



**11 JANUARY 2024**

**Shire of Esperance**

**ORDINARY COUNCIL MEETING**

**23 JANUARY 2024**

**ATTACHMENTS EXCLUDED FROM AGENDA**



**TABLE OF CONTENTS**

**12.3.1      Policy Review - Executive Services**  
**Attachment A:**    Reviewed Executive Policies .....4



## POL 0032: Public Land Asset Strategy

### COUNCIL POLICY

#### Purpose

This Policy provides a framework to guide Council in the effective management of its land and property assets with the view to increasing the future economic capacity of the Shire of Esperance and assisting the delivery of Objectives outlined in the *Council Plan*.

Specifically the Shire's land and property assets will be used to achieve the following -

1. The delivery of strategic projects as identified in the *Council Plan*;
2. The facilitation of environmental, economic and social benefits to the Community;
3. The stimulation and regeneration of areas within the Shire of Esperance;
4. Where appropriate enable the adoption of a commercial approach to the management of land and property assets capable of producing a recurrent income; and
5. Development of non-operational land and property assets that will facilitate additional income streams for the Council.

#### Scope

This policy relates to all property owned or under the control of the Shire of Esperance.

#### Definitions

**Surplus Properties:** Surplus properties are considered to be of no benefit to either the community through the delivery of services or to the Shire as part of a more strategic land holding, part of a land bank of property assets or for any other purpose. i.e. surplus to requirements.

**Civic Properties:** Civic properties are used for the delivery of services provided by the Shire to the Community. These properties differentiate from Public Open Space and Other Reserves in that they may be held in freehold title by the Council.

**Commercial Properties:** Commercial properties are held by the Shire purely for the commercial return provided through the lease of the property to other entities. Such properties are not anticipated to provide services to the community but will yield an appropriate rate of return (on the capital value of the property) as a commercial proposition subject to appropriate levels of risk as determined by the Council.

**Investment Properties:** Investment properties differ from Commercial Properties in that they have the potential to contribute towards the achievement of broader planning, social or strategic objectives of the Shire. Whilst such properties may include a commercial undertaking, subject to a commercial agreement between a third party and the Council, the purpose of the Shire's ownership of the property is as a contributory factor towards other outcomes rather than purely for commercial returns on the property investment. i.e. Urban Renewal Projects.

**Residential Properties:** Residential properties are designed to provide residential facilities only. Such properties may be provided directly by the Shire to the end user, or as part of an agreement with another agency or residential service provider.

**Utility Properties:** Utility properties are used to deliver utility services such as drainage or other key utility functions. The delivery of utility services should be subject to review to ensure that the location from which the service is being delivered is suitable, the need for the utility service can be validated and the tenure of the property does not result in the Shire having a significant value of freehold assets set aside for such uses with little opportunity to realise the value of these assets at any time in the future.

**Public Open Space and Other Reserves:** Public Open Space and others reserved properties are most often held as reserves vested in the care, control and management of the Shire. Such properties may provide an active service but may also include properties that have little activation but provide other tangible community benefits through environmental protection or community recreational amenity.

## Practice

### Principles

The Council will manage its property assets with the view to -

1. Increasing the Shire's social, economic and environmental sustainability;
2. Increasing the Shire's financial capacity;
3. Providing essential services and facilities; and
4. Developing an investment portfolio capable of providing income generation.

### Use of proceeds

1. The proceeds from the effective management of Council land and property assets are to be used in the delivery of essential services, facilities and projects which provide for a community benefit.
2. The allocation of such proceeds will have due regard to the Council's *Council Plan, Long Term Financial Plan* and relevant council Policies.
3. The Council will consider the use of funds in the development of its land and property assets where an appropriate community, social, environmental or economic benefits can be demonstrated.
4. The proceeds derived from the application of this Policy will be allocated in accordance with the prevailing Financial Management Policies of the Council and in accordance with any Reserve Fund established for that purpose.

## Policy

In applying this Policy, the Council will -

1. Ensure all statutory and applicable governance requirements required by the *Local Government Act 1995*, associated Regulations and any other applicable legislation are adhered to.
2. Ensure that this Policy complies with all other relevant Council Policies and practices.

3. Ensure that suitable community engagement is undertaken as a fundamental component of any proposal to dispose of land and property assets in accordance with the *Local Government Act 1995*.

#### Acquisition and Disposal of Land and Property Assets

The Council will only consider the acquisition and disposal of land after the following steps have been taken -

1. A thorough analysis of applicable financial, social and/or environmental benefits, undertaken in accordance with the established Procedure or any other endorsed template or methodology.
2. Consideration has been given to the disposal of land and property by means of auction, tender or private treaty dependent upon the specific circumstances of the proposed disposal and in accordance with the provisions of the *Local Government Act 1995*.
3. The acquisition or disposal follows a strategic approach to all land and property assets owned or controlled by the Shire of Esperance in preference to considering properties only on a case by case basis.
4. Appropriate risk management strategies have been applied in accordance with any adopted Risk Management Policy.

#### Performance Management

The Council will give consideration to the establishment of a Business Plan and specific performance management indicators to guide its property asset development.

Such performance management indicators will provide the means by which the performance of land and property assets can be monitored and reported to the community and will enable the Council to consider acquisitions and disposals of land and property assets cognisant of these indicators and the benefit or dis-benefit such acquisitions and disposals may generate.

.....End.....

#### **Document Information**

Responsible Position	Manager Economic Development
Risk Rating	Low

#### **Referencing Documents**

- *Local Government Act 1995*

#### **Revision History**

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Jun 2014	1		New policy	O0614-029	
Mar 2018	2	D16/29036	Updated document controller title	O0318-073	Mar 2020
Nov 2019	3	D16/29036[v2]	Biennial review, no change	O1119-248	Nov 2021

Jan 2022	4	D16/29036[v3]	Biennial review, no change to wording, moved to corporate.	O0122-012	Jan 2024
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## POL 0033: Approval to Hold a Civic Reception

### COUNCIL POLICY

#### Purpose

To ensure that any requests received for a Council hosted civic reception is to be referred to the Shire President for consideration.

#### Scope

This policy outlines the requirements for arranging a civic reception and the approvals that need to be taken to proceed.

#### Definitions

**Council Reception:** a formal function hosted by Council to mark a special event or achievement.

#### Practice

Any request for a civic reception is to be referred to the Shire President who is empowered to approve or deny the request provided that a specific or general budget authority exists.

All arrangements for civic receptions may be made by the Shire President and Chief Executive Officer jointly without referral to Council.

.....End.....

#### Document Information

Responsible Position	Executive Assistant
Risk Rating	Low

#### Referencing Documents

- *Local Government Act 1995*

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Nov 2003	1		New policy	O1103-0727	
Sept 2007		D12/10			
Mar 2018		D16/28998	Biennial review, no change	O0318-073	Mar 2020
Nov 2019		D16/28998[v2]	Biennial review, no change	O1119-248	Nov 2021
Jan 2022		D16/28998[v3]	Biennial review, no change	O0122-012	Jan 2024





## POL 0034: Elected Member Entitlements

### COUNCIL POLICY

#### Purpose

To define the parameters under which Elected Members may be reimbursed expenses to attend meetings, workshops, conferences and functions, as well as any other entitlements to which they are entitled as prescribed by legislation.

To determine the nature and extent of Elected Member attendance at conferences and/or seminars, and ensure the application of this policy provides for fairness, equity and opportunity for all Elected Members

#### Scope

This policy applies to all Elected Members at the Shire of Esperance.

#### Definitions

N/A

#### Practice

##### Travelling Expenses

Travelling allowances to Councillors will be paid at the prescribed rate per kilometre determined by the Salaries and Allowances Tribunal, as per the following table:

Vehicle Type	Award Rate c/km
Motorbike	32.55
Motor Vehicle	58.37

The above rates will be paid to Councillors attending the following category of meetings as follows:

Meeting Category	Rate
Ordinary /Special Meeting of Council	Full rate as per table above
Council Committee	Full rate as per table above
Community Meetings as Council	Half rate as per table above
Civic Receptions and Ceremonies	Half rate as per table above
Council Briefings/Informal Meetings	Half rate as per table above
Observers at Meetings	Nil payment

Councillors must be the authorised delegate or deputy standing in for a delegate to qualify for the travelling allowance to the meetings specified in the table above.

Where Councillors travel to attend conferences or seminars as elected representatives of the Shire, travel expenses will be paid by the Shire as detailed within the Elected Member Professional Development policy.

#### Meeting Attendance Fees

Minimum and maximum values payable to Elected Members for attending Council and committee meetings are prescribed within the *Local Government (Administration) Regulations 1996*. The precise value payable to Elected Members for attending meetings will be determined annually via resolution at Budget, within the parameters of the *Local Government (Administration) Regulations 1996* and the Salaries and Allowance Tribunal.

#### Communications Allowance

The Shire will pay Elected Members a communications allowance, the value of which will be determined annually via resolution at Budget, within the parameters of the *Local Government (Administration) Regulations 1996* and the Salaries and Allowance Tribunal. The intent of this allowance is to cover costs incurred by the Elected Member in using their own telephone, mobile phone and internet service provider fees for the purposes of their elected duties.

#### Child Care

Pursuant to the *Local Government (Administration) Regulations 1996*, the Shire will reimburse Elected Members child care costs incurred by an Elected Member because of the member's attendance at a Council or Committee meeting of which they are a member. Costs will be reimbursed at the actual cost per hour or \$30 per hour, whichever is the lesser amount, as determined by the Salaries and Allowances Tribunal.

#### Shire Uniforms

The Shire will provide Elected Members with \$495.00 (Inc GST) towards a uniform allocation, from the Shire's clothing supplier, in every new two year election term.

Additional items may be purchased by Elected Members from the Shire's clothing supplier by contacting the Executive Assistant. Additional items will be paid for by the purchaser.

#### Professional Development

Entitlements for professional development are available within the Shire's *Elected Member Professional Development policy*.

.....End.....

#### **Document Information**

Responsible Position	Chief Executive Officer
Risk Rating	Low

#### Referencing Documents

- *Local Government Act 1995*
- *Local Government (Administration) Regulations 1996*
- Elected Member Professional Development Policy

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Mar 2010	1	D12/30	New policy	O0310-1426	
Jul 2015	2		Travelling Expenses c/km change as per award, Shire Uniform wording change - providing choice, Change from Executive Manager to Director, Local Govt Week – superfluous phrase removal	O0715-014	Jul 2017
Apr 2018	3	D16/28999	Update document controller. Update travel, meals and child care allowances as per Salaries and Allowances Tribunal. Include paragraph for training and amend conference and seminar section.	O0418-083	Apr 2020
Nov 2019	4	D16/28999[v2]	Change responsible officer, amend wording of meal allowance paragraph and amend child care allowance in line with SAT allowance amount.	O1119-248	Nov 2021
Jun 2021	5	D16/28999[v3]	Amend to remove professional development information due to separate policy for this.	O0621-149	Jun 2023
Jan 2022	6	D16/28999[v4]	Update Communications Allowance section in line with current practice	O0122-012	Jan 2024



## POL 0035: Senior Employees

### COUNCIL POLICY

#### Purpose

To nominate the positions within the Shire of Esperance that are “Senior Employees” pursuant to the *Local Government Act 1995*.

#### Scope

This policy relates to Chief Executive Officer and Director positions within the Shire of Esperance.

#### Definitions

N/A

#### Practice

For the purpose of Section 5.37 of the *Local Government Act 1995*, Council designates the following employees to be Senior Employees -

1. Chief Executive Officer
2. All Director Positions

.....End.....

#### Document Information

Responsible Position	Chief Executive Officer
Risk Rating	Low

#### Referencing Documents

- *Local Government Act 1995*

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Mar 1998	1		New policy	O0398-254	
Jan 2011	2	D12/73	Amend to reflect title change from Executive Managers to Directors.	O0111-1559	Jan 2013
Jul 2015	3		Change director titles.	O0715-014	Jul 2017
Mar 2018	4	D23/29000	Biennial review, no change	O0318-073	Mar 2020
Nov 2019	5	D23/29000[v2]	Biennial review, no change	O1119-248	Nov 2021
Jan 2022	6	D23/29000[v3]	Biennial review, no change	O0122-012	Jan 2024



## POL 0036: Execution of Documents and Common Seal Usage

### COUNCIL POLICY

#### Purpose

To establish, in accordance with the requirements of section 9.49A of the *Local Government Act 1995*:

1. Protocols for affixing and administration of the Shire of Esperance's common seal; and
2. Authority for the Chief Executive Officer, another employee or agent to execute documents on behalf of the Shire.

#### Scope

This Policy outlines the terms of use for the Shire of Esperance Common Seal.

#### Definitions

**Common Seal:** a stamped imprint of a company's legal name. It is affixed on agreements and documents that act as evidence that an agreement, contract or document was executed by its authorised agents or officers on behalf of the company.

**Authorised Officer:** an authorised officer within the Shire of Esperance are determined by Appendix A in this Policy and include:

- a. Chief Executive Officer;
- b. Shire President; and
- c. Director

#### Practice

A document is considered to have been duly executed when signed in the following ways:

1. By affixing the common seal; or
2. By the Chief Executive Officer, another employee or agent of the local government who has been authorised by resolution of the Council to sign documents on behalf of the local government.

If any of the following specify a particular way that a document is to be executed, it will take precedence over this Policy.

1. Legislation;
2. The formal requirements of a commonwealth or state department, authority or agency (as described in a policy or procedure); or
3. A Council decision.

#### Affixing Common Seal

The common seal is not to be affixed unless authorised by Council and may only be affixed in the presence of the Shire President and Chief Executive Officer, each of whom is to sign the document to attest that the common seal was so affixed.

In the absence of the Shire President and/or the Chief Executive Officer, the Deputy Shire President and Acting Chief Executive Officer are authorised to affix the common seal.

Council authorisation may be in the form of a specific Council resolution or as detailed within this policy.

#### Common Seal Register

Details of all instances where the common seal has been affixed will be recorded in a signed register and on an electronic register, which shall be available for inspection by Councillors during normal office hours.

The common seal register will be presented to Council twice yearly to be reviewed.

#### Execution by Authorised Officers

Officers identified in Appendix A of this Policy are authorised for the purposes of section 9.49A of the *Local Government Act 1995* to sign those documents on behalf of the Shire of Esperance.

Officers are restricted to executing documents, in accordance with this Policy, that are directly related to their area of responsibility.

In the absence of an authorised officer, another officer may only execute the document where they have been appointed to act in the authorised officer's position.

It is the responsibility of the authorised officer to ensure they fully understand what they are executing on behalf of the Council and to assess the document to ensure it is appropriate for signing. Any queries must be addressed before this process is completed.

Documents and communications which relate to day-to-day routine communications or transactions do not require specific authorisation through this policy as they are the subject of Section 5.41(d) of the Act prescribing the Chief Executive Officer's duty to manage the day to day operations of the Shire of Esperance. Such duties are undertaken by "acting through" officers.



# Shire of Esperance Local Government Act 1995

# COUNCIL POLICY

Document Type (✓) Common Seal <u>only</u> to be applied where specified in the relevant document.	Common Seal	EXECUTION BY SIGNATURE ONLY			
		Shire President	CEO	Director	Other Officer
<ul style="list-style-type: none"> <li>Restrictive Covenants – by land transfer</li> <li>Deeds – land transfer for public purposes</li> </ul>					
(4) <b>Mortgages, Loans and Debentures</b>	✓	x	x	x	x
(5) <b>Power of Attorney</b> to act for the Shire Note: requires both Shire President and Chief Executive Officer signature	x	✓	✓	x	x
(6) <b>Land Transaction documents</b> , including: <ul style="list-style-type: none"> <li>Caveats - registering or removing</li> <li>Leases/Licences</li> <li>Easements – <u>by deed, deposited plan or other legal instrument</u> <ul style="list-style-type: none"> <li>Rights of carriage way;</li> <li>Rights of support to land burdened by buildings;</li> <li>Rights to erect a party wall;</li> <li>Rights to light and air (Property Law Act 1969);</li> <li>Rights to take water from wells or bores;</li> <li>Rights to install and operate drains and drainage works;</li> <li>Rights to install, maintain and operate oil, gas or other pipelines; and</li> <li>Rights to install, maintain and operate electric power lines, telephone and other cables and supporting pylons.</li> </ul> </li> <li>Restrictive Covenants – lodge, modify or withdraw (other than by land transfer)</li> <li>Deeds</li> <li>Legal agreements</li> </ul>	(✓)	x	✓	x	x



Document Type (✓) Common Seal <u>only</u> to be applied where specified in the relevant document.	Common Seal	EXECUTION BY SIGNATURE ONLY			
		Shire President	CEO	Director	Other Officer
(7) <b>State or Commonwealth Government Funding Agreements</b> Note: subject to relevant delegated authority, any of the identified authorised officers can execute	(✓)	x	✓	✓	x
(8) <b>Grants and Funding Agreements</b> with private agencies (incoming and outgoing) Note: subject to relevant delegated authority, any of the identified authorised officers can execute	(✓)	x	✓	✓	✓
(9) <b>Memorandum of Understanding</b>	(✓)	x	✓	✓	x
(10) <b>Contracts and legal instruments</b> , including contract variations, related to: <ul style="list-style-type: none"> <li>• Procurement Contracts*</li> <li>• Goods and/or Service Agreements (incoming or outgoing services)*</li> <li>• Heritage Agreements</li> <li>• Acquittal of planning conditions</li> <li>• Maintenance of the public realm</li> </ul> *Limit: documents that arise from the exercise of purchasing authority delegated from/authorised by the Chief Executive Officer to the role	(✓)	x	✓	✓	x
(11) <b>Development, subdivision and strata-title approvals</b> for Shire Land	x	x	✓	✓	x

Document Type (✓) Common Seal <u>only</u> to be applied where specified in the relevant document.	Common Seal	EXECUTION BY SIGNATURE ONLY			
		Shire President	CEO	Director	Other Officer
(12) <b>Memorial</b> <ul style="list-style-type: none"> <li><u>Deed Poll Registration</u>: A document lodged under the Registration of Deeds Act 1856, notifying the change of name of a person.</li> <li><u>Memorial of Advertisement</u>: A document lodged at the Office of Titles by a Local Authority evidencing that the legal requirements necessary to sell land for the non-payment of rates, have been attended to.</li> <li><u>Prohibiting dealings in land</u>: A document lodged at the Office of Titles under one of a number of statutes, which when noted on a Certificate of Title acts as a caveat.</li> </ul>	x	x	✓	✓	x
(13) Documents that fulfil a <b>statutory local government duty or power</b> , for which there is no power of delegation or authorisation and is a matter which constitutes a potential risk to the Shire.	x	x	✓	✓	x
(14) <b>Communications</b> on behalf of the Shire, with: <ul style="list-style-type: none"> <li>Commonwealth or State Ministers</li> <li>Political or government leaders</li> </ul>	<b>Note:</b> Officers are authorised to sign routine day to day operational communications where the recipient is of a similar organisational level as the Shire Officer.	✓	✓	x	x
(15) <b>Communications</b> on behalf of the Shire, with CEO's of: <ul style="list-style-type: none"> <li>Commonwealth or State Government Departments</li> <li>Industry representative bodies</li> </ul>		x	✓	✓	x

Document Type (✓) Common Seal <u>only</u> to be applied where specified in the relevant document.	Common Seal	EXECUTION BY SIGNATURE ONLY			
		Shire President	CEO	Director	Other Officer
(16) <b>Communications</b> on behalf of the Shire, relevant to the day-to-day operations of the Shire and which are subject of a level of political sensitivity or potential risk to the Shire.	x	x	✓	✓	Marketing & Communications
(17) <b>Ceremonial Certificates</b> - Common Seal may be affixed at the Shire President's discretion: <ul style="list-style-type: none"> <li>Honorary Freeman</li> <li>Honorary Citizenship</li> </ul>	✓	✓	✓	x	x
(18) <b>Deeds of Settlement</b> – Employee matters	x	x	✓	x	x
(19) <b>Enterprise Bargaining Agreements</b>	x	x	✓	x	x
(20) Documents where Shire of Esperance is <b>required to sign as landowner</b>	x	x	✓	x	x
(21) <b>Prosecution notices and court documents</b> Note: subject to relevant delegated authority, any of the identified authorised officers can execute	x	x	✓	✓	✓
(22) <b>Lease/Licence documentation</b> limited to; <ul style="list-style-type: none"> <li>Residential tenancy leases for employee housing</li> <li>Disclosure Statements</li> <li>Notices</li> <li>Property Condition Reports</li> </ul>	x	x	✓	✓	Governance & Corporate Support
(23) Issuance of Section 30 and 40 certificates ( <b>statements of compliance</b> ) under the <i>Liquor Control Act 1988</i>	x	x	✓	✓	Development Services

.....End.....



#### Document Information

Responsible Position	Executive Assistant
Risk Rating	Medium

#### Referencing Documents

- *Local Government Act 1995*

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Sept 2003	1		New policy	O090-0697	Sept 2005
Sept 2007	2	D12/22			Sept 2009
Jul 2015	3		Change of wording to include Deputy President & Acting CEO	O0715-014	Jul 2017
Mar 2018	4	D16/29002	Addition of the wording 'and on an electronic register,' to recognise the digital version that is maintained	O0318-073	Mar 2020
Nov 2019	5	D16/29002[v2]	Minor grammar changes Change responsible officer, include register to be received by Council twice yearly.	O1119-248	Nov 2021
Feb 2022	6	D16/29002	Amend title of policy and rewrite to include document signing authority along with Common Seal usage.	O0222-033	Feb 2024



## POL 0037: Legal Representation Cost Indemnification

### COUNCIL POLICY

#### **Purpose**

To define a process for meeting reasonable expenses incurred for legal representation that arises from being a member of council or staff in the course of their official functions.

#### **Scope**

This policy applies to all elected members or staff, including past members and former employees.

#### **Definitions**

N/A

#### **Practice**

This policy is designed to protect the interests of Council members and employees (including past members and former employees) where they become involved in civil legal proceedings because of their official functions. In most situations the local government may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings.

In each case it will be necessary to determine whether assistance with legal costs and other liabilities is justified for the good government of the district. This policy applies in that respect.

#### General Principles

The local government may provide financial assistance to members and employees in connection with the performance of their duties provided that the member or employee has acted reasonably and has not acted illegally, dishonestly, against the interests of the Local Government or otherwise in bad faith.

The local government may provide such assistance in the following types of legal proceedings -

1. proceedings brought by members and employees to enable them to carry out their local government functions (e.g. where a member or employee seeks a restraining order against a person using threatening behaviour);
2. proceedings brought against members or employees [this could be in relation to a decision of Council or an employee which aggrieves another person (e.g. refusing a development application) or where the conduct of a member or employee in carrying out his or her functions is considered detrimental to the person (e.g. defending defamation actions)]; and
3. statutory or other inquiries where representation of members or employees is justified.

Once a court hearing or enquiry has been completed and an adverse finding has been determined in respect to an elected member or officer no further payment or refund of legal representation costs would be considered by Council.

The Local Government will not support any defamation actions seeking the payment of damages for individual members or employees in regard to comments or criticisms levelled at their conduct in their respective roles. Members or employees are not precluded however, from taking their own private action. Further, the Local Government may seek its own advice on any aspect relating to such comments and criticisms considered to be of relevance against the Local Government.

The legal services the subject of assistance under this policy will usually be provided by the Local Government's solicitors. Where this is not appropriate for practical reasons or because of a conflict of interest then the service may be provided by other solicitors approved by the local government.

All applications for Financial Assistance and Repayment of Assistance will be made in accordance with the procedure outlined below.

#### Associated Procedure

##### Applications for Financial Assistance

1. Subject to item (5), decisions as to financial assistance under this policy are to be made by the Council.
2. An elected member or employee requesting financial support for legal services under this policy is to make an application in writing, where possible in advance, to the Council providing full details of the circumstances of the matter and the legal services required.
3. An application to the Council is to be accompanied by an assessment of the request and with a recommendation, which has been prepared by, or on behalf of, the Chief Executive Officer (CEO).
4. An elected member or employee requesting financial support for legal services, or any other person who might have a financial interest in the matter, should take care to ensure compliance with the financial interest provisions of the *Local Government Act 1995*.
5. Where there is a need for the provision of urgent legal services before an application can be considered by Council, the CEO may give an authorisation up to the value of \$5,000.
6. Where it is the CEO who is seeking urgent financial support for legal services the Council shall deal with the application.

##### Repayment of Assistance

Any amount recovered by a member or employee in proceedings, whether for costs or damages, will be off set against any monies paid or payable by the Local Government.

Assistance will be withdrawn where the Council determines, upon legal advice, that a person has acted unreasonable, illegally, dishonestly, against the interest of the local government or otherwise in bad faith; or where information from the person is shown to have been false or misleading.

Where assistance is so withdrawn, the person who obtained financial support is to repay any monies already provided. The Local Government may take action to recover any such monies in a court of competent jurisdiction.

.....End.....

#### Document Information

Responsible Position	Chief Executive Officer
Risk Rating	Low

#### Referencing Documents

- *Local Government Act 1995*

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Nov 2000	1		New policy	O1100-629	Nov 2002
Nov 2003	2			O1103-0727	Nov 2005
Sept 2007	3	D12/47			
Jul 2015	4		Change of wording to refine Policy Objective	O0715-014	Jul 2017
Mar 2018	5	D16/29006	Removed the word emanates and replaced it with arises in the objective. Changed General Principles d) to read Further, the Local Government may seek its own advice on any aspect relating to such comments and criticisms considered to be of relevance against the Local Government.	O0318-073	Mar 2020
Nov 2019	6	D16/29006[v2]	Biennial review, no change	O1119-248	Nov 2021
Jan 2022	7	D16/29006[v3]	Remove reference to delegation as this is not a statutory requirement.	O0122-012	Jan 2024



## POL 0038: Conferring of Honours

### COUNCIL POLICY

#### Purpose

To provide guidelines for the bestowing of Honours by the Shire of Esperance including

1. Freedom of Entry;
2. Keys to the Shire; and
3. Freeman of the Shire of Esperance.

#### Scope

This Policy outlines the bestowing of honours to community members within the Shire of Esperance, and outlines the difference between each category.

#### Definitions

**Freedom of Entry:** a formal ceremonial event involving a parade and the ceremonial handing over of documentation to signify the bestowing of Freedom of the Shire.

**Keys to the Shire:** a symbolic presentation that represents the highest honour that the Shire can confer on an individual or an organisation.

**Freeman of the Shire:** the highest honour that the Shire can bestow on any person and is awarded to a recipient that meets the highest threshold of contribution to the community.

#### Practice

The following are high honours, which may be bestowed by the Shire of Esperance and bestow no legal right or privilege -

##### Freedom of Entry to the Shire of Esperance

The Freedom of Entry is to be granted to units of the Defence Forces, which have a significant attachment to the Shire of Esperance, as, determined by Council.

##### Key to the Shire of Esperance

The Key to the Shire of Esperance recognises the outstanding achievements by either an individual or organisation, as per the following guidelines -

1. an individual or group must be considered to have reached a high level of achievement and service in their chosen field.
2. individuals or groups must have been considered to have made a significant and meritorious contribution to the community of the Shire of Esperance, Western Australian, Australian or World Affairs.



### Freeman of the Shire

The Freeman of the Shire is to be granted to Elected Members or Senior Staff of the Shire of Esperance

1. who have served the Shire for at least 12 years, although length of service is not the only criterion; and
2. whose outstanding contribution to the community is recognisable through recorded achievements, which can be seen to stand above the contributions of most other persons; and
3. who have consistently displayed commendable conduct; and
4. who are no longer a serving elected member or staff member of the Council.

.....End.....

#### **Document Information**

Responsible Position	Executive Assistant
Risk Rating	Low

#### **Referencing Documents**

- *Local Government Act 1995*

#### **Revision History**

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Feb 2002	1		New policy	O0202-0249	Feb 2004
Sept 2007	2	D12/24			
Mar 2018	3	D16/29007	Biennial review, no change	O0318-073	Mar 2020
Nov 2019	4	D16/29007[v2]	Change responsible officer, minor wording change	O1119-248	Nov 2021
Jan 2022	5	D16/29007[v3]	Minor change - Formatting and wording of d)	O0122-012	Jan 2024



## POL 0039: Presentation of a Shire Plaque of the Council Crest

### COUNCIL POLICY

#### Purpose

To provide standard guidelines for acknowledging the service of an individual, group or organisation with the presentation of a Shire Plaque of the Council Crest.

#### Scope

Presentation of a Shire Plaque of the Council Crest may be given to retiring Elected Members, senior Shire employees, community members/organisations, other local authorities and visiting naval ships/defence forces/dignitaries.

#### Definitions

**Council Crest:** a heraldic symbol of the Shire of Esperance which embodies the rich history and identity of the shire.

#### Practice

That the Esperance Shire Council presents a Shire Plaque of the Council Crest at the agreement of the Shire President and Chief Executive Officer. All Elected Members must be notified of the awarding of the Shire Plaque of the Council Crest prior to the presentation occurring.

The plaques shall be presented by the Shire President at a special function, either Council or community orientated.

.....End.....

#### Document Information

Responsible Position	Executive Assistant
Risk Rating	Low

#### Referencing Documents

- *Local Government Act 1995*

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Feb 2001	1		New policy	O0201-0078	Feb 2003
Sept 2007		D12/59			
Jul 2015			Change wording indicating when a plaque of the crest can be presented	O0715-014	Jul 2017
Mar 2018		D16/29008	Very minor grammar changes	O0318-073	Mar 2020
Nov 2019		D16/29008[v2]	Change responsible officer	O1119-248	Nov 2021
Jan 2022		D16/29008[v3]	Biennial review, no change.	O0122-012	Jan 2024



## POL 0040: Vandalism Rewards

### COUNCIL POLICY

#### Purpose

To enable the CEO to offer a reward for information given in relation to wilful vandalism to Council property.

#### Scope

This policy applies to vandalism to Shire owned or managed property.

Members of the Police Force are not eligible for the reward.

#### Definitions

N/A

#### Practice

That Council may pay a reward to any person or persons giving information that leads to a successful conviction of persons who have wilfully damaged Council property. The amount of the reward is to be determined by the Chief Executive Officer when deliberating the matter.

.....End.....

#### Document Information

Responsible Position	Chief Executive Officer
Risk Rating	Low

#### Referencing Documents

- *Local Government Act 1995*

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Jan 1987	1		New policy	O0187-111	Jan 1989
Sept 2007		D12/85			
Jul 2015			Council may wish to consider determining a maximum	O0715-014	Jul 2017
Mar 2018		D16/29009	Biennial review, no change	O0318-073	Mar 2020
Nov 2019		D16/29009[v2]	Change responsible officer	O1119-248	Nov 2021
Jan 2022		D16/29009[v3]	Biennial review, no change	O0122-012	Jan 2024



## POL 0041: External Committee Representation

### COUNCIL POLICY

#### Purpose

To provide a clear direction as to the role and responsibilities of Councillors appointed to external committees as a Council representative

#### Scope

This policy applies to Councillors appointed to represent Council on external committees.

#### Definitions

N/A

#### Practice

Any Councillor appointed to an external committee as a representative of Council is to represent Council's interests at all times when involved in the business of the external committee. The Councillor also plays an important role by providing a conduit for information between the Council and the external committee.

Key duties of the Councillor are -

1. To vote in accordance with any formally established position of Council.
2. To vote with the best interests of Council and the community in mind when any issue is being considered that no formal position of Council has been established.
3. Provide all committee minutes for inclusion in the Council records at the first available opportunity following any meeting of the external committee.
4. Provide an informal briefing of the external committee's activities if requested.

.....End.....

#### Document Information

Responsible Position	Chief Executive Officer
Risk Rating	Low

#### Referencing Documents

- *Local Government Act 1995*

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Nov 2013	1		New policy	O1113-019	Nov 2015
Mar 2018		D16/29034	Biennial review, no change	O0318-073	Mar 2020
Nov 2019		D16/29034[v2]	Change responsible officer	O1119-248	Nov 2021
Jan 2022		D16/29034[v3]	Biennial review, no change	O0122-012	Jan 2024



## POL 0042: Community Engagement

### COUNCIL POLICY

#### Purpose

The Shire of Esperance recognises that community engagement and participation processes are a vital part of local democracy. It helps strengthen the relationship Council and the Shire have with the community and is critical to good governance. For this reason, both Council and Shire Staff are committed to engaging with Esperance communities.

The Shire of Esperance Council Plan 2022-2032 highlights this commitment with Outcome 16. A well informed and engaged community:

Provide authentic, relevant and effective engagement with community members.

#### Scope

The development and review of all Council strategies, business plans, policies and procedures

#### Definitions

**Corporate Documents:** Strategies, policies, procedures, business plans, and associated documents, including guidelines and forms.

**Statutory Documents:** Corporate documents whose format and layout is guided by legislative requirements i.e. budgets, town planning schemes, annual reports.

**Strategy:** A plan made in advance of actions that identifies, serves and compliments the Shire's major goals and objectives.

**Policy:** A governing principle, set of principles or rules that guides the Shire's practices and constrains procedures or delegated functions.

**Procedure:** A prescription of specific action oriented processes, necessary to achieve strategic or policy objectives.

**Council Plan:** a governing document which delivers instructions from the community to the Esperance Council and Shire staff.

**Guide:** An operational guide that provides tools to guide staff through a process to undertake a specific function.

**The Community:** Those who live, work or recreate in the Shire of Esperance.

**Community Engagement** - Community Engagement is any process that involves the public in problem solving or decision-making and uses public input to make decisions (source IAP2).

It may refer to a range of interactions of differing levels of engagement between the Shire and the community including -

1. Information sharing processes, to keep community informed and promotes understanding.
2. Consultation processes, to obtain feedback.
3. Involving community members consistently throughout the process to ensure community concerns and aspirations are understood and considered.
4. Collaborating with community members in each aspect of the decision making.

### Practice

This policy applies to all aspects of Council and Shire operations to ensure The Community is informed about issues, strategies or plans that may directly or indirectly affect them.

Note: Development approvals and other planning related matters are the only exception to this rule as their engagement requirements are addressed by the *Planning and Development Act 2005, Land Administration Act 1997, Town Planning Regulations 1967 and Local Planning Scheme No. 24.*

Community engagement does not necessarily mean achieving consensus. It involves seeking broad informed agreement and the best possible solutions for Council, the Shire of Esperance and the community. Council will be presented each quarter with a review of all community engagement that has taken place for ongoing and project specific activities, this is provided through the monthly Pulse report.

The *Communications & Engagement Strategy 2021-2024* is the guiding document for the Shire of Esperance's engagement activities. In the Strategy it states:

The purpose of community engagement is to ensure that the Shire -

1. *improves decision making*
2. *maintains healthy relationships with the community*
3. *increases community participation in the activities and decision making processes of Council*
4. *enables the community to work together on issues that matter to them*
5. *builds on the community's understanding of the Shire's role and responsibilities as well as our financial and legislative requirements, and*
6. *provides engagement opportunities that are inclusive and accessible.*

Council's commitment to community engagement is supported by the *Local Government Act 1995* which outlines the essential roles of a Councillor:

#### 2.10. A councillor —

- a. represents the interests of electors, ratepayers and residents of the district; and
- b. provides leadership and guidance to the community in the district; and
- c. facilitates communication between the community and the council; and
- d. participates in the local government's decision-making processes at council and committee meetings; and
- e. performs such other functions as are given to a councillor by this Act or any other written law.

This policy defines the principles underpinning engagement activities and the role of Councillors and staff in engaging with the community. By receiving diverse perspectives and potential solutions the quality of decisions improves and subsequently a higher standard of customer service is provided. Shire staff will ensure that the Councillors are fully informed of all community engagement activities regarding significant issues or high impact projects prior to occurring.

The decision to engage with the community may occur as part of, though not limited to -

1. Planning the strategic direction of the Shire of Esperance
2. Projects that require direct input from stakeholders in developing community based solutions
3. Policy development and/or implementation
4. Any changes to land zoning that may have impact on the community
5. Service level planning and delivery
6. When an issue is brought to Council by the community
7. Changes to Local By-laws
8. Impending legislative or statutory changes with local impact
9. Major project development and/or implementation

The Community Engagement Policy provides a broad framework and policy direction for engagement. Shire staff will utilise the Shire of Esperance Community Engagement Guide on when and how community engagement should occur.

The Council and Shire's approach to community engagement is based on the spectrum of engagement activities as advocated by the International Association for Public Participations (IAP2).

Figure 1: IAP2 Public Participation Spectrum

	Inform	Consult	Involve	Collaborate	Empower
Public Participation Goal	To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.	To obtain public feedback on analysis, alternatives and/or decision.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision-making in the hands of the public.
Promise to the Public	We will keep you informed.	We will keep you informed, listen to and	We will work with you to ensure that your	We will look to you for direct advice and	We will implement

		acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	concerns and issues are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	what you decide.
Role of community	Listen	Contribute	Participate	Partner	Decide

### Principles

The Shire of Esperance's Community Engagement Policy is based on a set of core values adapted from the IAP2. These principles are used to guide the development, implementation and evaluation of Council and the Shire's engagement process. Council Members are elected to govern thereby all final decisions and accountability rests with Council. Shire Officers make recommendations to Council based on known facts and research. Community engagement does not remove these roles but it increases opportunities for the community to provide advice and influence planning. This process enables decisions to be made that are part of a continuous process recognising the needs and interests of the whole community.

The following principles embody Council's and Shire officers' commitment to community engagement -

1. Be representative of the broader community and ensure their views are adequately reflected when making decisions.
2. Seek out and encourage contributions from community members who may be affected by or interested in a decision.
3. Actively listen so that the community's ideas and input can assist in making decisions.
4. Inform the community about decisions, and how their input was considered.
5. Prior to any decision Council and Shire staff will ensure that they are well informed regarding the benefits of alternative decisions, reflecting all sides of the argument and including any community input on matters before them.
6. Collaborate with key stakeholders and other levels of Government to achieve common goals for the Shire.
7. Provide relevant, timely and balanced information so the community/stakeholders can contribute in a meaningful way.
8. Provide a variety of appropriate, inclusive and accessible ways for people to have their say and to speak honestly.



9. Endeavour to ensure that engagement processes are appropriate, accessible, well planned and adequately resourced.
10. Clearly identify the level of community influence and limitations if appropriate.
11. The timing of community activities should take into account key dates (school holidays, special events etc.) to ensure that maximum opportunity is given to encourage community input.
12. To ensure both the Council and the Shire are meeting legislative requirements regarding community consultation in all areas of service delivery.

.....End.....

#### Document Information

Responsible Position	Manager Marketing and Communications
Risk Rating	High

#### Referencing Documents

- *Local Government Act 1995*
- *Communications & Engagement Strategy 2021-2024*
- *Shire of Esperance Community Engagement Guide*

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Dec 2013	1	D13/10249	New policy	O1213-010	Dec 2015
Mar 2018	2	D16/29035	Updated the reference to the new Strategic Community Plan, identified how we will report to Council and made minor grammar changes	O0318-073	Mar 2020
Nov 2019	3	D16/29035[v2]	Minor wording changes, inclusion of point 2 for developing an engagement strategy, amended responsible officer title.	O1119-248	Nov 2021
Jan 2022	4	D16/29035[v3]	Amend Strategic Community Plan and Pulse references, include communication and engagement strategy information,	O0122-012	Jan 2024



## POL 0043: Use and Storage of Presidential Chain

### COUNCIL POLICY

#### **Purpose**

To provide guidelines for the use and storage of the Presidential Chain.

#### **Scope**

This Policy summarises responsibilities associated with the use and storage of the Presidential Chain for the Shire President and Executive Services Staff.

#### **Definitions**

N/A

#### **Practice**

The Shire President in Office will have the discretion to determine when and where the Presidential Chain will be worn, with the following limitations -

1. Official Swearing in of the Shire President and Councillors in the Council Chamber;
2. Citizenship ceremonies held in the Shire of Esperance;
3. Formal functions at which the Shire President has been invited to make an address;
4. As a representative of the Shire of Esperance at official functions organised by Local, State and Federal Government representatives, the Prime Minister, Governor General, WA Governor, Premier, Ambassadors of State, Foreign Dignitaries, Business Groups and Associations as may be deemed appropriate;
5. As a representative of the Esperance Shire Council at graduations and dedication ceremonies held by universities and institutes of education, schools, charitable organisations, churches, sporting and community groups;
6. Ceremonies associated with state or national Local Government Association Conferences and/or Assemblies;
7. Any Civic ceremonies that require the formality for the Presidential Chain to be worn by the Shire President;
8. Presentation of Citizen of the Year Awards and other Awards of Honor, issued by the Shire of Esperance;
9. For the purpose of official portraits of the Shire President;
10. As a representative of Esperance Shire Council as part of a delegation travelling outside Australia approved by Council resolution;
11. Any occasion agreed to from time to time by a Council resolution;
12. At full Council meetings and other approved meetings/receptions.

Relevant procedures in the policy are as follows:

1. The Presidential Chain is not to be worn by any other elected member, Esperance Shire staff or citizens except by the Acting Shire President where necessary, with the approval of the Shire President.
2. The Presidential Chain is to be regarded as an “asset of the Shire of Esperance.”
3. The Presidential Chain must be kept in a secure area within the Shire of Esperance Office and the Executive Assistant will be the custodian for its safe keeping.
4. The Shire President will be responsible for the safe keeping of the Presidential Chain whilst in his/her possession.
5. All subsequent Shire Presidents, on the completion of their time with Council, will have their full name and period held office as President inscribed on the links of the Chain; this task will be the responsibility of the CEO or his staff.
6. The Chief Executive Officer and/or their delegate will be responsible for ensuring the maintenance of the Presidential Chain, log of use, insurance and safe storage of the item.

.....End.....

**Document Information**

Responsible Position	Executive Assistant
Risk Rating	Low

**Referencing Documents**

- *Local Government Act 1995*

**Revision History**

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Oct 2016	1	D16/29037 (rev 1)	New policy	O1016-015	Oct 2018
Mar 2018	2	D16/29037 (rev 2)	Minor grammar changes to wording	O03/18-073	Mar 2020
Nov 2019	3	D16/29037[v2]	Change responsible officer	O1119-248	Nov 2021
Jan 2022	4	D16/29037[v3]	Biennial review, no change	O0122-012	Jan 2024



## POL 0044: Live Streaming and Recording of Meetings

### COUNCIL POLICY

#### Purpose

To provide guidance for employees, Councillors and the community with regard to the live streaming and/or recording of Meetings of Council at the Shire of Esperance.

To improve the accessibility and transparency of Council's decision making process.

#### Scope

This policy applies to -

1. Ordinary and Special Meetings of Council, plus any other public forums or meetings as authorised by the Chief Executive Officer;
2. Councillors and officers; and
3. Members of the public, both as visitors in the public gallery and as contributors to any Meeting of Council held in the Council Chamber.

This policy does not apply to any parts of a Meeting of Council closed to the public in accordance with section 5.23 of the *Local Government Act 1995*.

#### Definitions

**CEO:** means the Chief Executive Officer of the Shire of Esperance.

**Live Stream:** means transmitting live audio or video coverage of a Meeting over the internet.

**Meeting:** means Meetings of Council, plus any other public forums or meetings as authorised by the CEO.

**Meetings of Council:** means any Ordinary Council Meeting or Special Council Meeting.

**Officers:** means an employee of the Shire of Esperance.

#### Practice

##### Meetings to be streamed live and recorded

All Meetings of Council will be recorded and live streamed. The CEO may authorise the recording or streaming of other public meetings and/or forums held in Council Chambers at their discretion. Recordings will be made publicly available as soon as practical following the meeting.

Where a meeting or part of a meeting is closed to the public, these may also be recorded, however will not be live streamed or made available to the public.

A sign will be prominently displayed at the Council Chambers notifying attendees that the meeting will be live streamed and recorded.

The presiding member will make an announcement at the start of every meeting, drawing attention to the fact that the meeting will be live streamed and recorded on the Shire's website and that those in attendance should refrain from making comments that are deemed to be inappropriate under this Policy.

The presiding member of a meeting may at any time, direct the live streaming to be terminated if the content of discussion is determined to be inappropriate to be published.

Material that is inappropriate to be published may include, but is not limited to that which is -

1. An infringement of copyright;
2. A breach of privacy or discloses personal information;
3. Is defamatory, offensive, abusive or discriminatory in nature;
4. Misinformation;
5. Incites hatred or vilifies another person; or
6. Is confidential or privileged council information.

#### Positioning of cameras during the live streaming of a Council meeting

Cameras will be positioned so that members of the public are not visible, as far as practically possible. It is not intended that there be either live or visual recorded footage of the public, however, it is recognised that there may be incidental capture, for example in the background behind a Councillor.

It is intended that the camera positions will provide live and recorded vision of all Councillors who are present at a Meeting of Council. There will be live and recorded audio of Councillors when they speak for the duration of the meeting (other than for confidential items or meetings). Officers who address Council may be seen and heard on the live stream.

#### Opinions or statements made during a meeting

Unless set out in a resolution of Council, the Shire of Esperance does not support the opinions views, standards or statements made by individuals during a meeting, which may be contained in the live streaming/recording of the meeting.

The Shire does not accept any responsibility or liability for any loss, damage, cost or expense a person might incur as a result of the viewing, use, or reliance of information or statements provided in the live streaming/recording of meetings. Endorsed Council minutes provide the definitive record of Council's resolutions.

#### Public Participation at Meetings

The full content of the meeting will be recorded including questioners from the public gallery; a person's full name and where they are from may be read out and recorded.

Any person/s invited to speak at a meeting, will be invited to a designated location within the Council Chamber, from where they will be audio recorded but not seen on the live stream footage.

Members of the public wishing to speak at a meeting will be advised that the meeting will be live streamed and that the recording will be made publicly available on the Shire's website.

By participating in a meeting, the person/s attending consent to being audio recorded. If the person/s do not wish to be audio recorded, they are to notify the presiding member at the commencement of their submission.

#### Technical disclaimer

Whilst every effort will be made to ensure the live stream is running smoothly, the Shire takes no responsibility for and cannot be held liable for, the live stream being temporarily unavailable due to technical issues beyond its control.

Technical issues may include, but are not limited to -

1. the availability of the internet connection;
2. device failure or malfunction;
3. unavailability of social media platforms; or
4. power outages.

#### Copyright Terms

Copyright in the recording of proceedings vests in the Shire of Esperance, and permission must be sought to copy, communicate or transmit a recording of the proceedings, or a part of a recording of the proceedings.

The following conditions apply to the use of recordings of Meetings of Council or any other meetings or forums and will be placed on Shire's website -

1. Copying or use of recordings of meetings is expressly prohibited unless specifically authorised in writing by the CEO;
2. The user acknowledges that the Shire is the owner of the copyright in the recording of a meeting, and that the Shire has reserved all of its legal rights; and
3. Users must not make or copy single images from the recordings.

#### Disclaimer

A disclaimer has been prepared and will be published in the public gallery, meeting agenda, on the Shire's website and announced by the presiding member of the meeting to ensure that members in the public gallery are aware of the live streaming of the meeting.

#### Record Keeping

The official record of the meeting will be the written minutes kept in accordance with the *Local Government Act 1995* and any regulations.

Recordings of Meetings of Council will be accessible on the Shire's website for a period of at least one (1) year.

All recordings will be retained as part of the Shire's records in accordance with the *State Records Act 2000*.

### Responsibilities

Councillors and staff are required to act in accordance with the *Local Government Act 1995* (and regulations), *Code of Conduct* and other relevant policies.

Members of the public are required to extend due courtesy and respect to the Council, staff and other members of the public in attendance.

.....End.....

### **Document Information**

Responsible Position	Executive Assistant
Risk Rating	Low

### **Referencing Documents**

- *Local Government Act 1995*
- *State Records Act 2000*
- *Local Government (Administration) Regulations 1996*
- *Local Government (Model Code of Conduct) Regulations 2021*
- *Council Members, Committee Members and Candidates Code of Conduct*

### **Revision History**

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Sept 2020	1	D20/27916	New policy	O0920-324	Sept 2022
Jan 2022	2	D20/27916[v2]	Biennial review, no change.	O0122-012	Jan 2024



## POL 0045: Electoral Caretaker Period

### COUNCIL POLICY

#### Purpose

This Policy establishes protocols for the purpose of preventing actual and perceived advantage or disadvantage to a candidate in a Local Government Election, through the use of public resources or decisions made by the Council or administration on behalf of the Shire of Esperance during the period immediately prior to an election.

#### Scope

This policy applies to Council Members and Employees, and specifically applies during a 'Caretaker Period' to -

1. Decisions made by the Council;
2. Decisions made under delegated authority;
3. Decisions made administratively;
4. Promotional materials published by the Shire of Esperance
5. Discretionary community consultation;
6. Events and functions, held by the Shire of Esperance or other organisations;
7. Use of the Shire of Esperance's resources;
8. Access to information held by the Shire of Esperance

#### Definitions

**Caretaker Period:** means the period of time prior to an Election Day, specifically being the period from the close of nominations (37 days prior to the Election Day in accordance with s.4.49 (a) of the *Local Government Act 1995*) until 6.00pm on Election Day.

**CEO:** means the Chief Executive Officer of the Shire of Esperance

**Election Day:** means the day fixed under the *Local Government Act 1995* for the holding of any poll needed for an election. For the purposes of this Policy, 'Election Day' meaning excludes an Extraordinary Election Day unless otherwise specified in this Policy.

**Electoral Material:** means any advertisement, handbill, pamphlet, notice, letter, email, social media post or article that is intended or calculated to affect an Election Day result, but does not include -

1. An advertisement in a newspaper announcing the holding of a meeting (s.4.87 (3) of the *Local Government Act 1995*); or
2. Any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*; or
3. Any materials produced by the Shire of Esperance relating to the election process by way of information, education or publicity, or materials produced by or on behalf of the Returning Officer for the purposes of conducting an election.

**Events and Functions:** means gatherings for the purpose of discussion, review, acknowledgement, communication, consultation, celebration or promotion, of any



matter relevant to the Shire of Esperance and / or its stakeholders and may take the form of conferences, workshops, forums, launches, promotional activities, social occasions such as dinners and receptions, including; gatherings coordinated or facilitated by the Shire of Esperance or an external entity.

**Extraordinary Circumstances:** means a circumstance that requires the Council to make or announce a Major Policy Decision during the Caretaker Period because, in the CEO's opinion, delaying the decision or announcement to occur after the Caretaker Period has reasonable potential to -

1. Incur or increase legal, financial and/or reputational risk; or
2. Cause detriment to the strategic objectives of the Shire of Esperance

**Major Policy Decision:** means any decision -

1. Relating to the employment, remuneration or termination of the CEO, other than a decision to appoint an Acting CEO, or suspend the current CEO (in accordance with the terms of their Contract of Employment), pending the Election Day result;
2. Relating to the Shire of Esperance entering into a sponsorship arrangement with a total Shire of Esperance contribution that would constitute Significant Expenditure, unless the Council resolved "in principle" support for the sponsorship prior to the Caretaker Period taking effect and sufficient funds are allocated in the Annual Budget;
3. Relating to the Shire of Esperance entering into a commercial enterprise as defined by Section 3.59 of the *Local Government Act 1995*;
4. That would commit the Shire of Esperance to Significant Expenditure or actions that, in the CEO's opinion, are significant to the Local Government operations, strategic objectives and / or will have significant impact on the community,
5. To prepare a report, initiated by the Administration, a Council Member, candidate or member of the public that, in the CEO's opinion, may be perceived as or is actually an election campaign issue;
6. Initiated through a Notice of Motion by a Council Member, where the effect of that motion will change the status quo or, in the CEO's opinion, may be relevant to the circumstances described in sub-clauses (1) to (5) above.
7. That adopts a new policy, service or service level or significantly amends an existing policy, service or service level, unless the decision is necessary to comply with legislation.
8. That initiates or adopts a new Local Planning Scheme, amendment to a Local Planning Scheme or Planning Policy.
9. Major Policy Decision does NOT include any decision necessary in response to an Emergency, either declared by the State or Federal Government or by the Shire of Esperance in accordance with s.6.8(1)(c) of the *Local Government Act 1995*.

**Caretaker Protocol:** means the practices or procedures prescribed in this Policy.

**Public Consultation:** means a process which involves an invitation to individuals, groups, organisations or the wider community to provide comment on a matter, proposed action or proposed policy which may be perceived as or is actually an

electoral / campaign issue, but does not include statutory consultation / submission periods prescribed in a written law.

**Significant Expenditure:** means expenditure that exceeds the Shire of Esperance's tender threshold.

## **Practice**

### Caretaker Period Protocols - Decision Making

The CEO will ensure that -

1. Council Members and employees are advised in writing of the impending Caretaker Period and Policy requirements at least 30-days prior to the commencement of a Caretaker Period.
2. Candidates are provided with a copy of this Policy at the time of their nomination for election, to ensure their awareness of the protocols and equitable access requirements.

### Scheduling Major Policy Decisions

1. During a Caretaker Period, unless Extraordinary Circumstances apply, the CEO will reasonably ensure that -
  - a. Council or Committee Agenda, do not include reports and / or recommendations that constitute Major Policy Decisions; and
  - b. Council Forums, Workshops or Briefings, do not list for discussions matters that relate to Major Policy Decisions.
2. The CEO shall reasonably ensure that, unless Extraordinary Circumstances apply, Major Policy Decisions are either -
  - a. Considered by the Council prior to the Caretaker Period; or
  - b. Scheduled for determination by the incoming Council.
3. The CEO shall reasonably ensure that, unless Extraordinary Circumstances apply, Delegated Authority from the Council to the CEO or a Committee is not exercised where the exercise of that delegated authority relates to a Major Policy Decision or an election campaign issue.

### Council Reports Electoral Caretaker Period Policy Statement

Each report included in an Agenda for Council's consideration during a Caretaker Period, will include a statement that demonstrates due consideration of the requirements of this Policy.

If the matter is not a Major Policy Decision, the following statement must appear in the Report:

#### Electoral Caretaker Period Policy Statement

The Officer Recommendation has been reviewed in context of the Shire of Esperance's Electoral Caretaker Period Policy and the CEO has determined that it does not constitute a Major Policy Decision. The CEO therefore provides this report for Council's consideration.

## Council Reports

Where, during a Caretaker Period, the CEO determines that Extraordinary Circumstances apply, the CEO may submit a report on a Major Policy Decision for Council's consideration, subject to the report including:

1. Details, if applicable, of -
  - a. Options for what aspects of the decision are necessary to be made within the Caretaker Period and what aspects may be deferred until after the Caretaker Period.
  - b. How potential electoral impacts will be managed or mitigated.
2. An Electoral Caretaker Period Policy Statement, which details why Extraordinary Circumstances apply.
3. An Officer Recommendation for Council to accept that Exceptional Circumstances apply and receive the report for consideration. This Recommendation is to be considered and resolved by Council, prior to debate of the substantive recommendation relating to the Major Policy Decision

## Electoral Caretaker Period Policy Statement

The Officer Recommendation has been determined as a Major Policy Decision within the context of the Shire of Esperance's Electoral Caretaker Period Policy for the following reasons -

[list reasons here]

In accordance with the Shire of Esperance's Electoral Caretaker Period Policy, the CEO seeks a Council Resolution to enable Council's consideration of the matter due to the following Exceptional Circumstances:

[list reasons here]

## Officer Recommendation

That Council, in accordance with the Electoral Caretaker Period Policy, determines in regard to the Report titled "insert report title" to -

1. Accept that Exceptional Circumstances exist: and therefore
2. Receives the Report for Council's consideration.

## Council Forums, Workshops or Briefings

Where, during a Caretaker Period, the CEO determines that Extraordinary Circumstances apply, the CEO may include matters relating to a Major Policy Decision for Council Member discussion at Council Forums, Workshops or Briefings.

The CEO is required to provide Council with advice as to why Exceptional Circumstances apply and how potential electoral impacts will be managed or mitigated. Details of this advice is to be retained, with the Forum, Workshop or Briefing notes, as a Local Government record.

## Managing CEO Employment

This Policy, prohibits Major Policy Decisions relating to the employment, remuneration or termination of the CEO during a Caretaker Period.

The Council is however required to fulfil its obligations as the CEO's employer regardless of a Caretaker Period. Therefore, during a Caretaker Period:

1. The Council may consider and determine:
  - a. CEO's leave applications;
  - b. Appoint an Acting CEO, where necessary;
  - c. Suspend the current CEO, where appropriate and in accordance with the terms of their contract
2. The Council may not initiate a new CEO recruitment process or initiate or undertake a CEO performance review process, during a Caretaker Period.

#### Delegated Authority Decision Making in Extraordinary Circumstances

During a Caretaker Period, Employees who have Delegated Authority shall not exercise that delegated authority where the matter relates to a Major Policy Decision or an election campaign issue. All such decisions under delegated authority must be referred to the CEO for review in consideration of point 3 of the Scheduling Significant Local Government Decisions section above.

#### Caretaker Period Protocols - Candidates

Candidates, including Council Members who have nominated for re-election, shall be provided with equitable access to the Shire of Esperance's public information.

The CEO shall ensure that assistance and advice provided to candidates as part of the conduct of the election is provided equally to all candidates.

Council Members nominating for re-election, may access information and assistance regarding the Shire of Esperance's operations and Council matters during a Caretaker Period, but only to the extent necessary to perform their role as a Councillor and limited to matters currently relevant to the Shire of Esperance.

All election process enquiries from Candidates, including Council Members who have nominated for re-election, will be directed to the Returning Officer, or where the matter is outside the responsibility of the Returning Officer, to the CEO.

#### Candidate Requests on behalf of Electors, Residents or Ratepayers

Where a Candidate, including Council Members who have nominated for re-election, requires the assistance of the Administration to respond to a request made by an Elector, Resident or Ratepayer, then the Administration will provide the response directly to the requesting Elector, Resident or Ratepayer and will also advise the candidate of the outcome.

#### Candidate Campaign Electoral Materials

Candidates, including Council Members who have nominated for re-election, are prohibited from using the Shire of Esperance's official crest or logo in any campaign Electoral Materials.

#### Candidate attendance at Meetings

To ensure equitable access to information about Council's decision making during a Caretaker Period, the CEO shall ensure that Candidates, who are not sitting Council Members, are advised of Ordinary and Special Council Meetings (if open to the public) called and convened during a Caretaker Period; providing each Candidate with a copy of the meeting agenda at the time it is distributed to Council Members.

For the purposes of transparency and the benefit of the public gallery, Candidates are requested to identify themselves as an election candidate prior to asking a question or making a statement at a Council or Committee meeting.

#### Council Member Caretaker Period Protocols

##### Access to Information and Advice

All Council Members will scrupulously avoid using or accessing Shire of Esperance information, resources or employee resources and expertise for the purpose of gaining electoral advantage or disadvantage relevant to their own candidacy or any other person's candidacy.

All Council Member requests for information and advice from the Shire of Esperance will be reviewed by the CEO and where the subject of the information or advice is considered as being related to an election campaign issue, the CEO will have absolute discretion to determine if the information or advice is/is not provided, including where information is provided to one candidate, if that information is also to be provided to all candidates (i.e. including candidates who are not current Council Members).

##### Media and Publicity

All Council Member requests for media advice or assistance during a Caretaker Period, including Council Members who have nominated for re-election, will be referred to the CEO for review.

The CEO will only authorise Council Member access to media advice or assistance where, in the CEO's opinion, the subject matter is relevant to the Shire of Esperance's objectives or operations and is not related to an election campaign purpose or issue or to the Council Member's candidacy or the candidacy of another person.

##### Council Member Business Cards, Shire of Esperance Printed Materials

Council Members must ensure that Shire of Esperance business cards and printed materials are only used for purposes associated with their role of a Councillor, in accordance with section 2.10 of the *Local Government Act 1995*.

Council Members are prohibited from using Shire of Esperance business cards or printed materials at any time, including times outside a Caretaker Period, for any election campaign purpose, either in support of their own candidacy or the candidacy of another person.

##### Council Member Participation in Events and Functions

During a Caretaker Period Council Members may continue to fulfil their role through attendance at events and functions hosted by external bodies.

##### Council Member Delegates to External Organisations

At any time, including times outside of a Caretaker Period, Council Members who are the Council's appointed delegate to an external organisation, must not use their attendance at an external organisation's meeting, event or function for any purpose associated with an election campaign purpose, including; recruiting campaign assistance or to promote their own candidacy or the candidacy of another person.

#### Council Member Addresses / Speeches

Excluding the Shire President and Deputy Shire President, when fulfilling their functions prescribed in sections 2.8 and 2.9 of the *Local Government Act 1995*, Council Members who have nominated for re-election, shall not be permitted to make speeches or addresses during a Caretaker Period at events or functions organised or sponsored by the Shire of Esperance, unless expressly authorised by the CEO.

In any case, the Shire President, Deputy President and Council Members are prohibited from using an official speech or address during a Caretaker Period to promote an election campaign purpose.

#### Council Member Misuse of Local Government Resources

A Council Member who uses Shire of Esperance resources for the purpose of persuading electors to vote in a particular way is a "misuse of Local Government resources" breach in accordance with Regulation 8 of the *Local Government (Rules of Conduct) Regulations 2007*.

This prohibition on misuse of Local Government Resources for electoral purposes applies at all times and is not only applicable to a Caretaker Period.

For clarity, Local Government resources includes, but is not limited to; employee time or expertise, Shire of Esperance provided equipment, stationery, hospitality, images, communications, services, reimbursements and allowances provided by the Shire of Esperance.

#### Shire of Esperance Publicity, Promotional and Civic Activities

Publicity campaigns and promotional activities during a Caretaker Period may be undertaken only for the purposes of:

1. Promoting Shire of Esperance services and activities, where such promotion do not relate to an electoral campaign issue and would otherwise be undertaken as part of normal operations; and,
2. Conducting the Election and promoting Elector participation in the Election

All other, publicity and promotional activities of Shire of Esperance initiatives will be, where reasonably practicable, avoided during the Caretaker Period, including the announcement of Major Policy Decisions, made prior to the commencement of a Caretaker Period or proposed to be made after a Caretaker Period.

The CEO may determine if Exceptional Circumstances apply and if a Major Policy Decision announcement is necessary during a Caretaker Period.

#### Civic Events and Functions



The Shire of Esperance will avoid the scheduling of Civic Events and Functions during a Caretaker Period, so as to avoid any actual or perceived electoral advantage that may be provided to Council Members who have nominated for re-election.

Where the Shire of Esperance is required to schedule a Civic Event or Function during a Caretaker Period, all Candidates will be invited to attend and will be provided with the similar prominence and protocol courtesies as provided to Council Members. For example; Candidates will be introduced at the function immediately following the introduction of Council Members.

#### Shire of Esperance Publications and Communications

All Shire of Esperance publications and communications distributed during a Caretaker Period must not include content that:

1. May actually, or be perceived to, persuade voting in an election; or
2. is specific to a candidate or candidates, to the exclusion of other candidates;
3. Draws focus to or promotes a matter which is a Major Policy Decision or which is an electoral campaign issue.

All Shire of Esperance publications and communications proposed to occur immediately prior to, throughout or during, a Caretaker Period must be reviewed and approved by the CEO prior to publication or distribution.

#### Shire of Esperance Website and Social Media Content

During the Caretaker Period, the Shire of Esperance's website and social media will not contain any material which does not accord with the requirements of this Policy. For example, Council Member profiles will be removed from the website during a Caretaker Period.

Website and social media content regarding Council Members will be limited to: Council Member names, contact details, membership of committees and Council appointments as Shire of Esperance Delegates on external committees and organisations.

Historical website and social media content, published prior to a Caretaker Period, and which does not comply with this policy will not be removed.

New website or social media content which relates to Major Policy Decisions or election campaign issues will not be published during a Caretaker Period, unless Exceptional Circumstances apply.

Content posted by the public, candidates or Council Members on the Shire of Esperance's social media channels, which is perceived as candidate election campaign material or promotes a candidate or candidates will be removed.

#### Community Consultation

Unless consultation is mandated under a written law or Exceptional Circumstances apply, community consultation relevant to Major Policy Decisions or potentially contentious election campaign issues, will not be initiated so that the consultation period is conducted immediately prior to, throughout or concluding during, a Caretaker Period.

.....End.....

#### Document Information

Responsible Position	Chief Executive Officer
Risk Rating	Low

#### Referencing Documents

- *Local Government Act 1995*

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Oct 2020	1	D20/31149	New policy	O1020-317	Oct 2022
Jan 2022	2	D20/31149[v2]	Biennial review, no change	O0122-012	Jan 2024





## POL 0046: Cultural Protocols

### COUNCIL POLICY

#### Purpose

To establish protocols for Shire staff with regard to appropriate and consistent recognition and acknowledgement of Kapa Kurl Wudjari People of the Nyungar Nation and Ngadju People as the Traditional Custodians of the land, on which the Shire of Esperance is situated.

#### Scope

This Policy outlines cultural protocols of “Welcome to Country”, “Acknowledgement of People and Country”, and “Cultural Performances”, and provides guidance as to their appropriate use.

#### Definitions

**Welcome to Country:** a formal welcome onto Nyungar and Ngadju land given by an Elder or Traditional Custodian of that land.

**Acknowledgement of People and Country:** a statement of recognition of the Traditional Custodian of the land. An Acknowledgement can be given by any person.

**Cultural Performance:** includes but is not limited to, dance, song or musical performance, and/or other means of artistic expression.

**Elder:** is defined as someone who has gained recognition as a custodian of knowledge and lore, and who has permission to disclose knowledge and beliefs. It is important to understand that age alone doesn't necessarily mean that one is recognised as an Elder.

#### Practice

The Shire of Esperance recognises the Kapa Kurl Wudjari people of the Nyungar Nation and Ngadju people's custodianship of country, and is committed to observing appropriate protocols for acknowledging this custodianship at formal Shire events, to which members of the public and external stakeholder groups attend.

The Shire of Esperance is committed to greater visibility and promotion of First Nation people's culture and connection to country.

### Welcome to Country

A Welcome to Country can only be performed by Elders who are recognised as Traditional Custodians of Nyungar or Ngadju country, as this gives Traditional Custodians the opportunity to formally welcome people to their land.

The Welcome to Country should be the first item on the order of proceedings for the event and may comprise of a single speech with or without an accompanying cultural performance.

Events where it is appropriate for a Welcome to Country to be performed include:

1. Official civic receptions by invitation;
2. Where visiting dignitaries are being hosted by Shire staff or Elected Members. These can include Members of Parliament, state and federal government Ministers, Heads of State and their representatives, and/or visiting persons of high renown or esteem;
3. Openings of significant new public buildings or facilities;
4. NAIDOC and Reconciliation Week events hosted by the Shire or Council;
5. Openings or official launches of large public events;
6. Shire of Esperance civic and significant awards presentations; and
7. Conferences organised or hosted by the Shire, where people from outside the municipality are in attendance.

Where it is identified that a Welcome to Country should be performed, the following should occur -

1. The Shire employee (project leader, manager) should record that a Welcome to Country is required and forward a request to the Executive Assistant to the Chief Executive Officer (Executive Assistant) no less than four weeks prior to the event.
2. The Executive Assistant will inform the Shire President and the CEO of the event details and requirement for a Welcome to Country.
3. The Executive Assistant will organise arrangements for the Welcome to Country inclusive of sourcing an appropriate Elder or Traditional Custodian, liaising with the recognised Traditional Custodian's body corporate for the area where the Welcome to Country will take place.

### Acknowledgement of People and Country

An Acknowledgement of People and Country can be performed by anyone, and is a respectful public acknowledgement of the Traditional Custodians of the land. Generally, an acknowledgement will be performed by the host or Master of Ceremonies of the event or gathering, unless a specific person has been requested to perform this.

Events where an Acknowledgment should be considered include -

1. Preceding Council or Committee meetings;
2. Citizenship ceremonies;
3. Large meetings where external stakeholders are present;

4. Official openings or launches of intimate public events, either by invitation or not and;
5. Special events as determined by staff managing the event.

Where it is identified that an Acknowledgement of People and Country should be performed, the following should occur -

1. The Shire employee (project leader, manager) should prepare suitable agendas and/or speech notes and insert the requirement for an Acknowledgement of People and Country.
2. The preferred Acknowledgement of People and Country is as follows:  
"I'd like to begin by acknowledging the Kapa Kurl Wudjari people of the Nyungar nation and Ngadju people, who are the Traditional Custodians of this Land, and their continuing connection to land, waters and community. We pay our respect to their Elders past, present and emerging and we extend that respect to other Aboriginal Australians today."

#### Cultural Performance

Cultural Performances include dance, song, artistic expression and music, and are an optional addition to a Welcome to Country or Acknowledgement of People and Country.

Cultural Performances will most commonly accompany a Welcome to Country, however can also be considered to accompany an Acknowledgment of People and Country.

Where it is identified that a Cultural Performance is necessary or possible the following should occur -

1. The Shire employee (project leader, manager) should record that in addition to a Welcome to Country or Acknowledgement of People and Country, an opportunity to include a Cultural Performance with the program is necessary or possible. This should be forwarded to the Executive Assistant no less than four weeks prior to the event.
2. On confirmation from the Executive Assistant that the event has been approved, the Shire employee (project leader, manager) should discuss options for a Cultural Performance.
3. The Executive Assistant will organise arrangements for the Cultural Performance inclusive of sourcing an appropriate program and liaising with the event coordinator regarding run sheets, logistics and the management of honorarium payments.

The determination of whether a Cultural Performance is necessary or possible shall be made by the Chief Executive Officer, Shire President and Project Manager. Contingent factors shall be accounted for including but not limited to -

1. Logistical constraints of the event or function – including physical and time constraints; project budgets; and appropriateness.

.....End.....

#### Document Information

Responsible Position	Executive Assistant
Risk Rating	Medium

#### Referencing Documents

- *Local Government Act 1995*

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Nov 2020	1	D20/34718	New policy	O1120-360	Nov 2022
Jan 2022	2	D20/34718[v2]	Move citizenship ceremonies from Welcome to Country section to Acknowledgement section	O0122-012	Jan 2024
May 2022	3	D20/34718[v3]	Change references to Traditional Owner to be Traditional Custodian, change Nyungar identification to be 'Kepa Kurl Wudjari people of the Nyungar Nation'.	O0522-114	May 2024



## POL 0047: Attendance at Events

### COUNCIL POLICY

#### Purpose

To address Elected Members and the Chief Executive Officer's (CEO) attendance at events, whether free of charge, a sponsorship agreement, or paid by the Shire of Esperance.

The purpose of this Policy is to provide transparency for Elected Member and CEO attendance at events.

#### Scope

This document summarises the protocols for Elected Members and CEO of the Shire of Esperance when attending events.

#### Definitions

**Event:** an occasion hosted by an individual or organisation, including concerts, conferences, functions, sporting events or any other activity in accordance with 5.90A(1)(e) of the Act.

**Act:** *Local Government Act 1995*.

#### Practice

##### Invitations

A ticket or invitation received by a person not in their capacity as an Elected Member or CEO will not be captured by this Policy. The requirement to disclose a financial interest where the amount exceeds the amount prescribed under the *Local Government (Administration) Regulation 20A* applies in this case.

A ticket or invitation provided to an individual in their capacity as an Elected Member or CEO is to be treated as a gift to that person, unless the ticket or invitation is referred to the local government for consideration with regard to this Policy.

The following events and attendees are pre-approved for the purposes of this policy;

Event	Event Organiser or Date	Approved Attendee/s
Local Government Week	Western Australian Local Government Association (WALGA)	All Elected Members Chief Executive Officer
Local Events (within the Shire of Esperance)	Sporting	Shire President
	Cultural	Deputy Shire President
	Industry	

WALGA Annual General Meeting	Western Australian Local Government Association (WALGA)	Shire President
		Deputy Shire President
		Chief Executive Officer

#### Approval of attendance

In deciding on attendance at an event, Council must consider:

1. who is providing the invitation or ticket to the event;
2. the location of the event in relation to the Shire (within the region or out of the region);
3. the role of the Elected Member or CEO when attending the event (participant, observer, presenter) and the value of their contribution;
4. whether the event is sponsored by the Shire of Esperance;
5. the benefit of Shire of Esperance representation at the event;
6. the number of invitations / tickets received; and
7. the cost to attend the event, including the cost of the ticket (or estimated value of the event per invitation) and any other expenses such as travel and accommodation.

Decisions to attend events in accordance with this Policy will be made by simple majority of Council or by the Shire President.

In addition to invitations or tickets provided by event organisers, the CEO, in consultation with the Shire President, may purchase tickets for an event where Shire attendance is deemed to be beneficial and appropriate.

Where attendance at an event is approved in accordance with this Policy, the requirement to disclose a financial interest under the Act will not apply.

#### Payments of attendance

Where an invitation or ticket to an event is provided free of charge, the Shire may contribute to appropriate expenses for attendance, such as travel and accommodation, and for events outside the region, if Council determine attendance to be of value to the organisation.

For any events where a member of the public is required to pay, unless previously approved or listed in this Policy as a pre-approved event, Council will determine whether it is in the best interest of the Shire for an Elected Member, the CEO or another officer to attend on behalf of Council.

If Council determines that an Elected Member or CEO in consultation with the Shire President should attend a paid event, the Shire will pay the cost of attendance and reasonable expenses, such as travel and accommodation.

Where partners of an authorised Shire representative attend an event, any tickets for that person, if paid by the local government, must be reimbursed by the representative, unless expressly authorised by Council.

This policy does not apply where a Councillor or the CEO attends an event at their own cost and in a personal capacity.

.....End.....

#### Document Information

Responsible Position	Executive Assistant
Risk Rating	Low

#### Referencing Documents

- *Local Government Act 1995*
- *Local Government (Administration) Regulations 1996*

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Nov 2020	1	D20/34719	New policy	O1120-355	Nov 2022
Jan 2022	2	D20/34719[v2]	Biennial review, no change	O0122-012	Jan 2024



## POL 0048: Code of Conduct Behaviour Complaints Management

### COUNCIL POLICY

#### Purpose

To establish, in accordance with clause 15(2) of the *Local Government (Model Code of Conduct) Regulations 2021* and clause 2.9(2) of the Shire of Esperance's Code of Conduct for Council Members, the procedure for dealing with complaints about alleged breaches of the behaviour requirements included in Division 2 of the Shire of Esperance's *Code of Conduct for Council Members, Committee Members and Candidates*.

To give result to the Shire's commitment to an effective, transparent, fair and accessible complaints handling process that supports high standards of behaviour of Council Members, Committee Members and Candidates.

#### Scope

This Policy applies to complaints made in accordance with clause 2.5 of the Shire's *Code of Conduct for Council Members, Committee Members and Candidates*.

This Policy applies to Council Members, Committee Members, Candidates and any person who submits a complaint in accordance with this Policy.

#### Definitions

**Act:** means the *Local Government Act 1995*.

**Behaviour Complaints Officer:** means a person authorised in writing under clause 2.5(3) of the Code of Conduct to receive complaints and withdrawals of complaints. The role of the Behaviour Complaints Officer is addressed in Part 2.1 of this Policy.

**Breach:** means a breach of Division 2 of the Shire of Esperance's Code of Conduct for Council Members, Committee Members and Candidates.

**Candidate:** means a candidate for election as a Council Member, whose nomination has been accepted by the Returning Officer under s.4.49 of the Act, but does not include a Council Member who has nominated for re-election. A person is a Candidate from the date on which their nomination is accepted, until the Returning Officer declares the election result in accordance with s.4.77 of the Act.

**Candidate Complaint:** means a Complaint alleging a Breach by a Candidate. Candidate Complaints are dealt with in Part 3.2 of this Policy.

**Code of Conduct:** means the Shire of Esperance's *Code of Conduct for Council Members, Committee Members and Candidates*.

**Committee:** means a committee of Council, established in accordance with s.5.8 of the Act.



**Committee Member:** means a Council Member, employee of the Shire of Esperance or other person who has been appointed by the Council to be a member of a Committee, in accordance with s.5.10(1) of the Act. A person is a Committee Member from the date on which they are appointed, until their appointment expires or is terminated by Council resolution.

**Complaint:** means a complaint submitted under clause 2.5 of the Code of Conduct.

**Complainant:** means a person who has submitted a Complaint in accordance with this Policy.

**Complaint Assessor:** means a person appointed by the Behaviour Complaints Officer in accordance with Part 2.2 and Part 3.8 of this Policy.

**Complaint Documents:** means the Complaint Form and any supporting information, evidence, or attachments provided by the Complainant.

**Complaint Form:** means the form approved under clause 2.5(2)(a) of the Code of Conduct.

**Council:** means the Council of the Shire of Esperance.

**Council or Committee Meeting:** means a formal meeting of Council or a Committee that is called and convened in accordance with the Act. It does not include informal meetings, such as working group meetings, workshops or briefings.

**Council Member:** means a person who is currently serving a term of office as an elected member of the Council in accordance with the Act.

**Finding:** means a finding made in accordance with clause 2.6(1) of the Code of Conduct as to whether the alleged Breach has or has not occurred.

**Plan:** means a Plan that may be prepared and implemented under clause 2.6(4)(b) of the Code of Conduct, to address the behaviour of the person to whom the complaint relates (the Respondent), if a Finding has been made that a Breach has occurred.

**Response Documents:** means the response provided by the Respondent to the Complaint, and includes any supporting information or evidence that is supplied.

## **Practice**

### Principles

#### 1. Procedural fairness

The principles of procedural fairness, or natural justice, will apply when dealing with a Complaint under this Policy. In particular -

- a. the Respondent will be afforded a reasonable opportunity to be heard before any findings are made, or a plan is implemented;
- b. the decision maker should be objective and impartial, with an absence of bias or the perception of bias; and any findings made will be based on proper and genuine consideration of the evidence.

## 2. Consistency

The application of this Policy should lead to consistency in process and outcomes. While each Complainant and Respondent will be dealt with according to their circumstances, and each Complaint considered and determined on its merits, similar circumstances will result in similar decisions.

## 3. Confidentiality

The Shire of Esperance will take all reasonable steps to maintain confidentiality when dealing with the Complaint, in order to protect both the Complainant and Respondent.

Council Members, Local Government employees and contractors who have a role in handling a specific complaint will be provided with sufficient information to fulfil their role. They must manage this information securely, and must not disclose or inappropriately use this information.

Complainants will be advised of the level of confidentiality they can expect, and that breaches of confidentiality on their part may prejudice the progress of their Complaint.

In order to allow the Respondent to understand and respond to the complaint against them, the name of the Complainant will be provided to the Respondent, unless the Complainant provides appropriate reasons this should not occur.

The Complainant's contact information will not be provided to the Respondent.

The Complainant's name and contact information will not be included in any publicly available documents such as meeting agenda or minutes.

The Complainant should be aware that Complaint Documents may be subject to an FOI request, noting that they must be consulted before any documents are released, and exemptions may apply.

## 4. Accessibility

The Shire of Esperance will ensure that information on how to make a complaint, including this Policy, is available at the Shire's Administration Building and on the Shire website. The Shire will make information available in alternative formats if requested.

Any person wishing to make a complaint may contact the Behaviour Complaints Officer if they require assistance in completing the complaint form or otherwise navigating the complaints process.

The Shire of Esperance's Behaviour Complaints Officer is;

Director Corporate and Community Services

Phone: 08 9071 0693

Email: [shire@esperance.wa.gov.au](mailto:shire@esperance.wa.gov.au)

## Roles

### 1. Behaviour Complaints Officer

The Behaviour Complaints Officer is authorised in accordance with clause 2.5(3) of the Code of Conduct to accept complaints and withdrawal of complaints.

The Behaviour Complaints Officer is not an advocate for the complainant or the respondent. The Behaviour Complaints Officer provides procedural information and assistance to both Complainant and Respondent.

The Behaviour Complaints Officer will liaise with and provide administrative support to a Complaint Assessor appointed under this Policy.

The Behaviour Complaints Officer will liaise with the Local Government to facilitate the calling and convening of Council or Behaviour Complaints Committee meetings if required.

In undertaking their functions, the Behaviour Complaints Officer will apply the Principles of this Policy.

### 2. Complaint Assessor

The Complaint Assessor is appointed by the Behaviour Complaints Officer in accordance with Part 3.8 of this Policy.

The Complaint Assessor is an impartial employee or third party who will undertake the functions specified in this Policy. In undertaking their functions, the Complaint Assessor will apply the Principles of this Policy.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to manage the administrative requirements of dealing with the Complaint in accordance with this Policy.

## Procedure

### 1. Making a complaint

Any person may make a Complaint alleging that a Council Member, Committee Member or Candidate has behaved in a way that constitutes a breach of Division 2 of the Code of Conduct.

A Complaint must be made within one (1) month after the alleged Breach.

A Complaint must be made by completing the Behaviour Complaint Form in full and providing the completed forms to the Behaviour Complaints Officer.

A Complaint must be made in accordance with the Behaviour Complaint Form and specify which requirement(s) of the Code of Conduct is alleged to have been breached.

A Complaint is required to include the name and contact details of the Complainant therefore anonymous complaints cannot be accepted.

Where a Complaint Form omits required details, the Behaviour Complaints Officer will invite the Complainant to provide this information in order for the Complaint to be progressed.

Where a Complaint is made more than 1 month after the alleged breach, the Behaviour Complaints Officer will give the Complainant written notice that the Complaint cannot be made.

## 2. Candidate Complaints

A Complaint in relation to a Candidate must be made in accordance with 3.1, above, but cannot be dealt with unless the Candidate is subsequently declared elected as a Council Member.

Within 7 days after receiving a Candidate Complaint, the Behaviour Complaints Officer will provide written notice -

- a. To the Complainant confirming receipt, and advising of the procedure for candidate complaints; and
- b. To the Respondent, including a summary of the complaint, and advising of the procedure for candidate complaints.

No action will be taken until the results of the election are declared by the Returning Officer. If the respondent is elected, then the complaint will be dealt with in accordance with this Policy. Timeframes that would otherwise commence on the receipt of a Complaint will be taken to commence on the election date.

If the Respondent is not elected, the Behaviour Complaints Officer will provide the Complainant with notice that the Respondent has not been elected and that the Complaint cannot be dealt with.

## 3. Withdrawing a Complaint

A Complainant may withdraw their Complaint at any time before a Finding has been made in relation to the Complaint.

A Complainant may withdraw a Complaint by advising the Behaviour Complaints Officer in writing that they wish to do so.

After receiving a written withdrawal of the Complaint, the Behaviour Complaints Officer will take all necessary steps to terminate the process commenced under this Policy.

## 4. Notice to Complainant

Within 7 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Complainant that -

- a. confirms receipt of the Complaint;
- b. outlines the process that will be followed and possible outcomes;
- c. explains the application of confidentiality to the complaint;
- d. includes a copy of this Policy; and

- e. if necessary, seeks clarifications or additional information.

If the Complaint Form indicates that the Complainant agrees to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will advise the Complainant of the process in accordance with Part 3.6 of this Policy.

#### 5. Notice to Respondent

Within 14 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Respondent that -

- a. advises that a Complaint has been made in accordance with the Code of Conduct and this Policy;
- b. includes a copy of the Complaint Documents;
- c. outlines the process that will be followed, the opportunities that will be afforded to the Respondent to be heard and the possible outcomes;
- d. includes a copy of this Policy; and
- e. if applicable, advises that further information has been requested from the Complainant and will be provided in due course.

If the Complainant has agreed to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will ask the Respondent if they are also willing to participate in accordance with Part 3.6 of this Policy.

#### 6. Alternative Dispute Resolution

The Shire of Esperance recognises that Alternative Dispute Resolution may support both parties to reach a mutually satisfactory outcome that resolves the issues giving rise to the Complaint. Alternative Dispute Resolution requires the consent of both parties to the Complaint and may not be appropriate in all circumstances.

To commence the process, the Behaviour Complaints Officer will, as the first course of action upon receiving a complaint, offer the Complainant and the Respondent the option of Alternative Dispute Resolution. If both parties agree to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will pause the formal process.

The objective of Alternative Dispute Resolution will be to reach an agreed resolution that satisfies the Complainant that the formal process is no longer required, allowing them to withdraw the Complaint, in accordance with Part 3.3 of this Policy. For example, an offer by a Respondent to issue a voluntary apology in response to a Complaint, even in the absence of a request from the Complainant, qualifies for consideration as Alternative Dispute Resolution.

If Alternative Dispute Resolution is commenced, both the Complainant and Respondent may decline to proceed with the process at any time. The process may also be terminated on the advice of a third party who is aiding the Local Government, such as a facilitator or mediator.

If Alternative Dispute Resolution is terminated or does not achieve an agreed outcome that results in the withdrawal of the Complaint, the Behaviour Complaints Officer will resume the formal process required under this Policy.

## 7. Order of Complaints

Complaints will normally be dealt with in the order in which they are received.

If more than one Complaint is received that relates to the same alleged behaviour, the Behaviour Complaints Officer may decide to progress those Complaints concurrently.

## 8. Appointment of Complaints Assessor

If Alternative Dispute Resolution is not commenced, is terminated or does not achieve an agreed outcome resulting in the withdrawal of the Complaint, the Behaviour Complaints Officer will appoint a suitably qualified and experienced Complaint Assessor. The Complaints Assessor may be either an Employee of the Shire of Esperance or a third party appointed in accordance with the Shire's Purchasing Policy.

The Behaviour Complaints Officer will endeavour to appoint a Complaint Assessor within a reasonable period. The Behaviour Complaints Officer will provide written notice of the appointment to the Complainant and the Respondent.

## 9. Search of Local Government Records

The Complaint Assessor may request the Behaviour Complaints Officer to search for any relevant records in the Shire's Record Management System.

In particular, if the behaviour is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Officer will be requested to identify any Local Government records that provide evidence that may support a decision as to whether -

- a. the behaviour occurred at a Council or Committee Meeting,
- b. the behaviour was dealt with by the person presiding at the meeting, and/or
- c. the Respondent has taken remedial action in accordance with the Shire of Esperance's *Standing Orders Local Law 2015*.

The Complaints Assessor must provide the Respondent with a copy of any records that are identified. In addition, where a clarification or additional information has been sought from the Complainant by either the Behaviour Complaints Officer or the Complaint Assessor, copies must also be provided to the Respondent.

## 10. Assessment of the Complaint

The Complaint Assessor will undertake an assessment of the Complaint in accordance with the process outlined in the Notices given under Part 3.4 and Part 3.5 of this Policy.

The Complaint Assessor must ensure that the Respondent is provided with a reasonable opportunity to be heard before forming any opinions, or drafting the Complaint Report or recommendations.

## 11. Complaint Report

The Complaint Assessor will prepare a Complaint Report that will -

- a. outline the process followed, including how the Respondent was provided with an opportunity to be heard;

- b. include the Complaint Documents, the Response Documents and any relevant Local Government Records as attachments; and
- c. include recommendations on each decision that may be made by Council; and
- d. include reasons for each recommendation, with reference to Part 4 of this Policy.

If the Complaint Report recommends that a Plan is prepared and implemented in accordance with clause 2.6(4)(b) of the Code of Conduct and Part 4.4 of this Policy, the Complaint Report must include a Proposed Plan.

The Respondent and Claimant will be provided with a draft copy of the Complaint Report, and an opportunity to make submissions, before the Complaint Assessor finalises the Complaint Report.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to include the Complaint Report in the Agenda for a meeting of Council. The Behaviour Complaints Officer will be responsible for preparation of an Officer Report with the Complaint Report provided as a confidential attachment. The recommendations of the Complaint Report will be provided as the Officer Recommendations.

#### 12. Complaints Committee Meeting

The Agenda will be prepared on the basis that the part of the meeting that deals with the Complaint Report will be held behind closed doors in accordance with s.5.23(2) of the Act.

The Behaviour Complaints Committee will consider the Complaint Report and attachments and give due regard to the recommendations.

In accordance with Regulation 11(d)(a) of the *Local Government (Administration) Regulations 1996*, reasons for any decision that is significantly different from the Officer Recommendation must be recorded in the meeting minutes.

If the behaviour that is the subject of the Complaint is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Committee will determine whether or not to dismiss the Complaint in accordance with clause 2.7 of the Code of Conduct and Part 4.2 of this Policy.

If the Behaviour Complaints Committee dismisses a Complaint, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the decision and the reasons for the decision in accordance with clause 2.7(2) of the Code of Conduct. This concludes the process for this Complaint.

If the Complaint is not dismissed, the Behaviour Complaints Committee will consider the Complaint and make a Finding as to whether the alleged Breach that is the subject of the Complaint has or has not occurred, in accordance with clause 2.6 of the Code of Conduct and Part 4.3 of this Policy.

If the Behaviour Complaints Committee finds that the alleged Breach did not occur, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the Finding and the reasons for the Finding in accordance with clause 2.6(7)(a) of the Code of Conduct. This concludes the process for this Complaint.



If the Behaviour Complaints Committee finds that the alleged breach did occur, the Committee will decide whether to take no further action in accordance with clause 2.6(4)(a) of the Code of Conduct or prepare a plan to address the behaviour in accordance with clause 2.6(4)(b) of the Code of Conduct and Part 4.4 of this Policy.

If the Behaviour Complaints Committee decides to take no further action, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of this decision and the reasons for the Finding in accordance with clause 2.6(7)(a) of the Code of Conduct. This concludes the process for this Complaint.

If the Behaviour Complaints Committee decides to prepare a Plan, the Committee will first consult with the Respondent in accordance with clause 2.6(5) of the Code of Conduct. The Behaviour Complaints Committee will consider any submissions made by the Respondent before preparing and implementing a Plan.

### 13. Compliance with Plan Requirement

The Behaviour Complaints Officer will monitor the actions in timeframes set out in a Plan.

Failure to comply with a requirement included in a Plan is a minor breach under section 5.105(1) of the Act and clause 3.9 of the Code of Conduct.

The Behaviour Complaints Officer must provide a report advising Council of any failure to comply with a requirement included in a Plan.

### Decision Making

#### 1. Objective and Principles

All decisions made under this Policy will reflect the Policy Objectives and the Principles included in Part 1 of this Policy.

#### 2. Dismissal

The Behaviour Complaints Committee must dismiss a Complaint in accordance with clause 2.7(1)(a) and (b) of the Code of Conduct if it is satisfied that -

- a. the behaviour to which the Complaint relates occurred at a Council or Committee Meeting; and
- b. either —
  - i. the behaviour was dealt with by the person presiding at the meeting; or
  - ii. the Respondent has taken remedial action in accordance with the Shire of Esperance's Standing Orders Local Law 2015

#### 3. Finding

A Finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.

This may involve first considering whether the behaviour occurred, on the balance of probabilities, and then whether that behaviour constituted a breach of a requirement of Division 2 of the Code of Conduct.



#### 4. Action

In deciding whether to take no further action, or prepare and implement a Plan, the Complaints Committee may consider -

- a. the nature and seriousness of the breach(es);
- b. the Respondent's submission in relation to the contravention;
- c. whether the Respondent has breached the Code of Conduct knowingly or carelessly;
- d. whether the Respondent has breached the Code of Conduct on previous occasions;
- e. likelihood or not of the Respondent committing further breaches of the Code of Conduct;
- f. personal circumstances at the time of conduct;
- g. need to protect the public through general deterrence and maintain public confidence in Local Government; and
- h. any other matters which may be regarded as contributing to the conduct or mitigating its seriousness.

#### 5. Plan Requirements

The Proposed Plan may include requirements for the Respondent to do one (1) or more of the following -

- a. engage in mediation;
- b. undertake counselling;
- c. undertake training;
- d. take other action the Complaints Committee considers appropriate (e.g. an apology).

The Proposed Plan should be designed to provide the Respondent with the opportunity and support to demonstrate the professional and ethical behaviour expected of elected representatives expressed in the Code of Conduct.

The Proposed Plan may also outline -

- a. the actions to be taken to address the behaviour(s);
- b. who is responsible for the actions;
- c. any assistance the Local Government will provide to assist achieve the intent of the Plan; and
- d. a reasonable timeframe for the Plan action(s) to be addressed by the Respondent.

Any requirements identified within a Plan will be arranged by the Shire in accordance with the Elected Member Professional Development Policy once adopted.

.....End.....

#### Document Information

Responsible Position	Executive Assistant
Risk Rating	High

#### Referencing Documents

- *Local Government Act 1995*
- *Local Government (Administration) Regulations 1996*
- *Local Government (Model Code of Conduct) Regulations 2021*
- *Council Members, Committee Members and Candidates Code of Conduct*

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
May 2021	1	D21/17096	New policy	O0521-146	May 2023
Jan 2022	2	D21/17096[v2]	Biennial review, no change	O0122-012	Jan 2024



## POL 0049: Elected Member Professional Development

### COUNCIL POLICY

#### Purpose

To ensure that Elected Members of the Shire of Esperance meet and comply with the prescribed professional development requirements under the *Local Government Act 1995*, and to encourage participation in other professional development, specifically designed to enhance skills and knowledge relating to roles and responsibilities, as an Elected Member.

#### Scope

This Policy applies to elected members of the Shire of Esperance.

#### Definitions

**Conference:** means a gathering within a structured learning environment, or event related to the industry of local government in the form of a conference, congress, seminar, forum and workshop.

**Professional Development:** defines training, conferences, conventions, congresses, study tours, forums, information sessions, workshops and events related to local government

#### Practice

##### Compulsory Training

The *Local Government Act 1995* requires all Elected Members to undertake compulsory training within 12 months of being elected. The Shire of Esperance is required under the *Local Government Act 1995* to adopt and report on compulsory training, and additionally, continuing development for Elected Members of the Shire of Esperance.

Elected Members of the Shire of Esperance must undertake and successfully complete the following prescribed professional development training modules titled "Council Member Essentials" within a period of 12 months from election, unless a prescribed exemption applies -

1. Understanding Local Government;
2. Serving on Council;
3. Meeting Procedures;
4. Conflicts of Interest; and
5. Understanding Financial Reports and Budgets.

All units and associated costs will be paid by the Shire and must be completed within 12 months following election. The training is valid for 5 years.

It is Council's preference that the training is undertaken via the eLearning method which is the most cost-efficient form of delivery. It is acknowledged that there may be Elected Members who prefer to receive training face-to-face and/or opportunities to attend training which is being delivered in the region or in the Perth Metropolitan area.

#### Ongoing Professional Development

The professional development of Elected Members is an important activity of the Shire to ensure that its decision making is of the highest standard and is the product of informed and ethical debate, by well trained and committed Elected Members, acting in the best interest of the community.

Elected Members are encouraged to nominate to attend other professional development opportunities to enhance and broaden their knowledge of local government issues to support the community.

In order to be eligible for approval under this Policy, professional development must be relevant to the role of an Elected Member, and offer demonstrable benefit to the Council as a governing body, the Shire as an organisation, and the broader community.

This includes continuing professional development that:

1. Enhances the understanding of Council Member roles and responsibilities, and/or the role and function of Local Government;
2. Assists Council Members to develop knowledge and skills in relation to the strategic objectives of the Shire;
3. Enables Council Members to further develop personal and professional skills, necessary for excellence in performance of the Council Member role; or
4. Supports Council Members in developing and maintaining positive and healthy communication, team culture and relationships, to facilitate excellent teamwork to achieve outcomes that deliver good government for the Shire community.

#### Eligible Formal Training Events

The formal training events to which this Policy applies is limited to those conducted by, or organised by, any of the following organisations or individuals -

1. The West Australian Local Government Association (WALGA);
2. Local Government Professionals WA;
3. Accredited training organisations offering training which directly relates to the role and responsibilities of Elected Members;
4. Information sessions organised by the Department of Local Government, Sport and Cultural Industries; or
5. Seminars, training and/or information sessions provided by individuals with a demonstrably strong knowledge of local government in Western Australia.

The following are examples of other professional development opportunities as described above -

1. WALGA WA Local Government Week;
2. Special "one off" conferences sponsored by WALGA or the Department of Local Government, Sport and Cultural Industries on important local government issues;
3. Annual conferences of major professions of local government;
4. Conferences which advance the development of Elected Members in their role as Councillors; or
5. Conferences of organisations on which an Elected Member has been elected or appointed as a delegate.

#### Approval of Professional Development

Councillors must submit their application for professional development to the Shire President or Chief Executive Officer. Council Members who wish to attend training or professional development may make application by providing the following details to the CEO in writing -

1. Course or event title, provider or organiser name, location and date;
2. Copy of, or link to program, course outline or other summary of content;
3. An outline of the anticipated benefits of attendance, with reference to this policy; and
4. Total estimated costs including accommodation, travel and sundry expenses.

Applications, including all required details, are to be submitted in reasonable time for registration. Where possible, the Shire will seek to take advantage of reduced prices for early registration.

The Shire President and Chief Executive Officer have the ability to approve or refuse applications for training or professional development. Considerations for approval include -

1. The costs of attendance including registration, travel and accommodation (if required);
2. The budget provisions allowed and the uncommitted or unspent funds remaining as per the Elected Member Entitlement Policy,
3. Any justification provided by the applicant when the training is submitted for approval;
4. The benefits to the Shire of the person attending;
5. Identified skills gaps of elected members both individually and as a collective;
6. The Elected Member holding a position on the relevant Council Committee that deals with the subject matter of the conference;
7. If no nominees are available from the relevant portfolio or Committee then the nomination will be at the discretion of Council;
8. The current or future strategic direction and activities of the Shire and its priorities as related to the Shire's Strategic Community Plan;

9. The equity of opportunity and the remaining period of office of the Elected Member concerned including recognition of the number of opportunities already provided to the respective Elected Member; or
10. A maximum of two (2) Councillors attending any one conference (excluding Local Government Week), unless resolved otherwise by Council.

#### Travel Arrangements

All booking arrangements for conferences and training for Elected Members are coordinated through the Chief Executive's Office.

Bookings allocated to Elected Representatives of the Shire cannot be exchanged, downgraded or rebated. Efforts will be made to modify departure times only.

Bookings will not be revised to include personal travel that is not part of the scheduled conference itinerary. Efforts will be made to upgrade or alter the booking if the Elected Member is personally paying for the additional costs.

The proposed duration of conference or training attendance together with travel time and planned supplementary pre or post conference activities relevant to the Shire of Esperance will be notified to Council or the Chief Executive Officer for confirmation and/or amendment prior to the delegate's departure for the conference or training.

#### Loyalty Program and Reward Points

Council Members are not to obtain personal benefits from expenditure of Shire funds and must not claim personal frequent flyer or accommodation loyalty points for air travel or accommodation paid for by the Shire.

#### Reporting and Publishing

All Elected Members attending any conference or training are expected to report to Council on the benefits achieved by attending and should make the conference papers available to other Councillors.

A record of conferences or training attended by Elected Members will be maintained by the Chief Executive Officer.

The Chief Executive Officer is to prepare a report each financial year on professional development training completed by Elected Members in the financial year.

This report is to be published on the shire website within 1 month after the end of the financial year to which the report relates.

#### Conference/Seminar Attendance

This statement applies to all conferences and seminars, in order that Council provides an opportunity for Elected Members to further their knowledge, professional development and to establish industry networks. Council recognises that Elected Members, in carrying out their duties and responsibilities, will be required to represent the Council by attendance at various conferences or seminars.

### Attendance

Subject to budgeted funds being available, an allocation of \$4,500 per financial year will be allocated to each Elected Member to attend approved conferences, including interstate and intrastate conferences. The cost of attending Local Government Week and travel and accommodation costs related to attending conferences and seminars will be included within this financial limit. The Budget allocation for Elected Members for Conferences/Seminars, and Travel and Accommodation will be reviewed annually.

Elected Members may be nominated and authorised to attend conferences by -

1. the Council through a resolution passed at a Council Meeting for interstate and/or international conferences; or
2. the Shire President, or CEO acting within delegated authority, for intrastate conferences.

In applying this policy authority is delegated to the CEO to authorise attendance at intrastate conferences and to nominate and authorise a substitute Elected Member to attend any conference in lieu of the person/s approved, if they are unable to attend the conference.

### Limitations on Conference Attendance

Elected Members conference attendance will be limited to the annual member allocation amount of \$4,500 and this will be applied to a combination of Local Government Week and other intrastate conferences to the combined maximum value of \$4,500 or alternatively one (1) interstate conference and other intrastate conferences to the maximum combined value of \$4,500. This allowance applies to all conferences but does not include dedicated training courses provided for Elected Members via WALGA or the Department of Local Government, this is determined under the Elected Member Training and Personal Development section of this Policy.

The Council shall have the authority to nominate the Shire President to attend any conference; however, the maximum value shall be 1.5 times the Member's allocation in any financial year.

### Elected Member Training Allowance

An annual training allowance of \$3,000 per Elected Member will be available in order for Elected Members to undertake approved training courses for personal development. This allocation is for course fees only and does not include travel and accommodation costs.

Note: course costs for units specified in the Compulsory Training section of this policy are additional to the annual training allowance and will not reduce this balance.

For qualifications relevant to your position which are greater than the annual training allowance, the Shire may contribute up to 75% of the course cost.

Cost for travel and accommodation during approved training will be allocated from the \$4,500 conference allowance.

### Conference and Training Costs, Travel and Related Expenses

The Shire will be responsible for the costs associated with training or professional development approved in accordance with this policy, as detailed in this section.

Travel, registration fees and accommodation are to be arranged directly by the Executive Assistant.

Expenses relating to conferences and training as approved, will be paid direct by the Shire. Expenses may include the following items -

3. Airfare;
4. Conference registration;
5. Copy of conference proceedings;
6. Accommodation; and
7. Meals

Incidental expenses include -

1. Travel to and from the conference venue; and
2. Travel to and from all airport destinations.

For each Council delegate authorised to attend a conference, training or seminar in accordance with this Policy, Council would cover direct expenses of such attendances, including the cost of registration, official conference functions/dinners/tours, travel arrangements, accommodation, and reasonable out-of-pocket expenses for the duration of the conference.

Reasonable out-of-pocket expenses would not include excessive in-room charges; mini bar costs; entertaining expenses; meals and drinks where provided for by conference registration; or personal costs such as dry-cleaning or personal care appointments.

Where the conference, training or seminar is held at a hotel, accommodation in the first instance will be sought from that particular hotel, or if not available, from an accommodation provider as near as practicable to the venue.

In the event that accommodation is not onsite, the Shire will reimburse Elected Members any taxi or public transport costs incurred for travel to or from the conference, training or seminar.

The preferred method of travel to and from a conference, training or seminar in Perth or interstate is via air travel. Alternatively, or where air travel is not available, the preferred method of road travel is by Shire provided vehicle. Where an Elected Member chooses to take their own private vehicle to suit personal arrangements, the Shire will -

1. Pay the Elected Member the equivalent of a single return flight to Perth (equivalent to the cost of a Rex Community Fare) for travel by private motor vehicle; or
2. Pay the Elected Member the rate stipulated in the table on page 1 of this Policy where the travel is outside of the Perth metropolitan region (i.e. Kalgoorlie, Ravensthorpe, Norseman etc.).



Where the mode of transport to attend a conference, training or seminar is a motor vehicle, the Shire will pay for parking costs incurred relating to attendance at the conference, training or seminar.

Hire cars will be made available to Elected Members to facilitate their attendance at a conference, training or seminar where the CEO considers it favourable as opposed to utilising taxis or public transport. In this instance parking costs will also be reimbursed.

Where meals are not included as part of the associated conference, training, seminar or accommodation, Elected Members will receive an allowance or reimbursement at the following rates in accordance with the *Public Service Award 1992* -

1. Breakfast \$16.30
2. Lunch \$16.30
3. Dinner \$46.50

Any expenditure over and above these amounts will be at the cost of the Elected Member.

Where the CEO or a Director pays for the costs of a group meal via corporate credit card, those Elected Members in attendance will not be paid the meal allowance referred to in point 8 above.

#### Elected Member Delegate – Accompanying Person

Where an Elected Member is accompanied at a conference or training course, all costs for or incurred by the accompanying person are at their personal expense and not covered by Council. The exception to this being the cost of shared accommodation, provided there is no increase in accommodation costs from the rate if the elected member attended the event alone, and attending any official conference dinner where partners would normally attend, then the Council would pay that cost.

#### Sharing of Knowledge

At the next Ordinary Council Meeting following the return from an approved conference, training or seminar, the Elected Member concerned shall provide at least a verbal report on the attendance for the information of other Elected Members. Any written papers or materials should be handed to the CEO for circulation within the organisation.

.....End.....

#### **Document Information**

Responsible Position	Executive Assistant
Risk Rating	Medium

#### **Referencing Documents**

- *Local Government Act 1995*
- *Public Service Award 1992*

**Revision History**

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Jun 2021	1	D21/20126	New policy	O0621-149	Jun 2022
Jan 2022	2	D21/20126[v2]	Biennial review, no change.	O0122-012	Jan 2024
Jun 2022	3	D21/20126[v3]	Include provisions for high level qualifications.	O0622-148	Jun 2024

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## POL 0050: Elected Member Social Media

### COUNCIL POLICY

#### Purpose

The purpose of this policy is to provide guidance for the use of social media by Elected Members when engaging with the community in both a private and public capacity.

#### Scope

The Council is committed to engaging with Esperance communities, and enhancing existing communication and information circulation. Social media has become an essential part of daily life and method of communication. The use of social media by the Shire and the Elected Members can enhance communication, engagement and collaboration with our community.

The intent of this Policy is to ensure that social media engagement by Elected Members are thoughtful, well-reasoned and responsible, suited to their professional position and standing in the community and aligns with the adopted policies of the Council.

#### Definitions

**Code of Conduct:** refers to the Code of Conduct - Council Members, Committee Members and Candidates.

**The Guide:** refers to the Elected Member Use of Social Media Guide document.

**Shire:** refers to the Shire of Esperance as an organisation/governing body.

**Social Media:** includes all of the means by which information in the form of text, still and video images, sound files, data or preferences are communicated to an audience of more than one via the internet. Some examples of popular social media are -

1. Social networking sites (e.g. Facebook, LinkedIn, Google+)
2. Blog posts including video and podcasts
3. Video hosts (e.g. YouTube, Vimeo)
4. Image sharing sites (e.g. Flickr, Instagram and Pinterest)
5. Text or voice chat
6. Forums or discussion groups Geolocation based media (e.g. Foursquare)
7. Wikis and online collaborations (e.g. Wikipedia)

#### Practice

Social media, can play an important role in the public forum and can offer a means for public discussion around council and community issues.. Social media can help remove barriers in engaging wide sectors of the community and enhance existing communications and information circulation.

One of the roles of Elected Members is to facilitate communications between the community and Council. Where social media encourages short and attention-grabbing statements, the community expects thoughtful, well-reasoned and responsible

communications from its representatives. The existing expectations around professional conduct such as those contained in the Code of Conduct, Elected Member Use of Social Media Guide and Local Government Act 1995 apply.

As part of Elected Members induction into Council, a training session will be convened to provide advice to all Elected Members on the best practice use of social media in their role.

The Guide should be read in conjunction with the Code of Conduct and form part of Council's policies, codes and decisions. A breach of this Guide may be considered a breach of the Code.

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Elected Members must not make 'improper use of office' to cause detriment to the Shire or another local government. Standards for Elected Members include the requirement to avoid damage to the reputation of the Shire and the legal fidelity to the Council. It is important to ensure the language and approach used online is consistent with what the community would expect from an Elected Member and meets the requirements of the Code of Conduct.

8.

#### Recordkeeping

Social media posts and comments from the Shire of Esperance and Elected Members are classified as official public records. It is a statutory requirement for the Shire to monitor relevant social media posts and retain them in the Shire's document management system for record keeping purposes, as per the *State Records Act 2002*

#### Use of Social Media During Local Government Elections

During a Local Government election period social media may fall into the category of 'election material'. Election material is any material which is published in any format which is intended to affect the result of the election.

All election material must contain the name and the address of the person who authorises the material. Therefore, any social media which may in some way comment on Candidates or Council during an election campaign must meet the requirements of the Local Government (Elections) Regulations 1997 and associated Regulations. Elected Members and Candidates should familiarise themselves with these requirements. If in doubt, act on the side of caution and refrain from using social media to make comment. Advice can be obtained from the Office of the CEO or Electoral Commissioner's delegate.

.....End.....

#### Document Information

Responsible Position	Manager Marketing and Communications
Risk Rating	High

#### Referencing Documents

- *Local Government Act 1995*
- *Local Government (Elections) Regulations 1997*
- *Code of Conduct - Council Members, Committee Members and Candidates*
- *Elected Member Use of Social Media Guide*

#### Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Aug 2021	1	D21/28773	New policy	O0821-143	Aug 2023
Jan 2022	2	D21/28773[v2]	Biennial review, no change	O0122-012	Jan 2024