamber of Commerce and Industry are joint signatories to this agreement. In 2010, in recognition of the ongoing important economic and cultural affiliation and exchanges the Synergetic agreement was complimented by a Friendship Agreement.
- **Tomioka (Japan)** – A "Friendship Agreement" based on a strong and continuing school student exchange program was signed in Albany on 1 February 2001 with a reciprocal signing ceremony in Tomioka in 2004.
- **Gallipoli (Turkey)** – A "Friendship Agreement" based on Albany's ANZAC military heritage was signed in Albany on 25 April 2003 and reciprocated in Gallipoli on 25 April 2005.
- **Peronne (France)** - A "Friendship Agreement" based on Albany's ANZAC military heritage was signed in Peronne on 1 November 2008.

Publications and Newsletters

Various publications will be provided to elected members from time to time. You may elect to have these forwarded via email to save paper consumption. Please let the Mayoral Liaison Officer if you prefer to receive hard or electronic copy.

Use of Telephones, Secretarial Facilities etc.

A small business centre in the Councillors' Workstation is available for use by elected members to undertake Council business. This includes a telephone, computer with internet access, print and copy facilities.

The Mayoral Liaison Officer also provides some secretarial service and assistance in respect of travel and accommodation arrangements or other simple administrative duties if you attend other meetings as a representative of Council.

Use of and Access to Refreshments

Refreshments are provided at appropriate times either before or after Council meetings and events. It is often a case of "self-service" under a system of trust. Unless consumption of refreshments is associated with normal Council Meetings or functions, it is standard practice to seek approval of the Mayor (or if they are not available, the Chief Executive Officer) to consume these items.

Consumption of alcohol immediately before Council or other meetings is strongly discouraged. Consumption of all food and drinks (except water), including alcohol during Council meetings is also discouraged.

CITY OF ALBANY

History

The City of Albany was proclaimed by the Minister for Local Government, Hon. Paul D. Omodei MLA on 1 July 1998, following amalgamation of the former Town and Shire of Albany.

On 18 March 2003, the City of Albany adopted an Aboriginal Accord which recognises the role that the City plays in the provision of services and facilities for the Aboriginal community.

The Albany region was first home to the Minang Noongar people, who made use of the area during the summer months for fishing and other activities. They called the area Kinjarling which means "the place of rain".

Also known as the "Anzac City", Albany was the last contact with Australia for the original Anzacs departing for Egypt in November 1914 en route to Gallipoli.

From 1893 to 1956, Albany supported an army gun battery at the Princess Royal Fortress, and during WWII, American submarines used Albany as a base while conducting sweeps for Japanese submarines.

The Navy's HMAS Anzac & Training Ship Vancouver Naval Cadets, the Army's 11th/28th Battalion and the RAAF's No. 2 Flight Training School hold Freedom of Entry rights to the City of Albany.

Albany's "Adopted" Ship – HMAS ANZAC. The HMAS Anzac was adopted by the former Town of Albany following her commissioning on 18 May, 1996.

Albany's own Ship – HMAS ALBANY. The HMAS Albany was adopted by the City of Albany following her commissioning on 15 of July 2006.

Strategic Plan

The City of Albany's Strategic Plan was adopted by Council on 16 August 2011 as the principle strategic guide for the future. [Strategic Plan \(2011 – 2021\)](#)

Annual Report

The City of Albany is required to produce an annual report each year and this must contain a copy of the audited accounts. The City's financial statements are audited in the first quarter of each financial year and the annual report is presented to Council as soon as practicable after the audit conclusion. Electronic copies of annual reports are available to the general public on the City of Albany website. <http://www.albany.wa.gov.au>

City of Albany Organisational Structure Chart

A copy of the Organisational Chart is attached (appendix A).

Risk Management

Council through the Chief Executive Officer must deliver strategies to effectively recognise and support its accountability to stakeholders and minimise exposure to risk. Risk management plays a key part in this.

The City of Albany is committed to effective risk management practices. Elected members have a duty to minimise the risks that they expose the Council and City to, by adhering to the risk management principles of the City of Albany (appendix B) .

While many local government risks relate to financial risks, other types of risk could have financial implications. This includes:

- Environmental risk including that set out under the *Environmental Protection Act 1986*, which creates obligations as both a regulator and as operator.
- Risk under the *Occupational Safety and Health Act 1984*.
- Risk management and the *Emergency Management Act 2005*.

Elected members are responsible for setting the Council's level of risk tolerance so that the organisation can focus resources to manage risk. Risk management should be seen as a positive preventative strategy.

Finance and Budgeting

The annual budget is prepared based on priorities identified by Council. The annual budget can be sourced from: <http://www.albany.wa.gov.au/download/2614>.

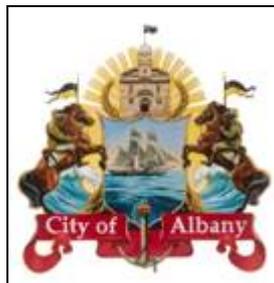
Corporate Identity

The City of Albany has three main and eight sub brands/trademarks representing business units and activities. The logos are visual communication devices representing what the City does and communicates to target audiences.

Use of the below brands are monitored, authorised and approved by the City of Albany. **Permissions are required to use all graphics** as they are protected by trademark for the City of Albany use.

The Crest is restricted to City of Albany use only. The City of Albany logo (A+) is available to the public via the City of Albany website. Users are required to complete a registration form detailing the reasons for use.

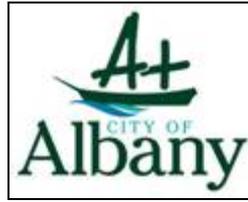
City of Albany Crest (not to be used by any party other than the City of Albany)



The crest (as above) was adopted at the Council meeting of 17 October 2006. The crest recognises Albany's significant maritime, military and heritage links and is used primarily for the following purposes:

- Council Chamber Signage
- Certificates of Authenticity
- Local Laws
- Mayoral Documents
- Council Chamber Material
- Selective Signage – Memorial
- Council (versus City of Albany) Literature/Documents

City of Albany Logo



The City of Albany corporate logo was adopted by Council in 2004. It is the City of Albany core communication device and must be used as a co-brand by City of Albany business units. The meaning behind the City of Albany logo is:

- The letter “A” is for Albany and is easily understood.
- The letter “A” is also shorthand for perfect (ie an “A” pass in an exam).
- This translates into A plus or “A+” – in other words, the absolute best.
- When the A+ is underlined, we see a symbolised Brig Amity Ship, a uniquely friendly image, representative of our past, present and future.
- The total graphic represents the ship and its sails as it moves ahead.

The logo is used primarily for the following purposes:

- City of Albany Assets
- City of Albany Services
- Vehicle Branding
- Staff Material
- City of Albany documents and stationary
- Event sponsorship
- Major City Projects

Amazing Albany brands



The amazingalbany brands were developed for the City of Albany Tourism and are used purely for the promotion of Albany as a tourism destination. The brands reflect Albany’s key tourist attractions – bays, oceans, land and whales.

The brands refer to the state or the region. Selection of the correct version will depend on the target audience of the promotion.

The brands are used primarily for:

- Tourism documents and marketing materials
- Tourism Trade Show material
- Visitor Centre
- Tourism related stationery

Certain applications the amazingalbany brand may be used jointly with the City of Albany Logo.

Use by the City and other organisations is restricted to those which are directly promoting Albany as a tourist destination – i.e. tourism partners, bodies and tourism media partners.

Its use does not relate to any Council assets with the exception of the Airport and Visitor Centre.

Amazing Albany business unit – sub brands



Other Business unit logos

The following logos represent each business unit and when used for marketing or advertising are co-branded with the City of Albany brand.

<p>PRINCESS ROYAL FORTRESS Military Museum</p>	<p>Vancouver Arts</p>	<p>Albany Regional Day Care</p>
<p>ALBANY LEISURE+ AQUATIC CENTRE Fun Fitness Family</p>	<p>albany public library enrich evolve escape explore entertain educate educate escape evolve</p>	

Appendices:

- A. [Organisational Staff Structure](#)
- B. [Risk Management Framework](#)

Council Policy & Procedure – Handling of Complaints By or Against Elected Members

1. Policy Statement

- (1) This policy sets out the processes to address certain complaints made by or against an elected member of Council.
- (2) The City of Albany has adopted a Code of Conduct for elected members of Council. In adopting this policy, elected members made a public declaration of the conduct and standards of behaviour that the members of the City of Albany Council have agreed to demonstrate.

Behaviour Contrary to the Code of Conduct

- (3) The Council is committed to investigating and where appropriate addressing any complaints made against elected members including compliance with any statutory requirements of the *Local Government Act 1995*, *Local Government (Rules of Conduct) Regulations 2007* or any other relevant Act or Regulation applicable to elected members in the performance of their role and responsibilities.

2. Scope

Elected members of Council.

3. Review

- (1) This policy was adopted on [Insert Date]. This policy must be reviewed every two years after a general Local Government election, or earlier if Council consider it necessary.

4. Legislation Relating to this Policy

The *Local Government Act 1995* is also complemented by guidelines and handbooks produced by the Department of Local Government (WA).

- *City of Albany Meeting Procedure Local Law*
- *Local Government Act 1995*
- *Local Government (Rules of Conduct) Regulations 2007*
- *Public Interest Disclosure Act 2003 (WA)*

5. Complaint Handling Procedure

- (1) Each local government is to designate a senior employee to be its Complaints Officer under the *Local Government Act 1995*.
- (2) It is not the role of the City of Albany's Complaints Officer to decide whether a breach has occurred. That is the role of the Standards Panel. The Complaints Officer is responsible for ensuring complaints made under the *Local Government (Rules of Conduct) Regulation 2007* are appropriately referred to the Standards Panel.

- (3) Where there has been an allegation of criminal or illegal behaviour, this complaint will not be investigated by the Council but will be referred to the appropriate authority. For example, allegations of corruption will be referred to the Corruption and Crime Commission; allegations of other illegal behaviour may be referred to Western Australian Police or to the Department of Local Government.
- (4) Where a complaint made by or against an elected member relates to a matter not dealt with under an Act or Regulation that complaint must:
 - be made in writing;
 - identify allegations including providing all available evidence that supports the allegation(s); and
 - be delivered to the Mayor or Deputy Mayor (in the case of a complaint against the Mayor).
- (5) Acknowledgement of receipt of the complaint will be provided by the recipient, to the complainant within seven days of receiving the complaint.
- (6) An elected member about whom a complaint has been made will be notified within seven days of receipt of the complaint and of its substance.
- (7) The complaint will be treated with strict confidentiality until such time as the matter has been determined. The complainant will also be expected to observe confidentiality.
- (8) The Mayor or Deputy Mayor (in the case of a complaint against the Mayor) may with the approval of the parties involved, coordinate a mediation meeting. Such meeting may be facilitated by an independent third party with experience in mediation and conflict resolution.
- (9) The following procedures will be followed with respect to assessment and investigation of complaints depending on the level of seriousness.
- (10) Where the mediation meeting referred to in clause 2(8) has not been able to resolve the matter:
 - (a) The Council may appoint an independent assessor who will investigate the complaint.
 - (b) The investigation will be a balanced assessment of the available evidence, the relevant circumstances prevailing at the time and any other factors relevant to making a fair and reasonable judgement about the matter.
 - (c) The assessor may recommend that no further action should be taken where in the assessor's opinion the complaint is unsubstantiated, frivolous or vexatious. In this case the assessor will prepare a report to that effect and provide it to the Mayor or Deputy Mayor (in the case of a complaint against the Mayor).
 - (d) If issues of substance are identified by the assessor the following is to occur:
 - (i) The elected member the subject of the allegation(s) will be provided with a reasonable opportunity to explain his/her actions and to make a written submission on the allegations to the assessor.
 - (ii) The assessor must provide the Council with a final written report on the investigation undertaken within 30 days of receiving written instructions. However, if the assessor forms the view that additional time will be needed to conclude the investigation and finalise the report the assessor will bring this to the attention of the Council at the earliest convenience, but at the very latest before expiration of the 30 days from instruction.

AGENDA ITEM 1.6 REFERS

- (iii) If the assessor makes recommendations that are punitive in nature, the elected member the subject of the complaint will be provided with a reasonable opportunity to respond in writing upon the contents and findings contained in the assessor's report and on the appropriateness of the proposed penalty. Such response must be taken into account by the Council.
- (iv) The final report will be presented at a Council meeting in confidence.
- (v) On receipt of the final report and recommendation of the independent assessor the Council will determine an appropriate course of action. This may include:
 - Request of a private or public apology in relations to the conduct/breach;
 - Recommend the Council Member undertake a particular training course or receive appropriate instruction to ensure the offending behaviour is not repeated;
 - Remove the member from serving on any Committee or representing Council on an outside body;
 - Make a public announcement of the complaint made against the Council member, the determination and the penalty imposed on the Council member.
- (vi) After receipt of the final report from the assessor, the Council must convey to the elected member who is the subject of the complaint and to the person who made the complaint, Council's resolution in relation to the complaint and report.

Version Control

Version	Date	Status	Distribution	Comment
01	27/09/2011	Draft	Elected Member workshop	Distributed for Comment.

Council Policy & Procedure – Handling of Complaints By or Against the Chief Executive Officer

1. Policy Statement

Allegations made by or against the Chief Executive Officer of the City of Albany will be independently, transparently and promptly addressed and have regard to the principles of fairness, equity and natural justice.

2. Scope

This policy applies to Council in its management of complaints by or against the Chief Executive Officer of the City of Albany.

3. Review

This policy was adopted on [Insert Date]. This policy must be reviewed on at least a biennial basis.

4. Legislation and Associated Documents Relating to this Policy

- *Local Government Act 1995 (WA)*
- *Occupational Safety and Health Act 1994 (WA)*
- *Public Interest Disclosure Act 2003 (WA)*
- *Employee Code of Conduct*
- *Chief Executive Officer’s Contract of Employment*

5. Procedure

- (1) Council will appoint a standing panel of two persons independent of Council and the City of Albany to have available to it a person to investigate and assess allegations made by or against the Chief Executive Officer.
- (2) The Chief Executive Officer is entitled to representation during any investigation.
- (3) The appointed assessor:
 - (a) Will make enquiries into any allegations including enquiries to determine particular factual matters;
 - (b) Reporting their findings and the reasons for those findings, in writing to Council and the Chief Executive Officer. Where possible, such report, were possible, will be given within four weeks of the allegation.
- (4) The appointed assessor may recommend that Council take disciplinary action against the Chief Executive Officer. Such disciplinary action may range from counselling, a formal warning letter or, in more serious cases, summary dismissal.

Version Control

Version	Date	Status	Distribution	Comment
01	27/09/2011	Draft	Elected member workshop	Distributed for Comment.

Council Policy – Mayoral Vehicle

1. Policy Statement

- (1) Under the *Local Government Act 1995* (the Act) the Council is required to determine the amount of allowances members are entitled to receive within prescribed limits (set out in the *Local Government (Administration) Regulations 1996*).
- (2) The amount of these allowances will be reviewed each year by Council as part of the annual budget endorsement process and the revised amount will then be set by a resolution of Council made by an absolute majority.
- (3) The Mayor of the City is required to perform a number of functions in the fulfilment of their civic duties. The Council may decide to provide the Mayor with a vehicle for use in the performance of those Mayoral duties. Provision of a Mayoral vehicle is to enable the Mayor to effectively fulfil the Mayoral duties, should the Mayor elect to have the benefit of a City of Albany vehicle.
- (4) Provision of a Mayoral vehicle:
 - (a) is to be in lieu of travel / mileage claims otherwise claimable by the Mayor for use of their personal vehicle. The Mayor could alternatively choose to use a private vehicle and claim travel expenses for that personal vehicle;
 - (b) can be for reasonable personal or private purposes (but not for any private commercial purpose) but the cost of that private use will be reimbursed by the Mayor to the City of Albany;
 - (c) will form part of the fees, allowances and other reimbursement ordinarily payable to the Mayor
 - (d) will be administered in accordance with any related City of Albany fleet management policy and or procedures.
- (5) **Private Use of Mayoral Vehicle**

Calculation of the private use component of the Mayoral vehicle cost (and subsequent reimbursement amount) is determined as follows:

- (a) A logbook is to be kept of all use of the vehicle for a minimum period of three months;
- (b) At the conclusion of that period the percentage of private and official use will be calculated;
- (c) The percentage of total vehicle costs (as determined by the City of Albany fleet management policy or procedures) associated with private use of the Mayoral vehicle is to be reimbursed by the Mayor.

2. Scope

This policy is relevant to the Mayor.

3. Legislation and Associated Documents Relating to this Policy

- *Local Government Act 1995*
- *Local Government (Administration) Regulations 1996*

4. Review

This policy was adopted on [Insert Date].

The Chief Executive Officer is to review the policy on or before 1 September 2015.

Version Control

Version	Date	Status	Distribution	Comment
01	1/9/2011	Draft	Audit Committee	For review and adoption by Council.

Council Policy – Code of Conduct for Members of Council

1. Policy Statement

- (1) This Code of Conduct is a public declaration of the conduct and standards of behaviour that the Members of the City of Albany Council have agreed to demonstrate as elected community representatives.
- (2) The standards in this Code of Conduct are in addition to any statutory requirements of the *Local Government Act 1995 and Local Government (Rules of Conduct) Regulations 2007* or any other relevant Act or Regulation applicable to Council Members in the performance of their role and responsibilities.
- (3) Council Members acknowledge their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed rules of conduct as described in the *Local Government Act 1995 and Local Government (Rules of Conduct) Regulations 2007*.

2. Scope

This policy is relevant to elected members of Council.

3. Standards of Conduct

- (1) Each member of the City of Albany Council, will at all times:
 - (a) Serve the overall public interest of the City of Albany.
 - (b) Provide community leadership and guidance to the City of Albany community and organisation and actively participate in achieving the desired future of the City as articulated in City of Albany strategic plans and policies.
 - (c) Act honestly, with integrity and reasonable care and diligence, in the performance and discharge of official functions and duties.
 - (d) Ensure transparency and accountability in all interactions with any applicant, or proponent, lobbyists, land and business developers dealing with the City of Albany.
 - (e) Act within the limitations of their powers.
 - (f) Avoid making improper or derogatory allegations.
 - (g) Act in accordance with their obligation of fidelity.
 - (h) Positively and actively participate in the deliberations and activities of the Council, giving adequate time to the performance of their Council duties.
 - (i) Keep the Council's goals and policies under review to ensure that they are appropriate and effective.
 - (j) Keep the Council's resource allocation, expenditure, corporate strategies, and the efficiency and effectiveness of its service delivery, under review to ensure that they are appropriate and effective.

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- (k) Participate in setting and assessing performance standards to be met under the Council's contract with the Chief Executive Officer.
 - (l) Ensure their conduct does not bring the Council or the City into disrepute.
 - (m) Ensure good stewardship of City of Albany resources and not use Council resources for private use.
 - (n) Take responsibility for ensuring the integrity of the meeting process and for the enforcement of the Meeting Procedures Local Law.
 - (o) Take responsibility for advising, in reasonable time, the Chief Executive Officer of their possible non availability for attendance at Council meetings and functions.
 - (p) Conduct themselves during Council and Community meetings in such a manner as to engender respect and confidence in Council. In doing so, Council Members will respect the right of other Members to have a differing view and will give due regard to that differing view when considering how they will vote.
 - (q) Ensure the proper use of information acquired by virtue of being a Council Member.
- (2) For the purposes for determining whether there has been a breach of this Code of Conduct the following guidance is provided:
- (a) The test of honesty, integrity, reasonable care and due diligence, proper, disrepute, good stewardship and or, impropriety is objective; that is, it does not depend on the consciousness or subjective intent on the part of the person who so acts.
 - (b) A particular case is determined by reference to the particular circumstances in which the conduct is said to have occurred.
 - (c) Appropriate conduct is that which would be expected of a person in the position of the person under consideration, by reasonable persons with knowledge of the duties, powers and authority of the position and the particular circumstances.
 - (d) A course of conduct may be undertaken in good faith for what are believed to be desirable ends but, on objective analysis, be found to have been so misconceived as to amount to a breach of the standard of conduct.
 - (e) A breach may occur where there may be no awareness of the possible breach of the conduct because the person thoughtlessly places themselves in a situation failing to have due regard for the circumstances, in which a reasonable person would have not so acted.

4. Duty of confidentiality

- (1) For the purpose of the Code of Conduct "Confidential Information" includes but is not limited to:
- (a) Information or documents considered in any meeting of Council or a Council Committee which is closed to the public.
 - (b) Information or documents resolved by Council to be confidential.
 - (c) A document marked by the Chief Executive Officer to show that the information in the document is confidential.

AGENDA ITEM 1.6 REFERS

- (d) All information or document, not readily available to the public, relating to staff members, member of the public, Council members or any other person(s), including advertised vacancy applications, works compensation documentation including all medical records, information such as tax file numbers and bank details, salary levels of employees, other similar information pertaining to City of Albany human resource management, and other third parties who supply information to the City of Albany in confidence.
 - (e) Any data, reports, operations, know-how, accounts, dealings, records, materials, plans, statistics, finances or other documents and things (other than a document or thing which is already in the public domain), whether written or electronic of whatever type or nature relating to property, assets, liabilities, finances, dealings or functions of the City or any undertaking from time to time carried out by the City.
- (2) Council members must not at any time divulge or reveal to any person any Confidential Information except if it is:
- (a) consistent with the proper performance of Council functions; or
 - (b) necessary or required by law.
- (3) Council members must take all reasonable precautions, including physical and electronic security, to maintain the confidentiality of any Confidential Information.
- (4) Council members acknowledge and agree that:
- (a) all Confidential Information acquired by them in the performance of Council functions is acquired in confidence and any disclosure of it would be harmful to the City;
 - (b) damages may not be an adequate remedy for a breach by them of this clause; and
 - (c) the City may seek injunctive relief to enforce its rights in respect of Confidential Information.

5. Duty of fidelity

Council members undertake to be a capable and loyal Council member acting at all times in the best interests of the City, and to use their best endeavours to ensure that their actions do not bring the City into disrepute or cause the City damage.

6. Unreasonable Conduct by Council Member

In addition to any breach of conduct set out in clause 2, a Council Member will be considered to have acted:

- (a) without due care, and exhibited a lack of good stewardship of City of Albany resources, if by a Council Member's conduct, without the approval of Council there is, a substantial and unreasonable diversion of staff time or other City of Albany resources away from City of Albany service provision;
- (b) in breach of this Code of Conduct if they exhibit vindictive and or vexatious behaviour. "Vexatious" includes unreasonable lack of cooperation or persistence in demands, argument or behaviours when advised otherwise by the Mayor. Examples of vexatious behaviour includes:
 - (i) Persisting with a matter even though it has been comprehensively considered by the City or Council.

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- (ii) Persisting with a matter where all avenues of review have been exhausted.
- (iii) Continually reframing a complaint in an attempt to get it taken up again.
- (iv) Showing an inability to accept the final decision.
- (v) Persisting in interpreting the law or policy in a way that is not in accordance with the generally accepted or expert view on the issue, and insisting that action still be taken.
- (vi) Demanding a review or revocation of a decision because it is available, rather than in need of a review or revocation.
- (vii) Obtaining unreasonable gratification from the process of regular contact with a City Officer or specific Council Member.

7. Review

- (1) This Code of Conduct was adopted on [Insert Date]. This Code must be reviewed every two years after a general Local Government election, or earlier if Council consider it necessary.
- (2) The Council may at any time alter this Code of Conduct, or substitute a new Code of Conduct.

8. Legislation and Associated Documents Relating to this Policy

The *Local Government Act 1995* is also complemented by guidelines and handbooks produced by the Department of Local Government (WA).

- *Local Government Act 1995*
- *Local Government (Rules of Conduct) Regulations 2007*
- *Public Interest Disclosure Act 2003 (WA)*
- *City of Albany Meeting Procedure Local Law 2011*
- *The Complete Guide to the Local Government Act, Volume 3, Councillors Manual*
- *Local Government Operational Guidelines – Number 01, May 2000*

Version Control

Version	Date	Status	Distribution	Comment
01	21/10/2008	Adopted	Internal/External	Author: Chief Executive Officer OMC 21/10/08 Item 14.5.1
02	01/06/2011	Draft	Executive	Complete rewrite, to separated Staff and Elected Members. Document owner: Office of the Chief Executive Officer Released for comment.
03	01/09/2011	Draft	Audit Committee	For comment, referral for adoption by Council.
04	08/09/2011	Draft	Audit Committee	Formatting only.
05	21/09/2011	Draft	Audit Committee	Amendments to Confidentiality Clause feedback from Audit Committee.