



Shire of **Ngaanyatjaraku**  
ON A JOURNEY

# EMPLOYEE CODE OF CONDUCT

Implementation Date: June 2021  
Responsible Officer: Chief Executive Officer

## **1. Objective**

To provide guidance for employees in the Shire of Ngaanyatjarraku on acceptable standards of professional conduct.

### **1.1 Preamble**

The Code is complementary to the principles adopted in the Local Government Act 1995 and regulations which incorporates four fundamental aims to result in:

- (a) better decision-making by local governments,
- (b) greater community participation in the decisions and affairs of local governments,
- (c) greater accountability of local governments to their communities, and
- (d) more efficient and effective local government.

## **2. Policy Statement**

The Code of Conduct provides employees in the Shire of Ngaanyatjarraku with consistent guidelines for an acceptable standard of professional conduct.

The Code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability in the Shire of Ngaanyatjarraku.

The Code provides a guide and a basis of expectations for employees. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

### **2.1 Statutory Environment**

The Code addresses the requirement in section 5.51A of the Act for the CEO to prepare and implement a code of conduct to be observed by employees of the Local Government, and includes the matters prescribed in Part 4A of the *Local Government (Administration) Regulations 1996*.

The Code should be read in conjunction with the Act and associated regulations. Employees should ensure that they are aware of their statutory responsibilities under this and other legislation.

For the purposes of the Code, the term employees include persons employed by the Shire of Ngaanyatjarraku or engaged by the Shire under a contract for services. The Code applies to all employees, including the CEO, while on the Local Government's premises or while engaged in Local Government related activities. This Code in relation to Gifts, does not apply to the CEO.

### **2.2 Ethical Principles**

In addition to the statutory requirements of the contents of the Code, this Code of Conduct is also governed by three ethical principles – Justice, Respect for Persons, and Responsible Care.

#### 2.2.1 Justice

A responsibility to:

- Be fair and equitable in our treatment of others, not treating people as a means to an end.
- Use and share power for the common good of both individuals and society.
- Avoid discrimination, abuse, or exploitation of others.

#### 2.2.2 Respect for Persons

A responsibility to:

- Respect the rights of individuals and groups allowing them their opinion and their right to be different.

- Enable and empower others to achieve their potential by promoting their physical, mental and social wellbeing.
- Encourage honest working relationships by being truthful and sincere when dealing with others.

### 2.2.3 Responsible Care

A responsibility to: -

- Contribute to the wellbeing of individuals and society by exercising due diligence and a duty of care to others.
- Treat others, as they would like to be treated, doing good and not doing harm.
- Uphold the rights of those who are unable to do so, advocating for others where required.
- Protect and responsibly manage the resources of the Shire of Ngaanyatjaraku

## **3. Role of CEO and Employees**

The role of employees is determined by the functions of the CEO as set out in s 5.41 of the Local Government Act 1995:

“The CEO’s functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws,
- (b) ensure that advice and information is available to the council so that informed decisions can be made,
- (c) cause council decisions to be implemented,
- (d) manage the day-to-day operations of the local government;
- (e) liaise with the mayor or president on the local government’s affairs and the performance of the local government’s functions,
- (f) speak on behalf of the local government if the mayor or president agrees,
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to s 5.37(2) in relation to senior employees),
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.”

### **3.1 Principles affecting the employment of employees by the Shire**

The following principles, set out in s5.40 of the Act, apply to the employment of the Shire’s employees:

- (a) employees are to be selected and promoted in accordance with the principles of merit and equity,
- (b) no power regarding matters affecting employees is to be exercised based on nepotism or patronage,
- (c) employees are to be treated fairly and consistently,
- (d) there is to be no unlawful discrimination against employees or persons seeking employment by the Shire on a ground referred to in the Equal Opportunity Act 1984 or on any other ground; and
- (e) employees are to be provided with safe and healthy working conditions in accordance with the Work Health and Safety Act 2020.
- (f) such other principles, not inconsistent with this Division, as may be prescribed

#### **4. Relationships between Council Members and Employees**

Employees recognise that Council Members, constituting the Council, is the supreme policy making body for the Shire and that employees implement the policies and decisions of the Council.

Employees will recognise that Council Members' views and opinions often reflect valid community viewpoints that should be considered in conjunction with professional opinion. Employees will therefore make every effort to assist Members in the performance of their role, and to achieve the satisfactory resolution of issues that may arise in the performance of their official roles.

An effective Council Member works as part of the Council team with the Chief Executive Officer and other employees. That teamwork will only occur if Council Members and employees have a mutual respect and co-operate with each other to achieve the Council's corporate goals and implement the Council's strategies.

Employees, when referring a member of the community to a Council Member over issues that the employee cannot resolve due to current Council Policy, will ensure that other Council Members are advised of the referral and any information that may assist in resolving the issue.

#### **5. Personal Behaviour**

Employees will:

- act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code,
- perform their duties impartially and in the best interests of the Shire of Ngaanyatjarraku uninfluenced by fear or favour,
- act in good faith (i.e., honestly, for the proper purpose, and without exceeding their powers) in the interests of the Shire of Ngaanyatjarraku and the community and shall be particularly mindful to avoid interference in commercial relationships between developers and objectors or between developers competing for the right to develop,
- make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment; and
- always act in accordance with their obligation of fidelity to the Shire of Ngaanyatjarraku.

##### **5.1 Performance of Duties**

While on duty, employees will give their whole time and attention to the Shire of Ngaanyatjarraku's business and ensure that their work is carried out efficiently, economically, and effectively, and that their standard of work reflects favourably both on them and on the Shire.

##### **5.2 Honesty and Integrity**

Shire employees will:

- (a) observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- (b) be frank and honest in their official dealing with each other; and
- (c) report any dishonesty or possible dishonesty on the part of any other employee to their Line Manager or the CEO in accordance with this Code and the Shire of Ngaanyatjarraku's policies.

##### **5.3 Improper or Undue Influence**

Shire employees must not take advantage of their position to improperly influence council members or employees in the performance of their duties or functions, to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

Shire employees shall not take advantage of their position to improperly influence any other person to gain undue or improper (direct or indirect) an advantage or gain, pecuniary or otherwise, for themselves or any other person, or body. Similarly, employees shall not take advantage of their positions to improperly disadvantage or cause detriment to the local government or any other person.

#### **5.4 Compliance with Lawful Orders**

Shire employees will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the Chief Executive Officer.

Shire employees will give effect to the lawful policies of the Shire of Ngaanyatjarraku, whether or not they agree with or approve of them.

#### **5.5 Administrative and Management Practices**

Shire employees will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

#### **5.6 Corporate Obligations**

Shire employees are expected to always comply with neat and responsible dress standards. Accordingly, management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual employees.

### **6. Handling of information, records keeping and communications**

#### **6.1 Use of Confidential Information**

Shire employees shall not use confidential information to gain improper advantage for themselves or another person or body in ways which are inconsistent with their obligation to act impartially in the public interest; or to improperly cause harm, detriment or impairment to any person, body, or the Council.

Due discretion shall be exercised by all those who have access to confidential or sensitive information. Every matter dealt with by, or brought before, a meeting sitting behind closed doors, shall be treated as strictly confidential, and shall not without the authority of the Council be disclosed to any person other than the council members and/or employees of the Shire (and in the case of employees only so far as may be necessary for the performance of their duties) prior to the discussion of the matter at a meeting of the Council held with open doors.

Nothing in this section prevents a council member or employee from disclosing confidential information:

- to a legal practitioner for the purpose of obtaining legal advice; or
- if the disclosure is permitted by law.

#### **6.2 Intellectual Property**

The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the Shire of Ngaanyatjarraku upon its creation unless otherwise agreed by separate contract.

#### Communication and Public Relations

All aspects of communication by employees (including verbal, written or personal), involving the Shire of Ngaanyatjarraku's activities should reflect the status and objectives of the Shire. Communications should be accurate, polite, and professional.

Statements to the press on behalf of the Shire will only be made by the President or the CEO.

#### **6.3 Personal Communications and Social Media**

(a) Personal communications and statements made privately in conversation, written, recorded, emailed or posted in personal social media, have the potential to be made public, whether intended or not.

(b) Employees must not, unless undertaking a duty in accordance with their employment, disclose information, make comments, or engage in communication activities about or on behalf of the Shire of Ngaanyatjarraku, its Council Members, employees, or contractors, which breach this Code.

(c) Employee comments which become public and breach the Code of Conduct, or any other operational policy or procedure, may constitute a disciplinary matter and may also be determined as misconduct and be notified in accordance with the Corruption, Crime and Misconduct Act 2003.

#### **6.4 Record Keeping**

All employees should familiarise themselves with the Shire Record Keeping Policy and Procedures and ensure compliance.

This is especially important for those employees with delegated authority to make decisions, and for whom compliance with Reg 19 of the Local Government (Administration) Regulations 1996 is required, viz:

*Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of —*

*(a) how the person exercised the power or discharged the duty; and*

*(b) when the person exercised the power or discharged the duty; and*

*(c) the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.*

#### **6.5 Dealing with Other Employees**

(a) Employees will treat other employees with respect, courtesy and professionalism, and refrain from behaviour that constitutes discrimination, bullying or harassment.

(b) Employees must be aware of and comply with their obligations under relevant law and the Shire of Ngaanyatjarraku's policies regarding workplace behaviour and occupational safety and health.

(c) Employee behaviour should reflect the Shire of Ngaanyatjarraku's values and contribute towards creating and maintaining a safe and supportive workplace.

#### **6.6 Dealing with community**

(a) Employees will treat all members of the community with respect, courtesy and professionalism.

(b) All Shire of Ngaanyatjarraku services must be delivered in accordance with relevant policies and procedures, and any issues resolved promptly, fairly and equitably.

### **7. Fraudulent, corrupt, and improper behaviour**

#### **7.1 Serious Misconduct**

##### **Definitions**

s4 of the Corruption and Crime Commission Act 2003 defines the instances when 'misconduct' occurs:

Misconduct occurs if:

(a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment,

(b) a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person,

(c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years' imprisonment; or

(d) a public officer engages in conduct that —

(i) adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct,

(ii) constitutes or involves the performance of his or her functions in a manner that is not honest or impartial,

#### CEO role as Principal Officer of a Notifying Authority, tole of other employees

As a 'principal officer of a notifying authority' (for the purposes of the Corruption and Crime Commission Act 2003), the CEO, is statutorily obligated to report to the Corruption and Crime Commission:

(a) any alleged misconduct; or

(b) any situation that might be drawn to his or her attention involving misconduct, where the CEO reasonably suspects that the misconduct is relevant or is an issue of concern to the CEO in his or her official capacity.

Nonetheless, any employee or any other person may report directly to the Corruption and Crime Commission any matter which that person reasonably suspects may concern misconduct that:

(a) has or may have occurred

(b) is or may be occurring

(c) is or may be about to occur; or

(d) is likely to occur.

## **7.2 Minor Misconduct**

### **Definitions**

s4 of the Corruption and Crime Commission Act 2003 defines the instances when 'misconduct' occurs.

Minor misconduct occurs if a public officer engages in conduct that:

- adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or
- constitutes or involves the performance of his or her functions in a manner that is not honest or impartial; or
- constitutes or involves a breach of trust placed in the public officer by reason of his or her office or employment as a public officer, or
- involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person and constitutes, or could constitute -
- a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the Public Sector Management Act 1994 (PSM Act) (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).

#### CEO role as Principal Officer of a Notifying Authority, tole of other employees

As a 'principal officer of a notifying authority' (for the purposes of the Corruption and Crime Commission Act 2003), the CEO, is statutorily obligated to report to the Public Sector Commission any alleged minor misconduct of any employee.

Any employee or any other person may report directly to the Public Sector Commission any matter which that person reasonably suspects may concern minor misconduct of a local government employee.

## **8. Use of local government resources**

### **8.1 General**

Employees will:

- be scrupulously honest in their use of the Local Government's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body,
- use the Local Government resources entrusted to them effectively and economically in the course of their duties,
- not use the Local Government's resources (including the services of Shire employees) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer).

### **8.2 Travelling and Sustenance Expenses**

Employees will only claim or accept travelling and sustenance expenses arising out of travel-related matters which have a direct bearing on the services, policies, or business of the Local Government in accordance with Local Government policy and the provisions of the Local Government Act 1995.

#### Use of Shire of Ngaanyatjarraku Finances

- (a) Employees are expected to act responsibly and exercise sound judgment with respect to matters involving the Shire of Ngaanyatjarraku's finances.
- (b) Employees will use Shire of Ngaanyatjarraku's finances only within the scope of their authority, as defined in [position descriptions, policies and procedures, administrative practices].
- (c) Employees with financial management responsibilities will comply with the requirements of the Local Government (Financial Management) Regulations 1996.
- (d) Employees exercising purchasing authority will comply with the Shire of Ngaanyatjarraku's Purchasing Policy, and the systems and procedures established by the CEO in accordance with regulation 5 of the Local Government (Financial Management) Regulations 1996.
- (e) Employees will act with care, skill, diligence, honesty and integrity when using local government finances.
- (f) Employees will ensure that any use of Shire of Ngaanyatjarraku's finances is appropriately documented in accordance with the relevant policy and procedure, including the Shire of Ngaanyatjarraku's Recordkeeping Plan.

### **8.3 Assisting Council Members access to Information**

Employees will ensure that Council Members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities, especially regarding s5.92, 5.93 of the Local Government Act 1995.

If any employee has doubts about the validity of a request by a Council Member for access to information held by the Shire, then the request should be referred to a Director, or the CEO, for determination.



## **9. Reporting of suspected wrongdoing and breaches of the Code.**

### **9.1 Breaches of the Code of Conduct**

A person (including an employee) who reasonably believes that an employee's behaviour is in breach of the standards of conduct set out in the Code, may refer the matter to the CEO or the responsible person for Human Resources who will take the matter into consideration and deal with it according to the management protocols, procedures, or practices of the Shire of Ngaanyatjarraku and any applicable laws regarding employees.

A person (including an employee) who reasonably believes that the personal behaviour of the CEO is in breach of the standards of conduct set out in the Code may refer the matter to the Director Governance and Strategic who will take the matter into consideration and deal with it according to the management protocols, procedures, or practices of the Shire of Ngaanyatjarraku and any applicable laws.

Each report of a breach is to be dealt with efficiently, effectively, and fairly in line with the principles of fair procedures.

### **9.2 Reporting legislative breaches by regular external contractors and consultants, internal consultants, and volunteers**

The person responsible for Human Resources ensures delivery of an induction to employees, internal consultants, and volunteers. The induction which is outlined in the document "Shire of Ngaanyatjarraku Induction" includes an obligation to report legislative breaches.

The officer responsible for Human Resources will ensure that an induction including an obligation to report legislative breaches is delivered to external contractors and consultants. The induction is outlined in the document "Contractor OHS Compliance Guidelines".

## **10. Conflicts of Interest**

### **Definitions (as per Local Government Act 1995 or Local Government (Administration) Regulations 1996)**

Interest (Local Government (Administration) Regulations 1996)

(a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and

(b) includes an interest arising from kinship, friendship or membership of an association

s5.60A. Financial interest (Local Government Act 1995)

For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person

s5.60B. Proximity interest (Local Government Act 1995)

(1) For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —

(a) a proposed change to a planning scheme affecting land that adjoins the person's land; or

(b) a proposed change to the zoning or use of land that adjoins the person's land; or

(c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.

(2) In this section, land (the proposal land) adjoins a person's land if —

- (a) the proposal land, not being a thoroughfare, has a common boundary with the person's land; or
  - (b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
  - (c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land.
- (3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

#### s5.61. Indirect financial interests (Local Government Act 1995)

A reference in this Subdivision to an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who requires a local government decision in relation to the matter.

#### **10.1 Avoidance of conflicts of interest**

- (a) Employees will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- (b) Employees will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Shire of Ngaanyatjarraku, without first making disclosure to the Chief Executive Officer. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
- (c) Employees will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the Shire of Ngaanyatjarraku's area or which may otherwise conflict with the Council's functions.
- (d) Employees who exercise a recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- (e) Employees will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity. An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination, and this is supported by anti- discriminatory legislation.
- (e) Employees will conduct themselves in an apolitical manner and refrain from political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity.

#### Secondary Employment

An employee must not engage in secondary employment (including paid and unpaid work) without receiving the prior written approval of the CEO

#### **10.2 Identifying and disclosing conflicts of interest**

Reg 19AD of the Local Government (Administration) Regulations 1995 requires a Code of Conduct for employees to include provisions regarding the disclosure of interests by employees.

An employee who has an interest in any matter to be discussed at a council or committee meeting attended by the local government employee must disclose the nature of the interest:

- in a written notice given to the CEO before the meeting; or
- at the meeting immediately before the matter is discussed.

An employee who has given, or will give, advice in respect of any matter to be discussed at a council or committee meeting not attended by the local government employee disclose the nature of any interest the local government employee has in the matter:

- in a written notice given to the CEO before the meeting; or

- at the time the advice is given.

These requirements do not include an interest referred to in s5.60 of the Local Government Act 1995.

An employee is excused if the employee fails to disclose the nature of an interest because they did not know and could not reasonably be expected to know —

- that they had an interest in the matter; or
- that the matter in which they had an interest would be discussed at the meeting and they disclosed the nature of the interest as soon as possible after the discussion began.

If an employee discloses an interest in a written notice given to the CEO before a meeting, then:

- before the meeting, the CEO must cause the notice to be given to the person who is to preside at the meeting; and
- at the meeting, the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.

If the nature of an interest in a matter is:

- disclosed at a meeting; or
- a disclosure is made at a meeting; or
- notice of the interest is brought to the attention of the persons present at a meeting.

then the nature of the interest must be recorded in the minutes of the meeting.

## 11. Gifts

### Definition (as per s5.57 Local Government Act 1995)

activity involving a local government discretion has the meaning given to it in the *Local Government (Administration) Regulations 1996*;

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

- that cannot be undertaken without an authorisation from the local government; or*
- by way of a commercial dealing with the local government. (r.19AA of the Local Government (Administration) Regulations 1996)*

associated person has the meaning given to it in the *Local Government (Administration) Regulations 1996*;

*associated person means a person who —*

- is undertaking or seeking to undertake an activity involving a local government discretion; or*
- it is reasonable to believe, is intending to undertake an activity involving a local government discretion (r.19AA of the Local Government (Administration) Regulations 1996)*

gift means:

- a conferral of a financial benefit (including a disposition of property) made by 1 person in favour of another person unless adequate consideration in money or money's worth passes from the person in whose favour the conferral is made to the person who makes the conferral: or
- a travel contribution.

travel includes accommodation incidental to a journey,

travel contribution means a financial or other contribution made by 1 person to travel undertaken by another person.

It does not include —

- (a) a gift from a relative as defined in s5.74(1); or
- (b) a gift that must be disclosed under the Local Government (Elections) Regulations 1997 regulation 30B; or
- (c) a gift from a statutory authority, government instrumentality or non-profit association for professional training; or
- (d) a gift from WALGA, the Australian Local Government Association Limited or the Local Government Professionals Australia WA.

prohibited gift has the meaning given to it in the Local Government (Administration) Regulations 1996;

prohibited gift, in relation to a local government employee, means —

- (a) a gift worth the threshold amount or more; or
- (b) a gift that is 1 of 2 or more gifts given to the local government employee by the same person within a period of 1 year that are in total worth the threshold amount or more;

[r.19AA of the Local Government (Administration) Regulations 1996

relative, in relation to a relevant person, means any of the following —

- (a) a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant of the relevant person or of the relevant person's spouse or de facto partner;
- (b) the relevant person's spouse or de facto partner or the spouse or de facto partner of any relative specified in paragraph (a),

whether or not the relationship is traced through, or to, a person whose parents were not actually married to each other at the time of the person's birth or subsequently, and whether the relationship is a natural relationship or a relationship established by a written law; (Section 5.74(1) of the Local Government Act 1995)

reportable gift means:

- (i) a gift worth more than \$50 but less than \$300; or
- (ii) a gift that is 1 of 2 or more gifts given to the local government employee by the same person within a period of 1 year that are in total worth more than \$50 but less than \$300.

threshold amount has the meaning given to it in the Local Government (Administration) Regulations 1996, subject to the CEO's determination under subclause (c);

travel includes accommodation incidental to a journey;

travel contribution means a financial or other contribution made by 1 person to travel undertaken by another person (Section 5.57 of the Local Government Act 1995)

### **11.1 Prohibition on accepting gifts worth \$300 or more**

The CEO is required to determine the rules applying to gifts to all employees - except the CEO, for whom the gift rules are determined by different provisions.

All employees may accept gifts of up to \$300 (that is \$299 maximum) from a donor but cumulative provisions also apply where a donor provides more than 1 gift over 12 months. In the legislation this is known as the "threshold amount" and any gift/s exceeding this amount are prohibited.

Thus, an employee may accept a gift worth \$250 from a donor, but if the same donor offers a second gift within 12 months to the same employee, worth \$250 then the amount more than \$299 is prohibited,

because the maximum value of a gift, or gifts from the same donor over 12 months is \$299 \*that is, less than \$300).

There is no requirement to disclose, or record a gift, worth less than \$50, unless it is a cumulative gift.

### **Reportable Gifts**

(e) An employee who accepts a reportable gift (that is, a gift worth \$50 or more, but less than \$300) from an associated person is to notify the CEO in accordance with subclause (f) and within 10 days of accepting the gift.

(f) The notification of the acceptance of a reportable gift must be in writing and include:

(i) the name of the person who gave the gift; and

(ii) the date on which the gift was accepted; and

(iii) a description, and the estimated value, of the gift; and

(iv) the nature of the relationship between the person who is an employee and the person who gave the gift; and

(v) if the gift is one of two or more accepted from the same person within a period of one year:

(1) a description;

(2) the estimated value; and

(3) the date of acceptance,

of each other gift accepted within the one year period.

(g) The CEO will maintain a register of reportable gifts and record in it details of notifications given to comply with subclause (f).

(h) The CEO will arrange for the register maintained under subclause (g) to be published on the Shire of Ngaanyatjaraku's official website.

(i) As soon as practicable after a person ceases to be an employee, the CEO will remove from the register all records relating to that person. The removed records will be retained for a period of at least 5 years.

### **11.2 Associated Persons**

#### **Definition (as per 19AA Local Government (Administration) Regulations 1996**

Associated person means a person who:

(a) is undertaking or seeking to undertake an activity involving a local government discretion; or

(b) it is reasonable to believe, is intending to undertake an activity involving a local government discretion.

An employee must not accept a prohibited gift from an associated person.

Where an employee accepts a gift from an associated person it must be disclosed, in writing, in a form determined by the CEO and will be recorded at the Shire website, and will include:

- The name of the associated person who gave the gift,
- The date on which the gift was received,
- A description of the gift and its estimated value,
- The nature of the relationship between the employee and the associated person; and
- If the gift is one of 2 or more gifts given to the employee by the same person within a 12-month period –

- A description of each gift,
- The estimated value; and
- The date of acceptance.

Employees who have accepted a gift from an associated person, may have a conflict of interest in determining matters, under delegated authority, or in providing advice, and making recommendations to Council. Where such a conflict of interest may arise, the employee is to discuss the matter with a Director or the CEO, to determine how the potential conflict of interest is to be addressed.

As a rule, employees should not make decisions, or provide advice in relation to a matter concerning an associated person.

## **12. ENFORCEMENT OF THE CODE**

Any person who has reason to believe that an employee has committed a breach of the Code of Conduct may complain about the breach to the Shire's CEO, or if the complaint under this Code is against the CEO, the complaint is to be directed to the Director Governance and Strategic.

The complaint is to be made in writing, giving details of:

- a) who is making the complaint,
- b) who is alleged to have committed the breach,
- c) the contravention that is alleged to have resulted in the breach; and
- d) any other relevant information

Within 14 days of receiving the complaint, the complaints officer must:

- a) give the person making the complaint a written acknowledgement that the complaint has been received; and
- b) give the person whom the complaint is being made a copy of the complaint.

As soon as practicable after acknowledging the complaint, the complaints officer is to carry out a thorough investigation, having regard to procedural fairness and natural justice. While undertaking the thorough investigation, the complaints officer may engage the services of appropriate persons.

This has relevance where the complaint is made against the CEO, or another senior employee. The CEO has developed a Procedure – Complaints Handling (Code of Conduct) that will be followed in these instances.

At the completion of the investigation, the complaints officer shall advise the outcomes of the investigation to:

- a) CEO, if the investigating officer is not the CEO; and
- b) person subject of the complaint, and
- c) person who made the complaint.

Any actions taken because of a proven breach of the Code of Conduct will be made in accordance with the provisions of any applicable legislation or common law provisions that governs the operations of the Shire and its employees.

## **13. Review of Code and Publication**

The CEO may review and amend the Code from time to time.

The Code must be published at the Shire website.