

POLICY NO: 15.10
RESOLUTION NUMBER: 1651



NEBO SHIRE COUNCIL
POLICY REGISTER

SUBJECT: STAFF

POLICY TITLE: CODE OF CONDUCT

OBJECTIVES: To outline Council's code of conduct for Elected Members and Staff

ACTS: *Public Sector Ethics Act 1994*
Local Government Act 1993 {Chapter 16 Part 4}

INTRODUCTION

A message from the Chief Executive Officer

For the system of Local Government to operate effectively and efficiently public officials are required to work together as a team in providing services to the community that maximise the limited resources available to provide those services. It is vital that Councillors, staff and delegates are united in servicing the community, based on loyalty, commitment and strength of trust between them. This can only happen if Councillors and staff refrain from public criticism of each other. Councillors should seek, fully consider, and challenge if needed, the professional advice offered by Council Staff when making decisions and be prepared to accept the responsibility that follows from those decisions.

Additionally, there needs to be commitment by Councillors to treat confidential information, reports and discussions held in committee and Council or with staff and delegates in the strictest of confidence when required.

Staff and delegates of the Council have reciprocal responsibility to carry out their duties in a courteous, professional and scrupulously honest way and not use official information, equipment and/or facilities for personal gain over and above their official duties. Additionally, staff and delegates must exercise a high degree of courtesy and diligence and give due consideration to the sensitivities of the community, Elected Members, employees of other organisations and their colleagues when dealing with them and above all demonstrate and express loyalty to the position held by Elected Members.

To achieve these ideals Council has developed a **Code of Conduct** to be observed by Councillors, Staff and Delegates of the Council.

MARK CRAWLEY
CHIEF EXECUTIVE OFFICER

PUBLIC SECTOR ETHICS ACT 1994

The *Public Sector Ethics Act* identifies five ethical principles and requires that public sector agencies including local government develop a Code of Conduct consistent with the principles. The five principles are:

- Respect for the law and the system of government
- Respect for persons
- Integrity
- Diligence
- Economy and efficiency

LOCAL GOVERNMENT ACT 1993

Section 250G of the Local Government Act identifies a number of ethics principles as they relate to Councillors. They have been modified to include all public officials where appropriate: viz:-

Integrity of local government

It is vital that the public has confidence in a local government's ability to ensure the good rule and government of its area.

Public officials must conduct themselves in a way that promotes and maintains the public's trust and confidence in the integrity of the local government and the good rule and government of its area.

Primacy of the public interest

Councillors are elected to act in the public interest and to make decisions solely in terms of the public interest.

Councillors must take steps to avoid, resolve or disclose conflicts of interest.

Independence of action

Public officials must not place themselves under any financial obligation that may influence them in discharging their duties and responsibilities.

Appropriate use of information

Public officials who, in the course of carrying out their duties, receive information that is not available to the general public must not misuse this information, particularly for personal gain.

Transparency and scrutiny

It is vital that the public has confidence in the integrity of a local government's decision-making processes.

To ensure transparency and public scrutiny of, and public confidence in, those processes, senior public officials must disclose their financial interests.

Appropriate use of entitlements

Councillors must comply with the requirements about using entitlements provided for under the local government's remuneration policies.

WHAT IS THE PURPOSE OF THE CODE OF CONDUCT

The code is designed:-

- 1) to assist public officials to comply with their statutory duty to act honestly and exercise due diligence with a high degree of care to enhance public perception, trust and confidence in the Council in achieving its corporate objectives.
- 2) to provide a guide to public officials on how to resolve conflict between personal and public interest and to identify and resolve issues, which may result in improper use of their positions and resources of Council.

PRINCIPLE 1 - RESPECT FOR THE LAW AND THE SYSTEM OF GOVERNMENT

The obligation under this principle is that a public official should uphold the laws of Queensland and Australia and carry out Council decisions and policies faithfully and impartially.

For the system of Local Government to operate effectively and efficiently public officials should work together as a team in providing services to the community to maximise the limited resources available to provide those services.

Local Governments are being held more accountable for their decisions and the manner in which they spend public money. With this in mind it is vital that the elected members and all staff are united in serving the community.

PRINCIPLE 2 - RESPECT FOR PERSONS

The obligations associated with this principle are that public officials carry out their duties with respect for the rights, dignity and the views of others. This equally applies in relation to the interaction between Councillors and staff.

Issues in this regard include but are not limited to:

- Avoiding favouritism
- Treating fellow public officials with respect and dignity including respect for cultural differences.
- Taking Care to ensure that public officials required for a specific task are allocated to it. As public officials are often judged by the Public in a poor light if public officials on a job site appear to be idle.
- Ensure that Individual rights are respected and that fellow employees are not distracted from carrying out their duties. Unacceptable conduct includes all forms of intimidation and harassment and denigration of fellow public officials.
- Respect for confidentiality to ensure the privacy of matters of a personal nature of fellow public officials.
- Due cognizance of health and safety issues.

- Not allowing personal relationships, both internal and external to intrude into the work environment, to adversely affect work performance of public officials.

Example:- A public official may regard certain printed material (magazines) to be offensive and therefore should be kept in personal lockers or lunchboxes and not in plain view, this would include the dashboard of Council vehicles. Information provided to one officer by another is not necessarily an invitation to disclose that information to a third party. You are expected to respect another public officials' confidence and not disclose to others any information provided to you in confidence.

Standard of Dress

Public officials shall:

- Wear appropriate clothing, which is generally acceptable for the duties being performed. Safety coloured shirts etc, are to be worn if possible, and always in circumstances where plant or traffic is involved.

Example:- Council provides safety clothing and/or staff uniform allowances to all public officials and it is expected that this clothing be worn by public officials. Public officials who do not have safety shirts and are at locations that require high visibility clothing must wear at least a safety vest.

Use of Alcohol and Drugs

Public Officials shall not:

- Consume, ingest or inject alcohol, dangerous or illicit drugs while undertaking Council duties.
- Allow alcohol, restricted, dangerous or illicit drugs to affect their work performance or conduct.
- Consume alcohol on any Council property unless the circumstances are such that the approval of the Chief Executive Officer is warranted and is given.
- Use any medication which may effect the public officials ability to perform in a rational and/or safe manner while performing Council duties unless prescribed and directed by a qualified medical practitioner.
- Operate/drive any Council vehicle while under the influence of alcohol, restricted or illicit drugs.

Example:- Council's policy (Policy 15.16) in relation to Drugs and Alcohol will be applicable in relation to this section of the Code of Conduct.

PRINCIPLE 3 - INTEGRITY

Integrity involves the recognition of the position of trust that the community bestows upon public officials and acting accordingly.

Public Officials must:-

1. Conduct themselves in a manner which will maintain and strengthen the public's trust and confidence in the integrity of the Council, ensuring that their actions do not detract from the integrity of the Council and avoiding any action which may diminish its standing, authority or dignity.
2. Ensure that they do not *harass* or intimidate their fellow public officials or members of the public in the course of their duties.

Conflict of Interest

In the course of their duties, public officials must not give preference to any person, organisation or interest whether pecuniary, commercial, political, religious or otherwise as a result of any private association with that person, organisation or interest.

Immediately on becoming aware that a conflict between private interests and official duty has, or is likely to arise public officials must disclose such details in writing to the Chief Executive Officer.

Such disclosures should immediately be made by public officials employed in regulatory inspectorial or other discretionary functions when dealing with relatives, friends or business acquaintances.

On receipt of a disclosure, the Chief Executive Officer will determine the extent of any conflict of interest and direct the action required to resolve the conflict. Failure to disclose an interest or failure to comply with the Chief Executive Officer's directions shall make the Officer liable to disciplinary action and/or dismissal.

An Officer who is uncertain whether a Conflict of Interest exists should seek direction from the Chief Executive Officer.

Gifts

Gifts do not include election gifts which are specifically dealt with under Part 8 of Chapter 5 of the Local Government Act.

Public Officials should not ask for, encourage or accept any form of personal benefit or gift for themselves or their family to which they would not normally be able to avail themselves other than formally approved remuneration or benefits.

The exceptions to the rule are gifts presented upon retirement and/or when a gift or benefit is of a token or nominal value only **and is unsolicited**. For this purpose, gifts or benefits of an assessed value of less than \$100.00 may be

regarded as token, eg, meal, wine, spirits, tickets to sporting events, theatre tickets on one off occasions only.

The rule is that gifts or benefits of greater value than token or nominal are not to be accepted as it may cause Council's integrity and impartiality to be questioned or challenged.

All instances of attempted "bribes" should be reported to the Council or Chief Executive Officer and all gifts other than token gifts will become the property of Council, which will by resolution, deal with each case on its own merit.

Political Activity by public officials

Public officials have the same rights as any other citizen to freedom of political association, and expression. However, any political activity must be conducted in a private capacity and not in work time.

Public officials engaged in Political activity must exercise such care that a conflict does not arise with official duties. Public officials shall retain their rights to political association, expression and freedom of speech, which may be undertaken as private citizens, in their own time.

Use of Official Information

Official information must not be used by public officials to gain any kind of advantage for themselves, or any another person or organisation.

Release of Official Information

Public officials must only disclose official information or documents acquired in the course of their employment when required to do so by law when called to give evidence in court, or when proper authority has been given. In such cases, comments made by public officials should be confined to factual information and should not express any personal opinion on Council Policy or practice.

Certain information is able to be released under the provisions of the Freedom of Information (F.O.I) Act. All applications for information under this Act must be in writing and are to be directed to the Chief Executive Officer.

Public Comment

As members of the wider community, public officials have the right to make public comment and enter into debate on political and social issues. However, there are circumstances where public comment or debate by public officials is not acceptable. These may include circumstances where:

- A public comment gives rise to a public perception that it is in some way an official Council comment. A public official must prior to making such a comment issue a disclaimer, either verbal or written, that any comments made are not those of the Council but are wholly of a private nature.

- A public official is directly involved in the implementation or administration of Council policy and the public comment could compromise the public officials ability to perform his/her duties in the interest of Council.

PRINCIPLE 4 - DILIGENCE

Public officials should exercise due diligence, care and attention, and should seek to achieve the highest standard practicable in relation to their duties and responsibilities.

- In respect of public officials this means a responsible work ethic based on a fair days work. Other issues include professionalism and punctuality.
- All public officials have a legal and moral duty of care which must be given due attention in undertaking responsibilities of their position.

PRINCIPLE 5 - ECONOMY AND EFFICIENCY

In performing his/her official duties, a public official should ensure that public resources are not wasted, abused, or used improperly or extravagantly.

Use of Council Resources

Council resources should be used for there intended purpose. Due care and maintenance as directed by suppliers applies to all Council property.

A public official must not convert to personal use, any property of the council unless the circumstances are such that the Chief Executive Officer can and has given prior approval and/or on completion of the appropriate Private Hire Documentation.

Example:- a public official who has been granted use of a lawn mower to maintain the lawn at a Council residence that they currently occupy cannot use the same mower to mow another lawn and/or receive money for mowing the lawn. Permission to utilise small plant must be obtained from the immediate supervisor or the Chief Executive Officer

A public official shall not provide Council materials and use of Council plant etc, to any person or organisation free of charge, unless approval has been obtained from the Chief Executive Officer.

The following examples are designed to address some typical “grey” areas:

- where materials are set aside for a particular job and are not completely used up, the remaining material should be returned to stock for future use;
- the odd photocopy or two is acceptable but large volumes are not;
- a personal phone call may be made occasionally but the telephone is not to be used in connection with any private work or income producing activity;
- whilst a piece of non-motorised or minor equipment may be borrowed with supervisor approval, payment would be required for use of larger equipment, eg. Vehicles, mowers, chainsaws etc.

BREACHES OF THIS CODE

Sanctions may be applied to public officials if this code or any relevant law is breached. Depending on the nature of the breach, sanctions may include counselling, disciplinary action, the laying of criminal charges, and civil action.

There are no statutory sanctions for the breach of this code by Councillors. Refer to the statutory code of conduct for Councillors for penalties relating to breaches of that code.

The breach of this code may also have implications and subsequent penalties for public officials under the *Crime and Misconduct Act 2001*.

DICTIONARY

In this document:

“Benefit” includes gift, gratuity, remuneration, allowance, fee, subsidy, free service, entertainment and goods.

“Conflict of interest” is any matter which places a public official in a position where they may be influenced (an Actual Conflict) or appear to be influenced (a Perceived Conflict) by their private interests when being called on to make a decision, as a public official, in the public interest.

“Confidential Information” Includes any information or matter which is revealed in a Closed Meeting of a local government and any matter communicated to a public official where such communication is made explicitly or implicitly in a confidential manner.

It may also include information not available to the general public received or obtained in the course of a public official attending to their duties with Council.

“Council Policy” Any policy adopted by resolution of Council.

“Public Official” means a Councillor and all employees, both temporary and permanent of the Nebo Shire Council.