



# Governance Framework

25 November 2025



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# Introduction

The City of Stirling (the City) requires a corporate governance framework to be able to provide services and facilities, by proper and democratic government, to the broad range of people who have a stakeholder interest in the region, including residents, commercial and retail business, workers, and local, national and international visitors.

The practice of good governance is increasingly seen as critical for ensuring that:

- the City meets its legal and ethical compliance obligations;
- Council, Elected Members and the Administration act ethically;
- decisions are made in the interests of all stakeholders; and
- the City behaves as a good corporate citizen should.

There are a range of benefits that can be derived from the development and implementation of an effective governance framework in local government. These include:

- providing clear guidelines for the roles of the Council, Elected Members and the CEO, ensuring that all responsibilities are properly allocated, and performance expectations are well understood;
- enshrining best practice in relation to 'board processes' (which are relevant to the elected Council);
- assisting Council and the CEO in delivering good governance;
- ensuring legal and ethical compliance;
- influencing processes throughout the organisation by setting guidelines for strategic planning at all levels;
- acting as a point of reference for disputes; and
- assisting as an induction tool for new Elected Members and employees.

The principles and practices of good governance and guiding documents plot the specific processes of decision-making and by which the City is directed, controlled and held to account. Good governance ensures that the City can manage its many complex responsibilities effectively in the best interests of the community.

For an organisation to demonstrate good governance, there needs to be a clear understanding about responsibility and accountability. This Governance Framework has been produced to set out the roles of Elected Members and the Administration, and their relationships, along with financial, legal and ethical considerations.

The City's Governance Framework consists of four key principles required to achieve excellence in governance:

- **Culture and Vision.**
- **Roles and Relationships.**
- **Decision-making and Management.**
- **Accountability.**

Each principle is divided into sub-categories where the theory of the principle is explained and then how the theory is put into action at the City.

This framework has been modelled on the *City of Joondalup's Governance Framework* with further enhancements and refinement, referencing documents and legislative provisions currently in place or available regarding governance concepts or the practice of good governance in organisations.

# Glossary

Term	Meaning
<b>Act</b>	The Local Government Act 1995.
<b>Administration</b>	Includes senior employees and other employees of the local government, led by the CEO.
<b>Audit</b>	The inspection or examination of a City activity or facility to evaluate or improve its appropriateness, efficiency or compliance.
<b>Business Unit</b>	A functional work group of the organisation that consists of a Manager and employees that perform particular functions of the City.
<b>CEO</b>	The Chief Executive Officer who is the most senior employee in the administration. The CEO is appointed by and directly accountable to the Council.
<b>community</b>	The entire population within the City of Stirling district. It also extends to those who work or invest in the district, or visit the area for recreational or similar reasons. (See also section – Community defined.)
<b>committee member</b>	A member of a committee appointed by the Council but does not include an Elected Member.
<b>Council</b>	The Elected Members meeting as a Council under the Act.
<b>Councillor</b>	An individual elected representative of a local government, but does not include the Mayor.
<b>Committee</b>	A Committee of Council established by Council under the Act and constituted by Elected Members, employees or members of the public.
<b>Council meeting</b>	A meeting of Council conducted in accordance with the Act.
<b>Director</b>	A senior position in the administration engaged by and directly responsible to the CEO.
<b>district</b>	The area of the State prescribed by legislation that a local government is required to control.
<b>Elected Members</b>	The Mayor and Councillors of the City.
<b>employee</b>	A person employed by the local government in accordance with the Act.
<b>Executive Team</b>	The CEO, and directors.
<b>Local government</b>	A body corporate established under the Act.
<b>Long Term Financial Plan</b>	The City's Long-term financial plan summarising the financial impacts of the objectives and strategies in the Strategic Community Plan.
<b>Manager</b>	An employee in the organisation directly accountable and responsible for a Business Unit of the Administration.

<b>Term</b>	<b>Meaning</b>
<b>City</b>	The local government of the City of Stirling and includes the Council and the Administration.
<b>Mayor</b>	A person elected by electors of the City to hold the position as the civic leader of the City.
<b>Natural justice</b>	The right to be given a fair hearing and the opportunity to present one's case, the right to have a decision made by an unbiased or disinterested decision maker, and the right to have that decision based on evidence.
<b>Regulations</b>	The Local Government (Administration) Regulations 1996.
<b>senior management</b>	Means the CEO, directors and managers.
<b>stakeholders</b>	Individuals and organisations that have an impact on the strategic direction and decision-making processes of the City.
<b>Strategic Community Plan</b>	The overarching plan providing strategic direction for activities and guides the development and provision of the City's services and programs.
<b>ward</b>	A part of the City's district that delineates an electoral boundary.

# Local Government Defined

Local government in Western Australia is established under the Act and is the third sphere of government in Australia. Local government has legislative responsibility for many functions and activities that are relevant to a local community. As the level of government often seen as the 'closest' to the community, local government activities relate to matters that are fundamental to people's lives and impact strongly on their quality of life.

Under the Act each local government throughout the State is established as a corporate body, with perpetual succession and a Common Seal. It has the legal capacity of a natural person which means that it can sue and be sued.

A local government consists of a Council - comprised of Elected Members, and an Administration – consisting of the CEO and employees.

The Mayor and Councillors are the City's Elected Members and form the Council, and the following principles apply:

- Elected Members are able to exercise decision-making authority as a member of Council after they are elected and formally sworn in and when they meet as a Council.
- All lawful decisions are made at Council meetings or through delegations that are formally made by Council to the CEO, an employee or a committee. The CEO can also on-delegate decision-making authority to other employees. However not all decisions made by the City require formal delegation.

The CEO is the only employee appointed by Council and is therefore ultimately accountable to Council. In this regard the role of the CEO, as detailed in section 5.41 of the Act, includes, but is not limited to:

- advising the Council in relation to the functions of the local government
- implementing Council's decisions
- determining procedures and systems for implementing the local government's policies as determined by the council
- managing the local government's administration and operations
- managing the provisions of services and facilities that Council has determined to provide to the community
- liaising with the Mayor on the local government's affairs and its performance
- being responsible for the employment and management of the local government's employees.

All City employees are accountable to the CEO.

## Functions of local government

The Act prescribes the general function of a local government is to provide good government of persons in the district. To this end, local governments must have regard for the need to:

- promote the economic, social and environmental sustainability of the district;
- plan for, and to plan for mitigating, risks associated with climate change;
- consider potential long-term consequences and impacts on future generations when making decisions; and
- recognise the particular interests of Aboriginal people and involve Aboriginal people in the local government's decision-making processes.

In order to consider the issue of good governance in the context of local government, it is also necessary to consider some specific functions of local government which includes the following:

- **Planning and monitoring**

Planning for the development and wellbeing of the community is a critical role for a local government. The Act requires local governments to develop and adopt a 'plan for the future', which sets overall direction for the City through long-term planning. Examples include the City's Strategic Community Plan, the Long-Term Financial Plan and the Corporate Business Plan. The City's Integrated Planning Framework provides the direction for the ongoing management of City activities.

- **Lawmaking and enforcement**

A local government makes decisions in areas over which it has legislative authority but cannot duplicate or contradict federal or state law. Laws made by local governments are called local laws and cover such issues as activities permitted on public land, animal management and use of local government facilities. Local laws are enforced by employees.

A local government is also responsible for enforcing other legislation under which it has authority.

- **Quasi-judicial**

The City has a range of responsibilities under state legislation and administers laws that affect a person's rights and interests. Decisions made by local governments must be based on relevant considerations and facts, be procedurally fair and follow the principles of natural justice.

- **Policy development**

An important role of Council is to make policy decisions on behalf of the community. An essential element of policy making is identifying community needs, setting objectives to meet those needs, establishing priorities between competing needs, and allocating appropriate resources. A policy is a decision of Council and sets out agreed views and direction concerning a particular area of responsibility.

- **Representation**

In a general sense, when Council meets it represents the views of the local government constituents on matters of concern to the community. Elected Members represent the interests of electors, ratepayers and residents of the district. Elected Members need to listen to and be interested in the wider community and not just the people in the ward who elected them.

- **Advocacy**

Local governments have a role advocating on behalf of their community to other spheres of government, statutory authorities and private interests whose activities may have an impact on the community. Local governments also need to consider collaboration with other local governments in the provision of services and facilities for the community.

- **Service delivery**

Local governments must ensure that services are delivered in the most efficient and effective manner. The Act provides a degree of autonomy to local governments to determine policies, in consultation with their communities, about the nature and level of services provided. A local government should ensure the delivery of quality services for which it has responsibility.

## **Community defined**

An appreciation of the term community is integral to an understanding of what constitutes good governance at a local government level. When discussed in connection with good governance the term is often used as though it is a homogenous entity and presupposes that there is a single community interest, community demand or community need.

The population within the City of Stirling district consists of a large number of communities, for example, the resident community, the Aboriginal community, the business community and the visitor community. These can be further broken down into subsets, for instance, the retail community, the mining community and the tenant community. Additionally, local communities can be defined by geographical area.

Often such diverse communities do not share the same aspirations, goals and interests. One of the challenges for all levels of government but particularly local government, is how to govern so that different, and often competing interests are recognised, addressed and managed.

When 'community' is referred to in this framework, it means the many groups, individuals and interests represented within the City of Stirling district.

# Governance in Local Government

## Definition of governance

While the definition of governance can vary across different industries, government tiers and business sectors, it generally known as the process by which:

- decisions are made and implemented;
- organisations achieve goals; and
- organisations are directed, controlled and held to account.

Overall, governance can be seen as encompassing:

- authority;
- accountability;
- stewardship;
- leadership;
- ethics and values; and
- culture.

Democratic governance occurs when governments govern as a result of being elected. Good democratic governance exists when a government governs for and on behalf of its community as a whole. This provides the democratic basis, which is essential to an understanding of good governance in the local government sector.

Good governance involves a focus on:

- a clear vision and positive organisational culture;
- clarity of roles and responsibilities;
- robust management practices and systems which support both internal and external accountability; and
- public access to decision-making and information.

## Good governance in local government

Good governance in local government is about ensuring the local government can manage its many complex responsibilities effectively and in the best interests of the community. When a local government practices good governance, the community is more connected and engaged, appropriate services are provided and there is more effective use of the local government's resources.

Good governance in local government combines the characteristics of good governance and the definitions and roles of local government. Good governance in local government requires the following:

- Councils being elected by, representative of, and accountable to the community.
- Elected Members making decisions on behalf of and in the best interests of the community.
- Policies and programs reflecting the mandate local governments have been given by their electors.

- Policy enactment arising from the Strategic Community Plan with appropriate performance management to assess the local government's progress.
- Community participation in decision-making.
- Elected Members providing leadership to the community and reflecting the community's collective aspirations.
- A management structure which implements the local government's goals in accordance with the local government's priorities and approved budget.
- Provision of services which meet the community's needs (sometimes in partnership with other levels of government, business or community organisations).
- Local government being well placed to facilitate coordination and integration at a local level.
- Cooperation between local governments and other spheres of government.

Good governance is fundamental in a local government setting as recognised in the *Report of the Inquiry into the City of Perth* which stated the following:

*“Governance is the single most significant element of good government. It is essential to a thriving and successful organisation. Governance makes up the structures, rules and processes which direct and control an organisation...and hold people accountable.”*

## **Good governance in practice**

Good governance needs to be practiced within the local government, and between the local government, the community and other tiers of government. Key internal and external factors include the following:

### Internal Factors

- Effective and positive working relationships.
- Sound, relevant and timely advice.
- Advice is provided through reports, meetings (both formal and informal) and other means of communication.
- Good processes that contribute to good decisions.
- Decisions are made that are clear, accountable and transparent.
- Elected Members need timely and quality information in order to perform their role. Processes are required to meet the legitimate information needs of Elected Members.

### External Factors

- To ensure that a local government and its community share a sense of direction and purpose, long term planning is vital. This must be done in a way that all stakeholders feel they have ownership.
- Performance management enables a local government to be accountable to its community. It assesses whether a local government has done what it said it would do with the resources with which it has been provided, and within the defined time frames.
- Balancing 'community-wide' and sectional interests is central to democratic governance.
- Accountability of a local government to its community is a key factor in good democratic governance.
- Good governance means a community feels engaged, knows what is going on, is included in decision-making, and feels part of the governing process.

- Informed decisions are based on well-researched information, and some of the best information comes from the opinions of those who are affected by a decision or interested in an issue. Good consultation methods are needed to elicit these opinions.
- Another important aspect of good governance is community leadership. Sometimes local governments need to lead or influence communities on particular issues.
- Communities expect good services, systems and facilities to be planned and provided.

# Governance Principles

For the purposes of the City's Governance Framework, the principles contained in the '*Excellence in Governance in Local Government*' developed by CPA Australia have been adopted. The principles provide the foundation for good governance and a means for assessing the extent to which good governance is occurring at the City. Contained under each principle in the following sections are a range of activities and actions put into operation at the City to support that principle.

- **Principle One: Vision and Culture**

There is a clear vision and a Strategic Community Plan that is produced through a comprehensive and inclusive process, which is owned by all sectors of the community.

There is a positive culture and value system in place that promotes trust, ethical behaviour, openness and honesty, in which constructive and respectful questioning is encouraged and accountability is clear.

- **Principle Two: Roles and Relationships**

There is clarity about the roles within a local government and there exists a sophisticated approach to defining and implementing these.

There are effective working relationships that are promoted and supported within and between the Elected Members, the CEO and the Administration.

- **Principle Three: Decision-Making and Management**

There are effective decision-making processes in place that reflect the transparency and accountability which underpin excellence in local government.

An adequate organisational structure should be in place that serves the City's operations and progresses the organisation towards the achievement of the City's strategic objectives.

There should be robust and transparent business management practices established and maintained to meet the City's accountability to its community, particularly in terms of stewardship of community assets and finances, both now and into the future.

An effective approach to the identification, assessment, monitoring and management of risks should be established and maintained.

Effective delegations and authorisations should be implemented and maintained to enable Council to focus on strategic issues.

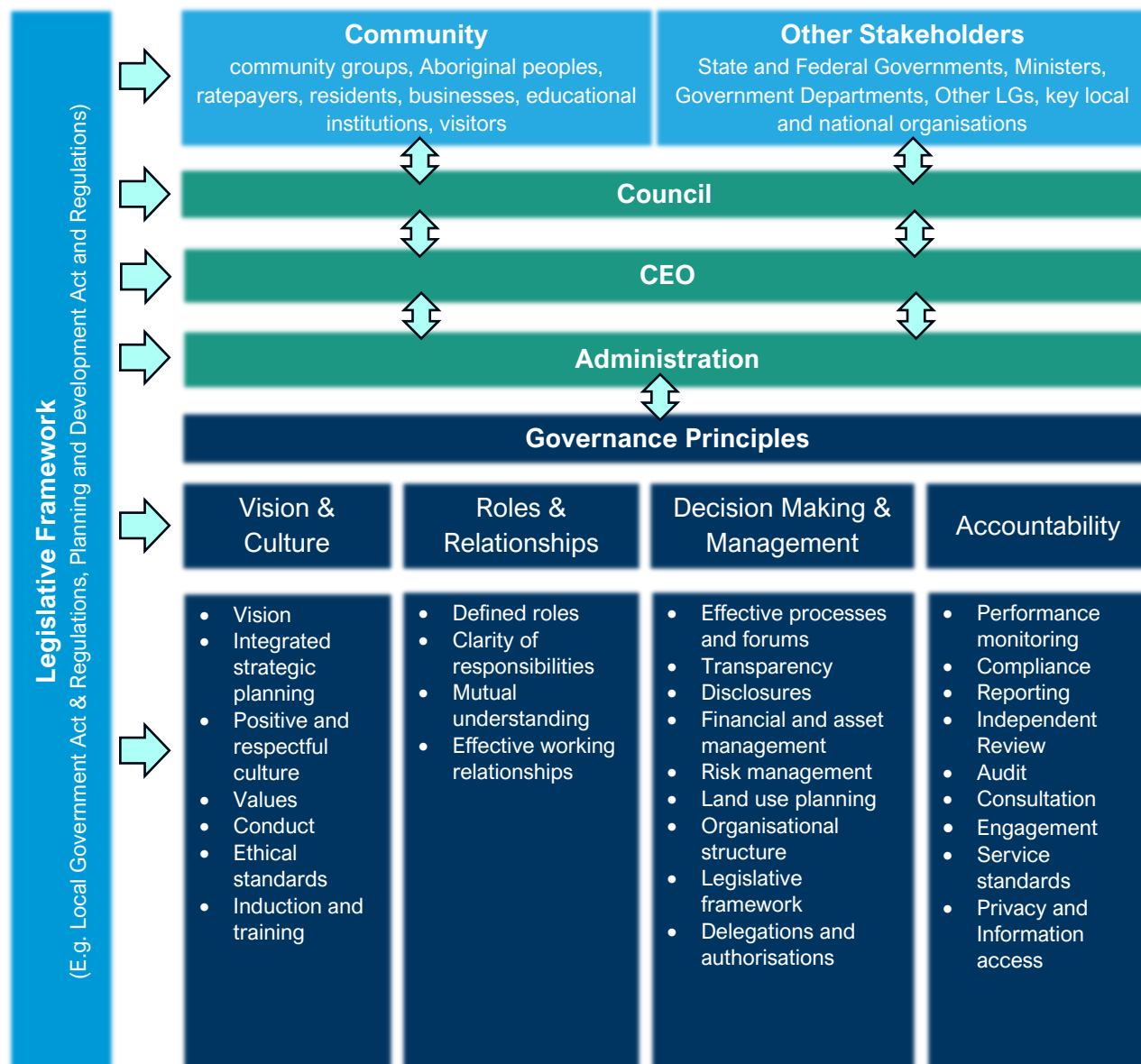
- **Principle Four: Accountability**

The City must account for its activities and have systems and processes that support accountability. The City should have an active performance management system in place that enables Elected Members, the CEO and employees to be openly accountable for their performance.

The City should establish internal structures that provide for independent review of processes and decision-making to assist it meeting its accountability to stakeholders.

Consultation should be undertaken that is appropriate to the scope and potential impact of the matter. It should respect the position and opinion of all sections of the community. The outcomes of the consultation should be considered when the decision is made, and feedback should be provided to those who participated.

# Governance Framework Model



**City of Stirling Governance Framework Model.**

# Principle One: Vision and Culture

## Vision

### Vision and values

The City's Strategic Community Plan articulates the City's vision and mission statement as follows:

#### Vision

*A sustainable City with a local focus.*

#### Mission Statement

*To serve our community by delivering efficient, responsive and sustainable service.*

In alignment with this vision, the City has adopted the following corporate values that guide the Administration which should be inherent within any well-functioning and community-driven body:



Good governance is achieved when Council, Elected Members and employees show leadership and reflect the above values. Values shape an organisation's culture and are the fundamental beliefs the City considers to be important; are relatively stable over time; and have an impact on Elected Member and employee attitudes and behaviour.

### Integrated Planning and Reporting

To ensure the City's vision operates throughout the organisation, the City has developed an Integrated Planning Framework that aligns with the Department of Local Government, Industry Regulation and Safety's Integrated Planning and Reporting Framework (as detailed below). This approach ensures that the City's planned activities and resourcing requirements over an extended period, is aligned with the City's vision and strategic priorities, thereby forwarding the opportunity for the City's vision in becoming a reality.



### City's Integrated Planning and Reporting Framework

The City's Strategic Community Plan Sustainable Stirling 2022 – 2032 is the over-arching document within the City's Integrated Planning and Reporting Framework, articulating the City's vision and setting the highest level of direction for the City for a ten-year period. This is further described by five key result areas, which give direction to the City's commitment to achieve this vision:

Our Community	Our Economy	Our Built Environment	Our Natural Environment	Our Leadership
An inclusive and harmonious City	A smart and prosperous City	A liveable City	An energy-smart City	A well-governed City
An active and healthy City	A local business City	An accessible and connected City	A biodiverse City	A customer-focused City
A safer City	A vibrant City	An attractive and well-maintained City	A water-wise City	A capable and efficient City
			A waste-wise City	

Each key result area has outcomes, objectives and strategies that outline what the City aims to achieve and how the City will achieve it. Baseline measures have been developed to sit alongside the new High-level plans such as the City's Long Term Financial Plan, Strategic Asset Management Plan, Workforce Plan and Service Plans enable the key themes in City's Strategic Community Plan to be more comprehensively articulated. Actions in these plans are measured against key performance indicators, which enable the City and the community to gauge success in the implementation of strategic priorities and objectives.

As part of the State Government's Local Government Reform agenda, the integrated planning and reporting framework is intended to be simplified, so that local governments can better focus their resources on service delivery and providing facilities instead of extensive planning. In the future strategic community plans will be replaced by a council plan that will provide:

- simplified, short-form council plans that replace strategic community plans and set high-level objectives over an eight-year period;
- simplified asset management plans to consistently forecast costs of maintaining assets; and
- simplified long-term financial plans that outline long-term financial management and sustainability issues, and any investments and debts.

Regulations and other guidance are currently being developed by the Department of Local Government, Industry Regulation and Safety to ensure the framework meets the needs of the local government sector and provide for an avenue for local governments to plan for the short, medium and long term.

## Culture

A positive culture promotes openness and honesty, makes accountability and responsibility clear and encourages debate on important issues. It is also more likely that the organisation will retain high calibre employees who want to work and participate in the activities of the City. The City's culture should consist of the following elements in pursuit of excellence in governance:

### **Support for frankness, honesty and questioning**

Elected Members are to debate issues openly and honestly. Employees are to provide frank and timely advice to the CEO and senior management, who in turn are to provide sound and frank advice to Elected Members and Council.

### **Innovation**

The City considers new and better ways of going about its business in the achievement of its goals, through innovation which will be assessed critically by using appropriate risk management and other analysis.

The City has dedicated itself to encouraging a climate of innovation and continuous improvement.

## **Effective management structures and practices**

The City is to have a management structure that meets its goals and needs, characterised by efficient and effective use of human resources with clear accountability.

Internal directives, management practices and other administrative protocols reinforce accountability and outcomes and must also incorporate the nurturing of people's capacities to do their jobs.

## **Communication and engagement**

The City is to have effective communication policies, practices and protocols, internally and externally, and be open to, and encourage, feedback from all stakeholders and the community.

## **Conduct and ethical standards**

For people to have confidence in those who govern and participate in the governance process, they must have trust that governments are acting for the common good. People need to believe that governance is characterised by honesty and integrity and that those in government will behave accordingly.

The Act requires that every local government prepare or adopt two codes of conduct – one Code of Conduct for Council Members (being Elected Members), committee members and local government election candidates (adopted by the Council); and another code of conduct for employees (approved by the CEO).

The City's codes outline the principles, values and behaviours expected of all Elected Members, committee members, local government election candidates and employees. It is not intended to control or prohibit the actions of Elected Members, committee members, local government election candidates or employees, but simply to document the standards of conduct expected of all who either serve the community, or intend to serve the community when they stand as a candidate in the City's bi-ennial local government elections.

In general terms, the community are entitled to expect that the following general principles should guide the behaviours of Elected Members, committee members and employees:

- Act with reasonable care and diligence.
- Act with honesty and integrity.
- Act lawfully and in good faith.
- Identify and appropriately manage conflicts of interest.
- Treat others with respect and fairness.
- Avoid damage to the reputation of the City.
- Not be impaired by mind affecting substances such as drugs and alcohol.

The Code of Conduct for Council Members, Committee Members and Candidates is based on the Local Government (Model Code of Conduct) Regulations 2021 and includes:

- general principles to guide behaviour;
- certain requirements relating to behaviour (which if breached are investigated by the City); and

- provisions specified to be rules of conduct (which if breached are investigated by an external body).

Similarly, the Code of Conduct for Employees includes conduct provisions as required by the Local Government (Administration) Regulations 1996, such as:

- the behaviours expected of employees in relation, but not limited to:
  - the performance of an employee's duties;
  - dealings with other employees and the broader community;
  - the use and disclosure of information;
  - the use of City resources and City finances;
- how records are to be kept;
- gifts and other disclosures; and
- reporting mechanisms and management of suspected breaches of the code and suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour.

The City has also adopted a Statement of Business Ethics which provides guidance about what contractors, subcontractors and suppliers can expect when conducting business with the City and the ethical standards the organisation holds. The City expects all business partners, contractors, and suppliers to act ethically, fairly and legally and provide goods and services in compliance with contract and purchasing requirements.

### **Fraud, misconduct and corruption**

The City expects Elected Members, Committee Members and employees act in accordance with their respective codes of conduct and behave ethically and honestly when performing their functions and during their interactions with each other, the community and all stakeholders of the City.

In support of the behavioural expectations, Council has adopted an Integrity Framework and a Fraud and Corruption Control Plan which articulates the City's "zero tolerance" position on fraud and corruption. It details the internal controls in place and the expectations that are placed on Elected Members, Committee Members, employees and the broader community, to prevent fraud and corruption and to identify and report suspected fraudulent and/or corrupt behaviour.

### **Confidentiality**

Local government business involves significant amounts of confidential information being supplied or maintained. This information could be about commercial matters, individuals or businesses or legal issues. The Act, Regulations and the codes of conduct detail how general information and confidential information is to be treated, accessed and used by Elected Members and employees.

Elected Members, committee members and employees must not make improper use of information in the performance of their duties to gain directly or indirectly an advantage for themselves or another person, or to cause detriment to the City. Confidential information, or information that is deemed confidential by the CEO must not be disclosed, unless authorised by law or the respective code of conduct.

## **Disclosure of conflicting interests**

The nature of the City's business may result in conflicts of interests arising between an individual's personal interests and the performance of their public or professional duties. Conflicts of interests may arise from a number of sources, including friends, relatives, close associates, financial investments, past employment and the like. Conflicts of interests are not necessarily wrong; however, it is not only important to ensure that real or potential conflicts are handled appropriately, but also perceived conflicts of interest.

Elected Members, committee members and employees are to comply with the requirements for disclosure of interests as prescribed in the Act, the City's Meeting Procedures Local Law 2021 and the codes of conduct.

Elected Members, committee members and employees of the City must ensure there is no actual or perceived conflict between the fulfilment of their public or professional duties and their personal interests, which may include the interests of those persons closely associated to them.

## **Acceptance of gifts**

The City's Code of Conduct for Employees and the Act contain provisions in respect of Elected Members, employees and committee members seeking and/or accepting certain types of gifts and gifts of a certain value while performing in their respective roles.

Both the Code of Conduct for Employees and the Act detail the disclosure requirements for gifts accepted in a full and transparent manner.

All disclosures must be made to the CEO (or if the disclosure is from the CEO to the Mayor) in a prompt and full manner and in writing within the appropriate register. These registers are made available for public inspection and in some cases are available for viewing on the City's website.

In support of the gifts framework, WA local governments are also required to adopt a policy relating to the attendance of Elected Members and chief executive officers at events such as concerts, conferences and functions. The policy must address the provision of tickets to events, payments in respect of attendance and approval of attendance by the City; and the criteria for approval. Acceptance of such tickets can affect how Elected Members can participate and be involved in the decision-making process of meetings. The City's Elected Member and Chief Executive Officer Attendance at Events Policy has been adopted for this purpose.

## **Comprehensive induction programs**

The City's objective of a positive work culture is communicated to Elected Members and employees through effective induction. Induction and training for Elected Members is provided to assist in understanding the functions and role of local government, governance in local government and how the administration operates effectively to produce good outcomes for the community.

The City's induction programs for both Elected Members and employees focus on areas such as:

- the differing and complementary roles of Elected Members and employees;
- working relationships;
- decision-making processes;
- responsibility, accountability and delegations;
- conduct and ethical standards of behaviour;
- functions, services and activities of the City; and
- organisational values and culture.

### **Learning and training opportunities**

The City invests in training both for Elected Members and employees and the learning will be focused on what is required to achieve organisational goals. Training for Elected Members and employees is important, and opportunities are offered to assist in the development of skills required to fulfill their roles.

In their first twelve month's from being elected, Elected Members are required to undertake mandatory training around a number of core competencies important for an Elected Member to understand and to help them fulfill their role in public Office.

The Act also requires local governments to adopt a policy for continuing professional development for Elected Members which must be reviewed every two years after the biennial local government elections. For this purpose, the City's Elected Member Training Policy contains the training and development provisions for Elected Members and the parameters and budget allocations made around training and development.

# Principle Two: Roles and Relationships

## Overview

An understanding and acceptance of the different roles of Mayor, Councillors and employees, with cooperation between all parties, underpins good governance at the City. The relationship between Elected Members and the CEO respects the diversity of opinion and the rights of all points of view to be heard with courtesy and respect.

The Mayor has a general leadership role for Council and is the City's civic leader. The Act recognises the role of the Mayor, as the spokesperson for the City, to carry out civic and ceremonial functions of the Mayoral office, and to preside at meetings of Council. The City places great importance on the role of the Mayor as the Presiding Member of Council to facilitate good decision-making.

The Mayor's leadership role is very important when it comes to good governance. The Mayor is to ensure that all Councillors are a part of the decision-making process and are well and equally informed. The Mayor must also assist Councillors to understand the need to represent the interests of the entire community, not just their ward constituents.

The Mayor should also facilitate good relationships between the Councillors and the organisation and help to create an environment where good communication thrives.

Elected Members are to focus on outcomes, policy and strategy, and in so doing, are expected to:

- be representative of the entire community at the Council level;
- facilitate communication between Council and the community;
- debate the issues in an open, honest and informed manner to assist the decision-making process;
- keep the entire community in mind when considering and addressing issues and focus on the 'big picture';
- educate and involve the community in all local government activities and processes;
- work together, cooperate and respect diversity; and
- provide model leadership.

The Act recognises the CEO's role in managing the organisation to achieve the goals and strategies endorsed by Council, and the CEO is expected to fulfill these duties in a way that promotes an organisational culture of openness, accountability, fairness and good communication.

The general function of local government as prescribed in the Act is 'to provide for the good government of persons in its district'. This general function in conjunction with other expressed powers set out in the Act is the basis of the City's powers. The Act sets out a framework for the way in which local governments are to operate and specifies the roles and responsibilities that are to be undertaken by various parties within a local government.

## The role of Council

Under the Act the Council governs the local government's affairs and, as the local government's governing body, is responsible for the performance of the local government's functions. The Council's governing role includes:

- (a) overseeing the allocation of the City's finances and resources;
- (b) determining the City's policies;
- (c) planning strategically for the future of the district;
- (d) determining the services and facilities to be provided by the City in its district;
- (e) selecting the CEO and reviewing the CEO's performance; and
- (f) providing strategic direction to the CEO.

The following guidance is provided on the range of scope of the above responsibilities:

- **Governs the City's affairs**

This role encompasses strategic planning activities to ensure the continued sustainability of the City, the setting of strategic objectives for the City and the monitoring of the City's performance against these strategic objectives.

- **Is responsible for the performance of the City's functions**

This role determines that Council has ultimate responsibility for the performance of the City's functions. Council can exercise this responsibility through the development of appropriate mechanisms including delegations of authority, the provision of services and facilities, and regular reporting against strategic objectives.

- **Oversees the allocation of the City's finances and resources**

The Council exercises this role by overseeing and adopting an Annual Budget and the City's long-term financial plan. Council is advised by the CEO who is also responsible for the development of appropriate financial controls, management directives, protocols and practices.

- **Determines the City's policies**

The role of Council in setting policy is most effective when it is linked with a professional organisation that implements these policies through the development of appropriate management directives and work processes. The policies of Council provide the direction for the ongoing management of City activities.

In fostering good governance and a positive work environment Council must have regard to the need to support an organisational culture for the City that promotes the respectful and fair treatment of the local government's employees.

## Role and responsibilities of the Mayor

While there are a number of provisions within the Act outlining the role and functions of the Mayor it should be understood that the Mayor is a key civic leader of the community. In the pursuit of good governance, from an internal and external perspective, the Mayor performs an important function. The Mayor is elected to represent the views and directions of Council in the performance of the role. Section 2.8(1) of the Act defines the role of the Mayor as follows:

*The Mayor:*

- (a) provides leadership and guidance to the council and council members, including guidance as to the roles of the council and council members; and*
- (b) acts as the principal spokesperson for the local government, and carries out civic and ceremonial duties on behalf of the local government, at all times acting consistently with council decisions; and*
- (c) presides at meetings of the council, ensuring that meetings are orderly and held in accordance with this Act; and*
- (d) promotes, facilitates and supports positive and constructive working relationships among council members; and*
- (e) liaises with the CEO on the local government's affairs and the performance of its functions.*

The Mayor also has the following role, which is similar to Councillors as outlined in section 2.10 of the Act:

- (a) represents the interests of the electors, ratepayers and residents of the district and takes account of the interests of other persons who work in, or visit, the district; and*
- (b) participates in the deliberation and decision-making of the local government at council and committee meetings; and*
- (c) facilitates communication with the community about council decisions; and*
- (d) facilitates and maintains good working relationships with other councillors, the mayor or Mayor and the CEO; and*
- (e) acts consistently with section 2.7(3) to (5) (explained in further detail below); and*
- (f) maintains and develops the requisite skills to effectively perform their role.*

The role of the Mayor can be categorised as:

- governance;
- Presiding Member of Council;
- external relations;
- media liaison and public relations;
- supporting the community; and
- civic and ceremonial.

The 'Governance' and 'Presiding Member of Council' functions of the Mayor are critical to good governance as they cover leadership of the City and the community, and ensure that the decision-making processes are fair, equitable and inclusive.

The Mayor should be seen to support good governance by modelling good behaviour and ethics in fulfilling their leadership role. The Mayor has a pivotal role in both the pursuit and demonstration of good governance.

A very specific role that the Mayor has is in representing and advocating the decisions of the Council. Section 2.8(1)(b) of the Act provides that the Mayor speaks on behalf of the City.

The position of Mayor is pre-eminent, and when they speak, they are considered by the community to be articulating the City's views. The Mayor must put aside any individual views and clearly outline the views of a Council decision in an all-inclusive way.

Where the Mayor desires to speak contrary to the position of Council, they should clearly preface their comments that they are expressing an individual opinion and not on the Council's behalf.

The Mayor's role of presiding at meetings of the Council is a very responsible one in achieving a balance of opinion and outcomes that demonstrates leadership by Council in the community. The most important aspect of the role is a good understanding of meeting procedures and a detailed knowledge of the requirements relating to the conduct of meetings. This will enable the Mayor to provide impartial interpretations and to ensure the smooth flow of the meeting's business.

As a community leader the Mayor represents the City at many civic and ceremonial functions including the role as "host" of many City activities. The Mayor should be familiar with etiquette and protocol arrangements and familiarise themselves with the expectations of greeting guests in a formal manner. Any speeches made on these occasions should not be used to present a point of view contrary to a decision of Council.

## **Role and responsibilities of the Deputy Mayor**

Section 5.34 of the Act states the Deputy Mayor may perform the functions of the Mayor if:

- (a) the office of Mayor is vacant; or
- (b) the Mayor is not available or is unable or unwilling to perform the functions of the Mayor.

## **Roles and responsibilities of the Elected Members**

It is necessary to understand the legislative framework within which the Elected Members operate and from where they derive specific details of their roles and responsibilities. Elected Members have a fiduciary relationship with the City. That is, they have a duty to act with fidelity, trust and in the interests of the City and the overall community - not for themselves or other third parties.

An individual Elected Member has no authority to make decisions or to participate in the day-to-day management or operations of the City. This includes making any form of representation on behalf of the Council or the City, unless they are specifically authorised by Council to do so.

The Code of Conduct for Council Members, Committee Members and Candidates also prevents Elected Members from undertaking tasks that contribute to the administration of the local government unless so authorised by the Council or the CEO.

Elected Members have no direct authority over employees with respect to the way in which they perform their duties.

Section 2.10 of the Act outlines the role of Councillors as follows:

*A Councillor:*

- (a) represents the interests of the electors, ratepayers and residents of the district and takes account of the interests of other persons who work in, or visit, the district; and*
- (b) participates in the deliberation and decision-making of the local government at council and committee meetings; and*
- (c) facilitates communication with the community about council decisions; and*
- (d) facilitates and maintains good working relationships with other councillors, the mayor or Mayor and the CEO; and*
- (e) acts consistently with section 2.7(3) to (5) (explained in further detail below); and*
- (f) maintains and develops the requisite skills to effectively perform their role.*

The Council and Elected Members have a number of roles to undertake. One of the challenges for good governance from an Elected Member viewpoint is to be provided with the opportunity to raise specific issues so as to get a fair hearing. The Mayor and CEO all have an important role to play in this process as well as the fellow Elected Members.

## **Role and responsibilities of the CEO**

The functions of the CEO are outlined in section 5.41 of the Act. The CEO, as the local government's chief executive official, is responsible for managing the local government's administration and operations, and their executive role includes:

- (a) causing Council decisions to be implemented;
- (b) managing the provision of services and facilities that the Council has determined the local government is to provide in the district;
- (c) determining procedures and systems for:
  - (i) implementing the local government's policies as determined by the Council; and
  - (ii) otherwise managing the local government's administration and operations;
- (d) being responsible for the employment, management, supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and
- (e) ensuring that records and documents of the local government are properly kept for the purposes of this Act and any other written law.

The CEO has a statutory responsibility to manage the organisation through the implementation of goals and strategies that have been approved by Council. The CEO is the Council's principal advisor and procures advice for the Council in relation to the City's affairs and the performance of the City's functions.

A significant role of the CEO in promoting good governance is through the development of a culture that sees the Council as the peak decision-making body and that the Administration exists to support Council in the delivery of good governance.

A key accountability of the CEO is financial management. While Council has overall accountability, the CEO has critical responsibilities for managing the organisation soundly from a financial perspective and reporting the results and performance to Council.

The Act enables Council to delegate in writing to the CEO, the capacity to exercise any of its powers or duties, with the following exceptions:

- (a) *any power or duty that requires a decision of an absolute majority of the council;*
- (b) *accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) *appointing an auditor;*
- (d) *acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) *any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A, 5.100 or 5.129;*
- (f) *borrowing money on behalf of the local government;*
- (g) *hearing or determining an objection of a kind referred to in section 9.5;*
- (ha) *the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*
- (h) *any power or duty that requires the approval of the Minister or the Governor;*
- (i) *such other powers or duties as may be prescribed.*

In summary the CEO is responsible for:

- putting in place appropriate systems to achieve accountability and integrity;
- implementing and maintaining a management structure which can achieve Council's vision and the Strategic Community Plan objectives;
- managing relationships between the various elements in the City;
- ensuring that the City is staffed by suitably qualified and motivated employees and that policies are in place that promote this; and
- ensuring that employees understand the organisation is working for a democratically elected Council and that Council decisions form the basis for the organisation's activities.

For the purposes of ensuring proper governance of the City's affairs, the Act makes it clear that Council must have regard to the following principles:

- the Council's governing role is separate from the CEO's executive role (as described in section 5.41 of the Act); and
- it is important that Council respects that separation.

The table below depicts the separation of roles between the Council (governing the affairs of the local government) and the CEO (managing day-to-day operations):

COUNCIL	CEO
Sets strategic direction	Provides professional and technical advice to the Council
Responsible for the performance of the local government's functions	Implements the decisions of Council
Decides on matters of policy	Liaises with the Mayor
Ensures that services and facilities are integrated with and do not unnecessarily duplicate other public services	Manages the day-to-day operations

COUNCIL	CEO
Oversees the allocation of the City's finances and resources	Responsible for the employment and management of employees
Monitors the City's performance through the CEO to ensure efficiency and effectiveness in service provision	Monitors the performance of employees to ensure efficiency and effectiveness in service provision

## Role and responsibilities of employees

Good governance requires all employees to think carefully about their decisions and actions, to be engaged, and to be active participants in the City's management and outcomes. It is not only senior management and Council that is responsible for governance matters – every element that forms part of the City is responsible for good governance. The quality of the City's governance heavily relies on each employee taking individual responsibility as well as being part of a collective team effort.

While on duty employees are to give their time and attention to the City's business and ensure their work is carried out efficiently and effectively, so the standard of work reflects favourably on them and the City.

In carrying out their duties, employees achieve good governance when:

- they reflect the positive values and standards of behaviour the City expects;
- their duties are performed and conducted in a professional way;
- information is managed and maintained appropriately, and records are kept of their duties, decisions and work-related activities;
- resources of the City, including information, is used efficiently and effectively; not misused; and waste is to be minimised; and
- conflicts of interest are identified and reported including disclosure of gifts and benefits obtained from certain parties.

## Working relationships

Elected Members are members of a team, elected by their constituents to work collectively in the interests of the whole community. Good governance is dependent on a mature and constructive working relationship between Elected Members.

Elected Members should behave in a manner that generates community trust and confidence in them as individual Elected Members and enhances the role and image of both the Council and the City. Elected Members are expected to:

- conduct their ongoing relationship with other Elected Members, employees and the community with respect and courtesy;
- act within the law at all times;
- act in good faith and not for improper or ulterior motives;
- act in a reasonable, just and non-discriminatory manner; and
- undertake their role with reasonable care and diligence.

As previously referred to, the Act requires Council to prepare and adopt a Code of Conduct to be observed by Elected Members, committee members and local government election candidates. This Code of Conduct is a public declaration of the principles of good conduct and standards of behaviour that the Council agrees individual Elected Members should conform to when carrying out their role. It also provides guidance to Elected Members about carrying out their duties and responsibilities.

## **Working relationships between the Mayor and Councillors**

The relationship between Mayor and Councillors is critical to good governance and effective relationships between the Mayor and Councillors will help to achieve the outcomes within the City's Strategic Community Plan and to promote the credibility of the City.

In summary the important aspects of the Mayor/Councillor relationship are as follows:

- The Mayor is the Presiding Member of Council and this role should be respected by all Councillors.
- The Mayor should facilitate an inclusive approach to decision-making and involvement in Council activities in general.
- The Mayor should assist Councillors to get their issues considered by Council.
- The Mayor should take some responsibility for Elected Member training and development and should work with the CEO to ensure that Elected Members receive necessary training opportunities.
- The Mayor is a source of assistance for Councillors and also has the responsibility for facilitating resolution of any disputes between Councillors.

The Mayor as the Presiding Member of Council needs to play an integral and influential role both within meetings and outside of the formal process, by facilitating and encouraging all points of view to be expressed and respected. This will enable Councillors, who may not have their point of view supported by the majority, be satisfied that they have been given a fair hearing and the process is transparent.

Through this facilitation role, the Mayor can manage conflict and differing opinions in a constructive manner. The complexity and diversity of opinion in the community, and therefore of Elected Members, can be made to work in the broader interest of the City as a whole, rather than be a source of division.

The Mayor is also a first point of contact for Councillors who wish to achieve a particular goal, and this is especially true for newly elected Councillors who may be unfamiliar with a local government setting. Among other things, the nature of any local government business involves the need to bring together many diverse and sometimes-conflicting goals. By advising, supporting and facilitating negotiations, the Mayor can assist this process considerably, and in so doing, assist Councillors to meet their accountabilities to their communities.

This advisory and support role of the Mayor for other Councillors is possibly the single most important contribution to good governance a Mayor can make. It requires great skill and experience and as such, is critical to the overall operation of Council.

## **Working relationships between the Mayor and CEO**

The Mayor and CEO work closely together and the relationship should be characterised by openness and good communication, with each keeping the other informed about important and relevant issues.

Both the Mayor and the CEO have a role in liaising with each other on the City's affairs and the performance of the City's functions. However, this liaison is qualified in that any liaison between the Mayor and the CEO is only relevant to those matters that enable each party to perform their statutory role.

Both parties have a crossover of responsibilities in speaking on behalf of the City. While this right rests with the Mayor there are occasions when it is considered prudent and more applicable for this function to be undertaken by the CEO. As such these matters involve the development of a clear relationship and an understanding of the limits of each other's authority.

While the Act does not detail how the liaison is to occur, this liaison function should be seen in the context of the separation of powers described in the Act, between the governing role of Council and the managing role of the CEO.

The Mayor and the CEO are to adopt an approach that suits their circumstances and needs. The overall essential principles that should be followed are the ability to effectively communicate and to have a large degree of trust in each other as well as respecting each other's opinion and role.

The essential principles for an effective Mayor/CEO relationship are as follows:

### **Communication**

- Both parties are in a position to brief and inform the other about information each is privy to and which would assist the other in performing their role. Deciding on what information is important and what should be passed onto each other must be negotiated and understood.
- Regular meetings – over and above those scheduled to discuss specific issues or problems – are necessary to enhance planning and communication.
- The 'no surprises' principle should apply. The Mayor and CEO should brief one another so that neither is caught off guard within other forums.

### **Role clarity**

- The Mayor and the CEO need to understand and respect one another's role. A clear understanding of their different roles is crucial and should be a subject of ongoing discussion.
- There is a differential of power, which should be acknowledged. While the Mayor has status and leadership capacity, the position has no direct authority in their own right. On the other hand, the CEO has direct authority through the Act. Elected Members cannot just 'fix' problems that come to their attention, while the CEO has this capacity.

Features of a good and effective relationship between the Mayor and the CEO are as follows:

- The need to work closely together and put energy into achieving a good working relationship.
- A relationship characterised by consistency, openness and good communication. Each has the responsibility to keep the other informed about important and relevant issues. Open communication ensures that an understanding develops about what is important and relevant.
- An understanding that each has different roles and authorities. While the Mayor is the civic leader of the City, this position has no specific authority while the CEO has particular authorities under the various sections of the Act.
- The need for the relationship between the Mayor and the CEO should aim to facilitate involvement and inclusion among the Elected Members and the organisation. It does not seek to concentrate power in the relationship.
- Consistent communication and regular fixed meetings.

### **Working relationships among Elected Members**

When thinking of a Parliament, people often envisage an adversarial environment in which political groupings try to beat their opponents through debate. In contrast, the 'small group' nature of Council ideally features an environment where good relationships, respect and an appreciation of constructive diversity, lead to good decision-making.

All Elected Members have issues of particular concern and interest to them. Given the open nature of the local government system and the absence of a political party structure which exist at the State and Federal levels of government, Elected Members need to work together to achieve satisfactory outcomes.

Given this interdependency, Elected Member relationships should be characterised by mutual respect and an acknowledgement that, while they may not agree on all issues, they are all doing important and often difficult work.

At times, the very nature of local government business leads to conflict. How this conflict is addressed has implications for good governance. The role of the Mayor has been discussed, and this role, together with an appreciation of the particular dynamics at play, should assist in facilitating good governance.

With regard to behaviour at Council and committee meetings, Elected Members should model good constructive relationships and show personal respect for one another. There is not the requirement to agree with every Elected Members' opinion, but there is the need to respect those opinions and allow other members to be free to express their point of view.

Elected Members need each other to achieve their individual and collective goals. Effective relationships between Elected Members assist in achieving a successful Council, a pleasant working environment and a Council with public credibility.

Features of an effective relationship include the following:

- While they may have different views, Elected Members should treat each other with respect and courtesy.
- Disagreements, if they must be aired, should be expressed in ways that are not personal attacks, and do not cause detriment to individual Elected Members or the Council as a whole.

- Elected Members should not undermine each other, either within the local government or in the public domain.
- Elected Members must have effective working relationships in order to succeed individually and collectively.

## **Working relationships between Elected Members and CEO**

One of the most complex issues in local government that is critical to good governance is the relationship between the Elected Members and the CEO.

Elected Members need support to manage pressures in such a way that their constituents feel their issues or concerns are being heard, but also need to appreciate that their demands cannot always be met. Advice and support on consultation and engagement, good systems that refer requests and queries to the relevant area for advice, and responsive services and processes all assist in furthering good governance.

Elected Members need to understand that the role of the CEO is to implement Council's goals, strategies and manage the City's services as well as advise and support Council.

The CEO and Elected Members are likely to be in regular contact about issues, concerns and information. As with the Mayor/CEO relationship, a level of trust needs to be fostered which in turn, is based on good communication and understanding of each other's role and function.

A number of factors contribute to a good relationship between Elected Members and the CEO. These include:

- goodwill;
- a clear understanding of each other's roles;
- good communication;
- agreed structures and protocols;
- an appreciation of legislative requirements; and
- clear delegation of authority.

While the Elected Members and the CEO have different roles, this is not to say that each does not have a legitimate interest in the other's role. It is crucial that appropriate channels for information, discussion and consultation be developed to allow for each other's interests to be discussed freely and openly shared.

## **Relationships between Elected Members and employees**

Local governments often grapple with the issue of direct contact between individual Elected Members and employees versus contact through the CEO and other senior employees.

Individual Elected Members must not seek to foster special relationships with employees for the sole purpose of seeking information that may not otherwise be available to all Elected Members.

Elected Members and employees are entitled to privacy and protection from inappropriate behaviour and this includes un-authorised access to the organisation's work area.

Some issues to consider in respect of this relationship include the following:

- Elected Members need to understand that accountable advice needs to go through an organisational process. Advice must be sought from the CEO or Directors. Elected Members should not seek advice from other employees as the employee may have a particular interest or point of view in respect of the issue, but may not be in command of the full facts.
- Employees are accountable to the CEO. They are not accountable to Elected Members and are not required to take direction from them.

The point above has been made clear through the provisions within the Local Government (Model Code of Conduct) Regulations 2021 which is within the City's Code of Conduct for Council Members, Committee Members and Candidates:

## **20. Relationship with local government employees**

(1) *In this clause —*

**local government employee** means a person —

- (a) *employed by a local government under section 5.36(1) of the Act; or*
- (b) *engaged by a local government under a contract for services.*

(2) *A council member or candidate must not —*

- (a) *direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or*
- (b) *attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or*
- (c) *act in an abusive or threatening manner towards a local government employee.*

(3) *Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.*

(4) *If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means —*

- (a) *make a statement that a local government employee is incompetent or dishonest; or*
- (b) *use an offensive or objectionable expression when referring to a local government employee.*

(5) *Subclause (4)(a) does not apply to conduct that is unlawful under The Criminal Code Chapter XXXV.*

## Elected Member access to information

One of the areas that can cause issues for Elected Members is their ability to access information held by the City. Section 5.92 of the Act provides that an Elected Member can have access to any information held by the City that is relevant to the performance of their functions under the Act or any other written law.

However, this provision does not give an Elected Member an automatic right to have access to all records held by the City as any information must be relevant to the performance of an Elected Member's role, as defined by the Act.

In this respect requests for information held by the City are to be referred to the CEO who is to determine if the information is to be released, on the basis that they are satisfied that the requested information is relevant to the Elected Members' role and functions.

Notwithstanding, section 5.96 of the Act provides that if any person can inspect certain information, then Elected Members may also request a copy of that information. Like other persons, an Elected Member is also entitled to be given access to records under the processes and procedures of the *Freedom of Information Act 1992*.

## Effective relationships - summary

The information in this section provides an insight into the role Elected Members, the CEO and employees need to play in developing effective relationships.

There are fundamental role differences between the Council, Elected Members, the CEO and employees. The focus of Council and Elected Members should be on strategy, policy and outcomes. That is, who is to benefit from the City's activities and in what way. The CEO and employees' role is to focus on advice, implementation and operations.

Taking into account these role differences, the features of an effective relationship between the Elected Members and the CEO and employees are:

- a mutual understanding, acceptance and respect for each other's roles;
- a preparedness to identify, discuss and resolve issues and problems if and when they arise; and
- on the part of the organisation, a respect for and commitment to democratic governance and the primacy of Council in the local government structure.

# Principle Three: Decision-Making and Management

## Effective decision-making

Decision-making is the most important activity undertaken by the City, both by Council and by employees. Effective decision-making processes increase the likelihood that the decisions themselves will be in the best interests of the entire community. The Council can only make decisions by resolution, that is, a motion being considered at a properly convened meeting and passed by the required majority vote.

Many of the decisions made by the City (including Council and employees) are subject to administrative law, and therefore subject to challenge or appeal. The principles of administrative law are:

- to act in good faith;
- to take into account only relevant considerations;
- to act reasonably; and
- to provide procedural fairness.

An important role of the CEO is to ensure that Council receives quality and timely advice and relevant information to enable informed and effective decisions to be made. At meetings, this includes ensuring that all reports presented include the necessary background information and detail; any options; any financial or legal impacts; and any associated risks. Council decisions need to have clarity and that clarity arises from the recommendations in reports from the CEO. The decisions made at meetings provide the direction and authority for the ongoing operation of the City and give direction to the CEO to act.

Primarily, Council must make its decisions on the basis of evidence, on the merits and in accordance with the law and taking into account the City's finances and resources.

As part of the State Government's Local Government Reform agenda, it proposed that local governments will be required to prepare, adopt and publish a community engagement charter that sets out the principles to be applied, and what will be done, to encourage a diverse range of community members to participate in decision-making processes. Local governments will need to ensure they engage with their community when developing their charter.

Regulations are currently being developed by the Department of Local Government, Industry Regulation and Safety to further detail a charter's relationship to the Council planning process.

## Decision-making forums and processes

### Council meetings

Council meetings are formal meetings of Council as defined under the Act and are required to be open to the public, although under certain conditions, meetings can be closed when Council considers certain items of business as prescribed by the Act. In order to promote transparency and accountability required for good governance, the closure of meetings should be applied as infrequently as possible.

Good decision-making at a Council meeting is enhanced when the meeting is well run. This requires a clear and informative agenda, good chairing and facilitation by the Presiding Member, adherence to meeting procedures and adherence to statutory requirements. There should also be a strong commitment to Council meetings being open to the public so that the community is fully informed and, where appropriate, involved in the decisions and affairs of Council.

Each year Council adopts its Council meeting schedule for the following calendar year and is required to publish these meeting dates on the City's website. The City usually holds its Council meetings on the second and fourth Tuesday of each calendar month (except for January when Council is in recess). Elected Members, the CEO, Directors and relevant Managers attend all Council meetings.

## **Committee meetings**

To assist with its decision-making responsibilities, Council is able to establish committees from time to time. The work of committees is significant in local government due to the wide range of activities and functions of Council. Committees report to Council and are subject to the requirements of the Act and the City's meeting procedures for meetings.

When a Council establishes a committee, it must determine the reporting and other accountability requirements that are to apply in relation to that committee. Committees may comprise of:

- Elected Members only;
- Elected Members and employees;
- Elected Members, employees and members of the community;
- Elected Members and members of the community;
- employees and members of the community; or
- members of the community only.

The role and tasks of committees are varied however committees are generally established to:

- inquire into matters and to provide and make recommendations to Council on matters within Council's responsibilities;
- carry out a specific project or task on behalf of Council; or
- exercise, perform or discharge delegated powers, functions or duties.

The list below details the current internal committees of the City of Stirling Council:

- Audit, Risk and Improvement Committee.
- Chief Executive Officer Performance Review Committee.
- Community and Resources Committee.
- Planning and Development Committee.

Committees meet as and when required and make recommendations to Council, however, where a committee has delegated authority, it is able to make the decision in its own right.

As part of the State Government's Local Government Reform agenda, it is intended that all committee meetings will be open to the public, except when considering those matters that are deemed confidential in accordance with the Act.

## **Advisory groups and working groups**

Council may also establish advisory groups as a mechanism for facilitating and improving community participation in the City's decision-making process. Working groups may also be established for the purposes of obtain feedback from the community that ultimately informs the City's decision-making processes, both at a Council level or within the Administration.

While not formally established under legislation, advisory groups and working groups provide an opportunity for the City to obtain the views of community representatives as well as enabling networking opportunities for Elected Members with a wide range of representatives on issues of common interest. The opportunity to obtain such views assists Elected Members and Council to address strategic issues and priorities.

The City has a number of advisory groups and working groups to assist it, and the detail of these groups is available from the City's website.

## **Representation on external committees, boards and groups**

Elected Members are often appointed to represent the City on various external committees, boards and groups. Their role is generally to provide advice, identify strategic opportunities and act as a conduit with the City and the community.

Although representative of the City, and therefore, the City's or Council's position(s) should be taken into account, their appointment often requires them to act independently and to represent the interests of the committee, board or group which they are appointed to - often referred to the concept of "wearing two hats".

The process for appointment of an Elected Member to an external committee or board is via a nomination process, followed by adoption by Council. A listing of committees and organisations with Elected Member representation can usually be found in the minutes of one of Council's post-election meetings.

## **Agendas and minutes**

The level of decision-making and transparency needed for good governance requires comprehensive meeting agendas and minutes to be prepared. Matters to be considered at meetings of Council or committees are to be presented in an agenda prepared by the CEO.

Agendas comprise of reports prepared by the organisation. Reports are structured to include information on the background, details, summary and funding of the proposal under consideration. All reports are the professional advice of the organisation and contain recommendations as to the most appropriate course of action to take based on the information presented.

The decision to adopt, amend or reject a recommendation rests with Council, or in some cases a committee (if it has delegated authority). Where a Council or committee decision is different to that which has been recommended, reasons for that decision must be stated and recorded.

Agendas are made available to Elected Members and the public before the respective meeting.

Unconfirmed Council and committee minutes are to be made available to the public. The minutes of a meeting comprise all items considered at the meeting (other than confidential items presented at the meeting for discussion) and include attendances, all motions, their movers and seconders and the decisions that have been made.

### **Apologies and leave of absence**

An important function of an Elected Member, when being a part of the governing body of Council or a committee, is to attend and participate in the decision-making processes at meetings.

Elected Members who are going to be absent from a meeting of Council or a committee should submit an apology. For extended periods of absence, Elected Members should apply to Council to grant leave of absence for that extended period.

Leave of absence is not to be granted to an Elected Member in respect of more than six consecutive ordinary meetings of the Council without the approval of the Minister, unless all of the meetings are within a period of three months.

An Elected Member who is absent, without first obtaining leave of the Council, throughout three consecutive ordinary meetings of the Council is disqualified from continuing his or her membership of the Council unless all of the meetings are within a two-month period.

### **Meeting procedures and conduct**

The Council has adopted a local law that provides a set of enforceable meeting procedures and rules to:

- ensure better decision making of council and its committees;
- assist in the good and orderly conduct of meetings; and
- greater community understanding of the business of the Council.

Elected Members are to familiarise themselves with the meeting procedures as any breaches may result in the matter being investigated under the provisions of the Act.

As part of the State Government's Local Government Reform agenda, it is intended that model meeting procedures will be developed for all local governments in replacement of the City's local law, thereby ensuring consistent meeting processes across the local government sector.

In certain circumstances Elected Members are able to attend meetings by electronic means and are required to declare that they are able to maintain confidentiality during the meeting or a closed part of the meeting, as the case requires.

## **Lobbying and meetings with external parties**

Lobbying is an acceptable and normal part of society and opportunities for stakeholders to communicate with Elected Members and employees occur as part and parcel of our society's democratic and accessible system of government.

However, problems can arise when an Elected Member or employee is lobbied to consider factors, other than the relevant facts, they should appropriately consider when determining any matter as a decision-maker. Elected Members and employees are to recognise the difference between appropriate and inappropriate lobbying and the risks associated if they fail to resist inappropriate lobbying.

Elected Members must not, when lobbied, commit or indicate their vote on a matter that is before Council, or intended to be considered by Council. Elected Members may offer understanding or otherwise but as decision-makers they are obliged to consider all relevant facts detailed in a report within an Agenda, including the debate at the meeting, prior to making their decision. Similarly, employees are not to indicate their approval or otherwise on a proposal or application put forward to the City, until such time as an assessment and / or consideration of a proposal or application is formally undertaken by the City.

Elected Members, who commit their vote outside of the Council meeting process, may be faced with claims of perceived bias and could compromise the final decision of Council. Ultimately the community must have trust in the elected body and in the ability of Council to make decisions free of influence or the perception of influence.

If an Elected Member attends any meetings outside the formal decision-making processes of Council, they must make clear their role at the meeting and outline the boundaries of their attendance. Stakeholders at these meetings should accept this and should lines be overstepped, or there is discomfort in discussion, Elected Members should excuse themselves from the proceedings or preferably politely decline the invitation in the first instance if they are uncomfortable in attending the meeting.

## **State Administrative Tribunal**

Due to a local government's quasi-judicial role, people affected by decision of Council or an employee may have rights of appeal to challenge the decision to a third party. It is therefore important for Elected Members and employees to gain a full understanding of the issues and follow proper process before reaching a decision.

The State Administrative Tribunal (SAT) can review certain decisions made by local governments including town planning approvals and other approvals. Applications can be made to the SAT for a review of decisions made by local governments under a range of enabling laws.

## Election caretaker provisions

An important part of democracy is to ensure eligible members of the community can nominate to become an Elected Member and that there is fair competition for the position of Office on the Council. To avoid any perception that decisions could be made prior to the election that might be construed as favouring sitting Elected Members, the Act provides certain decisions cannot be made by a local government during a local government election process.

The City also has an Election Caretaker Policy that stipulates other matters relevant to an election caretaker period.

## Decisions on planning matters

### Quasi-judicial role

The City has particular decision-making responsibilities under planning legislation, other state laws and planning policies.

The Council and employees are therefore responsible for applying and assessing factual situations and circumstances against the legislative regime detailed in the Act, the *Planning and Development Act 2005* and other relevant planning laws.

The controls and procedures for assessment of planning matters are set in place by a statutory framework and the City is responsible for undertaking this role in accordance with the planning legislation and any other relevant laws.

The City is required to decide on planning matters in an unbiased manner that satisfies the principles of administrative law and natural justice / procedural fairness. Elected Members must exercise their decision-making discretion over planning matters in a way that is mindful of this responsibility.

The City employs qualified and experienced planning officers to prepare reports and provide Council with all the relevant information and facts of a particular planning matter and the relevant legislative provisions that are applicable.

There may be some occasions when Elected Members feel that they do not have enough information to make a decision and the best time to get additional information is prior to the meeting by contacting the CEO or relevant Director, no later than the day before the meeting.

Council, in determining planning matters must take care to ensure that the following principles are adhered to:

- (a) Elected Members must read the report on the matter before voting at a Council meeting. An Elected Member who has not read the report and who participates in the decision-making process without a full understanding of the issues at hand may jeopardise the validity of the decision-making process.

- (b) Elected Members must ensure when they debate a planning matter under consideration that they restrict themselves to the relevant matters of fact and law. These relevant matters will be contained and addressed in the report. Where Council conducts a debate on a matter that is based on irrelevant considerations, or fails to take into account relevant considerations, this may jeopardise the validity of the decision-making process.
- (c) Council must be careful when making a resolution that is different to the organisation's recommendation. In resolving differently from the recommendation, Council is required to include reasons for the variation from the recommendation. These reasons must take into account the relevant considerations of fact and law and must not be based on irrelevant considerations.
- (d) If a development has the potential to impact on neighbours and/or the locality, and where a statutory obligation exists, the City has a duty to ensure that consultation occurs in relation to that development. The report of the Administration is to include details of any neighbour notification or consultation that has occurred. The City must ensure that neighbours who may be adversely affected by a proposed development have had an adequate opportunity to make a submission and that any relevant matters that they raise have been considered in the decision-making process. An opportunity to make a written submission is generally sufficient, though an opportunity to make a submission in person to a relevant meeting may be appropriate where a person with a sufficient interest requests it.

Any submission must be made on the basis of planning principles. Council has the role of testing submissions, whether made by the applicant or another party, and the applicant must be accorded a right of reply.

Generally, Council as a body, and each Elected Member individually, must be certain that they have a clear understanding of the relevant facts and law before making a decision. This decision must be based on the relevant considerations and facts and should not take into account irrelevant considerations.

## **Planning schemes**

Under the *Planning and Development Act 2005* local governments are required to have a planning scheme in place for their respective district. A local government's planning scheme is required to be consistent and take into consideration State Government planning strategies, plans and policies.

A planning scheme provides a legal framework for a range of functions including:

- providing land use and development controls;
- supporting housing choice, variety and amenity;
- providing the mechanism for the development of convenient and attractive centres;
- assisting economic development through facilitation of commercial, industrial and business development to maximise job opportunities;
- establishing high quality open space areas and protecting areas of environmental significance; and
- assisting in the provision of a transport network, which serves the needs of the community by providing a range of alternative networks catering for different transport modes, which are closely integrated with land use considerations.

The provisions of a planning scheme are formulated through a collaborative and consultative process involving the State Government, the City and the broader community. The State Government, through the Minister for Planning provides final approval to the content of a planning scheme and once published in the *Government Gazette*, the scheme comes into operation and has the force of law.

A planning scheme requires periodic review, and this is to ensure that the scheme continues to meet changing community needs and expectations. This review process is facilitated by the local government and involves community input.

Amendments can be made to an operative planning scheme to vary the scheme provisions. An amendment to a scheme again involves a range of stakeholders including the local government, the State Government and the community. The Minister for Planning provides the final decision in relation to any scheme amendment.

Local planning policies are also used to support and guide the implementation of the planning scheme. These planning policies are wide and varied and range from the installation of cubby houses to the installation of telecommunication facilities. Planning policies can be developed to also provide guidance, detail and consistency of treatment with respect to amenity and other relevant planning issues.

Importantly, local government planning schemes incorporate by reference the Residential Design Codes (R-Codes), which is the planning policy of the State Government providing detailed development control for residential development. The State Government revises the R-Codes from time to time.

The City's role in administering a planning scheme includes:

- consideration of development applications;
- consideration of subdivision proposals;
- consideration of Planning Scheme Amendment proposals (whether proposed by the City or by the community);
- enforcement of planning scheme provisions;
- development of planning policies;
- review of an existing planning scheme; and
- formulation of a new planning scheme.

Council is provided with the professional advice from City planning officers in exercising its role in relation to each of these matters. This advice provides Elected Members with detailed information relating to the particular planning issue requiring Council determination.

## **Planning delegations**

The City's planning scheme and State planning legislation permits Council to delegate its decision-making powers to certain qualified persons or committees, subject to certain conditions. This is important in terms of allowing those applications that meet certain criteria to be determined by employees. The criteria used for determining the types of development that can be decided by employees is set out in a Notice of Delegation, which is reviewed annually or earlier if so, determined by Council.

All decisions made under delegated authority are binding and represent a 'Council decision'.

Delegations are necessary for good governance in order to permit:

- Council to focus on strategic matters and major developments that are beyond the Notice of Delegation; and
- the large volume of development applications received by the City to be dealt with in an efficient and effective manner.

## **Development Assessment Panels**

Development Assessment Panels (DAP) are the decision-making body for a certain type, class and/or value of planning applications the City receives from time to time. Development Assessment Panels consist of specialist independent members and Elected Members nominated by the City and approved by the Minister for Planning.

Development Assessment Panels are not managed by the City but by the State Government's Department of Planning, Lands and Heritage. Development Assessment Panels have their own meeting procedures and a Code of Conduct and all members of the panel are to abide by that Code of Conduct. Only the presiding member of the panel is able to speak on decisions or matters that concern the panel.

The City's planning officers provide technical reports to the Department of Planning, Lands and Heritage, who in turn refer this report and any other information to the DAP, which will make a determination on the planning matter.

The City of Stirling forms part of the Metro Inner DAP.

## **Declarations of interest**

One important aspect of the City's decision-making responsibilities is how conflicts of interests are identified, recorded and treated throughout the organisation. It is not only important to ensure that real or potential conflicts of interests are handled appropriately, but also perceived conflicts of interests. Interests can be categorised as being:

- financial interests (both direct and indirect);
- proximity interests; or
- interests that may affect impartiality.

It is an Elected Member's responsibility to decide whether or not to declare an interest.

## **Financial interests**

It is a statutory obligation and duty of Elected Members and committee members to vote on every item of business discussed at meetings of Council or a committee (with delegated authority). However, an Elected Member or a committee member may be excluded from presiding and voting in the meeting if that person, or a person that is closely associated to them, has a direct or indirect financial interest in the subject under discussion.

Division 6 of Part 5 of the Act which details disclosure of financial interests in matters affecting local government decisions. This division defines financial interests, closely associated persons, and interests that need not be disclosed by Elected Members and committee members.

*A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by that member must disclose the nature of the interest:*

- (a) in a written notice given to the Chief Executive Officer before the meeting; or*
- (b) at the meeting immediately before the matter is discussed.*

*(Section 5.65 (1) of the Act)*

*A member who makes a disclosure under section 5.65 must not:*

- (a) preside at the part of the meeting relating to the matter; or*
- (b) participate in, or be present during, any discussion or decision making procedure relating to the matter,*

*unless, and to the extent that, the disclosing Elected Member is allowed to do so under Section 5.68 or Section 5.69.*

*(Section 5.67 of the Act)*

Sections 5.68 and 5.69 of the Act detail the circumstances in which Council, committees and the Minister may allow Elected Members and committee members disclosing interests to participate in meetings.

The Local Government Operational Guideline – Disclosures of Interests prepared by the Department provides a comprehensive guide to identifying and declaring financial interests and steps to take in safeguarding liability.

## **Proximity interests**

Elected Members and committee members also have a responsibility to declare interests around matters that are in close proximity to that person's land. Section 5.60B of the Act states 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*
- (b) a proposed change to the zoning or use of land that adjoins a person's land*  
*or*
- (c) a proposed development of land (as defined by section 5.63(5) of the Act as being the development, maintenance or management of the land or of services or facilities on the land) that adjoins the person's land.*

*Land (the proposed land) adjoins a person's land if:*

- (a) the proposed land, not being a thoroughfare, has a common boundary with the person's land*
- (b) the proposed land, or any part of it, is directly across a thoroughfare from, the person's land*  
*or*
- (c) the proposed land is that part of the thoroughfare that has a common boundary with the person's land.*

Similar to financial interests, an Elected Member or committee member with a proximity interest must disclose their interest (in accordance with sections 5.65 of the Act) and not preside or participate in discussion on the matter (section 5.67 of the Act). Although under certain circumstances the Council, committee or the Minister may allow Elected Members and committee members disclosing interests to participate in meetings.

## **Interests that may affect impartiality**

Elected Members are required to disclose any interest which could, or could reasonably be perceived to, adversely affect their impartiality, and includes an interest arising from kinship, friendship or membership of an association.

The disclosing of an interest that may affect impartiality is to be made immediately before the matter is discussed at a Council or committee meeting or in a written notice given to the CEO before the meeting. The disclosure of an interest that may affect impartiality does not affect the ability of the Elected Member to discuss or vote on the matter.

The Code of Conduct for Council Members, Committee Members and Candidates deals with disclosure of interests that may affect impartiality:

### **22. Disclosure of interests**

(1) *In this clause*

#### **Interest -**

(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.*

(2) *A council member who has an interest in any matter to be discussed at a Council or Committee meeting attended by the council member must disclose the nature of the interest —*

(a) *in a written notice given to the CEO before the meeting; or*

(b) *at the meeting immediately before the matter is discussed.*

(3) *Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.*

(4) *Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —*

(a) *that they had an interest in the matter; or*

(b) *that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.*

(5) *If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting then —*

(a) *before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and*

(b) *at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before a matter to which the disclosure relates is discussed.*

(6) *Subclause (7) applies in relation to an interest if:*

(a) *under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or*

*(b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting,*

*(7) The nature of the interest must be recorded in the minutes of the meeting.*

## **Disclosure of interests of employees**

Similar to Elected Member and committee members, employees should ensure that there is no actual or perceived conflict or incompatibility between the important fulfillment of the public or professional duties and either their personal interests, or those persons closely associated with them.

Section 5.70 of the Act states that where an employee has an interest in any matter in which the employee is providing advice or a report directly to Council or a committee, they must disclose the nature of the interest when giving the advice or report. There is no requirement for employees to leave meetings where interests have been disclosed, however in most instances' employees do remove themselves from the meeting.

In situations where an employee has been delegated a power or duty by the CEO, and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and must either disclose the nature of the interest to the CEO (or should the employee be the CEO, disclose the nature of the interest to the Mayor).

The City's Code of Conduct for Employees also places a requirement on employees to disclose any interests, where the interest could, or could reasonably be perceived to, affect the impartiality of the employee having the interest and includes an interest arising from kinship, friendship or membership of an association. In some situations, this may require the employee to disqualify themselves from dealing with a particular matter.

## **Primary Returns and Annual Returns**

Section 5.75 of the Act requires Elected Members and certain employees to complete a Primary Return within three months of commencing in Office or being employed at the City.

A Primary Return can best be described as a snapshot of personal information and certain financial interests a person has at a particular point in time.

At the end of each respective financial year, Elected Members and certain employees must complete an Annual Return, which discloses any changes to the information previously disclosed in their Primary Return or new interests that have accumulated since completing their Primary Return or last Annual Return.

Primary Returns and Annual Returns assist with the decision-making process as they highlight an individual's interests at a particular point in time, thereby clarifying whether a conflict of interest may arise.

## Related Party Disclosures

The City is committed to complying with the disclosure requirements for related party transactions under the Australian Accounting Standards. Disclosure of relevant related party information will provide greater transparency and improve the quality of the financial reporting process.

A system has been implemented to identify, monitor and disclose related party transactions to manage the risk of non-compliance with the related party disclosure objectives of the Australian Accounting Standards.

## Protection from liability

Elected Members are not protected in the same manner as Members of Parliament for statements they make in the Council Chamber.

In a Council meeting, an Elected Member fulfils a public duty and is therefore given limited legal protection. However, unlike Members of Parliament, an Elected Member's privilege is qualified. This means that protection is only provided as long as the statements are made in good faith. Statements made with malice or made recklessly are not protected by qualified privilege. Statements made by Elected Members outside Council and Committee meetings are unlikely to attract qualified privilege.

However, under section 9.57A of the Act a local government is not liable to an action for defamation in relation to matter published on its official website as part of a broadcast, audio recording, or video recording, of a meeting of the Council or a Committee, but does not include other meetings (such as Briefings or Workshops).

The Code of Conduct for Council Members, Committee Members and Candidates also states that an Elected Member must not make improper use of their Office as an Elected Member to cause detriment to the local government of any other person. This provision has relevance to what an Elected Member can say while performing in their role as an Elected Member.

Division 4 of Part 5 of the Act also protects Elected Members, committee members and employees from any actions in negligence that the person has done, or has not done, in the performance of their functions under the Act or any other written law. However, the City may not be necessarily protected from claims of negligence.

## Legislative framework

The City is constituted under the Act and has a formal geographical area, known as a district. The general function of the City is to provide for the good government of people living and working within its district and includes legislative and executive powers and responsibilities given to it through the Act.

Overall, the Act is intended to provide excellence in governance through:

- better decision-making by local governments;
- greater community participation in the decisions and affairs of local governments;
- greater accountability of local governments to their communities; and

- more efficient and effective local government.

To allow local governments better decision-making, greater accountability and to be more efficient and effective, the Act provides a number of ways of achieving these objectives.

## **Delegations**

Delegations form part of the City's decision-making approach. Delegations entrust certain types of decisions to the CEO, employees or committees.

Under the Act both Council and the CEO are given certain functions and duties to be discharged. Council may delegate authority to the CEO to perform some of its functions and duties on its behalf. The use of delegated authority means that the large volume of routine work of Council can be effectively managed and acted on promptly, which in turn facilitates efficient service delivery to the community. Delegated authority allows Council to concentrate on policy development, representation, strategic planning, and community leadership.

The CEO may delegate to any other employee the authority to perform functions and duties that are exercisable by the CEO under the Act or that have been delegated to the CEO by Council (with the exception of the power to delegate). This accords with employees being responsible to the CEO and the CEO being responsible to Council. Similarly, the implementation of Council decisions and instructions are conducted by the CEO, who may in turn require responsibility to be undertaken by other employees of the City.

Delegations of authority are required in order to provide employees of the City with the power to exercise duties and make determinations. It is essential that the City's delegations are performed in a manner that is in accordance with the delegation and is compliant with the relevant legislation. The City is required to keep records on the exercise of its delegations and delegations by Council are to be reviewed on an annual basis.

## **The concept of 'acting through'**

Not all functions or duties of the local government require formal delegation. The Act details that a local government and / or the CEO is not prevented from performing any of their functions under the Act or any other written law by 'acting through' another person.

The key difference between a delegation and the concept of 'acting through' is that a delegate exercises the delegated decision-making function in his or her own right. Where a person has no discretion in carrying out a function, then that function may be undertaken through the 'acting through' concept. Alternatively, where the decision allows for discretion on the part of the decision maker, then that function needs to be delegated for another person to have that authority.

## Authorised persons

Under legislation, Council or the CEO can 'appoint' persons or classes of persons to perform particular functions. These persons are generally termed 'authorised persons' or some other similar term. Legislation or local laws may specify that an 'authorised person' can perform a particular function and those functions or duties are normally specified in the applicable provision.

An appointment is made, as the case requires, by either a formal resolution of the Council, or a written appointment by the CEO (with delegated authority or other employee with delegated authority), or as detailed in the specific legislation. Authorised persons are not necessarily employees with delegated authority.

Employees appointed as authorised persons are required to have a certificate of appointment or some other form of identification to confirm their appointment and to demonstrate their ability to perform that function.

Due to their position as an employee, some legislative provisions appoint all employees of a local government as authorised persons. Examples of such legislation include the *Litter Act 1979* and the *Criminal Procedures Act 2004*.

## Local laws

Under the Act and as part of its legislative functions, Council can make local laws as a way of providing good governance to the community and which reflect current community standards.

The Act outlines the process by which the Council may adopt local laws. This legislative role allows the Council to adopt a regulatory regime that may be enforced through the courts, by the issue of infringement notices or by performing other executive functions to enforce the local laws. When adopting local laws, the Council must be aware that they operate with the force of legislation and the City has a duty to enforce all of its local laws.

The process for making a local law provides the community with an opportunity to comment on proposed local law. The local law is then presented once more to Council and any public submissions are considered. Upon final adoption, the local law is published in the *Government Gazette* and reviewed by the Western Australian Joint Parliamentary Committee on Delegated Legislation.

Local laws must also comply with the National Competition Policy principles adopted by agreement between local, state and federal governments.

The City maintains local laws relating to:

- Bee Keeping;
- Control of Cats;
- Dogs;
- Dust and Liquid Waste;
- Fencing;
- Health;

- Local Government Property;
- Meeting Procedures;
- Parking;
- Pest Plants;
- Thoroughfares and Public Places; and
- Waste Management.

The City is required to review its local laws periodically from the date they came into operation or from the date they were last reviewed. This review process also allows for community consultation and feedback.

## **Policies**

Section 2.7(2)(b) of the Act states one of the roles of Council is “determining the local government’s policies”.

Policies provide the Council and the organisation with the ability and direction to make decisions that are considered to be consistent and unbiased. A policy can also provide detail on the manner in which the City undertakes, or requires others to undertake, certain works or activities.

The City’s policies can be strategic that set governing principles and guide the direction of the organisation to align with community values and aspirations. Similarly the City’s policies may be administrative in nature that have been developed for administrative and operational requirements.

Copies of the City’s policies are required to be published on the City’s website.

## **Executive functions**

The Council is responsible for overseeing the executive functions of the City. The executive functions of the City are to provide services and facilities. In performing its executive functions, section 3.18 of the Act states the following:

- (1) *A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act.*
- (2) *In performing its executive functions, a local government may provide services and facilities.*

A local government can, therefore, administer local laws and provide services and facilities in order to provide for ‘the good government of the district’.

A local government must satisfy itself that the services and facilities it provides:

- integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and
- are managed efficiently and effectively.

## Business management

The management of corporate business within an organisation is important to the concept of governance. As part of the City's Integrated Planning Framework, the City has developed a Corporate Business Plan. The Corporate Business Plan guides internal operational activities and serves as the City's rolling five-year service and project delivery program which is aligned to the strategic direction and priorities set within the City's Strategic Community Plan. Detail on specific projects and their milestones are then reported to Council and the community on a regular basis.

Business Units are required to develop Service Plans that operationalise the specific projects and milestones in the City's Corporate Business Plan as well as other plans and operational outcomes.

## Financial management

### Role of the CEO

The CEO is accountable to Council for the financial performance of the City. The CEO must ensure that certain fundamentals are in place including, but not limited to:

- appropriate financial systems, plans, strategies and internal directives;
- adequate resources to support the City's activities and financial monitoring and performance;
- suitable internal review and audit mechanisms;
- an organisational culture where responsibility and accountability are clearly delineated and understood; and
- adherence to and compliance with legislative provisions.

### Financial management planning and principles

The Council is ultimately responsible for the financial management of the City. Good financial management requires both Council and the Administration to play their role. The City has developed a Long-Term Financial Plan that is consistent with strategic initiatives within the City's Strategic Community Plan.

Council is to ensure that it receives sufficient reports and other information to adequately monitor the City's performance, resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery.

There should be robust and transparent financial management established and maintained to meet local government's accountability to its stakeholders, particularly in terms of stewardship of community assets, both now and into the future.

## **Annual Budget**

One of the responsibilities of Council under the Act is to prepare, set and adopt the City's Annual Budget. The Annual Budget can be viewed as the annual articulation of the City's Long-Term Financial Plan and must also consider the priorities, projects and initiatives within the City's Strategic Community Plan. Based on the leadership of Council, it determines the City's priorities for each year and the allocation of resources to achieve those priorities.

Under Regulation 33A of the Local Government (Financial Management) Regulations 1996 the City is required to conduct a review of its Annual Budget after considering the changes in its operating environment since the beginning of the financial year with a view to forecasting the financial impacts likely to arise for the remainder of the year. The review is to be conducted before 31 March each year.

## **Long-Term Financial Plan**

The City's Long-Term Financial Plan is a high-level informing strategy that outlines the City's approach to delivering infrastructure and services to the community, in a financially sustainable and affordable manner. It also demonstrates the City's commitment to managing its operations in a sustainable way that minimises the financial impact on the City's ratepayers.

The plan represents the primary and key strategic financial planning document for the City and has a direct bearing on the ability to plan for the future financial sustainability of the City. It represents projections and estimates, based on many assumptions and is a primary planning tool for the development of future budgets for the City. In preparing the Long-Term Financial Plan, the Department of Local Government, Industry Regulation and Safety's Long-Term Financial Planning Framework and Guidelines is used as the principal reference point in terms of form and content.

Among other things, the plan summarises the financial impacts of the priorities, projects and objectives identified in the Strategic Community Plan and assists in setting the future financial direction and decisions of the City.

## **Asset management**

An organisation practices good governance when it manages its assets in a financially viable, efficient and sustainable manner.

To manage the City's large asset base, particularly community and road infrastructure, the City has developed a range of strategies and frameworks that guide decision making around the installation of new infrastructure as well as the renewal and replacement of existing infrastructure in a planned and prioritised way.

The City also has asset management plans for particular asset classes and other informing plans that provide strategic direction in the management of City assets.

## Organisational structure and people management

Good governance is achieved when an organisational structure is in place that adequately serves the City's operations, and those operations are planned to achieve the established goals and the strategic direction set for the City. Part of the role of the CEO is to establish an organisational structure which will facilitate the delivery of projects and programs within the Strategic Community Plan.

To enable the City to continue to provide high quality services to the community now and into the future it is critical that the City develops and maintains a skilled, flexible and sustainable workforce.

The City has developed a Workforce Plan to provide a strategic framework for organisational workforce planning and management. This will enable the City to attract and retain a suitable, committed and professional labour force that will ensure the City achieves its strategic priorities within the Strategic Community Plan and deliver quality services to the community.

Although Council resources the appropriate organisational structure through the annual budget process, it is the CEO's responsibility to manage the employees of the City. The organisational structure needs to allow for flexibility to adapt to changing needs. This process of planning for future workforce requirements enables the City to respond to emerging challenges before they impact on services and operations. It also facilitates the preparation of detailed budgets and a long-term financial plan that support the delivery of efficient and affordable services.

All employees are required under the Act to undertake a performance evaluation each year. These evaluations assess specific job performance, behavioural indicators, business planning outcomes as well as determining an employee's training and development needs.

## Risk management

The City is responsible for providing a wide and diverse range of services to its community. All of these activities involve some form of risk, which must be managed to ensure that aims and objectives are achieved, services are delivered and that opportunities to deliver better and more cost-effective services are realised. If the City is not aware of, or has not adequately assessed or managed some risks, it could result in financial loss, threats to public or employee safety or lead to substantial adverse publicity.

The City is committed to ensuring that effective risk management remains central to all its operations while delivering its range of services to the community. The management of risk is the responsibility of senior management and all employees and is an integral part of the City's organisational culture. Risk management philosophies are reflected in the various policies, directives, systems and processes in place, that guide the City's operations.

The City has an established Risk Management Framework which reflects good practice and sound corporate governance principles and is consistent with the risk management guidelines and principles set out in Australian Standard for Risk Management (AS ISO 31000:2018 Risk Management – Guidelines). The City also has a Risk Management Policy which describes the City's commitment to ensuring that effective risk management remains central to all its operations.

The City's organisational structure has dedicated resources to monitor risk and provide work programs, audit updates and regular reporting to the Audit, Risk and Improvement Committee and Council. Reporting to Council and throughout the organisation regularly identifies risks, its assessment and mitigation strategies that are in place or need to be put into place.

## **Records management**

The City's corporate records are to be managed in accordance with the City's Recordkeeping Plan.

All Elected Members, employees and contractors are responsible for maintaining complete, accurate and reliable evidence of all business transactions and ensuring all corporate documents are retained within the City's official recordkeeping system at the point of creation regardless of the format. The City's record keeping practices must be in accordance with:

- *State Records Act 2000;*
- *Evidence Act 1906;*
- *Freedom of Information Act 1992;*
- *Local Government Act 1995;* and
- *Local Government Accounting Directions 1994.*

Certain corporate records maintained and held by the City are accessible to members of the public in accordance with the processes stated in the *Freedom of Information Act 1992*.

# Principle Four: Accountability

## Principle of accountability

Excellence in governance is based on the principle that the people involved in providing governance, being the Elected Members and employees, are held to account for what they do and for the City's performance. The public trust placed in the City and in its Elected Members to act in the public interest can be justified in the manner in which their duties have been performed.

Accountability systems need to provide disclosure and for the review of decision-making and processes. These systems must record and support the City's accountability to its stakeholders and its legal accountability to the State Government.

Risk management systems aim to ensure that community assets are protected. An internal audit system, a comprehensive consultation and engagement program all support good decision-making by ensuring that Elected Members are aware of the views of those who will be affected by any decision.

The fundamental importance of accountability is that the City exists to govern for and on behalf of its community. Systems and values must reflect this accountability.

Accountability systems that provide disclosure and review of decision-making and processes are integral to good governance and are reflected through:

- open and transparent government so that people can follow decision-making processes and outcomes;
- consultation so that communities feel that they are being heard; and
- good information and communication processes so that communities are kept informed.

## Performance management and reporting

The Council is accountable for monitoring performance in the achievement of the City's strategic direction, goals and financial outcomes which are set through the Strategic Community Plan, the Long-Term Financial Plan, the Corporate Business Plan and the Annual Budget.

The management of the City's performance and the reporting of that performance to the community are achieved in several ways.

### Quarterly progress reporting

The Department of Local Government, Industry Regulation and Safety's Integrated Planning and Reporting Framework sets out the requirements for local governments to undertake planning and reporting on their activities. The process includes annual reporting to the community on achievements and outcomes. The City's Corporate Business Plan, reviewed and adopted by Council each year, is in line with this requirement and focuses on the City's actions and objectives within the Strategic Community Plan.

Quarterly progress reports against the City's Corporate Business Plan provide Council and the community with a full assessment of the City's progress in relation to the achievement of pre-determined milestones for major projects and programs.

## **Financial reporting**

Financial reporting is a basis for accountable financial management and it is required by the Act. Financial reporting undertaken at the City is as follows:

- Monthly Financial Activity Statement - timely and accurate reports are essential to keep Council in an informed position to ensure the City meets its financial responsibilities. In accordance with the Act and the Local Government (Financial Management) Regulations 1996, Council is required to prepare a monthly statement of financial activity reporting on the source and application of funds as set out in the Annual Budget.
- List of Payments - Council has delegated to the CEO the exercise of its authority to make financial payments from the City's Municipal Fund and Trust Fund. Therefore, in accordance with Regulation 13(1) of the Local Government (Financial Management) Regulations 1996, a list of accounts paid by the CEO is prepared each month for Council, showing each account paid since the last list was prepared.
- Annual Financial Report - in accordance with the Act, the City is required to prepare an Annual Financial Report each financial year which provides information about the City's financial activities, income and expenditure. The City's Annual Financial Report is to be audited by an external auditor and is to be considered by the City's Audit and Risk Management Committee before being submitted to Council for adoption.

An abridged version of the Annual Financial Report forms part of the City's Annual Report, which is received and discussed by the community at the Annual General Meeting of Electors.

## **Annual Report**

In accordance with section 5.53 of the Act the City is to prepare an Annual Report each financial year. Other than just financial information the City's annual report includes, among other things, the auditor's report, internal information and an overview of the City's 'plan for the future' (being the Strategic Community Plan) including major initiatives that are proposed to commence or to continue.

The City's Annual Report is the City's key reporting document that satisfies the Annual Report requirements under the Act. It provides detailed information to all of the City's stakeholders about how the City intends to operate in a sustainable manner while addressing the many challenges it faces. The report reviews the progress made against the many initiatives outlined in the Strategic Community Plan.

The electors of the City's district are to receive the Annual Report at the Annual General Electors Meeting. At this meeting, the community can ask questions of the City on various aspects of the Annual Report.

## **CEO performance review**

The Council is accountable for managing the CEO's performance and is responsible for setting the CEO's performance plan and subsequently monitoring performance. Council is to communicate its expectations to the CEO, and is required to seek independent professional advice when undertaking the performance evaluation of the CEO. As required by the Act, Council has also adopted standards for the recruitment and selection, performance review and termination of the CEO.

The Council has established the Chief Executive Officer Performance Review Committee to assist it with this task of reviewing the CEO's performance as well as recruitment activities for a new CEO when such a situation arises.

As part of the State Government's Local Government Reform agenda, it is proposed to introduce requirements to publish on the City's website:

- the CEO's performance criteria;
- the report on the CEO's performance against those criteria; and
- the CEO's response to that report on their performance.

## **Employee performance review**

In accordance with the Act the performance of all employees is to be reviewed at least once in relation to every year of their employment. The City's comprehensive performance planning process provides a mechanism for employee performance to be assessed as well as training and development opportunities to be identified.

## **Audits and oversight**

### **Compliance Audit**

It is a requirement of the Act that the City conducts an annual audit of its compliance with statutory requirements and responsibilities placed on it under the Act.

The Compliance Audit Return is submitted to the Department of Local Government, Industry Regulation and Safety' each year after its adoption by Council. The Compliance Audit Return provides prompts in relation to the local government's statutory obligations in a number of areas, such as local laws, tenders, meeting processes, disclosure of financial interests and financial management. It provides a useful tool for the City to ensure compliance with the Act.

In addition to this requirement the City has established a number of internal compliance mechanisms to ensure its practices and procedures meet its obligations in relation to good corporate governance.

## **Audit, Risk and Improvement Committee**

The audit function of the City is achieved by two means – the establishment of an Audit, Risk and Improvement Committee and the appointment of an Internal Auditor.

The Act requires Council to establish an audit, risk and improvement committee to oversee and advise the Council on matters of internal or external audit, risk management, financial reporting and legislative compliance functions of the City. Such matters include developing and monitoring the City's internal audit activities as well as reviewing the appropriateness and effectiveness of the City's systems and procedures in relation to risk management, internal controls and legislative compliance.

The Audit, Risk and Improvement Committee will also support the audit as required and have functions to oversee:

- the implementation of audit recommendations made by the external and internal auditor, which have been accepted by Council; and
- accepted recommendations arising from reviews of local government systems and procedures.

## **External Audit**

Each year, the Office of the Auditor General, or contractors appointed on its behalf, provide the independent oversight of the local government sector and audit the City's financial statements with an audit report being provided to Council. Any significant issues the Office of the Auditor General identifies, are reported to the City, the Mayor, the City's CEO and the Minister for Local Government.

The audit report is examined by the City and is to implement appropriate action in respect to the significant matters that may be raised and detail such action in a report to be submitted to the Minister for Local Government within three months of the City receiving the audit report. This report is also published on the City's website.

In addition to financial and compliance audits, the Office of the Auditor General may carry out performance audits that examine the economy, efficiency, and effectiveness of programs and organisations, including compliance with legislative provisions and internal policies and controls. Performance reports from the Office of the Auditor General are also submitted to both Houses of Parliament.

## **Internal Audit**

The City has developed an internal audit program that focuses on areas of risk including financial and non-financial systems and compliance with legislation, regulations, policies and best practice.

The primary objectives of the program are independent evaluation of City's systems of internal control in order to provide assurance that:

- the City is achieving its goals and objectives efficiently, effectively and in an ethical manner;
- financial and operating information produced is accurate, timely and complete;

- there is compliance with relevant laws, regulations and other external requirements and with policies, protocols and other internal requirements; and
- City assets and liabilities are competently managed and protected against loss or other negative consequences.

Recommendation action plans are developed and agreed with management for audit recommendations and follow-ups conducted to ensure that they are implemented as agreed.

## **Community consultation and stakeholder engagement**

The City recognises that consultation is a two-way interactive process that provides opportunities for the City and the community to clarify information, raise issues and discuss ideas and options. Consultation is an important dimension that informs and enhances the City's decision-making processes.

As a community leader, Council should define the City's directions and priorities for a sustainable future by:

- promoting discussion and debate within the community and with other stakeholders about the priorities and needs of the City;
- using research to develop and inform Council policies and decision-making;
- actively canvassing, and faithfully considering, the needs and opinions of the community when making decisions; and
- translating the community's aspirations for a sustainable future through appropriate partnerships, initiatives, programs and services.

## **Community engagement**

Community engagement is vital for inclusive decision making in local government and the City acknowledges the importance of involving the community in decisions that affect their rights and interests. Council has an adopted Community Engagement Policy, the objective of which is to outline the City's commitment to actively involving the community in the City's planning, development and service delivery activities.

The City's Community Engagement Policy and associated internal practices provide a clear articulation of the City's commitment to strong stakeholder and community relationships. The goal of the policy and protocol is to provide a process and choices for involving citizens in decision-making and to enhance current opportunities and processes for that to happen. Its objectives are to:

- provide a clear statement of Council's commitment to best-practice community and stakeholder engagement;
- define the guiding principles to ensure meaningful and inclusive engagement across the City of Stirling;
- provide a set of definitions for consistent and clear communication;
- communicate the responsibilities for community engagement across Council;
- promote transparency and accountability in Council's decision-making; and
- manage the impact of community engagement across our diverse communities.

The City also has a public consultation policy for planning matters (Planning Policy 6.18) that is used by the City to ensure a consistent approach to consultation on planning proposals and supplements the advertising requirements of the Planning and Development (Local Planning Schemes) Regulations 2015. Information sheets are available on the City's website to assist applicants, residents and the community understand and participate in planning consultations.

During a formal consultation process initiated by the City, members of the community are encouraged to make their views heard through the established channels of making a public consultation submission.

Elected Members and employees responsible for a consultation process should not make their personal views known on any matter during a formal consultation process as this may taint decision-making when Council is required to make a formal decision on the matter.

As part of the State Government's Local Government Reform agenda, community engagement charters are being introduced as a consistent requirement across the sector to ensure that all local governments commit to engaging their communities. They will also help communities understand how they can influence decisions that affect them.

## **Customer Experience and Complaints Management**

The City prides itself on the delivery of exceptional service and customer experiences and has developed a number of internal and external documents and processes around customer service and complaints management.

### **Service standards and customer advocacy**

The City has adopted a Customer Service Charter which outlines the City's customer service standards the community can expect from the organisation. The charter demonstrates the City's commitment to customer service excellence and the levels of customer service performance. The charter provides a mechanism of accountability for the City's community. Customer service standards and performance is measured to ensure that the City is delivering on its commitments.

The City has a complaints management process and associated Complaints Policy which ensures an effective, transparent and timely method of responding to complaints regarding the City's services, administrative actions, competitive neutrality, the conduct and performance of Elected Member or employee behaviour.

### **Formal complaint and reporting mechanisms**

The City, being a public entity, is subject to a number of external complaint and reporting mechanisms that are in place to ensure all public entities, including local governments, perform in a way that demonstrates integrity and fairness and are in place to prevent, among other things:

- improper conduct;
- action which may constitute an offence under a written law;
- substantial, unauthorised or irregular use of or mismanagement of public resources;

- substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment; and
- matter of administration which could be investigated by the Ombudsman.

The City is subject to reporting and review mechanisms conducted by a number of external agencies, including:

- conduct complaints about Elected Members under the *Local Government Act 1995*;
- public interest disclosures made under the *Public Interests Disclosure Act 2003* (commonly known as whistleblowing);
- misconduct complaints to either the Public Sector Commission or the Corruption and Crime Commission under the *Corruption, Crime and Misconduct Act 2003*;
- reportable conduct reports to the WA ombudsman on child abuse by employees and Elected Members; and
- investigating and resolving complaints about the decision making of local government to the WA Ombudsman under the *Parliamentary Commissioner Act 1971*.

## Access to information

### Freedom of Information

Under the Act any member of the public can access certain information held by the City, but there is not an unfettered right of access to the City's information. There are some documents not accessible to the public or available for viewing; however, being a 'public body', the provisions of the *Freedom of Information Act 1992* apply.

All Elected Members and employees should be aware of freedom of information implications when creating documents, whether it is internal or external and must undertake proper record-keeping in the fulfilment of their duties and responsibilities while at the City. As a general rule any written material generated by employees or Elected Members may become public knowledge and subject to a freedom of information request and investigation. Freedom of information gives individuals a right to access certain records held by both state and local government agencies.

The City each year publishes a Freedom of Information Guide to assist the community on the functions and services of the City and how information of the City can be accessed.

### Publicly accessible registers

To improve transparency and accountability around the performance of a local government's functions and activities, the City is required to publish a range of registers, specifically aimed at matters which could create conflict between decisions being made, either by Council or employees within the Administration.

Registers include matters and certain information relating to:

- Disclosures of Financial Interests;
- Primary Returns and Annual Returns;

- Gifts and Electoral Gifts;
- Delegations of Authority;
- Awarded Tenders;
- Training and Development undertaken by Elected Members;
- Payments made to Elected Members; and
- Findings on complaints of Elected Member minor breaches.

As part of the State Government's Local Government Reform agenda and to ensure good record keeping and a level of public visibility of a local government's decisions around the expenditure of public funds and use of local government property, it is proposed local governments will need to keep public registers on matters such as leases, grants, and goods and services contracts.

The Department of Local Government, Industry Regulation and Safety are currently developing the require provisions and information standards the City will be required to comply with.

### **Privacy and responsible information sharing**

All tiers of government provide a range of services and programs aimed at improving the quality of life for Western Australians and in order to deliver these services and programs, personal information about Western Australians is collected and stored.

As Western Australia does not have any State privacy legislation and local governments are not bound by the *Privacy Act 1988* (Cth) the State Government is proposing introduce legislation introduce new privacy principles to guide WA's public sector agencies (including local governments) on approved systems and processes to handle personal information, providing assurance that agencies managing personal information responsibly and securely.

Broadly, the legislation will introduce reforms that provide:

- guiding privacy principles and a framework to govern the collection, use, disclosure and security of personal information across the public sector;
- a mandatory information breach notification scheme, requiring agencies to notify the Information Commissioner and affected individuals of serious information breaches involving personal information;
- a statutory mechanism for WA public sector agencies to share information only when adhering to new stringent standards for risk assessment, decision making, governance and transparency; and
- a mechanism that supports Aboriginal data governance in WA, by requiring that Aboriginal people and communities are involved or consulted when government information that primarily affects Aboriginal people is shared.

The City is committed to protection the personal information of its community and will be implementing the requirements of the legislation once in force.

# Contact Details

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This information is available in alternative formats on request. Please contact the Customer Contact Centre on (08) 9205 8555