

Attachment 1 - proposed - Council Code of Conduct Division 3 Complaint Handling Policy

Purpose

This policy establishes the procedure for dealing with complaints about alleged breaches of behaviour requirements under the City of Fremantle Elected Members, Committee Members and Candidates – Code of Conduct, in accordance with clause 15(2) of the Local Government (Model Code of Conduct) Regulations 2021.

It also gives effect to the City's commitment to an effective, transparent, fair and accessible complaints handling process that supports high standards of behaviour of Elected Members, Committee Members and Candidates.

Policy statement

Principles

a. Procedural Fairness

The principles of procedural fairness will apply when dealing with a Complaint.

The Respondent will be afforded a reasonable opportunity to be heard prior to any findings being made; decisions are to be made in an objective and impartial manner with an absence of bias (or the perception of bias); and any findings made are to be based on proper and genuine consideration of the evidence.

b. Consistency

Each Complainant and Respondent will be dealt with according to their circumstances and each Complaint considered and determined on its merits. However, the City will ensure consistent decision making in relation to a Complaint, with similar circumstances resulting in similar decisions where appropriate.

c. Confidentiality

To protect both the Complainant and Respondent, the City will take all reasonable steps to maintain confidentiality when dealing with a Complaint. Information gained in the course of managing a Complaint is to be managed in a secure manner and must not be disclosed or used inappropriately.

d. Accessibility

Information on how to make a Complaint is available on the City's website, or alternatively from the City's Administration Building upon request.

1. Making a Complaint

- 1.1 Any person may make a Complaint alleging that an Elected Member, Committee Member or Candidate has behaved in a way that constitutes a breach of Division 3 of the Code of Conduct.
- 1.2 A Complaint must be made within one month after the alleged Breach.
- 1.3 A Complaint must be made by completing the Complaint Form in full and providing the completed forms to the Complaints Officer.
- 1.4 A Complaint must be made in accordance with the Complaint Form and specify which requirement(s) of the Code of Conduct is alleged to have been breached. It must also include the name and contact details of the Complainant.

- 1.5 Where a Complaint Form omits required details, the Complaints Officer will invite the Complainant to provide this information in order for the Complaint to be progressed.
- 1.6 The supporting information provided with the initial complaint will be the only information considered during any assessment or investigation. The Complaints Officer may seek clarification but will not seek or accept any additional supporting information.
- 1.7 A Complaint in relation to a Candidate must be made in accordance with the above process but cannot be dealt with unless the Candidate is subsequently elected as an Elected Member.

2. Withdrawing a Complaint

- 2.1 A Complainant may withdraw their Complaint, in writing, at any time before a Finding has been made in relation to the Complaint.
- 2.2 A Complainant may withdraw a Complaint by advising the Complaints Officer, in writing, that they wish to do so.
- 2.3 After receiving a withdrawal of the Complaint, the Complaints Officer will take all necessary steps to terminate the process commenced under this Policy.

3. Responding to a Complaint

- 3.1 Within 14 days after receiving a **Candidate Complaint**, the Complaints Officer will provide written notice:
 - a. To the Complainant confirming receipt and advising of the procedure for complaints; and
 - b. To the Respondent, including a summary of the complaint and advising of the procedure for complaints.
- 3.2 Within 14 days of receiving a **Complaint**, the Complaints Officer will contact the:
 - a. Complainant:
 - confirming receipt of the Complaint.
 - outlining the process that will be followed and possible outcomes.
 - explaining the application of confidentiality to the complaint.
 - including a copy of this Policy; and
 - if necessary, seeking clarification.
 - b. Respondent:
 - advising that a Complaint has been made and include a copy of the Complaint and supporting documents.
 - outlining the process that will be followed and the possible outcomes.
- 3.3 Complaints will normally be dealt with in the order in which they are received.
 - a. If more than one Complaint is received that relates to the same alleged behaviour, the Complaints may be progressed concurrently where appropriate.

4. Mediation

- 4.1 It is recognised that mediation may support both parties to a Complaint to reach a mutually satisfactory outcome that resolves the issues giving rise to the complaint and the Complaints Officer will, as the first course of action upon receiving a complaint, offer and encourage the Complainant and the Respondent to participate in

Mediation.

- 4.2 If both parties agree to participate in Mediation, the formal process will be paused.
- 4.3 The objective of Mediation will be to reach a resolution. For example, an offer, by the person to whom the Complaint relates, to issue a voluntary apology in response to a Complaint, even in the absence of a request from the complainant, qualifies for consideration as mediation and resolution.
- 4.4 If Mediation 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 the Mediator.
- 4.5 Successful mediation outcomes will be reported to council through the Audit and Risk Management Committee via anonymous information report.
- 4.6 If Mediation is terminated or does not achieve a resolution that results in the withdrawal or agreed closure of the Complaint, the Complaints Officer will resume the formal process required under this Policy.

5. Assessment of the Complaint

- 5.1 The Respondent is to be provided with a reasonable opportunity to be heard before any opinions or recommendations are formed.
- 5.2 If the behaviour that is the subject of the Complaint is alleged to have occurred at a Council or Committee Meeting, the Complaints Officer will determine whether or not to dismiss the Complaint.
- 5.3 If a Complaint is dismissed, the Complainant and the Respondent will be given written notice of the decision and the reasons for the decision in accordance with the Code of Conduct. This concludes the process in relation to the Complaint.
- 5.4 If the Complaint is not dismissed, the Complaints Officer or Investigator (as appropriate) 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.
- 5.5 If it is determined that the alleged Breach did not occur, the Complainant and the Respondent will be given written notice of the Finding and the reasons for the Finding. This concludes the process for the Complaint.
- 5.6 If it is determined that the alleged breach did occur, the Complaints Officer or Investigator (as appropriate) will decide whether to recommend further action and / or to prepare a plan to address the behaviour.
- 5.7 If the Complaints Officer or Investigator (as appropriate) decides to take no further action, the Complainant and the Respondent will be given written notice of this decision and the reasons for the Finding. This concludes the process for the Complaint.
- 5.8 If the Complaints Officer or Investigator (as appropriate) decides to prepare a Plan, the Respondent is to be consulted and any submissions made by the Respondent are to be considered before preparing and implementing a plan.

6. Complying with plan requirements

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

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

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

7. Publication of findings

7.1 Within 14 days of a decision by the Investigator determining the outcome of a complaint, the Complaints Officer must:

- a. give the complainant and the respondent –
 - i. a copy of the finding; and
 - ii. a copy of Complaints Officer or Investigator (as appropriate) reports, minus any attachments
- b. publish the Complaints Officer or Investigator (as appropriate) report minus all attachments on the City's website.
- c. complete any further action required by Council.

8. Decision making

8.1 Finding

1. 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.
2. 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 the Code of Conduct.

8.2 Action

1. In deciding whether to take no further action, or prepare and implement a Plan, the following is to be considered:
 - 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 or the conduct or mitigating its seriousness.

8.3 Plan Requirements

1. A proposed plan may include requirements for the Respondent to do one or more of the following:
 - a. engage in mediation.
 - b. undertake counselling.
 - c. undertake training; and/or

- d. take other action considered appropriate (e.g., an apology).

2. The Proposed Plan may also outline:

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

9. Roles

9.1 Complaints Officer

1. A Complaint may be dealt with by the Complaints Officer in instances where:
 - a. in the view of the Complaints Officer, the nature of the Complaint is not serious nor complex in nature.
 - b. Mediation is either not appropriate given the nature of the complaint, is not agreed to by both parties, is terminated or does not achieve an agreed outcome; and
 - c. the Complaints Officer does not have a conflict of interest, either real or perceived, in relation to the Complaint.
2. The authority of the Complaints Officer includes the power to:
 - a. Accept complaints and withdrawal of complaints.
 - b. Dismiss a Complaint in accordance with the Code of Conduct,
 - c. Make a Finding as to whether an alleged Complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than it did not occur.
 - d. Where a Finding is made that a breach has occurred, determine:
 - i. To take no further action where appropriate; or
 - ii. Prepare and implement a plan to address the behaviour of the person to whom the Complaint relates.
3. The complaints officer must report to council:
 - a. Successfully mediated, resolved and withdrawn complaints – to be presented in an anonymous information report through the Audit and Risk Management Committee.
 - b. Complaint findings and actions prescribed – to be presented in an information report through the Audit and Risk Management Committee.
 - c. All complaint findings made by an Investigator for final determination.
4. Where the Complaints Officer appoints a suitably qualified and experienced Investigator, they will endeavour to do so within a reasonable period.

9.2 Investigator

1. The Investigator is an impartial third party, who may be appointed by the Complaints Officer where:

- a. the Complaint is sufficiently serious or complex in nature such that it warrants the appointment of an independent party to undertake an investigation or
 - b. the Complaint is not considered serious or complex in nature, however a conflict of interest (or the perception of a conflict of interest) preclude a Complaints Officer from making a determination in relation to the complaint; and
 - c. Mediation is either not appropriate given the nature of the complaint, is not agreed to by both parties, is terminated or does not achieve an agreed outcome.
2. Where a Complaint is referred to an Investigator, the Complaints Officer is to provide to the Investigator the Complaint, any supporting documents, and appropriate response documents.
 3. In undertaking their functions, the Investigator will apply the Principles of this Policy.
 4. The Investigator will:
 - a. Seek any clarification through the Complaints Officer.
 - b. Make a finding as to whether an alleged Complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than it did not occur.
 - c. Where a finding is made that a breach has occurred,
 - i. recommend that no further action, taken; or
 - ii. recommend a plan to address the circumstances of or the behaviour of the person to whom the Complaint relates.
 5. The details of all complaints dealt with by the Investigator will be reported direct to council for final determination.

10. Complaints not dealt with under this policy

A breach of the Rules of Conduct (as per Division 4 of the Code of Conduct) is a minor breach under s5.105(1) of the Local Government Act 1995 and is not the intended subject of this Policy.

Consequently, Complaints such as the following are inappropriate to be dealt with under this Policy:

- a. Complaints made with the intent of addressing personal grievances or disagreements,
- b. Complaints made to express dissatisfaction with a Council or Committee Member's lawfully made decisions or performance of their role,
- c. Minor breaches under s5.105(1) of the Local Government Act 1995,
- d. Serious breaches under s5.114 of the Local Government Act 1995; and
- e. Allegations of corruption.

11. Definitions

Act means the Local Government Act 1995.

Complaints Officer means the Chief Executive Officer, or such person authorised by the CEO to undertake the duties of a Complaints Officer.

Breach means a breach of Division 3 of the Code of Conduct.

Candidate an individual is considered a Candidate when their nomination for election is accepted by a returning officer. Any alleged behaviour breach may only be dealt with if the Candidate becomes an Elected Member.

Code of Conduct means the City of Fremantle Council Members, Committee Members and Candidates Code of Conduct.

Committee means a committee of Council, established in accordance with section 5.8 of the Act.

Committee Member includes any Elected Member, local government employee or unelected member of the community appointed by the Council to be a member of a Council committee.

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

Complaint means a complaint submitted under division 3 of the Code of Conduct.

Complaint Documents means the Complaint Form and any supporting information, evidence, or attachments provided by the Complainant at the time the Complaint is made.

Complaint Form means the form approved under the Code of Conduct.

Council means the Council of the City of Fremantle.

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

Elected Member means a person 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 Code of Conduct as to whether a Breach has or has not occurred.

Investigator means an independent party appointed in accordance with section 5.8 of the Act for the purpose of dealing with a Complaint.

Plan means a Plan prepared and implemented under the Code of Conduct to address the behaviour of the person to whom the Complaint relates, 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.

Respondent means the person to whom a complaint relates.

Attachment 2 - Elected Member Professional Development Policy

Policy scope

The City of Fremantle is required under the Local Government Act 1995 to prepare and adopt a policy that deals with matters relating to the continuing professional development of Elected Members.

The purpose of this policy is to outline the process associated with an Elected Member's attendance at professional development **that will better enable elected members to undertake the functions of their role.**

Local Government Act 1995

5.126. Training for council members

- (1) Each council member must complete training in accordance with regulations.
- (2) Regulations may —
 - (a) prescribe a course of training; and
 - (b) prescribe the period within which training must be completed; and
 - (c) prescribe circumstances in which a council member is exempt from the requirement in subsection (1); and
 - (d) provide that contravention of subsection (1) is an offence and prescribe a fine not exceeding \$5 000 for the offence.

5.127. Report on training

- (1) A local government must prepare a report for each financial year on the training completed by council members in the financial year.
- (2) The CEO must publish the report on the local government's official website within 1 month after the end of the financial year to which the report relates.

5.128. Policy for continuing professional development

- (1) A local government must prepare and adopt* a policy in relation to the continuing professional development of council members.

* Absolute majority required.

- (2) A local government may amend* the policy.

* Absolute majority required.

- (3) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.
- (4) The CEO must publish an up-to-date version of the policy on the local government's official website.
- (5) A local government —
 - (a) must review the policy after each ordinary election; and
 - (b) may review the policy at any other time.

This text box contains reference notes only, these notes do not form part of this policy

Policy statement

~~This policy outlines the professional development that may be made available to Elected Members that will better enable Elected Members to undertake the functions of their role.~~

1. ATTENDING PROFESSIONAL DEVELOPMENT

Elected members are encouraged to prioritise professional development in the areas in which they have an official capacity, for example a relevant Committee function.

1.1 PAYING FOR PROFESSIONAL DEVELOPMENT

1. All fees associated with an Elected Member:
 - a. attending professional development while representing the City of Fremantle, as requested by Council or the Chief Executive Officer; or
 - b. while undertaking professional development as required under legislation, will be met by the City from the general training budget.
2. The City may pay for or reimburse travel expenses to and from events and other expenses in accordance with relevant City policy.
3. Elected Members will not be paid any additional payments or allowances for attending a professional development occasion in their capacity as an Elected Member.

1.2 LOCAL GOVERNMENT INDUSTRY SPECIFIC

1. Any professional development, to be undertaken by an Elected Member, as required by the Act or Regulations, will be arranged and paid for by the City.
2. Elected Members are encouraged to attend local government industry related professional development, where budget allows.
 - a. Attendance that is free of cost may be arranged and attended at the discretion of the Elected Member.
 - b. Attendance that incurs a cost must be applied for in writing to the Chief Executive Officer, prior to commitment.
 - c. There must be sufficient general budget allocation remaining to cover all costs.
3. Attendance may be refused by the Chief Executive Officer to provide for fair disbursement of the allocated general training budget and/or to ensure the effective governance of Council.

1.3 NON LOCAL GOVERNMENT INDUSTRY SPECIFIC

1. Elected Members may attend non-local government Industry specific professional development.
 - a. Attendance that incurs a cost must be applied for in writing to the Chief Executive Officer, prior to commitment.
 - b. Attendance must be relevant to the role of an Elected Member.

- c. There must be sufficient individual training budget allocation remaining to cover all related costs.
- d. Attendance may be refused by the Chief Executive Officer to ensure the effective governance of Council.

2. GENERAL CONDITIONS FOR UNDERTAKING PROFESSIONAL DEVELOPMENT

- 2.1 Requests for attendance must be made in writing to the Chief Executive Officer.
- 2.2 Attendance by an Elected Member at International professional development, that incurs any cost to the City, must be referred to Council for approval, prior to commitment to attend.
- ~~2.3 The City will allocate a general budget amount per financial year to cover costs associated with attendance at local government industry specific professional development, or while representing the City.~~
- 2.4 The City will allocate an individual budget amount for each Elected Member per financial year to cover costs associated with attendance at ~~non-local government industry specific~~ professional development.
- 2.5 Registration, travel and accommodation for approved attendance may be arranged by the City or directly by an Elected Member.
- 2.6 The associated costs of approved attendance (airfares, registration fees and accommodation) may be paid directly by the City or may be reimbursed.
- ~~2.7 Advance payments made to an Elected Member in lieu of reimbursements for attendance at professional development will be in accordance with the Local Government Industry Award 2010.~~
- 2.7 All reasonable expenses incurred by the elected member at the direction of the Chief Executive Officer, incurred in connection with attendance will be paid by the City.
- ~~2.8 Advance payments are to be fully acquitted and payments not acquitted returned to the City within 10 working days of return from the conference/seminar.~~
- 2.9 When the accommodation or the professional development organiser provides meals as part of the package a meal **allowance reimbursement** will not be payable for those occasions.
- 2.10 When the Mayor is accompanied at a conference, the City may meet the accompanying person's costs, related to travel, accommodation and attendance at any official conference dinner or related conference function, where partners would normally attend.
- 2.11 When an Elected Member is accompanied at a conference, the City may only meet the cost of the accompanying person to attend any official conference dinner or related conference functions where partners would normally attend.
- 2.12 Elected Members are required to provide a brief summary, and any information or documentation of particular importance, to Council following attendance at approved conferences or seminars.

2.13 If an Elected Member, while attending professional development, extends the period of time away or deviates from the travel arrangements, for private purposes, normally associated with attendance at that conference/seminar, then the Elected Member will be responsible for the full cost associated with that extended stay and/or variation to travel arrangements for private purposes.

2. POLICY ADMINISTRATION

3.1 TIME LIMIT ON CLAIMS AND APPROVAL PROCESS

An Elected Member who chooses to receive reimbursement of expenses in accordance with this policy must submit the request to the Chief Executive Officer together with supporting documentation.

Requests for reimbursement must be received within three (3) calendar months after the month in which the expenses were incurred.

3.2 DISPUTE RESOLUTION

Any disputes in regard to this policy will be referred to the Chief Executive Officer in the first instance. In the event that the Elected Member and the Chief Executive Officer cannot reach an agreement, the matter will be reported to Council for consideration.

3. DEFINITIONS AND ABBREVIATIONS

Act – Local Government Act 1995

Professional development - training, education, conference, seminar or similar.

Regulations – any Regulations subsidiary to the Act

Attachment 3 - Elected Members Allowances and reimbursement Policy

POLICY STATEMENT

This policy outlines the payments that may be made to elected members through the payment of allowances and reimbursement of expenses incurred, within the provisions of the *Local Government Act 1995*. This policy applies to elected members while they are undertaking the functions of an elected member.

Payments and gifts to elected members is dealt with under Part **8 5, division 8** of the Local Government Act 1995 - **Local government payments and gifts to its members** ~~'Expenses that may be approved for reimbursement'. Under this regulation~~. Local Governments have discretion to reimburse only those expenses that are specifically prescribed or are directly associated with undertaking a function of an elected member.

This policy does not relate to civic attendance at functions where attendance is required by Council or the Chief Executive Officer, including sister cities functions and other events or functions where the Chief Executive Officer has requested attendance.

1. Prescribed allowances

Mayoral allowance

- (1) Pursuant to section 5.98(5) of the LG Act, the mayor of a local government is entitled, in addition to any fees or reimbursement of expenses payable under section 5.98(1) or (2), to be paid the annual allowance set by the local government within the range determined under the Salaries and Allowances annual determination.
- (2) Pursuant to section 5.98A(1) of the LG Act, a local government may decide, by an absolute majority, to pay the deputy mayor of the local government, an allowance of up to the percentage that is determined under the Salaries and Allowances annual determination. This allowance is in addition to any fees or reimbursement of expenses payable to the deputy mayor, deputy president or deputy chair under section 5.98 of the LG A

Explanatory note, not to be considered as legal interpretation

1.1 Mayoral Allowance

The City will pay the Mayor an Annual Local Government Allowance at the top of the band 1 range as determined by the Salaries and Allowances Tribunal in accordance with section 5.98 of the *Local Government Act 1995*.

1.2 Deputy Mayoral Annual Allowance

The City will pay the Deputy Mayor an Annual Local Government Allowance equivalent to 25% of the Mayoral Allowance as determined by the Salaries and Allowances Tribunal in accordance with section 5.98 of the *Local Government Act 1995*.

Annual meeting attendance allowance

- (1) Pursuant to section 5.98(1)(b) of the LG Act, a council member who attends a council meeting is entitled to be paid the fee set by the local government within the range determined under the Salaries and Allowances Tribunal annual determination.
- (2) Pursuant to section 5.98(1)(b) and (2A)(b) of the LG Act, a council member who attends a committee meeting or (at the request of the local government) a meeting of a type prescribed in regulation 30(3A) of the LG Regulations is entitled to be paid the fee set by the local government within the range determined under the Salaries and Allowances Tribunal annual determination for attending committee meetings or, as the case requires, meetings of that type.
- (3) Where a local government decides by an absolute majority that, instead of paying council members an attendance fee referred to in section 5.98 of the LG Act, it will pay all council members an annual allowance, the allowance is to be paid within the range set under the Salaries and Allowances Tribunal annual determination.

Explanatory note, not to be considered as legal interpretation

1.3 Annual Meeting Attendance Allowance

The City will pay all elected members an annual allowance at the top of the band 1 range as determined by the Salaries and Allowances Tribunal in accordance with section 5.98 of the *Local Government Act 1995*.

2. Prescribed reimbursements

Travel and childcare expenses relating to attendance at Council or Committee meetings are prescribed expenses and will be reimbursed at the elected member's request, in accordance with regulation 31 of the Local Government (Administration) Regulations 1996.

Prescribed expenses that must be approved for reimbursement (admin reg 31):

- (1) Pursuant to section 5.98(2)(a) and (3) of the LG Act, a council member who incurs an expense of a kind prescribed in regulation 31(1) of the LG Regulations is entitled to be reimbursed for the expense to the extent determined by the Salaries and Allowances Tribunal annual determination.
- (2) Regulation 31(1) of the LG Regulations prescribes the following kinds of expenses that are to be reimbursed:
 - a. rental charges incurred by a council member in relation to one telephone and one facsimile machine; and
 - b. child care and travel costs incurred by a council member because of the member's attendance at a council meeting or a meeting of a committee of which he or she is also a member.

Explanatory note, not to be considered as legal interpretation

2.1 Travel expenses

~~Elected members who attend council or committee meetings are entitled to be reimbursed travel expenses~~

Travel expenses will be calculated at the same rate contained in Section 30.6 of the Local Government Officer's (Western Australia) Award 2021, as determined by the Salaries and Allowances Tribunal.

Motor vehicle	Engine displacement (in cubic centimetres)		
	Over 2600cc	Over 1600cc to 2600cc	1600cc and under
	Cents per kilometre		
	93.97	67.72	55.85
Motorcycle	Cents per kilometre		
	32.55		

2.2 Child care costs

~~Elected members are entitled to be reimbursed child care costs, while attending council or committee meetings, to the maximum allowance as determined under the Salaries and Allowances Tribunal annual determination, or the actual cost per hour whichever the lower amount is.~~

Elected members will be reimbursed childcare costs incurred because of attendance at council and committee meetings.

Reimbursement rate will be the actual cost per hour, to the maximum hourly rate as determined under the Salaries and Allowances Tribunal annual determination.

3. Discretionary reimbursements

The following expenses may be reimbursed if incurred while undertaking a function of the role of elected member, at the elected member's request, in accordance with regulation 32 of the Local Government (Administration) Regulations 1996.

Local Government (Administration) Regulations 1996

- (1) Regulation 32(1) of the LG Regulations prescribes the following kinds of expenses that may be approved by a local government for reimbursement –
 - a. an expense incurred by a council member in performing a function under the express authority of the local government;
 - b. an expense incurred by a council member to whom paragraph (a) applies by reason of the council member being accompanied by not more than one other person while performing the function if, having regard to the nature of the function, the local government considers that it is appropriate for the council member to be accompanied by that other person; and
 - c. an expense incurred by a council member in performing a function in his or her capacity as a council member.
- (2) The extent to which a council member can be reimbursed for any other cost incurred under regulation 32(1) of the LG Regulations is the actual cost upon presentation of sufficient evidence of the cost incurred.
- (3) The extent to which a council member can be reimbursed for intrastate or interstate travel and accommodation costs incurred in any of the circumstances referred to in regulation 32(1) of the LG Regulations is at the same rate applicable to the reimbursement of travel and accommodation costs as determined under the Salaries and Allowances Tribunal annual determination (currently the Public Service Award 1992 issued by the Western Australian Industrial Relations Commission).

Explanatory note, not to be considered as legal interpretation

3.1 Travel expenses

Elected members who travel while they are undertaking the functions of an elected member may be reimbursed:

- a. for motor vehicles - as calculated in accordance with the rate set under the Salaries and Allowances Tribunal annual determination, **(Section 30.6 of the Local Government Officer's (Western Australia) Award 2021)**

Motor vehicle	Engine displacement (in cubic centimetres)		
	Over 2600cc	Over 1600cc to 2600cc	1600cc and under
	Cents per kilometre		
	93.97	67.72	55.85
Motorcycle	Cents per kilometre		
	32.55		

- b. for electric cycles – \$0.20 per kilometre, and
- c. for self-propelled cycles – \$0.10 per kilometre.

3.2 Child care costs

Elected members may be reimbursed for child care costs incurred while undertaking the functions of an elected member:

- a. ~~to the maximum hourly rate as determined under the Salaries and Allowances Tribunal annual determination, or the actual cost per hour whichever the lower amount is.~~ **Reimbursement rate will be the actual cost per hour, to the maximum hourly rate as determined under the Salaries and Allowances Tribunal annual determination.**

3.3 Minor hospitality

- a. Elected members may be reimbursed reasonable minor hospitality costs, to a maximum of ~~\$50~~ **\$100** per occasion, incurred while attending informal meetings, functions, events and other **hosting** occasions while undertaking the functions of an elected member.
- b. **The Mayor may be reimbursed reasonable minor hospitality costs to a maximum of \$250 per occasion, incurred while attending informal meetings, functions, events and other occasions while undertaking the functions of the Mayor.**

3.4 Ward Newsletters

Elected members may be reimbursed reasonable expenses incurred for the printing and/or distribution costs incurred to print and/or distribute ward newsletters in accordance with the following:

- a. The content of ward newsletters is to be approved by the Chief Executive Officer before printing and distribution.

- b. Printing and/or delivery costs will be reimbursed for ~~only one~~ **a joint ward** newsletter ~~per ward, up to~~ a maximum of six times per calendar year **per ward**.
- c. Printing may be requested to be undertaken by the administration.
- d. Ward newsletters funded, by way of printing and/or distribution, by the City should state that the Information included is not provided as an official publication of the city of Fremantle.
- e. Decisions of Council and other City of Fremantle information must be accurately reproduced.
- f. Ward newsletters funded (printing and/or distribution) by the City must not be used for electioneering purposes and must not support any particular candidate or group of candidates in an election.

3.5 Consumable Office supplies

Elected members may be reimbursed for any consumable office supplies reasonably required to undertake the functions of an elected member.

3.6 Memberships

Elected members may be reimbursed for one professional membership per year that directly relates to supporting the functions of an elected member.

4. Prescribed allowances paid in lieu of reimbursements

Annual allowances in lieu of prescribed expenses

- (1) Pursuant to section 5.99A of the LG Act, a local may decide by absolute majority that instead of reimbursing council members under the LG Act section 5.98(2) for all of a particular type of expense, it will pay all council members, for that type of expense, an annual allowance within the range determined under the Salaries and Allowances Tribunal annual determination.
- (2) Where a local government has decided to pay council members an annual allowance for an expense of a particular type instead of reimbursing expenses of that type under section 5.98(2) of the LG Act, section 5.99A of the LG Act provides for reimbursement of expenses of that type in excess of the amount of the allowance..

ICT expenses means:

- (1) rental charges in relation to one telephone and one facsimile machine, as prescribed by regulation 31(1)(a) of the LG Regulations; or
- (2) any other expenses that relate to information and communications technology (for example, telephone call charges and internet service provider fees) and that are a kind of expense prescribed by regulation 32(1) of the LG Regulations;

Explanatory note, not to be considered as legal interpretation

4.1 Information and Communication Technology allowance

Elected members will be paid an annual ICT allowance to the maximum amount allowable within the prescribed legislation as determined under the Salaries and Allowances Tribunal annual determination.

5. Discretionary allowances paid in lieu of reimbursements

Allowances in lieu of reimbursement of expenses

- (1) Pursuant to section 5.99A of the LG Act, a local may decide by absolute majority that instead of reimbursing council members under the LG Act section 5.98(2) for all of a particular type of expense, it will pay all council members, for that type of expense, an annual allowance within the range determined under the Salaries and Allowances Tribunal annual determination.
- (2) Where a local government has decided to pay council members an annual allowance for an expense of a particular type instead of reimbursing expenses of that type under section 5.98(2) of the LG Act, section 5.99A of the LG Act provides for reimbursement of expenses of that type in excess of the amount of the allowance..

Explanatory note, not to be considered as legal interpretation

5.1 Smartrider

Elected members may receive a corporate smartrider card upon request to use while undertaking the functions of an elected member (elected members who hold a corporate smartrider will not be eligible to receive additional reimbursement for Transperth travel expenses)

5.2 Parking

Elected members may be provided with a single vehicle parking fee exemption, upon request. This allows elected members to park in City of Fremantle on-street and off-street parking bays without needing to purchase a parking ticket while undertaking the functions of an elected member. The exemption is only applicable to properly marked bays and all other parking restrictions still apply (elected members who hold a single vehicle parking fee exemption will not be eligible to receive additional reimbursement for parking expenses incurred in Fremantle).

5.3 Equipment and stationary stationery

Elected members will be eligible to receive the following to assist them to undertake the functions of an elected member.

- a. The Mayor will be provided with a mobile computer, **and printing capabilities**, compatible with the City's security and other systems.
- b. Elected members will be provided with access to a computer **and printer** for their use within the City's Civic area of the administration centre.
- c. Elected members will be supplied, as reasonably required to undertake the functions of an elected member, with:
 - i. Business cards, and
 - ii. letterhead template.
- d. Elected members will be supplied with a name badge at the commencement of their term of office upon request. Replacement name badges will be supplied, upon request, if lost, stolen, damaged or worn.

6. Mayoral vehicle allowance

Method of payment of expenses for which person can be reimbursed (Act s. 5.101A)

Regulation 34AD (1)(a) of the LG Regulations prescribes that a local government may provide a vehicle to the Mayor as a 'Method of payment of expenses' (LG Act 5.101A).

Before a vehicle owned by a local government is provided to a council member the local government and the council member must sign an agreement setting out the responsibilities of the council member in relation to the use of the vehicle.

Explanatory note, not to be considered as legal interpretation

6.1 Mayoral Vehicle Allowance

At the Mayors request, a serviced, maintained and insured Council owned vehicle will be made available to the Mayor for the purpose of undertaking the functions of an elected member.

- a. Reasonable private use within the State, is permitted.
- b. All maintenance and operating costs will be met by the City, unless damage or breakdown occurs as a result of non-compliance with the provisions of this policy, in which case, any costs will be fully payable by the Mayor.
- c. The City will arrange for appropriate vehicle servicing.
- d. The vehicle is to be made available, at the Mayors discretion, for staff and other elected members to use while undertaking the functions of an elected member or employee.
- e. Any damage caused to the vehicle, which is not recoverable under council's insurance provisions, and where the Mayor **has** nominated **an** alternative driver, or an elected member is driving the vehicle and is deemed to be at fault, will be fully payable by that person
- f. The vehicle is to be returned within one business day on cessation of the Mayor's term of office

7. Insurance

7.1 Insurance

~~The City will provide insurance cover for elected members for:~~

- ~~a. Personal accident while undertaking the functions of an elected member, however, this cover does not include ordinary medical expenses.~~
- ~~b. Professional indemnity for matters arising while undertaking the functions of an elected member provided the performance or exercise of the official duty is in the opinion of council, not illegal, dishonest, against the interests of the City or otherwise in bad faith.~~
- ~~c. Public liability for matters arising while undertaking the functions of an elected~~

~~member but subject to any limitations set out in the policy of insurance.~~

The City will provide protection for elected members from LGIS (mutual indemnity Scheme) for:

- a. **Personal injury – the personal accident protection can provide a lump sum payment for a permanent injury; weekly wage replacement for a temporary injury; non-Medicare medical expenses; and some out of pocket expenses following an accident injury in the course of your activity as an elected member.**
- b. **Motor vehicle – where you are authorised to use your private vehicle for the benefit of the council, you will be covered for damage to your vehicle and your liability.**
- c. **Liability protection – legal liabilities as the result of third-party injury or property damage claims, arising from your official capacity as an elected member.**
- d. **Travel – cover for travel on authorised business trips, including cover for overseas medical costs; emergency evacuation; flight cancellation; and loss of baggage and personal effects.**
Councillors' liability – cover for claims against you for any alleged wrongful acts arising out of your official duties.

8. Policy administration

8.1 Time Limit on Claims and Approval Process

- a. Elected members choosing to receive reimbursement of expenses in accordance with the provision of this policy should submit the appropriate Reimbursement of Expenses Form to the ~~Chief Executive Officer~~ **Manager Governance**, together with supporting documentation.
- b. Requests for reimbursement must be received within three (3) calendar months after the month in which the expenses were incurred.

8.2 Payment of Fees/allowances

- a. All Allowances will be paid automatically unless an elected member has advised the Chief Executive Officer in writing that they do not want to claim any or part of the available allowances.
- b. All allowances will be paid monthly in arrears,
- c. The taxation liability arising from these payments is the individual responsibility of each elected member.
- d. If an elected member advises that they not want all or part of the available allowances that they are entitled to, any subsequent request for full or additional payment will not be back paid, but will accrue from the date of such request.
- e. If an elected member ceases to hold office, payment will only be made up to and including the final day of engagement.
- f. Reimbursement of member expenses in excess of the annual allowance made

under this policy is required to be substantiated by the claimant through the production of receipts or the keeping of a log book before such claims are paid.

8.3 Dispute Resolution

Any disputes ~~in regard to~~ regarding this policy will be referred to the Chief Executive Officer in the first instance. ~~In the event that~~ If the elected member and the Chief Executive Officer cannot reach an agreement, the matter will be reported to Council for a decision.

9. Definitions and abbreviations

Act – Local Government Act 1995

Regs – Local Government (Administration) Regulations 1996

ICT expenses –

- a. rental charges in relation to one telephone and one facsimile machine, as prescribed by regulation 31(1)(a) of the Local Government (Administration) Regulations 1996; or
- b. any other expenses that relate to information and communications technology (for example, telephone call charges and internet service provider fees) and that are a kind of expense prescribed by regulation 32(1) of the Local Government (Administration) Regulations 1996;

REIMBURSEMENT OF CHILD CARE EXPENSES

I ~~hereby~~ certify that the following expenses are true and correct and were incurred to enable me to undertake my functions as an elected member of the City of Fremantle.

Elected members are entitled to reimbursement of expenses as outlined in the Elected Members Allowances and Reimbursements Policy ~~2018~~

Receipts must accompany this claim for reimbursement (a clear photograph is acceptable).

Period of claim from:.....to:.....

Item	Date	Details of Meeting/Duty	No of Hours	Rate per Hour	Total Cost
No 1					
No 2					
No 3					
No 4					
No 5					
No 6					
No 7					
No 8					
Total of Claim					\$

Note: Copies of this form, or its contents, received from the elected members email account are considered to be electronically signed for the purposes of considering requested reimbursement.

Elected Member:

Signature:..... Date:.....

Administrative use only

Checked by Manager Governance:

Signature:..... Date:.....

Authorised by CEO:

Signature:..... Date:.....

REIMBURSEMENT OF EXPENSES

I **hereby** certify that the following expenses are true and correct and were incurred to enable me to undertake my functions as an elected member of the City of Fremantle.

Elected members are entitled to reimbursement of expenses as outlined in the Elected Members Allowances and Reimbursements Policy **2018**.

Receipts must accompany this claim for reimbursement (a clear photograph is acceptable).

Period of claim from:.....to:.....

Item	Date	Details of expense	Total Cost
No 1			
No 2			
No 3			
No 4			
No 5			
No 6			
No 7			
No 8			
Total of Claim			\$

Note: Copies of this form, or its contents, received from the elected members email account are considered to be electronically signed for the purposes of considering requested reimbursement.

Elected Member:

Signature:..... Date:.....

Administrative use only

Checked by Manager Governance:

Signature:..... Date:.....

Authorised by CEO:

Signature:..... Date:.....

REIMBURSEMENT OF TRAVEL EXPENSES

I **hereby** certify that the following expenses are true and correct and were incurred to enable me to undertake my functions as an elected member of the City of Fremantle.

Elected members are entitled to reimbursement of expenses as outlined in the 'Elected Members Allowances and Reimbursements Policy 2018'.

Vehicle

Make & Model or type:.....Registration:.....

Period of claim from:.....to:.....

Item	Date	Details of Meeting/Duty	Details of Vehicle used	Kms
No 1				
No 2				
No 3				
No 4				
No 5				
No 6				
No 7				
No 8				
			Total Distance	Total kms

Note: Copies of this form, or its contents, received from the elected members email account are considered to be electronically signed for the purposes of considering requested reimbursement.

Elected Member:

Signature:.....

Date:.....

Administrative use only:

Kms x (Rate) = \$.....

Checked by Manager Governance:

Signature:..... Date:.....

Authorised by CEO:

Signature:..... Date:.....

Attachment 4 - Elected Member and Chief Executive Officer Attendance at Events Policy

Policy scope

To establish the requirements around the attendance at events where tickets are offered to elected members or the Chief Executive Officer.

The purpose of this policy is to ~~establish the requirements around the attendance at events where tickets are offered to elected members or the Chief Executive Officer~~ to enable Elected Members and the Chief Executive Officer to attend Events as representatives of the City of Fremantle without restricting their participation in the Council decision making process.

Section 5.90A of the Local Government Act 1995 requires that local governments must adopt an “Attendance at Events” policy as part of the Local Government’s Gifts Framework to ensure transparency and accountability in decision-making.

Policy statement

This policy applies to Elected Members and the Chief Executive Officer in respect of their acceptance of invitations to Events where it is offered at a discounted rate or free of charge, as part of a sponsorship agreement or paid for by the City of Fremantle.

The acceptance of this benefit (if not paid for by the local government) is considered a gift and is subject to the disclosure of interest provisions unless the Event is detailed or is expressly approved under this policy.

Elected Members and the Chief Executive Officer are not required to disclose interests in relation to gifts or Event invitations from the following entities:

- Western Australian Local Government Association (WALGA);
- Local Government Professionals Australia WA (LG Pro);
- Australian Local Government Association (ALGA);
- A department of the public service;
- A government department of another State, a Territory or the Commonwealth;
- A local government or regional local government,

However, Elected Members and the Chief Executive Officer are statutorily obligated to disclose the receipt and acceptance of the gift or Event invitation in accordance with Section 5.87A and 5.87B.

1. ATTENDANCE AT EVENTS

1.1 Any Event invitation accepted by an Elected Member or the Chief Executive Officer without payment, where a member of the public is required to pay, unless noted in

this policy, will generally, be classified as a gift to which the declaration of interest provisions apply.

- 1.2 Where attendance by an Elected Member or the Chief Executive Officer at an Event where a member of the public is required to pay is in the interests of the City (such as for their professional development or to undertake a function as an Elected Member), the City may pay for the cost of the Event. The declaration of interest provisions would not apply.
- 1.3 If the City does not pay for the Elected Member or Chief Executive Officer's attendance at an Event, it would be classified as a 'gift' unless the contribution by the Elected Member or Chief Executive Officer to the Event (such as by way of presenting a paper or speaking engagement) is reasonably considered to outweigh the value of registration or other benefit given to the Elected Member or Chief Executive Officer.
- 1.4 Acceptance of reasonable and modest hospitality by an Elected Member or Chief Executive Officer at an unpaid Event run by a local community group where the Elected Member or Chief Executive Officer attends the Event in his or her capacity as an Elected Member or Chief Executive Officer would not generally be classified as a 'gift' where the contribution by the Council Member or Chief Executive Officer to the Event is reasonably considered to outweigh the value of the hospitality.
- 1.5 Any Event that is not noted as a pre-approved Event or otherwise approved in accordance with this policy, or the Event invitation is received in a personal capacity would not be considered an approved Event.
- 1.6 If the Event is a free Event to the public, then no action is required.
- 1.7 If the Event is ticketed and the Elected Member or Chief Executive Officer pays the full ticketed price and does not seek reimbursement, then no action is required.
- 1.8 If the Event is ticketed and the Elected Member or Chief Executive Officer pays a discounted rate or is provided with a free ticket, then the recipient must adhere to the gift and declaration of interest provisions.

2. EVENTS THAT ARE APPROVED FOR ATTENDANCE WITHOUT CREATING AN INTEREST ('PRE-APPROVED EVENT')

- 2.1 The acceptance and subsequent use of a ticket by an Elected Member or Chief Executive Officer for an event is deemed a preapproved event (will not create an interest) under the following circumstances:
- a. Where the Elected Member or Chief Executive Officer is attending an event in an official capacity, such as:
 - i. performing a speaking role or some other welcoming role
 - ii. participating as a member of a discussion panel or judging panel
 - iii. presenting at the event as part of the event program
 - iv. representing the City of Fremantle at a sponsorship acknowledgement event or award ceremony to enable the City to fulfil its role, and exercise its rights and benefits, as a sponsor
 - v. representing the City of Fremantle at an event;
 - where it is considered helpful to enable assessment of any potential impact on the surrounding or greater community; or
 - where it is considered desirable to build and/or maintain social networks with business and or community representatives or groups.
 - vi. presenting awards or prizes to others on behalf of the City
 - vii. attending an exhibition or display.
 - b. Where the Ticket is offered by:
 - i. the Western Australian Local Government Association
 - ii. the Local Government Professionals Australia WA
 - iii. the Australian Local Government Association
 - iv. a department of the public service
 - v. a government department of another State, a Territory or the Commonwealth
 - vi. a State or Federal Member of Parliament, other than for party political events or fundraisers
 - vii. a local government or regional local government
 - viii. major professional or industry association(s) relevant to local government activities
 - ix. a stakeholder partner of the City
 - x. a civic/ arts / cultural / business or community organisation within the City of Fremantle.
 - xi. educational institutions
 - xii. a not for profit organisation.

3. FREE TICKETS TO THE CITY FOR EVENTS

- 3.1 Where tickets are given to the City as opposed to an Elected Member or the Chief Executive Officer directly, the Chief Executive Officer may allocate the tickets as they see fit if attendance is deemed to satisfy the approval criteria detailed within this policy.
- 3.2 The Chief Executive Officer may allocate a ticket to an Elected Member under clause 3.1 where the purpose of attendance is to enable the Elected Member to perform their role as a community representative and to network and liaise with community individuals / groups within the district.

4. COMPLIMENTARY TICKETS AND BENEFITS UNDER SPONSORSHIP AGREEMENTS

- 4.1 Where the provision of complimentary tickets or a benefit exists under a current sponsorship agreement or arrangement between the City and a third party, the management and allocation of tickets or benefits (unless expressly stated) shall be determined by the Chief Executive Officer and disclosed in accordance with this policy.
- 4.2 An Elected Member may be allocated a ticket or benefit by the Chief Executive Officer under clause 4.1 on the basis that attendance would enable the Elected Member to perform their role as a community representative and to network and liaise with community individuals / groups within the City's district.

5. EXEMPTIONS

The requirements of this policy do not apply to any training or conference event attended by an Elected Member in accordance with the City's Elected Members' Professional Development Policy, or any training or conference event for the professional development of the Chief Executive Officer that are paid for by the City.

The requirements of this policy do not apply where an Elected Member or the Chief Executive Officer is the City's representative on a board or external organisation where the Elected Member or the Chief Executive Officer is required to attend an event for the purposes of fulfilling their role on the board or external organisation.

6. APPROVAL PROCESS

- 6.1 All invitations to Events for an Elected Member or Chief Executive Officer must be in writing and addressed to the City.
- 6.2 Invitations incurring a cost to the City will be subject to budgetary considerations.
- 6.3 Invitations to Events valued at \$300 and over (or the cumulative value of \$300 and over within a 12 month period) are considered gifts for the purposes of the Gift Framework and must be disclosed, however declarations of interest are not required if the Event is listed in this policy as a pre-approved Event.
- 6.4 Invitation to Events that are not addressed to the City and are not listed as a Pre-Approved Event must be disclosed in accordance with the gift and the declaration of interest provisions of the Local Government Act.

- 6.5 Where an invitation or ticket to an Event is received that is not a Pre-Approved Event, approval to attend and accept may be requested as follows:
- for Elected Member acceptance and attendance, approval by the Chief Executive Officer; and
 - for Chief Executive Officer acceptance and attendance, approval by the Mayor.
- 6.6 Requests for approval are to be forwarded to the Manager Governance for processing.
- 6.7 Where an Elected Member or the Chief Executive Officer request has been approved and there is a fee associated with attending the Event, then the cost, including the attendance of the **Mayors elected members** accompanying person where requested, will be paid for by the City subject to budget.

7. APPROVAL PROCESS CONSIDERATIONS

- 7.1 The following factors will be considered in determining attendance approval at a non-Pre-Approved Event.
- The donor providing the invitation or ticket to the Event (for example, is the donor a person who is undertaking or seeking to undertake an activity involving a Council discretion).
 - The location of the Event in relation to the City and any additional travel costs.
 - The role that the Elected Member or Chief Executive Officer will have when attending the Event (participant, observer, presenter) and the value of their contribution.
 - Whether the Event is sponsored by the City.
 - The benefit to the City of an Elected Member or the Chief Executive Officer attending.
 - Available allocated funds.
 - The number of City representatives already approved to attend.
 - Fair distribution of attendance opportunities for all Elected Members and the Chief Executive Officer.

8. POLICY ADMINISTRATION

8.1 Time Limit on Claims and Approval Process

An Elected Member who chooses to receive reimbursement of expenses in accordance with this policy must submit the request to the Chief Executive Officer together with supporting documentation.

Requests for reimbursement must be received within three (3) calendar months after the month in which the expenses were incurred.

8.2 Dispute Resolution

Any disputes in regard to this policy will be referred to the Chief Executive Officer in the first instance. In the event that the Elected Member and the Chief Executive Officer cannot reach an agreement, the matter will be reported to Council for consideration.

9. DEFINITIONS AND ABBREVIATIONS

Act means *Local Government Act 1995*

Donor means giver of a gift

Event has the meaning given to it under the Local Government Act 1995.

Note: Section 5.90A (1) of the Act states the following:

event includes the following:

- (a) a concert;
- (b) a conference;
- (c) a function;
- (d) a sporting event;
- (e) an occasion of a kind prescribed for the purposes of this definition

Gift has the meaning given to it under the Local Government Act 1995

Note: Section 5.57 of the Act states the following:

gift means:

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

For the purposes of the above definition:

- travel includes accommodation incidental to a journey;
- travel contribution means a financial or other contribution made by 1 person to travel undertaken by another person.

Gifts Framework means the provisions of the Local Government Act 1995 being sections 5.87A and 5.87B that set out the legislative framework.