



Waverley Council Code of Conduct

LINKS TO COMMUNITY STRATEGIC PLAN & DELIVERY PROGRAM

Direction G1 – Council's decision making processes are open, transparent, corruption resistant and based on sound integrated planning

Strategy G1a – Develop and maintain a framework of plans and policies that ensures open and transparent Council operations

Strategy G1b – Embed corruption prevention practices in Council operations

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History of Revisions

Date Revised	Summary of Revisions Made	Date Adopted by Council
	New Code of Conduct adopted with associated Procedures based on DLG 2012 Model Code	19 February 2013

1. Introduction & Purpose

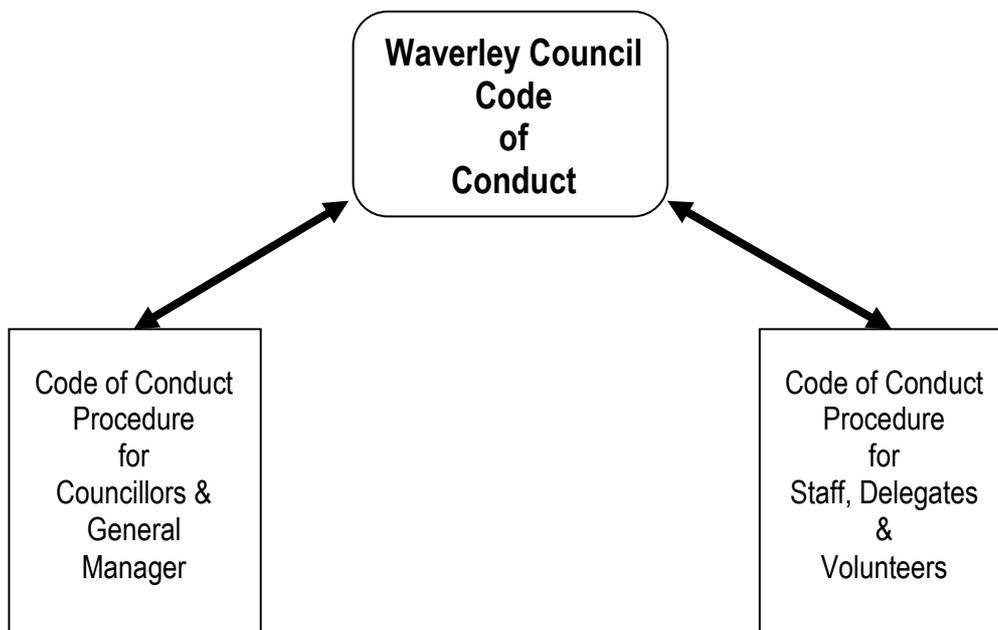
This Code of Conduct is based upon the *Model Code of Conduct for Local Councils in NSW* (“the Model Code of Conduct”) which was released by the Division of Local Government in December 2012 (DLG Circular 12-45 19 December 2012) and is made for the purposes of section 440 of the *Local Government Act 1993* (“the Act”). Section 440 of the Act requires every council to adopt a code of conduct that incorporates the provisions of the Model Code. For the purposes of section 440 of the Act, this Code of Conduct comprises all parts of the Model Code.

Councillors, administrators, members of staff of Council, independent conduct reviewers, members of Council committees including the conduct review committee, delegates of the Council and volunteers must comply with the applicable provisions of Council’s Code of Conduct in carrying out their functions as Council officials.

It is the personal responsibility of Council officials to comply with the standards in this Code and regularly review their personal circumstances with this in mind. Failure by a Councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the Act.

The Act provides for a range of penalties that may be imposed on Councillors for misconduct, including suspension or disqualification from civic office. Failure by a member of staff to comply with Council’s Code of Conduct may give rise to disciplinary action.

Waverley Council has developed a *Code of Conduct Procedure for Councillors & General Manager* and a *Code of Conduct Procedure for Staff, Delegates and Volunteers* to assist with the operation of its Code of Conduct.



Purpose of the Code of Conduct

This Code of Conduct sets the minimum requirements of conduct for Council officials in carrying out their functions and it is prescribed by regulation. This Code of Conduct has been developed to assist Council officials to:

- Understand the standards of conduct that are expected of them.
- Enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439).
- Act in a way that enhances public confidence in the integrity of local government.
- Reinforce Council officials' commitment to Waverley's Organisational Values which underpin our organisation-wide behaviours and our commitment to best practice customer service for the Waverley community.

2. Definitions

In this Code of Conduct the following definitions apply:

<i>the Act</i>	the <i>Local Government Act 1993</i>
<i>act of disorder</i>	see the definition in clause 256 of the Local Government (General) Regulation 2005
<i>administrator</i>	an administrator of a council appointed under the Act other than an administrator appointed under section 66
<i>Chief Executive</i>	Chief Executive of the Division of Local Government, Department of Premier and Cabinet
<i>committee</i>	a Council committee
<i>conduct reviewer</i>	a person independent of Council who is solely selected from those appointed by Council to investigate and review allegations of breaches of the Code by Councillors or the General Manager in accordance with the <i>Code of Conduct Procedure for Councillors</i>
<i>conflict of interests</i>	a conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty
<i>council committee</i>	a committee established by resolution of Council
<i>council committee member</i>	a person other than a Councillor or member of staff of a council who is a member of a council committee
<i>council official</i>	includes Councillors, members of staff of council, administrators, Council committee members, conduct reviewers, delegates of Council and volunteers
<i>councillor</i>	a person elected or appointed to civic office and includes a Mayor
<i>delegates of council</i>	a person (other than a Councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the Council is delegated. Delegates of Council include contractors and consultants engaged by Council from time to time
<i>designated person</i>	see the definition in section 441 of the Act
<i>election campaign</i>	includes Council, State and Federal election campaigns
<i>personal information</i>	information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion

record	Information created, received, and maintained as evidence and information by an organisation or person, in pursuance of legal obligations or in the transaction of business. (<i>AS ISO 15489 Part 1, Clause 3.15</i>). A Record is any document or other source of information compiled, recorded or stored in written form or on film, or by electronic process (eg. e-mail), or in any other manner or by any other means. (<i>State Records Act 1998 [NSW]</i>)
the Regulation	the Local Government (General) Regulation 2005
volunteer	a person who carries out work for Council but does not receive remuneration or token remuneration from Council, including members of the public appointed by Council to a Council committee or other group, but not including Precinct Committee members

The term “**you**” used in this Code of Conduct refers to Council officials.

The phrase “**this code**” used in this Code of Conduct refers also to the Procedures for the administration of this Code of Conduct prescribed under the Local Government (General) Regulation 2005.

3. Standards of Conduct - Summary

Council officials* play a vital role in serving local communities. To do this effectively you will want to uphold the highest standards of behaviour to ensure the public has trust and confidence in local government.

What are the expected standards of behaviour?

3.1 The following standards of behaviour are expected of Council officials. You must:

- Not conduct yourself in a manner that is likely to bring the Council into disrepute
- Act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions
- Treat others with respect at all times
- Consider issues consistently, promptly and fairly
- Not harass, discriminate against, or support others who do so
- Ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly
- Not participate in *binding* caucus votes except for nominations
- Disclose and appropriately manage any conflict of interests, including from reportable political donations
- Not accept money or gifts of value and avoid situations that give rise to the appearance of securing favourable treatment
- In the case of Councillors, not direct Council staff or influence staff in the exercise of their role
- In the case of staff, ensure efficient and effective operation of the Council's organisation and implementation of the decisions of the Council without delay
- Use and secure information appropriately and do not disclose confidential information
- Use Council resources ethically, effectively, efficiently and carefully in the course of official duties
- Not make complaints improperly, take detrimental action in response to complaints about standards of behaviour or disclose information about code of conduct matters.

3.2 These standards are described in detail in the *Waverley Council Code of Conduct* which are based upon the *Model Code of Conduct for Local Councils in NSW*. This Code is a legal document that all officials are obliged to understand and follow as the Model Code forms the basis of each council's own code of conduct.

What happens if the standards are not met?

3.3 Where Council officials fail to follow this Code, this will be dealt with in accordance with the procedure for administration of the Model Code which forms the basis of Waverley Council's

- *Code of Conduct Procedure for Councillors and*
- *Code of Conduct Procedure for Staff, Delegates and Volunteers*

3.4 Complaints about a breach of these standards by anyone other than the General Manager are to be made at first instance to the General Manager. Complaints about the General Manager are to be made to the Mayor. Where the complaint is serious and cannot be resolved informally, a complaint may be formally investigated by an independent conduct reviewer.

3.5 Breaches of these standards by delegates or Council committee members may result in the following action:

- Censure
- Requirement of apology
- Prosecution
- Removal or restriction of delegation.

3.6 Breaches by Council staff may result in disciplinary action, termination or, in the case of non-senior staff, such other penalty permitted under the relevant industrial award.

3.7 Breaches by the General Manager may result in the following action:

- Requirement for training
- Counselling
- Requirement for apology
- Findings of inappropriate conduct made public
- Action under the General Manager's contract.

3.8 Breaches by Councillors may result in the following action:

- Requirement for training
- Counselling
- Requirement for apology

- Findings of inappropriate conduct made public
- Censure
- Referral to the Division of Local Government for disciplinary action including but not limited to suspension for up to 3 months
- Referral by the Division to the Pecuniary Interest and Disciplinary Tribunal for suspension of up to 6 months or disqualification from holding civic office.

* **Council officials** include Councillors, members of staff of Council, administrators, members of Council committees, conduct reviewers, delegates of Council and volunteers.

4. General Conduct Obligations

General Conduct

- 4.1 You must not conduct yourself in carrying out your functions in a manner that is likely to bring the Council or holders of civic office into disrepute. Specifically, you must not act in a way that:
- Contravenes the Act, associated regulations, Council's relevant administrative requirements and policies (See **Appendix 1** for list of relevant policies and administrative procedures which apply)
 - Is detrimental to the pursuit of the charter of a council
 - Is improper or unethical
 - Is an abuse of power or otherwise amounts to misconduct
 - Causes, comprises or involves intimidation, harassment or verbal abuse
 - Causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
 - Causes, comprises or involves prejudice in the provision of a service to the community. (*Schedule 6A*)
- 4.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (*section 439*)
- 4.3 You must treat others with respect at all times.

Fairness and equity

- 4.4 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 4.5 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

Harassment and discrimination

- 4.6 You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

Development decisions

- 4.7 You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.
- 4.8 In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

Binding caucus votes

- 4.9 You must not participate in binding caucus votes in relation to matters to be considered at a Council or committee meeting.
- 4.10 For the purposes of clause 4.9, a binding caucus vote is a process whereby a group of Councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the Council or committee irrespective of the personal views of individual members of the group on the merits of the matter before the Council or committee.
- 4.11 Clause 4.9 does not prohibit Councillors from discussing a matter before the Council or committee prior to considering the matter in question at a Council or committee meeting or from voluntarily holding a shared view with other Councillors on the merits of a matter.
- 4.12 Clause 4.9 does not apply to a decision to elect the Mayor or Deputy Mayor or to nominate a person to be a member of a Council committee.

Waverley Council Values

- 4.13 Waverley Council has in place the following values which underpin our organisational behaviours and complement the general conduct obligations as set out above. These organisational values are:

Good Leadership

Good leadership is having the courage to make difficult decisions when they are for the benefit of the whole community and having the skills to engage our teams in providing quality service.

Great customer service

Great Customer Service is the willingness and ability to give priority to customers, delivering high quality services which meet their needs.

Respect for all

Respect for all is treating each other and all member of the community in a friendly, fair and equitable way.

Working ethically

Ethical behaviour is acting in ways that are consistent with the expectations of the organisation to be corruption free and transparent.

Working together

Working together is when everyone works in partnership with other staff and with the community to achieve common or shared goals.

Getting the job done safely and on time

'Getting the job done' means providing a service efficiently, effectively and in the safest possible manner within agreed timeframes and with due regard for the environment

Media Comment

- 4.14 Council has in place a Media Policy which sets out designated media spokespersons who have been given authority to speak on behalf of the organisation. Comment should not be made to the media which gives the impression that you are speaking on behalf of Council, unless you have been designated to do so.
- 4.15 All media enquiries must be referred to Council's Communications Unit which will coordinate an official response.

5. Conflict of Interests

- 5.1 A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- 5.2 You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.
- 5.3 Any conflict of interests must be managed to uphold the probity of Council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.
- 5.4 Private interests can be of two types: pecuniary or non-pecuniary.

What is a pecuniary interest?

- 5.5 A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (*section 442*)
- 5.6 A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (*section 443 LG Act*)
- 5.7 Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
 - (a) Councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (*section 449*)
 - (b) Councillors and members of Council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*section 451*)
 - (c) Designated persons immediately declare, in writing, any pecuniary interest. (*section 459*)
- 5.8 Designated persons are defined at section 441 of the Act, and include, but are not limited to, the General Manager and other senior staff of the Council.
- 5.9 Where you are a member of staff of Council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the General Manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

What are non-pecuniary interests?

5.10 Non-pecuniary interests are private or personal interests the Council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

5.11 The political views of a Councillor do not constitute a private interest.

Managing non-pecuniary conflict of interests

5.12 Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.

5.13 If a disclosure is made at a Council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 5.12.

5.14 How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.

5.15 As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:

- (a) A relationship between a Council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
- (b) Other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
- (c) An affiliation between the Council official and an organisation, sporting body, club, corporation or association that is particularly strong.

5.16 If you are a Council official, other than a member of staff of Council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:

- (a) Remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official
- (b) Have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply

5.17 If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.

- 5.18 If you are a member of staff of Council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.
- 5.19 Despite clause 5.16(b), a Councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate Council's decision-making role to Council staff through the General Manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not Council would be deprived of a quorum if one or more Councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 5.16(b) above.

Other business or employment

- 5.20 If you are a member of staff of Council considering outside employment or contract work that relates to the business of the Council or that might conflict with your Council duties, you must notify and seek the approval of the General Manager in writing. *(Section 353)*
- 5.21 As a member of staff, you must ensure that any outside employment or business you engage in will not:
- Conflict with your official duties
 - Involve using confidential information or Council resources obtained through your work with the Council
 - Require you to work while on Council duty
 - Discredit or disadvantage the Council.

Personal dealings with Council

- 5.22 You may have reason to deal with your Council in your personal capacity (for example, as a ratepayer, recipient of a Council service or applicant for a consent granted by Council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

Club/organisation membership

- 5.23 If you are a member of a club or other organisation, for example, a sporting, religious or community group, you should consider whether your membership creates a conflict of interests in Council matters that may affect the club or organisation. The more you are involved with the club or organisation, the greater the risk of a real or perceived conflict of interests.

Sponsorships

- 5.24 Sponsorships should not limit Council's ability to carry out its range of functions fully and impartially or influence a Council decision. You must never ask for or receive any personal benefits from a sponsorship arrangement.

Lobbying

5.25 As a general rule, any individual should be able to lobby Council or a councillor. It is part of the democratic system. A wide range of people, including individuals, organisations, companies and developers, may lobby you. You may need to consider evidence and arguments put by a wide range of organisations and individuals in order to perform your duties effectively. However, you should not give any undertakings in response to lobbying because you must follow the normal Council evaluation process. You need to be especially careful when you are dealing with statutory powers such as planning. As soon as a tender has been announced, and through the whole of the tender process, any lobbying is improper and should disqualify the tenderer.

5.26 Councillors should not respond to verbal requests for concessions and require written application to be made to the General Manager so that Council staff can evaluate the situation. There should then be a report to Council of all the consequences of granting the request.

5.27 The following additional information is taken from ICAC, *Lobbying local government councillors*, August 2006:

“Transparency is a useful means of governing accountability and perceptions of fairness in lobbying processes. There are a number of ways Councillors can help ensure transparency whilst being lobbied. These include:

- Documenting meetings with proponents
- Generally conducting meetings in official locations such as Council premises
- Having other people present during meetings
- Inviting applicants who have approached them for a meeting to discuss a significant development to write to Council seeking a meeting with all councillors and relevant staff
- Providing copies of information presented during lobbying meetings to Council officers for consideration and assessment (if required), distribution to other Councillors and filing as part of Council’s records
- Asking people who have requested a meeting to put their arguments in writing
- Making a declaration at a Council meeting about lobbying activities they have been engaged in that are not part of Council’s formal processes.”

5.28 Councillors can consider these options in situations where it would be beneficial to have some form of record about what transpired between themselves and a proponent. Examples include matters where complaints of preferential treatment have already been made, or in matters involving individuals who have been the subject of complaints of preferential treatment in the past. Councillors are encouraged to read the ICAC publication in full, including discussion of development matters and tendering.

Former Council officials

5.29 You must be careful in your dealings with former Council officials and make sure that you do not give them, or appear to give them, favourable treatment or access to privileged information. Former Council officials must not use or take advantage of confidential information obtained in the course of their official duties that may lead to gain or profit. At the end of your involvement with Council, you must:

- Return all Council property, documents or items (keys, mobile phones etc)
- Not make public or otherwise use any confidential information gained as a consequence of your involvement with Council.

6. Political Donations & Loss of Quorum

- 6.1 Councillors should note that matters before council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.
- 6.2 Where a Councillor has received or knowingly benefitted from a reportable political donation:
- (a) Made by a major political donor in the previous four years, and
 - (b) Where the major political donor has a matter before Council, then the Councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 5.16(b).
- 6.3 For the purposes of this Part:
- A “reportable political donation” is a “reportable political donation” for the purposes of section 86 of the *Election Funding, Expenditure and Disclosures Act 1981*,
 - a “major political donor” is a “major political donor” for the purposes of section 84 of the *Election Funding, Expenditure and Disclosures Act 1981*.
- 6.4 Councillors should note that political donations below \$1,000, or political donations to a registered political party or group by which a Councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.
- 6.5 If a Councillor has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 5.21, that Councillor is not prevented from participating in a decision to delegate Council’s decision-making role to Council staff through the General Manager or appointing another person or body to make the decision in accordance with the law (see clause 5.19 above).

Loss of quorum as a result of compliance with this Part

- 6.6 Where a majority of Councillors are precluded under this Part from consideration of a matter the Council or committee must resolve to delegate consideration of the matter in question to another person.
- 6.7 Where a majority of Councillors are precluded under this Part from consideration of a matter and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the Act, the Councillors may apply in writing to the Chief Executive to be exempted from complying with a requirement under this Part relating to the management of a non-pecuniary conflict of interests.
- 6.8 The Chief Executive will only exempt a Councillor from complying with a requirement under this Part where:
- (a) Compliance by Councillors with a requirement under the Part in relation to a matter will result in the loss of a quorum, and

- (b) The matter relates to the exercise of a function of the Council that may not be delegated under section 377 of the Act.

6.9 Where the Chief Executive exempts a Councillor from complying with a requirement under this Part, the Councillor must still disclose any interests they have in the matter the exemption applies to in accordance with the requirements of this Part.

6.10 A Councillor, who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interests in the matter, is permitted to participate in consideration of the matter, if:

- (a) The matter is a proposal relating to
 - i. the making of a principal environmental planning instrument applying to the whole or a significant part of the Council's area, or
 - ii. the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the Council's area, and
- (c) The Councillor declares any interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part.

7. Personal Benefit

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

Gifts and benefits

- 7.1 You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the Council.
- 7.2 You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Token gifts and benefits

- 7.3 Generally speaking, token gifts and benefits include:
- (a) Free or subsidised meals, beverages or refreshments provided in conjunction with:
 - i. the discussion of official business
 - ii. Council work related events such as training, education sessions, workshops
 - iii. conferences
 - iv. Council functions or events
 - v. social functions organised by groups, such as Council committees and community organisations
 - (b) Invitations to and attendance at local social, cultural or sporting events
 - (c) Gifts of single bottles of reasonably priced alcohol to individual Council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
 - (d) Ties, scarves, coasters, tie pins, diaries, chocolates or flowers
 - (e) Prizes of token value.

Gifts and benefits of value

- 7.4 Notwithstanding clause 7.3, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

How are offers of gifts and benefits to be dealt with?

7.5 You must not:

- (a) Seek or accept a bribe or other improper inducement
- (b) Seek gifts or benefits of any kind
- (c) Accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty
- (d) Accept any gift or benefit of more than token value
- (e) Accept an offer of cash or a cash-like gift, regardless of the amount.

7.6 For the purposes of clause 7.5(e), a “cash-like gift” includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.

7.7 Where a gift or benefit falls outside what is acceptable under this part, the gift or benefit should be declined immediately or returned as soon as possible. However, this may not always be practicable and you may accept the gift or benefit in those situations, such as:

- Where refusal or return could cause insult for cultural or protocol reasons;
- Where given at a public function and refusal would significantly embarrass the giver or Council;
- where left for a Council official anonymously or without a return address.

(Adapted from ICAC, 'Managing Gifts and Benefits in the Public Sector' Toolkit', June 2006, p 22)

7.8 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor, the Mayor or the General Manager. The recipient, supervisor, Mayor or General Manager must ensure that any gifts or benefits of more than token value that are received are recorded in Council's Gift Register. The gift or benefit must be surrendered to Council, unless the nature of the gift or benefit makes this impractical.

7.9 Waverley Council's requirements in respect of the management of gifts and benefits depends upon the gift or benefit received:

- If a gift is a lottery, raffle or other ticket that may result in a cash prize or a prize over \$50 in value, you can accept it if it is registered within council's Gift Register and you donate it to Council's Charitable Trust.
- If you have won a cash prize or a prize worth over \$50 in value in a raffle or contest as part of your Council duties (such as while attending a conference), you can accept it if it is registered and
 - (If cash prize) if you donate it to Councils' Charitable Trust, or

- (If non-cash) if you deliver it to the Director, Corporate and Technical Services, who may decide to donate it to Council's Charitable Trust or deploy it to assist some or all of Council's staff to carry out their duties.
- If the same person or organisation gives you more than one small gift or benefit, you must register the gifts or benefits once the cumulative value reaches or exceeds \$25 within a 12 month period.
- If a gift or benefit is valued between \$25 and \$50, you can accept it if it is registered within Council's Gift Register.
- If a gift or benefit is valued between \$50 and \$200, you can accept it if it is registered in Council's Gift Register and you donate it to Council's Charitable Trust.
- If a gift or benefit is nonreturnable, you can accept it if it is registered in Council's Gift Register and you donate it to Council's Charitable Trust.
- If a gift or benefit is valued at over \$200, you cannot accept it, or once the cumulative total value of gifts or benefits reaches \$200 within a 12 month period, you cannot accept further gifts or benefits.

A summary of the requirements in respect of Waverley Council's management of gifts and benefits are set out in the table below:

The Gift or Benefit	Accept?	Register?	Donate to Council's Charitable Trust?
Under \$25	Yes	Not required	Not required
Value \$25 - \$50	Yes	Yes	Not required
Value \$50 - \$200	Yes	Yes	Yes
Ticket with Prize >\$50	Yes	Yes	Yes
Prize >\$50	Yes	Yes	Yes
Non-returnable	Yes	Yes	Yes
Value >\$200	No		
Cash or 'Cash Like' Gifts			
Disapproved by General Manager			

Waverley Council's Gift Register

7.10 Waverley Council has in place a series of gift registers which are held by each department. Each Council Department and the General Manager's Unit maintain these separate gift register. The General Manager is responsible for the maintenance of the Councillors' gift register.

7.11 You must register any gift or benefit that needs to be recorded in the relevant departmental gift register within five (5) days of receiving it.

7.12 If you are donating a received gift to Council's Charitable Trust, you must contact the Director, Corporate and Technical Services, who is responsible for managing and storing donations to Council's Charitable Trust.

7.13 You should inform the giver of the gift or benefit about what will be done with the gift or benefit.

7.14 Council's Annual Report will contain a summary of gifts or benefits received.

Improper and undue influence

7.15 You must not use your position to influence other Council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A Councillor will not be in breach of this clause where they seek to influence other Council officials through the appropriate exercise of their representative functions.

7.16 You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for Council in order to obtain a private benefit for yourself or for any other person or body.

7.17 You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from Council.

7.18 You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, partners, children and siblings.

7.19 Council will also view gifts or benefits to an associated person in the same way even if that person is outside your immediate family.

8. Relationship between Council Officials

Obligations of Councillors and administrators

- 8.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. The governing body has the responsibility of directing and controlling the affairs of the council in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy.
- 8.2 Councillors or administrators must not:
- (a) Direct Council staff other than by giving appropriate direction to the General Manager in the performance of Council's functions by way of council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (*section 352*)
 - (b) In any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the Council or a delegate of the Council in the exercise of the functions of the member or delegate (Schedule 6A of the Act)
 - (c) Contact a member of the staff of the Council on Council related business unless in accordance with the policy and procedures governing the interaction of Councillors and Council staff that have been authorised by the Council and the General Manager
 - (d) Contact or issue instructions to any of Council's contractors or tenderers, including Council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to Council's external auditors or the Chair of Council's Audit Committee who may be provided with any information by individual Councillors reasonably necessary for the external auditor or Audit Committee to effectively perform their functions.

Obligations of staff

- 8.3 The General Manager is responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation of the decisions of the Council without delay.
- 8.4 Members of staff of Council must:
- (a) Give their attention to the business of Council while on duty
 - (b) Ensure that their work is carried out efficiently, economically and effectively
 - (c) Carry out lawful directions given by any person having authority to give such directions
 - (d) Give effect to the lawful decisions, policies, and procedures of the Council, whether or not the staff member agrees with or approves of them

- (e) Ensure that any participation in political activities outside the service of the Council does not conflict with the performance of their official duties. If you participate in political activities you must ensure that you do not have a conflict with your primary duty to serve the Council of the day in a politically neutral manner. This is important because Council needs to maintain public confidence in Council staff, especially their impartial approach in taking action and providing advice.

Obligations during meetings

- 8.5 You must act in accordance with Waverley Council's Code of Meeting Practice and the Local Government (General) Regulation 2005 during Council and committee meetings.
- 8.6 You must show respect to the chair, other Council officials and any members of the public present during Council and committee meetings or other formal proceedings of the Council.

Appropriate Interactions

- 8.7 Council expects all staff to be courteous to Councillors at all times.
- 8.8 Councillors and staff may often mix in the same social circles, or have associations through sporting, business or family interests. General social interaction and conversation in these situations is perfectly acceptable. However, Councillors are restricted in who they can contact about Council business.
- 8.9 The General Manager determines the staff members whom Councillors can contact. Council's Governance & Integrated Planning Division maintains the 'Authorised Officers whom Councillors may contact' list and regularly updates this list for distribution to Councillors.

Inappropriate interactions

- 8.10 You must not engage in any of the following inappropriate interactions:
 - (a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
 - (b) Council staff approaching Councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
 - (c) Council staff refusing to give information that is available to other Councillors to a particular Councillor.
 - (d) Councillors and administrators who have lodged a development application with Council, discussing the matter with Council staff in staff-only areas of the Council.
 - (e) Councillors and administrators being overbearing or threatening to Council staff.
 - (f) Councillors and administrators making personal attacks on Council staff in a public forum.

- (g) Councillors and administrators directing or pressuring Council staff in the performance of their work, or recommendations they should make.
- (h) Council staff providing ad hoc advice to Councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
- (i) Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.
- (j) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by Council associated with current or proposed legal proceedings unless permitted to do so by Council's General Manager or, in the case of the Mayor or administrator, exercising their power under section 226 of the Act.

9. Access to Information

Councillor and administrator access to information

- 9.1 The General Manager and Public Officer are responsible for ensuring that members of the public, Councillors and administrators can gain access to the documents available under the *Government Information (Public Access) Act 2009*.
- 9.2 The General Manager must provide Councillors and administrators with information sufficient to enable them to carry out their civic office functions.
- 9.3 Members of staff of Council must provide full and timely information to Councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with Council procedures.
- 9.4 Members of staff of Council who provide any information to a particular Councillor in the performance of their civic duties must also make it available to any other Councillor who requests it and in accordance with Council procedures.
- 9.5 Councillors and administrators who have a private (as distinct from civic) interest in a document of Council have the same rights of access as any member of the public.

Councillors and administrators to properly examine and consider information

- 9.6 Councillors and administrators must properly examine and consider all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with Council's charter.

Refusal of access to documents

- 9.7 Where the General Manager and Public Officer determine to refuse access to a document sought by a Councillor or administrator they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the Councillor or administrator to perform their civic duty (see clause 9.2). The General Manager or Public Officer must state the reasons for the decision if access is refused.

Use of certain Council information

- 9.8 In regard to information obtained in your capacity as a Council official, you must:
 - (a) Only access Council information needed for Council business
 - (b) Not use that Council information for private purposes
 - (c) Not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have by virtue of your office or position with Council
 - (d) Only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

Maintenance of Council Records

9.9 Council officials have an obligation when making a record to take steps to make sure it becomes part of Council's official records system and is able to be tracked, including:

- routinely capturing business records onto an official registered file,
- saving a copy of all outgoing correspondence on the appropriate file in the Council's electronic records management system (TRIM) or within Pathway for Pathway users,
- saving e-mails, file notes in TRIM,
- updating file locations in TRIM when passing files to other officers,
- practising careful handling and safe custody of records, documents and files,
- quoting an appropriate file number on all outgoing correspondence

Use and security of confidential information

9.10 You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.

9.11 In addition to your general obligations relating to the use of Council information, you must:

- (a) Protect confidential information
- (b) Only release confidential information if you have authority to do so
- (c) Only use confidential information for the purpose it is intended to be used
- (d) Not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- (e) Not use confidential information with the intention to cause harm or detriment to your Council or any other person or body
- (f) Not disclose any information discussed during a confidential session of a Council meeting.

Personal information

9.12 When dealing with personal information you must comply with:

- (a) *The Privacy and Personal Information Protection Act 1998*
- (b) *The Health Records and Information Privacy Act 2002*
- (c) The Information Protection Principles and Health Privacy Principles
- (d) Waverley Council's Privacy Management Plan
- (e) The Privacy Code of Practice for Local Government

10. Use of Council Resources

- 10.1 You must use Council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.
- 10.2 Union delegates and consultative committee members may have reasonable access to Council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:
- (a) The representation of members with respect to disciplinary matters
 - (b) The representation of employees with respect to grievances and disputes
 - (c) Functions associated with the role of the local consultative committee.
- 10.3 You must be scrupulous in your use of Council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.
- 10.4 You must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 10.5 You must not use Council resources, property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 10.6 You must not use Council letterhead, Council crests and other information that could give the appearance it is official Council material for:
- (a) The purpose of assisting your election campaign or the election campaign of others, or
 - (b) For other non-official purposes.
- 10.7 You must not convert any property of the Council to your own use unless properly authorised.
- 10.8 You must not use Council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

Councillor access to council buildings

- 10.9 Councillors and administrators are entitled to have access to the Council chamber, committee rooms, Mayor's office (subject to availability), Councillors' room, and public areas of Council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the General Manager. The required General Manager authority is

provided at Waverley through the provision of electronic access cards to the Councillors.

- 10.10 Councillors and administrators must not enter staff-only areas of Council buildings without the approval of the General Manager (or delegate) or as provided in the procedures governing the interaction of Councillors and Council staff.
- 10.11 Councillors and administrators must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence Council staff decisions.

11. Maintaining the Integrity of the Code

11.1 You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this code or its administration.

Complaints made for an improper purpose

11.2 You must not make a complaint or cause a complaint to be made under this code for an improper purpose.

11.3 For the purposes of clause 8.2, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:

- (a) To intimidate or harass another Council official
- (b) To damage another council official's reputation
- (c) To obtain a political advantage
- (d) To influence a Council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
- (e) To influence the Council in the exercise of its functions or to prevent or disrupt the exercise of those functions
- (f) To avoid disciplinary action under this code
- (g) To take reprisal action against a person for making a complaint under this code except as may be otherwise specifically permitted under this code
- (h) To take reprisal action against a person for exercising a function prescribed under the procedures for the administration of this code except as may be otherwise specifically permitted under this code
- (i) To prevent or disrupt the effective administration of this code.

Detrimental action

11.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this code except as may be otherwise specifically permitted under this code.

11.5 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this code except as may be otherwise specifically permitted under this code.

11.6 For the purposes of clauses 11.4 and 11.5 detrimental action is an action causing, comprising or involving any of the following:

- (a) Injury, damage or loss
- (b) Intimidation or harassment

- (c) Discrimination, disadvantage or adverse treatment in relation to employment
 - (d) Dismissal from, or prejudice in, employment
 - (e) Disciplinary proceedings
- 11.7 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this code.
- 11.8 You must comply with a reasonable and lawful request made by a person exercising a function under this code.
- 11.9 You must comply with a practice ruling made by the Division of Local Government.
- 11.10 Where you are a Councillor or the General Manager, you must comply with any Council resolution requiring you to take action as a result of a breach of this code.

Disclosure of information about the consideration of a matter under this code

- 11.11 You must report breaches of this code in accordance with the reporting requirements under this code.
- 11.12 You must not make allegations of suspected breaches of this code at Council meetings or in other public forums.
- 11.13 You must not disclose information about the consideration of a matter under this code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted under this code.

Complaints alleging a breach of this part

- 11.14 Complaints alleging a breach of this Part (Part 11) by a Councillor, the General Manager or an administrator are to be made to the Division of Local Government.
- 11.15 Complaints alleging a breach of this Part by other Council officials are to be made to the General Manager.

Appendix 1: Council Policies and Procedures relating to General Conduct Obligations

The following listing is indicative only, as from time to time Council will develop policies, procedures and guidelines which relate to general conduct obligations of Councillors and staff. When new policies, procedures and guidelines are developed Councillors and staff are made aware of these and given information on how to view or obtain copies of these from Council's website or intranet.

Council Policies and Procedures

- Code of Meeting Practice
- Complaints Management Policy
- Media Policy
- Complaints Management Procedure
- Customer Service Charter
- Document Access Policy
- Internal Reporting and Investigation Process Policy
- Privacy Management Plan
- Records Management Policy
- Statement of Business Ethics
- Delegations Policy
- Councillor Expenses and Facilities Policy
- Good Governance Strategy
- Mayor, Councillor, General Manager Protocol
- Instrument of Authority – the Mayor
- Instrument of Delegation – the General Manager

Workplace Behaviour Policies and Procedures

- Sick Leave and Carers Guidelines
- Annual Leave and Long Service Leave Guidelines
- Probation Guidelines
- Flexible Work Guidelines
- Drug and Alcohol Guidelines
- Harassment and Bullying Prevention Policy
- Computer Usage Guidelines
- Workplace Surveillance
- Loss of Drivers License Guidelines
- WHS Policy (Form No. OHS 2)
- Injury Management Policy (Form No. OHS 3)