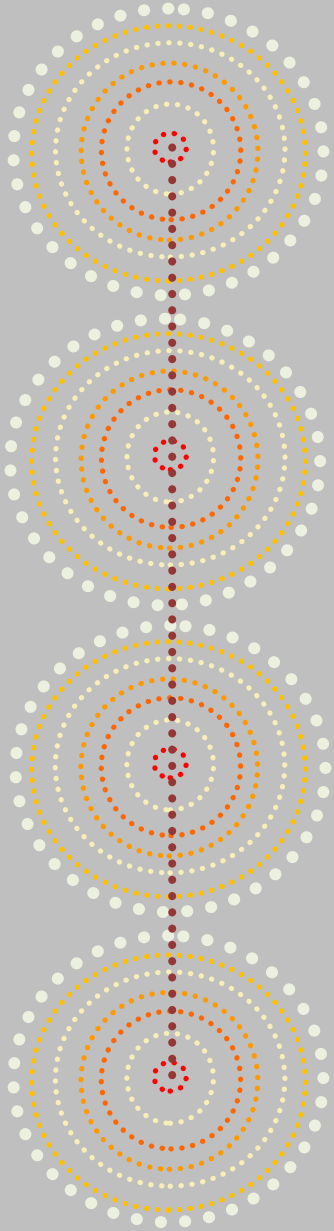


# Shire of Goomalling



## COUNCIL MEETING MINUTES (UNCONFIRMED)

March 2021





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## **NYOONGAR ACKNOWLEDGEMENT**

We acknowledge this land that we meet on today is part of the traditional lands of the Nyoongar people and that we respect their spiritual relationship with their country. We also acknowledge the Nyoongar Ballardong people as the custodians of the greater Goomalling/Koomal area and that their cultural and heritage beliefs are still important to the living Nyoongar Ballardong people today.

## **NOTICE OF MEETING**

Meeting No. 2 of 2021 of the Shire of Goomalling Council to be held in the Council Chambers, Administration Office, 32 Quinlan Street, Goomalling on Wednesday, 17 February 2021 beginning at 3.57pm.

### **1. DECLARATION OF OPENING & ANNOUNCEMENT OF VISITORS**

### **2. RECORD OF ATTENDANCE/APOLOGIES & APPROVED LEAVE OF ABSENCE**

#### **2.1. Attendance**

Council	Councillor	Cr Christine Barratt
	Councillor	Cr Casey Butt
	Councillor	Cr Julie Chester
	Councillor	Cr Rodney Sheen
	Vice President & Chairperson	Cr Roland Van Gelderen
	Councillor	Cr Brendon Wilkes
Administration	Chief Executive Officer	Mr Peter Bentley
	Finance Manager	Miss Natalie Bird
	Works Manager	Mr David Long

#### **2.2. Apologies**

#### **2.3. Approved Leave of Absence**

Cr Barry Haywood, President

### **3. DECLARATION OF:**

- FINANCIAL INTEREST
- MEMBERS IMPARTIALITY INTEREST – CEO noted the CEO recruitment, performance and early termination – item no 9.4
- PROXIMITY INTEREST

### **4. PUBLIC QUESTION TIME**

### **5. APPLICATION FROM MEMBERS FOR LEAVE OF ABSENCE**

### **6. CONFIRMATION AND RECEIVING OF MINUTES & BUSINESS ARISING**

6.1 Ordinary Meeting of Council held Wednesday 3 February 2021

<b>321. RESOLUTION</b>
------------------------

Moved Cr Chester, seconded Cr Barratt

That the minute of the Ordinary Meeting of Council held on Wednesday 3 February 2021, be confirmed as a true and correct record of proceedings.

**CARRIED 6/0**  
**By simple majority**



- 7. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**
- 8. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**



**9. OFFICERS' REPORTS**

**9.1 SCHEDULE OF ACCOUNTS PAID 1 JANUARY TO 28 FEBRUARY 2021**

<b>DATE:</b>	8 March 2021
<b>SUBJECT:</b>	Schedule of Accounts Paid
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	Whole of the Shire
<b>AUTHOR:</b>	Chloe Watson – Accounts Payable
<b>REPORTING OFFICER:</b>	Natalie Bird – Finance Manager
<b>FILE NO:</b>	N/A
<b>ASSESSMENT NO:</b>	N/A

**FUND VOUCHERS AMOUNT**

EFT 2815-284, 2846-2976 (2845 cancelled)	\$480,625.57
Direct Debits 8444-8453	\$71,321.60
Cheques 15185-15187, 15189-15211 (cancelled 15188)	\$108,145.81
Payroll 6415& 6422, 6424 & 6431	\$185,527.00
Super DD13018, DD13038, DD13077 & DD13092	\$33,194.72
<b>TOTAL</b>	<b>\$878,814.70</b>

**ATTACHMENTS**

- Schedule of Accounts Paid January & February 2021
- Corporate Credit Card Statements December & January 2021

**VOTING REQUIREMENT**

Simple Majority

**OFFICER COMMENTS**

**RECOMMENDATION**

**That vouchers from the Municipal Fund and Trust Fund as detailed, be approved by Council:**

EFT 2815-284, 2846-2976 (2845 cancelled)	\$480,625.57
Direct Debits 8444-8453	\$71,321.60
Cheques 15185-15187, 15189-15211 (cancelled 15188)	\$108,145.81
Payroll 6415& 6422, 6424 & 6431	\$185,527.00
Super 13018, 13038, 13077 & 13092	\$33,194.72
<b>TOTAL</b>	<b>\$878,814.70</b>



**322. RESOLUTION**

Moved Cr Butt, seconded Cr Wilkes

That vouchers from the Municipal Fund and Trust Fund as detailed, be approved by Council:

EFT 2815-284, 2846-2976 (2845 cancelled)	\$480,625.57
Direct Debits 8444-8453	\$71,321.60
Cheques 15185-15187, 15189-15211 (cancelled 15188)	\$108,145.81
Payroll 6415& 6422, 6424 & 6431	\$185,527.00
Super 13018, 13038, 13077 & 13092	\$33,194.72
<i>TOTAL</i>	\$878,814.70

CARRIED 6/0  
By simple majority



## 9.2 FINANCIAL REPORT FOR JANUARY 2021

<b>DATE:</b>	18 February 2021
<b>SUBJECT:</b>	January Monthly Financial Report
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	Whole of the Shire
<b>AUTHOR:</b>	Natalie Bird – Finance Manager
<b>REPORTING OFFICER:</b>	Natalie Bird – Finance Manager
<b>FILE NO:</b>	N/A
<b>ASSESSMENT NO:</b>	N/A

### **PURPOSE**

In accordance with the *Local Government (Financial Management) Regulations 1996*, to follow is the presentation of the Monthly Financial Reports to Council.

### **BACKGROUND**

Monthly Financial Reports are to be presented to Council and are to be received by Council resolution.

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995* – Section 6.4

*Local Government (Financial Management) Regulations 1996* – Clause 34 and 35

### **POLICY IMPLICATIONS**

No specific policy regarding this matter.

### **FINANCIAL IMPLICATIONS**

Ongoing management of Council funds

### **STRATEGIC IMPLICATIONS**

4.1.4 Provide reporting processes in transparent, accountable and timely manner.

### **ATTACHMENTS**

Monthly Financial Report to 31 January 2021

### **VOTING REQUIREMENT**

Simple Majority

### **RECOMMENDATION**

**That the Monthly Financial Report to 31 January 2021 be received by Council.**

### **323. RESOLUTION**

Moved Cr Sheen, seconded Cr Chester

That the Monthly Financial Report to 31 January 2021 be received by Council.

CARRIED 6/0  
By simple majority



### 9.3 FINANCIAL REPORT FOR FEBRUARY 2021

<b>DATE:</b>	12 March 2021
<b>SUBJECT:</b>	February Monthly Financial Report
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	Whole of the Shire
<b>AUTHOR:</b>	Natalie Bird – Finance Manager
<b>REPORTING OFFICER:</b>	Natalie Bird – Finance Manager
<b>FILE NO:</b>	N/A
<b>ASSESSMENT NO:</b>	N/A

#### **PURPOSE**

In accordance with the *Local Government (Financial Management) Regulations 1996*, to follow is the presentation of the Monthly Financial Reports to Council.

#### **BACKGROUND**

Monthly Financial Reports are to be presented to Council and are to be received by Council resolution.

#### **STATUTORY IMPLICATIONS**

*Local Government Act 1995* – Section 6.4

*Local Government (Financial Management) Regulations 1996* – Clause 34 and 35

#### **POLICY IMPLICATIONS**

No specific policy regarding this matter.

#### **FINANCIAL IMPLICATIONS**

Ongoing management of Council funds

#### **STRATEGIC IMPLICATIONS**

4.1.4 Provide reporting processes in transparent, accountable and timely manner.

#### **ATTACHMENTS**

Monthly Financial Report to 28 February 2021

#### **VOTING REQUIREMENT**

Simple Majority

#### **RECOMMENDATION**

**That the Monthly Financial Report to 28 February 2021 be received by Council.**

#### **324. RESOLUTION**

Moved Cr Sheen, seconded Cr Chester

That the Monthly Financial Report to 28 February 2021 be received by Council.

CARRIED 6/0  
By simple majority





#### 9.4 CEO RECRUITMENT, PERFORMANCE AND EARLY TERMINATION STANDARDS

<b>DATE:</b>	16 February 2021
<b>PROPONENT:</b>	Shire of Goomalling
<b>LOCATION:</b>	Shire of Goomalling
<b>SUBJECT:</b>	CEO Employment Standards
<b>AUTHOR:</b>	Peter Bentley – Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Bentley – Chief Executive Officer
<b>FILE NO:</b>	
<b>ASSESSMENT NO:</b>	

The Author declares both an Impartiality and Financial Interest that requires disclosure as the officer is potentially impacted by adoption or variation of the standards.

#### PURPOSE

The State government has enacted new legislation requiring all local governments to adopt mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government Chief Executive Officers.

The Local Government (Administration) Amendment Regulations 2021 (CEO Standards Regulations) bring into effect section 22 of the Amendment Act.

The Model CEO Standards provide a framework for local governments to select a CEO, review their performance and terminate their contract of employment early, in accordance with the principles of merit, probity, fairness, equity and transparency.

#### BACKGROUND

The following regulations took effect on 3 February 2021, implementing the remaining parts of the *Local Government Legislation Amendment Act 2019*:

- *Local Government (Administration) Amendment Regulations 2021*;
- *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021*; and
- *Local Government (Model Code of Conduct) Regulations 2021*.

Key features of the regulations relating to recruitment, selection, performance review and early termination of local government Chief Executive Officers include the requirements to:

- establish a selection panel comprised of council members and at least one independent person to conduct the recruitment and selection process for the position of CEO;
- establish a performance review process by agreement between the local government and the CEO; and
- conduct a recruitment and selection process where an incumbent CEO has held the position for a period of ten or more consecutive years on expiry of the CEO's contract.

In addition, requirements for advertising vacant CEO positions have been updated to align with amendments to state-wide public notice provisions.



Local governments will be required to prepare and adopt the Model Standards within three months of these regulations coming into effect (by 3 May 2021). Until such time as a local government adopts the Model Standards (with or without minor permitted variations), the regulations apply.

Local governments that have a CEO recruitment process currently underway, or are about to commence a CEO recruitment process, are encouraged to contact the department to discuss compliance with the new Standards.

### **STATUTORY IMPLICATIONS**

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- *Local Government Act 1995, Section 5.39B;*
- *Local Government (Administration) Amendment Regulations 2021; and*
- *Local Government (Administration) Regulations 1996.*

5.39B, States:

“Adoption of model standards

- (1) In this section —  
**model standards** means the model standards prescribed under section 5.39A(1).
- (2) Within 3 months after the day on which regulations prescribing the model standards come into operation, a local government must prepare and adopt\* standards to be observed by the local government that incorporate the model standards.  
**\*Absolute majority required.**
- (3) Within 3 months after the day on which regulations amending the model standards come into operation, the local government must amend\* the adopted standards to incorporate the amendments made to the model standards.  
**\* Absolute majority required.**
- (4) A local government may include in the adopted standards provisions that are in addition to the model standards, but any additional provisions are of no effect to the extent that they are inconsistent with the model standards.
- (5) The model standards are taken to be a local government’s adopted standards until the local government adopts standards under this section.



- (6) The CEO must publish an up-to-date version of the adopted standards on the local government's official website.
- (7) Regulations may provide for —
- (a) the monitoring of compliance with adopted standards; and
  - (b) the way in which contraventions of adopted standards are to be dealt with

### **POLICY IMPLICATIONS**

#### ***Policy – CEO Review (Currently under review)***

*Title: 1.13 CEO Performance and Salary Review*

*Previous No:*

*File No:*

*Statutory Environment: Local Government Act 1995 – s. 5.38*

*Minute No: 8.1.4 032017.OM*

*Last Updated: March 2017 Review Date: September 2019*

*Objective: To detail the procedure and timing of the CEO's performance review.*

*Policy: The CEO performance and salary package review shall be conducted annually in June prior to the budget meeting in accordance with section 5.38 of the Local Government Act 1995.*

*The Shire President and Councillors shall have the power to amend the CEO's salary package.*

*Procedure: This shall be conducted by the Shire President and Councillors.*

*Relevant information should be provided to all parties in their preferred format.*

Council has incorporated Performance Review clauses into the current CEO's contract and these are generally consistent with the standards. There are also termination provisions within the contracts (clauses 11.1 to 11.4 in particular in the latest version) which are generally compliant with the new standards however there is no provision for advice of termination and reasons for termination contained within the contracts.

Council will need to adhere to the new standards where termination by the Council will require notice in writing as to the reasons for termination and that it is terminating the CEO's contract. The other conditions regarding termination within the contracts continue to apply and are compliant with the standards.



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**EXTRACT FROM CONTRACT**

**11. TERMINATION**

**11.1 Automatic termination at end of Term**

Unless the Term is extended or terminated earlier in accordance with this Contract, Your employment must conclude on the Expiry Date, without the requirement for either party to give notice.

**11.2 Termination by the Local Government at will**

(1) This clause does not apply to a termination of Your employment under clause 11.3.

(2) The Council may terminate Your employment at any time for any reason.

(3) If the Council terminates Your employment under this clause, the Local Government must pay to You the lesser of –

- (a) an amount equal to six months of the annual Remuneration Package; or
- (b) the balance of the Remuneration Package payable for the Term if under six months.

(4) If the Council terminates Your employment under this clause as a result (wholly or partially) of an order made under section 2.1 of the Act, the Local Government must pay to You the lesser of –

- (a) an amount equal to twelve months of the annual Remuneration Package;
- or
- (b) the balance of the Remuneration Package payable for the Term.

(5) A payment under this clause –

- (a) includes any and all other entitlements You may have in respect of termination of employment; and
- (b) does not include payment for leave accrued but not taken at the date of termination.

**11.3 Termination by the Local Government – Your default**

(1) Summary termination

The Council may summarily terminate Your employment at any time by notice in writing if You –

- (a) are guilty of any serious misconduct or wilful neglect in the performance of the Functions;
- (b) wilfully disobey any lawful direction by the Council;



- (c) commit a serious breach of any of the provisions of this Contract;
- (d) are convicted of a serious offence, or have been convicted of a 'serious local government offence' within the meaning of that term in section 2.22 of the Act; or
- (e) do anything else which would lawfully enable the Local Government to terminate Your employment without notice.

(2) Termination with notice

The Council may terminate Your employment at any time by giving You 4 weeks' notice in writing, or payment in lieu of notice, if –

- (a) You commit a persistent breach of any of the provisions of this Contract and again breach the provision after being given notice of the breach by the Council;
- (b) You become incapacitated by injury or illness from performing in full the Functions for an aggregate period of more than 90 days in any period of 12 consecutive months (but that period is not to include any accumulated paid leave taken);
- (c) the Guardianship and Administration Board makes a guardianship order in relation to You under section 43 or section 64 of the Guardianship and Administration Act 1990; or
- (d) You fail to substantially measure up to and achieve the Performance Criteria and continue to do so for a period of 4 weeks after the Council gives You written notice of that failure and of the course of action which the Council wishes You to follow in order to address and correct that failure.

**11.4 Termination by You at will**

- (1) You may, for any reason, terminate Your employment on a date specified by You at any time by giving 3 months' notice in writing to the President.
- (2) The period of notice may be varied by mutual agreement between the Council and You.

**FINANCIAL IMPLICATIONS**

The adoption of the model standard – which is required by law, with only minor variations permitted, and only to the extent that it is not inconsistent, will in all probability, add to the cost of recruitment of a Chief Executive Officer. This by virtue of the additional administrative requirements of a consultant, if a consultant is utilised, as well as the need for an external person (in addition to the consultant) to be on the recruitment panel – which may require remuneration. Typically, prior to these legislative changes, the recruitment of a Chief Executive Officer, for a band 4 local government, and utilising a consultant (who must be licensed) costs anywhere from \$7,000 to \$10,000, plus advertising.



It is not known what additional cost might be incurred with the adoption of the 'minimum' standard, however it conceivably will certainly add administrative time, due to the additional legislated components and recording requirements.

One might argue that 'gone are the days' that a local government can recruit, or certainly terminate, a Chief Executive Officer without a consultant, with these new regulatory measures. It will almost certainly add time, as any variations (no matter how seemingly insignificant or minor) to the proposed contract to be offered, have to be previously permitted / agreed by resolution of the Council.

### **STRATEGIC IMPLICATIONS**

The Community Strategic Plan does not deal with this matter specifically.

### **COMMENT**

The Department of Local Government, Sport and Cultural Industries (DLGSC) has produced Guidelines on the Standards. If the local government doesn't adopt the model standards, they are taken to be the Shire's Standards regardless.

The Chief Executive Officer is of the opinion that the standards are satisfactory to be adopted without modification, however the Council is at liberty to adjust them, as long as they are not inconsistent with the default standards in the regulations.

There is a requirement to adopt a set of Standards by the 3 May 2021.

The current Chief Executive Officer's contracts with Council expire on 11th September 2024 and on this new legislative change, is renewable should Council choose to do so for up to one 5-year term or two shorter terms, if both parties are agreeable, before the Council is legally bound to advertise the position in accordance with the adopted standards of the day.

In the opinion of the author, the current process for review of the current Chief Executive Officer's performance is consistent with the model requirements.

In the opinion of the author, the proposed process for early termination of a Chief Executive Officer's contract of employment appears fair and reasonable although there is a small inconsistency with the standard. In this case the standard will apply.

It would appear that the requirements for reasons and advice of termination are an attempt to reduce the number of terminations which are undertaken by councils without good reason. While some early terminations are certainly justified, there have been a number in recent years that have seemed to defy logic.

### **ATTACHMENTS**

Copies proposed Standards.



**VOTING REQUIREMENT**

Absolute Majority

**RECOMMENDATION**

**That the Council:**

**With respect to the new mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government Chief Executive Officers;**

- 1. Adopt the new Model Standards for Chief Executive Officer Recruitment, Performance and Termination as Attached;**
- 2. Direct the Chief Executive Officer to ensure that the adopted Standards are published on the Shire's official website, as soon as practical.**

**325. RESOLUTION**

Moved Cr Barratt, seconded Cr Wilkes

That the Council:

With respect to the new mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government Chief Executive Officers;

1. Adopt the new Model Standards for Chief Executive Officer Recruitment, Performance and Termination as Attached;
2. Direct the Chief Executive Officer to ensure that the adopted Standards are published on the Shire's official website, as soon as practical.

CARRIED 6/0  
By Absolute majority



**9.5 COUNCILLOR AND CANDIDATE CODE OF CONDUCT**

<b>DATE:</b>	16 February 2021
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	Shire of Goomalling
<b>SUBJECT:</b>	Councillor Code of Conduct
<b>AUTHOR:</b>	Peter Bentley – Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Bentley – Chief Executive Officer
<b>FILE NO:</b>	
<b>ASSESSMENT NO:</b>	

**PURPOSE**

The Local Government (Model Code of Conduct) Regulations 2021 (Model Code Regulations) bring into effect sections 48-51 of the Amendment Act by introducing a mandatory code of conduct for council members, committee members and candidates.

The Model Code Regulations provide for:

- overarching principles to guide behaviour
- behaviours which are managed by local governments
- rules of conduct breaches which are considered by the Standards Panel.

The purpose of the Model Code is to guide decisions, actions and behaviours. It also recognises that there is a need for a separate code for council members, committee members and candidates to clearly reflect community expectations of behaviour and ensure consistency between local governments.

**BACKGROUND**

Each local government was previously required to develop their own code of conduct and manage behaviour in accordance with that code. These regulations replace these individual codes by introducing a Model Code that applies to all members and candidates. It also provides for a high-level process to deal with complaints to ensure a more consistent approach between local governments and across the sector. The intent of the Model Code is to address behaviour through education rather than sanctions.

If a council member does not comply with any action required by the local government following a breach of the Model Code, the local government may refer the matter to the Standards Panel as an alleged contravention of a rule of conduct. The Standards Panel has the authority to make binding decisions to resolve minor breaches.

Local governments will be required to prepare and adopt the Model Code within three months of these regulations coming into effect (by 3 May 2021). In adopting the Model Code, local governments can include additional behaviours under Division 3 provided these are consistent with the Model Code.





Until such time as a local government adopts the Code, the Model Code applies. To begin implementation of the Model Code, as soon as practical (by 24 February 2021), local governments must:

- appoint a person to receive complaints by either affirming the current complaint officers or appoint a new or additional officer(s), and
- approve a form for complaints to be lodged (a template is available for download below).

If action is not taken to affirm or appoint a complaints officer (by 24 February 2021) under the provisions of the regulations, a complaint made on or soon after the date of effect (3 February 2021) may lapse before it can be formally lodged. This would be considered inconsistent with the principles of procedural fairness and community expectations of local government.

### **STATUTORY IMPLICATIONS**

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- *Local Government Act 1995*
- *Local Government (Administration) Amendment Regulations 2021*
- *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021*
- *Local Government (Model Code of Conduct) Regulations 2021.*

### **POLICY IMPLICATIONS**

The Council's existing Code of Conduct must be repealed, as the Act and Regulations now stipulates there are to be at least two separate Codes, one for Council Members, Committee Members and Candidates, and another for local government employees.

### **FINANCIAL IMPLICATIONS**

There are no known meaningful financial implications relative to this matter in excess of officer time and minor administrative cost.

### **STRATEGIC IMPLICATIONS**

The Community Strategic Plan does not deal with this matter specifically.

### **COMMENT**

The Department of Local Government, Sport and Cultural Industries (DLGSC) has produced Guidelines on the Model Code of Conduct for Council Members, Committee Members and Candidates, which is an attachment to this item. It is expected that a Model Code will be developed in coming months to meet the three (3) month deadline and its adoption will be the subject of a separate consideration / approval by Council.

In the interim, the Model Code of Conduct has been recommended and appears to be satisfactory. The Chief Executive Officer has proposed replacing the word 'work' in clause 5 of



the Model, with 'working' due to Elected Members and Committee Member not considered to be 'workers' or at 'work' from an employer / employee perspective.

The guidelines indicate that local governments must authorise at least one person to receive complaints regarding members and candidates. The Regulations state that the Local Government must, in writing, authorise one or more persons to receive complaints and withdrawals of complaints, but they do not specify who that person(s) will be. The Complaints Officer could be:

- President,
- Deputy President (especially for complaints about the President),
- Chief Executive Officer, or
- External Consultant

The DLGSC has also produced a template complaints form as the Regulations state that complaints are to be made in writing in a form approved by the Local Government. The DLGSC template form is also attached to this item.

There is a requirement to appoint a Complaints Officer by the 24 February 2021, however the CEO has obtained authority from the Department to do so at the March Ordinary meeting.

For clarity, it is noted that there is still a requirement for a local government to have a Complaints Officer (section 5.120 of the *Local Government Act 1995*), to process allegations of 'Rules of Conduct' breaches, and these alleged breaches are still to be referred to the Local Government Standards Panel (refer Division 4 of the Model Code of Conduct). The position of Deputy CEO is currently designated by the Chief Executive Officer, as that officer.

In time, with the development of templates by industry or the Western Australian Local Government Association (WALGA), Local Governments can determine the most appropriate and effective process for dealing with complaints under Section 2 of the Code of Conduct and how they are prioritised and managed. Having such processes at the moment is not required by the law and nor considered critical.

#### **ATTACHMENTS**

Councillor Code of Conduct

#### **VOTING REQUIREMENT**

Absolute Majority



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## **RECOMMENDATION**

That the Council:

1. Repeal the existing Code of Conduct for Council Members, Committee Members and Employees;
2. Note that pursuant to section 5.51A of the *Local Government Act 1995*, the Chief Executive Officer will prepare an interim Code of Conduct for all employees of the Shire, including the Chief Executive Officer, based on the repealed version, prior to any model being available from WALGA.
3. Pursuant to section 5.104 of the *Local Government Act 1995*, adopt the new Code of Conduct for Council Members, Committee Members and Candidates for local government elections for Goomalling, and request the Chief Executive Officer to ensure all Elected Members and Committee Members are aware of its content;
4. Pursuant to the *Local Government (Model Code of Conduct) Regulations 2021*;
  - a. Clause 11 (2), adopt the form attached for lodging complaints;
  - b. Clause 11 (3), authorise the following persons to receive Section 2 complaints and withdrawals of same, relating to about Council Members, Committee Members and Candidates:
    - i. Complaints about Council Members or candidates for elections that become Council Members, excluding those made by the Shire President – the Shire President;
    - ii. Complaints made by the Shire President excluding those made by the Deputy Shire President – the Deputy Shire President;
    - iii. Complaints about the Shire President – the Deputy Shire President; and
    - iv. Complaints about the Deputy Shire President made by the Shire President – a committee comprising the remaining Council Members.
5. Pursuant to sections 5.551A (3) and 5.104 (7) of the *Local Government Act 1995*, request the Chief Executive Officer to ensure that both of the updated / adopted Codes of Conduct are published on the Shire's official website, as soon as practical.



**326. RESOLUTION**

Moved Cr Barratt, seconded Cr Wilkes  
That the Council:

1. Repeal the existing Code of Conduct for Council Members, Committee Members and Employees;
2. Note that pursuant to section 5.51A of the *Local Government Act 1995*, the Chief Executive Officer will prepare an interim Code of Conduct for all employees of the Shire, including the Chief Executive Officer, based on the repealed version, prior to any model being available from WALGA.
3. Pursuant to section 5.104 of the *Local Government Act 1995*, adopt the new Code of Conduct for Council Members, Committee Members and Candidates for local government elections for Goomalling, and request the Chief Executive Officer to ensure all Elected Members and Committee Members are aware of its content;
4. Pursuant to the *Local Government (Model Code of Conduct) Regulations 2021*;
  - a. Clause 11 (2), adopt the form attached for lodging complaints;
  - b. Clause 11 (3), authorise the following persons to receive Section 2 complaints and withdrawals of same, relating to about Council Members, Committee Members and Candidates:
    - i. Complaints about Council Members or candidates for elections that become Council Members, excluding those made by the Shire President – the Shire President;
    - ii. Complaints made by the Shire President excluding those made by the Deputy Shire President – the Deputy Shire President;
    - iii. Complaints about the Shire President – the Deputy Shire President; and
    - iv. Complaints about the Deputy Shire President made by the Shire President – a committee comprising the remaining Council Members.
5. Pursuant to sections 5.551A (3) and 5.104 (7) of the *Local Government Act 1995*, request the Chief Executive Officer to ensure that both of the updated / adopted Codes of Conduct are published on the Shire's official website, as soon as practical.

CARRIED 6/0  
By absolute majority



## 9.6 EMPLOYEE CODE OF CONDUCT

<b>DATE:</b>	16 February 2021
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	Shire of Goomalling
<b>SUBJECT:</b>	Employee Code of Conduct
<b>AUTHOR:</b>	Peter Bentley – Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Bentley – Chief Executive Officer
<b>FILE NO:</b>	
<b>ASSESSMENT NO:</b>	

### **PURPOSE**

The *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021* (Employee Code Regulations) bring into effect section 25 of the Amendment Act by prescribing the minimum requirements for an employee code of conduct.

A local government CEO is to prepare and implement a code of conduct to be observed by employees of the local government. The CEO may amend the code of conduct and is required to publish an up-to-date version of the code on the local government's website.

The Employee Code Regulations prescribe the minimum requirements in relation to gifts, conflicts of interest and disclosure. In addition, the regulations provide that an employee code of conduct must contain requirements pertaining to:

- behaviour
- disclosure of information
- the use of information and resources
- records keeping and dealing with misconduct.

These requirements are based on the Public Sector Commission's (PSC) key integrity risks for public sector employees. Local governments must prepare and adopt a code of conduct in accordance with these regulations as soon as practicable.

### **BACKGROUND**

Each local government was previously required to develop their own code of conduct and manage behaviour in accordance with that code. These regulations replace these individual codes by introducing a Model Code that applies to all employees.

### **STATUTORY IMPLICATIONS**

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- *Local Government Act 1995*
- *Local Government (Administration) Amendment Regulations 2021*
- *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021*
- *Local Government (Model Code of Conduct) Regulations 2021.*



### **POLICY IMPLICATIONS**

The Council's existing Code of Conduct, has been repealed within the previous item, as the Act and Regulations now stipulates there are to be at least two separate Codes, one for Council Members, Committee Members and Candidates, and another for local government employees.

### **FINANCIAL IMPLICATIONS**

There are no known meaningful financial implications relative to this matter in excess of officer time and minor administrative cost.

### **STRATEGIC IMPLICATIONS**

The Community Strategic Plan does not deal with this matter specifically.

### **COMMENT**

The code has been developed from the original document and adding in any components now required through the recent legislative changes.

### **ATTACHMENTS**

Employee Code of Conduct

### **VOTING REQUIREMENT**

Absolute Majority

### **RECOMMENDATION**

That the Council:

**Pursuant to section 5.51A of *the Local Government Act 1995*, adopt the interim Employee Code of Conduct as attached Code of Conduct for all employees of the Shire of Goomalling, including the Chief Executive Officer.**

<b>327. RESOLUTION</b>
------------------------

Moved Cr Sheen, seconded Cr Barratt

That the Council:

Pursuant to section 5.51A of *the Local Government Act 1995*, adopt the interim Employee Code of Conduct as attached Code of Conduct for all employees of the Shire of Goomalling, including the Chief Executive Officer

CARRIED 6/0  
By Absolute Majority



## 9.7 2020 COMPLIANCE AUDIT RETURN

<b>DATE:</b>	17 February 2021
<b>SUBJECT:</b>	Annual Compliance Audit Return
<b>PROPONENT:</b>	Shire of Goomalling
<b>LOCATION:</b>	N/A
<b>AUTHOR:</b>	Peter Bentley – Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Bentley – Chief Executive Officer
<b>FILE NO:</b>	102-1
<b>ASSESSMENT NO:</b>	N/A

### **PURPOSE**

To adopt Council's 2020 Compliance Audit Return (CAR) in accordance with the *Local Government Act 1995*.

### **BACKGROUND**

Each Western Australian local government is required to carry out a compliance audit for the period **1 January to 31 December** against the requirements of the compliance audit return. The CAR has been prepared by EA, DCEO and the CEO, and reviewed by CEO. After the compliance audit return is accepted by Council, a certified copy of the return, along with the relevant section of the minutes and any additional information explaining or qualifying the compliance audit, is to be submitted to the Director General of the Department of Local Government and Communities by **31 March**.

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

### **POLICY IMPLICATIONS**

No policy regarding this matter.

### **FINANCIAL IMPLICATIONS**

Nil

### **STRATEGIC IMPLICATIONS**

4.2.2 Promote a culture of continuous improvement processes and resource sharing.

### **COMMENT**

### **ATTACHMENTS**

2020 Compliance Audit Return

### **VOTING REQUIREMENT**

Absolute Majority



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**RECOMMENDATION**

**That the Council;**

**Adopt the presented Compliance Return as the Official Compliance Return for 2020 with the following certifications: -**

- **The information contained in this Return is true and correct to the best of our knowledge.**
- **This Return was included in the agenda papers and considered by Council at the Ordinary Meeting of Council held on 17 March 2021.**
- **Each Councillor has had the opportunity to review the Return and to make comment to the Council.**
- **The extract of the minutes attached to the Return is a true and correct copy of the relevant section(s) of the above-mentioned minutes.**
- **The Council adopted the Compliance Audit Return as the official Return of Council for the period 1 January 2020 to 31 December 2020.**
- **Council reviewed the 2020 Compliance Audit Return noting amendments as detailed and recorded its satisfaction to the answers in the return.**

<b>328. RESOLUTION</b>
------------------------

Moved Cr Barratt, seconded Cr Butt

**That the Council;**

**Adopt the presented Compliance Return as the Official Compliance Return for 2020 with the following certifications: -**

- **The information contained in this Return is true and correct to the best of our knowledge.**
- **This Return was included in the agenda papers and considered by Council at the Ordinary Meeting of Council held on 17 March 2021.**
- **Each Councillor has had the opportunity to review the Return and to make comment to the Council.**
- **The extract of the minutes attached to the Return is a true and correct copy of the relevant section(s) of the above-mentioned minutes.**
- **The Council adopted the Compliance Audit Return as the official Return of Council for the period 1 January 2020 to 31 December 2020.**
- **Council reviewed the 2020 Compliance Audit Return noting amendments as detailed and recorded its satisfaction to the answers in the return.**

**CARRIED 6/0**  
**By Absolute Majority**





## 9.8 ATTENDANCE AT EVENTS POLICY

<b>DATE:</b>	16 February 2021
<b>PROONENT:</b>	N/A
<b>LOCATION:</b>	Shire of Goomalling
<b>SUBJECT:</b>	Attendance at Events Policy
<b>AUTHOR:</b>	Peter Bentley – Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Bentley – Chief Executive Officer
<b>FILE NO:</b>	
<b>ASSESSMENT NO:</b>	

### **PURPOSE**

Council to adopt a policy on the attendance at events both local, intrastate and interstate.

### **BACKGROUND**

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995,*  
including: § 5.90A - Policy for attendance at events

### **POLICY IMPLICATIONS**

The Council's existing has not had a specific attendance at events policy.

### **FINANCIAL IMPLICATIONS**

There are no known meaningful financial implications relative to this matter in excess of officer time and minor administrative cost.

### **STRATEGIC IMPLICATIONS**

The Community Strategic Plan does not deal with this matter specifically.

### **COMMENT**

There is a requirement to have this policy in place as per S5.90A of the Act. This item is part of the State Government Act review process.

### **ATTACHMENTS**

Draft Policy for adoption

### **VOTING REQUIREMENT**

Simple Majority

### **RECOMMENDATION**

That the Council:

**Adopt the attached attendance at Events Policy as presented**



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**329. RESOLUTION**

Moved Cr Butt, seconded Cr Wilkes

That the Council:

Adopt the attached attendance at Events Policy as presented

CARRIED 6/0  
By simple majority



**10. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**11. NEW BUSINESS OF AN URGENT NATURE AGREED TO BY RESOLUTION OF COUNCIL**

Moved Cr Barratt, seconded Cr Chester

That Council agree for the late items to be dealt with.

CARRIED 6/0  
By simple majority

**11.1 APPLICATION OF COMMON SEAL - GRANT RIGHT OF BURIAL No. 128**

<b>DATE:</b>	15 March 2021
<b>SUBJECT:</b>	Grant Right of Burial No. 128
<b>PROPONENT:</b>	Lynette Windie
<b>LOCATION:</b>	Goomalling Cemetery
<b>AUTHOR:</b>	Peter Bentley – Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Bentley – Chief Executive Officer
<b>FILE NO:</b>	
<b>ASSESSMENT NO:</b>	N/A

**PURPOSE**

To endorse affixation of the Shire of Goomalling Common Seal to the Schedule “B” Form of Grant of Right of Burial No. 128 for Ms Lynette Windie to validate the grant.

**BACKGROUND**

Application was received from Lynette Windie for the Grant of Right of Burial for Grave No. 128 in the Roman Catholic Section of the Goomalling Cemetery. The applicable fee of \$230 for a single site, was received on 19 February 2021, receipt number 82933.

The Common Seal is to be affixed to validate the Grant No 128 for Ms Lynette Windie.

**STATUTORY IMPLICATIONS**

*Cemeteries Act 1986*

**POLICY IMPLICATIONS**

There is no specific policy relating to this matter.

**FINANCIAL IMPLICATIONS**

There is no specific financial implication relating to this matter

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**STRATEGIC IMPLICATIONS**

This matter is not directly dealt with within the Community Strategic Plan.



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**ATTACHMENTS**

Nil

**OFFICER COMMENT**

Nil

**VOTING REQUIREMENT**

Simple Majority

<b>330. RESOLUTION</b>
------------------------

Moved Cr Barratt, seconded Cr Chester

That Council:

endorse the affixing of the Common Seal to the Schedule "B" Goomalling Public Cemetery Form of Grant of Right of Burial, Grant No. 128 for Ms Lynette Windie.

CARRIED 6/0  
By simple majority



## 11.2 APPOINTMENT OF ACTING CEO POLICY

<b>DATE:</b>	16 February 2021
<b>PROPONENT:</b>	Shire of Goomalling
<b>LOCATION:</b>	Shire of Goomalling
<b>SUBJECT:</b>	Appointment of Acting CEO
<b>AUTHOR:</b>	Peter Bentley – Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Bentley – Chief Executive Officer
<b>FILE NO:</b>	
<b>ASSESSMENT NO:</b>	

### **PURPOSE**

The government has enacted new legislation requiring all local governments to adopt a policy that covers the process to be followed by the local government in relation to the following:

- a) the employment of a person in the position of CEO for a term not exceeding 1 year;
- b) the appointment of an employee to act in the position of CEO for a term not exceeding 1 year.

The Local Government (Administration) Amendment Regulations 2021 (CEO Standards Regulations) bring into effect section 5.39C of the Local Government Act 1995.

### **BACKGROUND**

The following regulations took effect on 3 February 2021, implementing the remaining parts of the Local Government Legislation Amendment Act 2019:

- Local Government (Administration) Amendment Regulations 2021;
- Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021; and
- Local Government (Model Code of Conduct) Regulations 2021.

### **STATUTORY IMPLICATIONS**

***Sections of the Acts, Regulations and/or Local Laws that apply to this item include:***

- *Local Government Act 1995, Section 5.39C and 5.36 (2); and*
- *Local Government (Administration) Amendment Regulations 2021.*

***Section 5.39C states: “5.39C. Policy for temporary employment or appointment of CEO***

- (1) A local government must prepare and adopt\* a policy that sets out the process to be followed by the local government in relation to the following —*
- (a) the employment of a person in the position of CEO for a term not exceeding 1 year;*
  - (b) the appointment of an employee to act in the position of CEO for a term not exceeding 1 year. \* Absolute majority required.*



- (2) *A local government may amend\* the policy. \* Absolute majority required.*
- (3) *When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.*
- (4) *The CEO must publish an up-to-date version of the policy on the local government's official website".*

No regulations have been promulgated to give guidance on this matter at the current time, and the CEO is not aware of any being proposed. Further, it has been long held that section 5.36(2) also relates to the position of Acting Chief Executive Officers. This section states:

- "A person is not to be employed in the position of CEO unless the council —
- (a) believes that the person is suitably qualified for the position; and
  - (b) is satisfied\* with the provisions of the proposed employment contract".

Resources and further reading for local governments include:

- Government Gazette 2 February 2021

### **POLICY IMPLICATIONS**

Local governments are required to adopt such a policy within a reasonable, but expeditious period of time.

WALGA has advised that it is developing a model policy, however as it is prudent for this Council to have an accepted process in place as soon as possible. The Chief Executive Officer is of the opinion that the current delegation process would suffice, from an immediate compliance perspective, where the Deputy CEO is empowered as the CEO during short absences of the CEO for up to three months. The Policy will now stipulate a four week, or 20 business day timeframe. Any periods beyond this timeframe should be referred to the Council for determination

The WALGA model can then be reviewed once it becomes available.

In its guidance on the subject, the Department of Local Government, Sport and Cultural Industries (DLGSC) notes:

"Where the role of CEO is not fulfilled for a significant period, this leads to increased risk to the operations and governance of the local government. Therefore, local governments are required to develop and implement a policy that outlines the arrangements to temporarily replace a CEO for any period less than twelve months, for example, when a CEO is on planned or unplanned leave. The policy must include the decision-maker(s) for appointing an acting CEO.

As an example, the policy may include employee position titles, specifying that the Council considers a person holding these positions to be suitably qualified and experienced for the position of CEO. In addition, the policy should also include a methodology for the CEO to appoint an Acting CEO from the listed positions for a period



of absence of up to four weeks; however any decision regarding the appointment of an Acting CEO for any period exceeding four weeks must be made by the council.

The policy must be made available on the local government's official website".

#### **FINANCIAL IMPLICATIONS**

As the proposed policy is similar to the current practice / delegation, there are no financial implications (different to the current practice / process).

#### **STRATEGIC IMPLICATIONS**

The Community Strategic Plan does not deal with this matter specifically.

#### **COMMENT**

The DLGSC has not produced any regulations that stipulate the form or content of the required policy.

There is an expectation that the Council should adopt such a policy within a reasonable timeframe (no set date has been enshrined in legislation).

#### **ATTACHMENTS**

Copy of the proposed Policy.

#### **VOTING REQUIREMENT**

Simple Majority

#### **RECOMMENDATION**

**That the Council:**

**with respect to the new mandatory policy that covers the appointment of local government Chief Executive Officers on terms less than one year (including those in an Acting capacity):**

- 1. Pursuant to section 5.39C (1) of the Local Government Act 1995, adopt the Policy for Appointing an Acting Chief Executive Officer as follows:**

**For the purposes of Section 5.36 (2) of the Local Government Act 1995, the Council has determined that the employee who is currently appointed as Deputy CEO is suitably qualified to be appointed as Acting CEO by the incumbent CEO from time to time when the CEO is on periods of leave, subject to the following conditions;**

- a. The CEO is not an interim CEO or Acting in the position;**
- b. The term of appointment is no longer than 20 working days consecutive;**
- c. That the employee's employment conditions are not varied other than the employee is entitled, at the CEO's discretion, no**



**greater than the salary equivalent to that of the CEO during the Acting period.**

- d. In the case of the unavailability of the CEO due to an emergency, the Deputy CEO is automatically appointed as the Acting CEO, on that Officer's salary, for up to 2 weeks from commencement, and continuation is then subject to determination by the Council.**

**All other interim, Acting or CEO appointments to be referred to Council.**

- 2. Repeal Delegation DE5 Appointment of Acting CEO as it is replaced by the above Policy.**
- 3. Pursuant to section 5.39C (4) of the Local Government Act 1995, request the Chief Executive Officer to ensure that the adopted Policy is published on the Shire's official website, as soon as practical.**

<b>331. RESOLUTION</b>
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Moved Cr Sheen , seconded Cr Butt

That Council:

with respect to the new mandatory policy that covers the appointment of local government Chief Executive Officers on terms less than one year (including those in an Acting capacity):

- 4. Pursuant to section 5.39C (1) of the Local Government Act 1995, adopt the Policy for Appointing an Acting Chief Executive Officer as follows:**

For the purposes of Section 5.36 (2) of the Local Government Act 1995, the Council has determined that the employee who is currently appointed as Deputy CEO is suitably qualified to be appointed as Acting CEO by the incumbent CEO from time to time when the CEO is on periods of leave, subject to the following conditions;

- b. The CEO is not an interim CEO or Acting in the position;**
- b. The term of appointment is no longer than 20 working days consecutive;**
- c. That the employee's employment conditions are not varied other than the employee is entitled, at the CEO's discretion, no greater than the salary equivalent to that of the CEO during the Acting period.**





- d. In the case of the unavailability of the CEO due to an emergency, the Deputy CEO is automatically appointed as the Acting CEO, on that Officer's salary, for up to 2 weeks from commencement, and continuation is then subject to determination by the Council.

All other interim, Acting or CEO appointments to be referred to Council.

5. Repeal Delegation DE5 Appointment of Acting CEO as it is replaced by the above Policy.
6. Pursuant to section 5.39C (4) of the Local Government Act 1995, request the Chief Executive Officer to ensure that the adopted Policy is published on the Shire's official website, as soon as practical.

CARRIED 6/0  
By simple majority



### 11.3 ADOPTION OF COMPLAINTS HANDLING POLICY/PROCEDURE

<b>DATE:</b>	16 February 2021
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	Shire of Goomalling
<b>SUBJECT:</b>	Complaints Handling Policy/Procedure
<b>AUTHOR:</b>	Peter Bentley – Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Bentley – Chief Executive Officer
<b>FILE NO:</b>	
<b>ASSESSMENT NO:</b>	

#### **PURPOSE**

The Local Government (Model Code of Conduct) Regulations 2021 (Model Code Regulations) bring into effect sections 48-51 of the Amendment Act by introducing a mandatory code of conduct for council members, committee members and candidates.

The Model Code Regulations provide for:

- overarching principles to guide behaviour
- behaviours which are managed by local governments
- rules of conduct breaches which are considered by the Standards Panel.

The purpose of the Model Code is to guide decisions, actions and behaviours. It also recognises that there is a need for a separate code for council members, committee members and candidates to clearly reflect community expectations of behaviour and ensure consistency between local governments.

#### **BACKGROUND**

Each local government was previously required to develop their own code of conduct and manage behaviour in accordance with that code. These regulations replace these individual codes by introducing a Model Code that applies to all members and candidates. It also provides for a high-level process to deal with complaints to ensure a more consistent approach between local governments and across the sector. The intent of the Model Code is to address behaviour through education rather than sanctions.

If a council member does not comply with any action required by the local government following a breach of the Model Code, the local government may refer the matter to the Standards Panel as an alleged contravention of a rule of conduct. The Standards Panel has the authority to make binding decisions to resolve minor breaches.

As part of the Code of Conduct process, the Council must have in place a complaints process and policy in place so that the Council and investigating officers have a basis for any investigation, a method for assessment and the opportunity for the council or an external investigating officer to assess evidence.

This policy/procedure is an attempt to provide such a framework in the absence of any other offerings from the Department or WALGA at this stage.



### **STATUTORY IMPLICATIONS**

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- *Local Government Act 1995*
- *Local Government (Administration) Amendment Regulations 2021*
- *Local Government (Model Code of Conduct) Regulations 2021.*

### **POLICY IMPLICATIONS**

Council has, at this meeting adopted a Code of Conduct for Members and this policy provides for the further investigative framework to enhance the Code.

### **FINANCIAL IMPLICATIONS**

There are no known meaningful financial implications relative to this matter as a policy, however as a process, there is likely to be costs associated with any investigations undertaken by external parties.

### **STRATEGIC IMPLICATIONS**

The Community Strategic Plan does not deal with this matter specifically.

### **COMMENT**

The Department of Local Government, Sport and Cultural Industries (DLGSC) has produced Guidelines on the Model Code of Conduct for Council Members, Committee Members and Candidates, which is an attachment to this agenda. It is expected that a Model Code will be developed in coming months to meet the three (3) month deadline and its adoption will be the subject of a separate consideration / approval by Council.

The DLGSC has also produced a template complaints form as the Regulations state that complaints are to be made in writing in a form approved by the Local Government. The DLGSC template form is also attached to this agenda.

Council has already appointed Complaints Officers and these officers and members will have a role to play should complaints be laid at any time. This Policy and procedure is the framework for any investigation and findings.

In time, with the development of templates by industry or the Western Australian Local Government Association (WALGA), Local Governments can determine the most appropriate and effective process for dealing with complaints under Section 2 of the Code of Conduct and how they are prioritised and managed. Having such processes at the moment is not required by the law and nor considered critical but it is an advisable procedure to have in place.

### **ATTACHMENTS**

Draft Policy

### **VOTING REQUIREMENT**

Absolute Majority

### **RECOMMENDATION**

**That the Council:**



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**Adopt the attached Complaints Handling policy and Process for Elected Members, Councillors, Committee members and candidates.**

**332. RESOLUTION**

Moved Cr Chester, seconded Cr Wilkes

That Council:

Adopt the attached Complaints Handling policy and Process for Elected Members, Councillors, Committee members and candidates.

CARRIED 6/0  
By Absolute majority

**11.4 CHILD SAFETY OFFICERS**

<b>DATE:</b>	16 February 2021
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	Shire of Goomalling
<b>SUBJECT:</b>	Employee Code of Conduct
<b>AUTHOR:</b>	Peter Bentley – Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Bentley – Chief Executive Officer
<b>FILE NO:</b>	
<b>ASSESSMENT NO:</b>	

**PURPOSE**

The Department of Local Government, Sport and Cultural Industries (DLGSC) on behalf of the Western Australian Government (State Government) is implementing reforms from the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission).

The Royal Commission was established to investigate systemic failures by institutions in relation to allegations and incidents of child sexual abuse. The Royal Commission found that across many decades, many of society's institutions failed to protect children.

In response to the Royal Commission, the State Government is:

- developing a system of independent oversight to improve child safety in organisations;
- developing a State policy position on the Royal Commission's recommendation 6.12 specifying that local governments should designate child safety officers from within existing staff profiles. The DLGSC is seeking the Council's response to that suggestion.

**BACKGROUND**

The Royal Commission's final report contained 409 recommendations directed towards the development of effective government regulation, improvement in institutional governance and increased community awareness of child sexual abuse in institutions.

The development of an independent oversight system comprises the following four areas: ☐ organisations to report certain types of misconduct by their employees (including contractors and volunteers) involving children (known as reportable conduct) to an independent oversight body; ☐ organisations engaged in child related work to comply with child safe standards (known as the National Principles for Child Safe Organisations) and their compliance be monitored by an independent oversight body;

- out-of-home care providers be accredited by an independent oversight body;
- youth detention environment to comply with the National Principles and their compliance be monitored by an independent oversight body.

Ombudsman WA has drafted the Parliamentary Commissioners Amendment (Reportable Conduct) Bill 2020

The Bill obliges heads of organisations, including local governments, to notify an independent body of misconduct involving children, known as reportable conduct, by their employees, volunteers and contractors. Consultation on the draft legislation closed 31 January 2021.



The Royal Commission recommended 10 child safe standards to improve child safe cultures and practices across all sectors providing services to children and young people. The standards have since been incorporated into the National Principles for Child Safe Organisations which were endorsed by the Council of Australian Governments in February 2019. The National Principles guide organisations to create child safe cultures and practices. The Department of the Premier and Cabinet (DPC) is leading community consultation about how the legal compliance with the National Principles should be implemented. Organisations undertaking child-related work, such as local governments, are encouraged to provide comment by completing an online survey before 26 February 2021.

Royal Commission Recommendation 6.12 states that local governments should designate child safety officer positions from within existing staff profiles. The Department of Communities and DLGSC have drafted a discussion paper for the WA Local Government sector to better understand and respond to this recommendation.

The State Government is seeking a formal response to the discussion paper, preferably through the relevant council, from local governments by 2 April 2021. Responses will inform the development of the State Government's policy position.

The State Government acknowledges that local governments will have differing levels of understanding of the Royal Commission and child safeguarding reforms. Further information relating to the Independent Oversight System including how to provide a response is available on [wa.gov.au](http://wa.gov.au).

### **STATUTORY IMPLICATIONS**

There are no current relevant statutory implications. The proposal includes new legislation that will mandate the role of anyone involved in provision of children's facilities or services to ensure that the relevant employee reports potential misconduct and the relevant organisation via its Principal Officer (or Chief Executive Officer) has appropriate mechanisms in place to encourage and receive reporting.

The requirement for every local government in Australia to mandate a Child Safety Officer, either as a new position dedicated to the role, or an existing employee with designated responsibility, is a suggested approach (by the Royal Commission and State Government) to meet the principles espoused by the Commonwealth via the Royal Commission.

Whilst hard to argue against the principle, there are two salient points – resources and funding to make it effective. Otherwise, in the opinion of the Administration, it is purely an example of cost shifting by the State and Commonwealth Governments, without any productive means to make it actionable at the local level. It runs the risk of being seen purely as a thought bubble and tokenism.

One cannot simply give someone a title, in for example, an existing community development type role, without appropriate skillsets or training, and expect them to act as and be a 'Child Safety Officer'. It would be in name only and therefore in the opinion of the Administration, an attempt at cost shifting and a tokenistic approach.



What is the role of the State Government here with its various officers throughout the Regions and State in the Department of Child Protection's role?

Surely a hub and spoke model with centralised officers in the Perth Metropolitan Region and community based officers at existing or expanded regional branches such as Narrogin, Albany, Bunbury, is more practical and realistic, given the relative size of most local governments in WA that cannot afford or justify a standalone officer (or title of a position in name only) in such a role?

### **POLICY IMPLICATIONS**

There are no relevant or proposed policy implications

### **FINANCIAL IMPLICATIONS**

The requirement to put in place appropriate mechanisms is largely administrative and of no direct financial outlay. The requirement or expectation to appoint (and implement) State and Commonwealth principles associated with Child Safety Officers at every local government in Australia however, will come at a cost, either by reducing services in another area or adding cost to rates, without appropriate financial and administrative resources from the government agencies already entrusted with this role.

The State Government Agency in WA entrusted with Child Welfare, is primarily the Department of Child Protection (and Police Department). Effectively the State is asking that local governments be 'an extension' or arm of this agency, without offering any promise of resources or financial assistance. Is this an acknowledgement of the failure of the current State Government Agency or inadequate funding for that Agency by the State?

The risk, over time, if not initially, is that this burden will grow and expectation of service delivery will grow, such that it will be seen as part of the 'business' of local government, without appropriate resources.

### **STRATEGIC IMPLICATIONS**

The Community Strategic Plan does not deal with this matter specifically.

### **COMMENT**

Critically, the Royal Commission cited the fundamental role local governments play in assisting and resourcing communities across Australia, particularly in regional and remote areas, where access to resources and services is often more limited than for their urban counterparts.

The Royal Commission highlighted the important roles local governments play in communities that impact on the safety of children including:

- providing services to children, for example libraries, swimming pools and childcare;
- providing spaces for community activities, for example halls, theatres and sports grounds;
- funding or contracting services;
- facilitating community education or outreach programs;
- regulating planning and development approvals, infrastructure and property services;
- and



- water and food inspection .

The active role local governments take in community development and community safety, particularly roles that impact on child safety, was recognised as an opportunity to integrate their direct responsibilities to children with their wider role within the community.

The Commission adds “Local governments are recognised as well placed to support smaller organisations within their communities to implement the National Principles and create child safe environments”.

Through this consultation process the State Government has two key aims:

- to develop a better understanding of the current role of local governments in promoting child safety and how the outcomes of this work are reported internally, to executive and to council; and
- to use this understanding of current work promoting child safety to inform development of an approach to meet recommendation 6.12 of the Royal Commission in implementing the child safety officer role.

The State Government notes:

“As part of the response to this consultation process it would be useful for local governments to consider how to engage their local communities in relation to this issue. This active engagement can ensure that the community’s expectations and the local government’s outcomes and investment in child safety are well understood.

Local governments undertaking the required periodical review of their Integrated Planning and Reporting, may choose to include discussions on child safety as part of the engagement with the local community.”

Recommendation 6.12 of the Royal Commission recommended that, with support from governments at the national, state and territory levels, local governments should designate child safety officer positions from existing staff profiles to carry out the following functions:

- a) developing child safe messages in local government venues, grounds and facilities;
- b) assisting local institutions to access online child safe resources;
- c) providing child safety information and support to local institutions on a need’s basis; and
- d) supporting local institutions to work collaboratively with key services to ensure child safe approaches are culturally safe, disability aware and appropriate for children from diverse backgrounds.

The following is extracted from the Royal Commission’s findings:

*“Child safety officers are intended to promote child safety within the organisation and support smaller community-based organisations providing services to children to create child safe environments. The role would be expected to support local staff and volunteers to build existing capacity around child safety within their organisations by providing information and assistance.*





*The Royal Commission's view was that a child safety officer proximate to services and local industries would be especially important in regional and remote areas, given these communities are known to routinely miss out on resources and access to services that are available in urban centres. In regional and remote communities, child safety officers could be a conduit for information.*

*The Royal Commission's view was that child safety officers should work closely with the independent state oversight body responsible for monitoring and enforcing the National Principles, as they would be well placed to support smaller organisations to understand how they can be child safe.*

*The intent of the Royal Commission is for local governments to identify where they already have existing staff who could fulfil a role of promoting child safety within the organisation and supporting smaller local organisations to develop capacity in this area. Local governments could create new positions to facilitate implementation of this role where desired and resourcing allows. Volume 6 and Volume 14 of the Royal Commission's Final Report provide this recommendation in detail.*

*Acknowledging the existing investment local governments make to promoting community safety, including child safety, the Royal Commission stated that local governments do not need to provide additional financial investment into implementing a child safety officer role and suggest that existing community safety positions within local governments could be expanded to align existing responsibility to strengthen child safety.*

*The following portfolios may have existing roles that could be considered for alignment with child safety responsibilities and it is recognised that significant work is already occurring in these areas within some local governments to promote child safety, as recommended by the Royal Commission:*

- *Community safety;*
- *Community and club development;*
- *Governance and risk;*
- *Communications; and*
- *Disability Access and Inclusion.*

*It is also recognised that not all local governments have existing community safety positions or have limited capacity to expand the functions of these roles to include child safety. In fulfilling the functions of the child safety officer role, it is recognised that local government staff will need access to appropriate training. Where local governments have limited resources to create child safety officer positions the Royal Commission suggested that state and territory governments may be able to provide assistance.*

### **3.1 Functions of the child safety officer**

*The four key functions of child safety officers, recommended by the Royal Commission, are outlined below with suggestions as to how each function may look in practice. It is noted that some of these examples may represent work already occurring in many local governments.*



a) *Developing child safe messages in local government venues, grounds and facilities*

*Developing child safe messages in local government venues, grounds and facilities promotes the knowledge and understanding of child safety by community members. Public messaging promotes the rights of children to feel safe as well as increasing the understanding of child safety by staff, volunteers and community members and acting as a deterrent for those who may intend to cause harm to children.*

*To implement this function would include: ☐ Working with key stakeholders including CCYP and the Working with Children Screening Unit to ensure that nationally consistent child safe messages are identified for use in local governments' venues, grounds and facilities. ☐ Working with internal communication teams to print posters/signs outlining nationally consistent child safe messages for their various venues, grounds and facilities.*

b) *Assisting local institutions to access online child safe resources*

*Institutions in local communities such as sole traders (i.e. music teachers, tennis coaches), private and community organisations (i.e. arts, cultural, community, sport and recreation groups, clubs and associations) may require assistance to access online child safe resources.*

*To implement this function would include:*

- Facilitating the inclusion of information about child safety on their local government website including links to online child safe resource created by CCYP and the National Office of Child Safety. This would be in line with the current practice of many local governments in providing information and a link to Kidsport on their websites.*
- Signposting local government staff and local organisations to CCYP, the National Office of Child Safety, and other relevant resources on the local government's website.*

*Other local government resources may also assist in facilitating this function. Community Resource Centres and libraries provide physical access to computers and the internet, and library staff could provide support to access suitable online child safe resources. Community, Club Development and Community Safety Officers may signpost to online resources within newsletters.*

c) *Provide child safety information and support to local institutions on a need's basis*

*Child safety officers are expected to provide general advice around promoting child safety and the implementation of the National Principles within organisations. For some local governments this may include hosting workshops/seminars with external providers.*

*It is expected that child safety officers would be supported by relevant agencies, such as CCYP, the National of Office of Child Safety, or in the case of child protection concerns, the Western Australia Police Force or Department of Communities in meeting this function.*



*While it is not the intention of the Royal Commission for local government child safety officers to be a direct point of contact for community members or staff seeking advice on child protection matters, it would be important for anyone in this role to have appropriate knowledge and understanding of child abuse and neglect, as well as local child safeguarding procedures, in order to provide appropriate information, guidance and signposting. It is important for the local government to consider what support mechanisms are in place, to ensure the wellbeing of child safety officers when dealing with these matters and what specific areas of training would be required to build upon existing skills and knowledge of staff.*

- d) *Support local institutions to work collaboratively with key services to ensure child safe approaches are culturally safe, disability aware and appropriate for children from diverse backgrounds*

*Communities within local government areas differ based on social demographics. The needs of supporting children from diverse backgrounds will differ based on the local population.*

*To implement this function would include:*

- Identifying needs within the local community and key services providing support in meeting these needs.*
- Working collaboratively with local government staff, responsible for supporting disability inclusion and access and promoting the needs of Aboriginal and culturally diverse children, to provide advice and support to local organisations on implementing child safe approaches that are accessible and inclusive for children with diverse needs.*
- Linking local institutions with key services, including disability advocacy services, Aboriginal family support services or professional interpreters”.*

Responses to the DLGSC consultation are due to the Department of Communities by close of business on Friday, 2 April 2021.

The National Principles for Child Safe Organisations are:

1. Child safety and wellbeing is embedded in organisational leadership, governance and culture.
2. Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.
3. Families and communities are informed and involved in promoting child safety and wellbeing.
4. Equity is upheld and diverse needs respected in policy and practice.
5. People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.
6. Processes to respond to complaints and concerns are child focused.
7. Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.



8. Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
9. Implementation of the national child safe principles is regularly reviewed and improved.
10. Policies and procedures document how the organisation is safe for children and young people.

### **ATTACHMENTS**

Proposed response

### **VOTING REQUIREMENT**

Simple Majority

### **RECOMMENDATION**

**That the Council:**

**with respect to Local Government Child Safety Officers and the proposed Reportable Conduct Scheme:**

1. **Respond to the Department of Local Government, Sport and Cultural Industries' Discussion Paper, in accordance with the comments contained within the Officers' Report and rejecting the notion that local governments in WA should appoint Child Safety Officers, either to an existing position, or as a role of additional employee, as this role is best delivered by an adequately administered and funded State Government Agency, such as the existing Department of Child Protection, with appropriate trained, skilled and supported officers at regional centres throughout WA, including Narrogin, and not through a tokenistic and cost shifting approach as outlined by the Department.**
2. **Endorse the principles outlined in the National Principles for Child Safe Organisations.**
3. **Endorse the principles of local governments being able to support and promote messages about child safety in its venues, facilities and services it provides to children.**
4. **Endorse the principles of the draft bill and request the Chief Executive Officer to ensure that the Shire and its employees comply with any requirements of the Shire, or its employees, in implementing any Child Safety Reportable Conduct Scheme, should such laws be enacted.**



**333. RESOLUTION**

Moved Cr Barratt, seconded Cr Chester

That Council:

with respect to Local Government Child Safety Officers and the proposed Reportable Conduct Scheme:

1. Respond to the Department of Local Government, Sport and Cultural Industries' Discussion Paper, in accordance with the comments contained within the Officers' Report and rejecting the notion that local governments in WA should appoint Child Safety Officers, either to an existing position, or as a role of additional employee, as this role is best delivered by an adequately administered and funded State Government Agency, such as the existing Department of Child Protection, with appropriate trained, skilled and supported officers at regional centres throughout WA, including Narrogin, and not through a tokenistic and cost shifting approach as outlined by the Department.
2. Endorse the principles outlined in the National Principles for Child Safe Organisations.
3. Endorse the principles of local governments being able to support and promote messages about child safety in its venues, facilities and services it provides to children.
4. Endorse the principles of the draft bill and request the Chief Executive Officer to ensure that the Shire and its employees comply with any requirements of the Shire, or its employees, in implementing any Child Safety Reportable Conduct Scheme, should such laws be enacted.

CARRIED 6/0  
By simple majority

**12. MATTERS BEHIND CLOSED DOORS**

The meeting be closed to the public in accordance with section 5.23 Local Government Act 1995, 5.5.23(2))

- Matters affecting employee(s)
- Personal affairs of any person(s), including financial and/or commercial contracts
- Commercial Confidentiality
- Legal advice/matters
- Public safety/security matters where public knowledge may be prejudicial.



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**13. INFORMATION BULLETIN**

**334. RESOLUTION**

Moved Cr Chester, seconded Cr Wilkes

That the Council information bulletin be received,

CARRIED 6/0  
By Absolute Majority

**14. MEETING CLOSURE**

The Deputy Shire President thanked everyone for their attendance and declared the meeting closed at 5.01 pm