



TOWN OF VINCENT

CODE OF CONDUCT

for

**Town of Vincent
Council Members & Employees
2007**

Adopted December 2007

Our Vision

*A sustainable and caring
community built with vibrancy
and diversity*

Our Purpose

*To provide and
facilitate services for a
safe, healthy and
sustainable*

Our Guiding Values

Excellence & Service

Caring & Empathy

Innovation & Diversity

Teamwork & Commitment

Enhancing and celebrating our diverse community



TABLE OF CONTENTS

	<u>Page No.</u>
1. INTRODUCTION	1
1.1 Preamble.....	1
1.2 Requirement for a Code of Conduct and its Application.....	1
1.3 Definitions.....	2
1.4 Purpose of the Code of Conduct	2
1.5 Key Principles	3
1.6 Role of the Council, Mayor, Council Members and Chief Executive Officer	5
1.7 Civic Leadership	6
2. GENERAL CONDUCT OBLIGATIONS	7
2.1 General Conduct	7
2.2 Honesty and Integrity.....	7
2.3 Fairness and Equity	7
2.4 Improper and undue influence	8
2.5 Personal Behaviour	8
2.6 Performance of Duties	9
2.7 Harassment and Discrimination	11
2.8 Development Decisions	11
2.9 Lobbying	12
3. CONFLICT OF INTERESTS	15
3.1 Conflict of Interest	15
3.2 Financial Interest.....	15
3.3 Disclosure of Interest - Impartiality	15
3.4 Disclosure of Election Campaign Donations	16
4. PERSONAL BENEFIT	18
4.1 Definitions.....	18
4.2 Gifts and Benefits.....	19
4.3 Acceptance of Gifts.....	19
4.4 Gifts of Value.....	19
4.5 Prohibited Gifts	20
4.6 Notifiable Gifts	20
4.7 Hospitality Gifts.....	21
5. RELATIONSHIPS BETWEEN COUNCIL MEMBERS AND EMPLOYEES	23
5.1 Relationships between Council Members and Employees	23
5.2 Inappropriate Interactions	24
5.3 Dealings with Council by Council Members and Employees	26
5.4 Land Dealings and Personal Development Applications.....	26
6. DEALINGS WITH TOWN RESOURCES	27
6.1 Use of Local Government Resources.....	27
6.2 Travelling and Sustenance Expenses	27
6.3 Use of Town Property for Election Purposes.....	28
6.4 Access to Council Buildings	28
7. ACCESS TO INFORMATION	29
7.1 Access to Information	29
7.2 Use and Security of Information.....	29



Town of Vincent Code of Conduct

7.3	Request for Information – Personal Interest	30
7.4	Refusal of Access to Documents	30
8.	COMMUNICATION AND PUBLIC RELATIONS	31
8.1	Communication	31
8.2	Mayor to Speak on Behalf of the Council.....	31
8.3	Corporate Obligations	31
8.4	Expression of Personal Views.....	32
8.5	Comment During Public Consultation Period	32
8.6	Defamation.....	33
8.7	Council Member Accessibility.....	33
9.	IMPLEMENTATION, REVIEW AND COMPLIANCE	34
9.1	Implementation and Review	34
9.2	Matters not dealt with by this Code	34
9.3	Enforcement of the Code	34
9.4	Dealing with Complaints and Allegations	35
9.5	Procedure for Dealing with Complaints and Allegations	36
9.6	Protection of Persons Reporting Unacceptable or Illegal Behaviour	36
9.7	Corruption and Crime Commission Act 2003	36
10.	CODE OF CONDUCT DECLARATION	39



CODE OF CONDUCT FOR COUNCIL MEMBERS AND EMPLOYEES

1. INTRODUCTION

1.1 Preamble

The Council of the Town of Vincent is the elected body responsible for the administration of the Town in the best interests of its residents. The Council is committed to providing open, responsive and accountable government. It must do that in accordance with the applicable legislation.

The Local Government Act 1995 confers considerable powers on the Council. Because of this, Council Members and Employees must seek actively to achieve and retain public trust if they are to deserve the responsibilities entrusted to them.

1.2 Requirement for a Code of Conduct and its Application

- (i) The Local Government Act 1995 requires every Council to adopt a Code of Conduct.
- (ii) Council Members and Employees of the Council must comply with the applicable provisions of the Council's Code of Conduct.
- (iii) The Code of Conduct applies to every Council Member and Employee of the Town of Vincent.
- (iv) It is a requirement of this Code that Council Members observe the (Rules of Conduct Regulations) 2007 and the general principles referred to in Regulation 3(1).

Footnote:

Regulation 3(1) of the Rules of Conduct Regulations provides as follows:

General principles to guide the behaviour of council members include that a person in his or her capacity as a council member should –

- (a) act with reasonable care and diligence; and
 - (b) act with honesty and integrity; and
 - (c) act lawfully; and
 - (d) avoid damage to the reputation of the local government; and
 - (e) be open and accountable to the public; and
 - (f) base decisions on relevant and factually correct information; and
 - (g) treat others with respect and fairness; and
 - (h) not be impaired by mind affecting substances.
- (v) This code comes into operation when it is adopted by the Council.



1.3 Definitions

In this Code, unless the contrary appears”

“**Act**” means *Local Government Act 1995*;

“**Chief Executive Officer**” means the Chief Executive Officer of the Town;

“**Code**” means the Code of Conduct adopted by the Council;

“**committee**” means a committee established by the council under the Act;

“**Council**” means the council of the Town;

“**Council Member**” means a person who holds the office of Mayor or councillor on the council;

“**Employee**” means a person employed by the Town;

“**Local Law**” means any Local Law adopted by the Council;

“**Town**” means Town of Vincent;

“**Regulations**” means any regulations made under the Local Government Act 1995;

“**Rules of Conduct Regulations**” means *Local Government (Rules of Conduct) Regulations 2007*;

1.4 Purpose of the Code of Conduct

- (i) The Code of Conduct provides Council Members and Employees in the Town of Vincent with consistent guidelines for an acceptable minimum standard of professional conduct and behaviour in carrying out their functions and responsibility. The Code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability in individual local governments. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective local government responsibilities may be based.

The Code is complementary to the principles adopted in the Local Government Act 1995, Regulations and Local Laws which incorporate four fundamental aims to result in:

- (a) better decision making by local governments;
- (b) greater community participation in the decisions and affairs of local governments;



- (c) greater accountability of local governments to their communities; and
 - (d) more efficient and effective local government.
- (ii) The Code of Conduct has been developed to assist Council Members and Employees to:
- understand the standard of conduct that is expected of them;
 - enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence; and
 - act in a way that enhances public confidence in the integrity of local government.

1.5 Key Principles

This Code of Conduct is based on the following key principles.

1.5.1 Integrity

Council Members and Employees must not place themselves under any financial or other obligation to any individual or organization that might reasonably be thought to influence them in the performance of your duties.

1.5.2 Leadership

Council Members and Employees have a duty to promote and support the key principles by leadership and example and to maintain and strengthen the public's trust and confidence in the integrity of the Council. *(This means promoting public duty to others in the Council and outside, by their own ethical behaviour.)*

1.5.3 Selflessness

Council Members and Employees have a duty to make decisions solely in the public interest. They must not act in order to gain financial or other benefits for themselves, their family, friends or business interests. *(This means making decisions because they benefit the public, not because they benefit the decision maker.)*



1.5.4 **Objectivity**

Council Members and Employees must make decisions solely on merit and in accordance with their statutory obligations when carrying out public business. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits. *(This means fairness to all; impartial assessment; merit selection in recruitment and in purchase and sale of Council's resources; considering only relevant matters.)*

1.5.5 **Accountability**

Council Members and Employees are accountable to the public for their decisions and actions and must consider issues on their merits, taking into account the views of others. *(This means recording reasons for decisions; submitting to scrutiny; keeping proper records; establishing audit trails.)*

1.5.6 **Openness**

Council Members and Employees have a duty to be as open as possible about their decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands. *(This means recording, giving and revealing reasons for decisions; revealing other avenues available to the client or business; when authorised, offering all information; communicating clearly.)*

1.5.7 **Honesty**

Council Members and Employees have a duty to act honestly. They must declare any private interests relating to their public duties and take steps to resolve any conflicts arising in such a way that protects the public interest. *(This means obeying the law; following the letter and spirit of policies and procedures; observing the Code of Conduct; fully disclosing actual or potential conflict of interests and exercising any conferred power strictly for the purpose for which the power was conferred.)*

1.5.8 **Respect**

Council Members and Employees must treat others with respect at all times. *(This means not using derogatory terms towards others, observing the rights of other people, treating people with courtesy and recognizing the different roles others play in local government decision-making.)*



This standard requires that they treat other people as individuals with rights to be honoured and defended, and empower people to claim their rights if they are unable to do it for themselves. The Town encourages honest relationships by being truthful and sincere when dealing with others.

1.5.9 **Justice**

Council Members and Employees must treat people fairly, without discrimination, and with rules that apply equally to all. *(This means they must ensure that opportunities and social benefits are shared equally among individuals, with equitable outcomes for disadvantaged people. They must uphold the laws of the Town of Vincent and comply with relevant State and Federal legislation.)*

1.5.10 **Beneficence**

Council Members and Employees must do for others what they would like done for themselves – that they do good, and not harm, to others. They must be aware that the strong have a duty of care to the weak, dependent and vulnerable and uphold the rights of those who are unable to do so. They shall contribute to the well-being of individuals and society by exercising due diligence and duty of care to others.

1.6 **Role of the Council, Mayor, Council Members and Chief Executive Officer**

The role of the Council, Mayor, Council Members and Chief Executive Officer is prescribed by the Local Government Act 1995.

An Council Member's primary role is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the local government will be the focus of the Council Member's public life.

A Council Member is part of the team in which the community has placed its trust to make decisions on its behalf and the community is therefore entitled to expect high standards of conduct from its elected representatives.

In fulfilling the various roles, Council Members' activities will focus on:

- achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- achieving sound financial management and accountability in relation to the Town's finances;
- ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;



- working with other governments and organisations to achieve benefits for the community at both a local and regional level; and
- being aware of the statutory obligations imposed on Council Members and on local governments.

1.7 Civic Leadership

As an elected leader of the community, the Mayor shall demonstrate the highest level of civic conscience, impartiality and personal conduct.



2. GENERAL CONDUCT OBLIGATIONS

2.1 General Conduct

Council Members and Employees must avoid behaviour and conduct that:

- contravenes the Local Government Act, associated regulations and Town's relevant administrative requirements;
- is improper or unethical;
- is an abuse of power or otherwise amounts to misconduct;
- causes, comprises or involves intimidation, harassment or verbal abuse;
- causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment; or
- causes, comprises or involves prejudice in the provision of a service to the community.

2.2 Honesty and Integrity

Council Members and Employees will:

- (i) observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- (ii) bring to the notice of the Chief Executive Officer any dishonesty on the part of any other Council Member, and in the case of an Employee to the Chief Executive Officer. Any dishonesty on the part of the Chief Executive Officer is to be brought to the attention of the Mayor, and any dishonesty on the part of the Mayor is to be brought to the attention of the Chief Executive Officer;
- (iii) be frank and honest in their official dealing with each other; and
- (iv) treat all members of the community honestly and fairly.

2.3 Fairness and Equity

Council Members and Employees:

- (i) have an obligation to consider issues consistently, promptly and fairly. This involves dealing with matters in accordance with established procedures, in a non discriminatory manner.



- (ii) must take all relevant facts known to them, or that they should be reasonably aware of, into consideration and have regard to the particular merits of each case. They must not take irrelevant matters or circumstances into consideration when making decisions.

2.4 Improper and undue influence

Council Members and Employees must not take advantage of:

- (i) their position to improperly influence other council officials in the performance of their public or professional duties to secure a private benefit for yourself or for somebody else.
- (ii) (or seek to take advantage) of their status or position with, or functions performed for the Council, in order to obtain unauthorised or unfair benefit for themselves or for any other person or body.

2.5 Personal Behaviour

Council Members and Employees shall:

- (i) perform their duties impartially and in the best interest of the Town uninfluenced by fear or favour;
- (ii) act in good faith (ie. honesty, for the proper purpose, and without exceeding their powers) in the interests of the Town and the community;
- (iii) subject to Section 8, when dealing with any person or organisation who has, or may have, dealings with the Town, or any ratepayers or residents, explain whether they are representing the Town or whether they are acting on an individual basis. If acting as an individual, Council Members or Employees cannot speak on behalf of the Town or offer Council's support for a position;
- (iv) make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment;
- (v) ensure that any comments they make when acting in an official capacity are pertinent to the business of local government and are not made maliciously or without regard as to whether they represent the truth;
- (vi) always act in accordance with their obligation of fidelity to the Town;
- (vii) refrain from carrying out their official duties or responsibilities whilst affected by alcohol, illicit drugs or mind affecting substances;



- (viii) act at all times when representing the Council in a manner that will not adversely reflect on the Council or bring the Town of Vincent into disrepute;
- (ix) whilst conducting Council business, adhere at all times to a standard of dress and personal hygiene which is neat, responsible and consistent with community expectations and normal business practices.
- (x) not denigrate or cast aspersions on an Employee's or Council Member's commitment, contribution or competence.

2.6 Performance of Duties

- **Employees**

- (i) While on duty, Employees will give their whole time and attention to the local government's business and ensure that their work is carried out efficiently, economically and effectively in accordance with their Position Description responsibilities and duties, Council Policies and Corporate Objectives, and that their standard of work reflects favorably both on them and on the Town;
- (ii) Employees shall demonstrate loyalty and commit to the unconditional acceptance and support of all Council decisions and lawful instructions from the Chief Executive Officer; and
- (iii) Employees shall at all times ensure that their standard of work and conduct reflects favourably both on them and the Council, and is in accordance with the Council's Customer Service Charter; and
- (iv) Employees shall comply with neat and responsible dress standards whilst at work.
- (v) Employees shall acknowledge that management reserves the right to raise the issue of dress with individual Employees.

- **Council Members**

Council Members will:

- (i) all times exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making but treating all matters on individual merits;



- (ii) be as informed as much as possible about the functions of the Council and be familiar with all Council Agenda reports and associated documents, prior to the Meeting at which the items will be considered;
- (iii) attend all meetings of Council, Committees, Forums, Working and Advisory Groups, to which they are appointed, unless they have previously been granted leave of absence by resolution of Council, or for reasons of illness or offers an apology for being unavailable for other reasons. In the event of a delegate being unable to attend any committee or Council responsibility, they shall inform the deputy delegate in time to attend;
- (iv) acknowledge there is an expectation that Council Members will remain until the completion of Council meetings, Committees, Forums, Working and Advisory Group meetings unless there is an overriding valid reason for leaving; and
- (v) Council Members will represent and promote the interests of the local government, while recognising their role to their own constituents.

2.6.1 Compliance with Lawful Orders

- (i) Council Members and Employees will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution can not be achieved, with the Chief Executive Officer. In the case of Council Members, the matter can be taken up with the Chief Executive Officer and/or the Mayor, if circumstances so require it.
- (ii) Council Members and Employees will give effect to the lawful policies of the local government, whether or not they agree with or approve of them.

However, this must not be seen to prevent an Council Member or Employee in a private capacity lobbying to change the policies of the local government.

2.6.2 Administrative and Management Practices

- (i) Council Members and Employees will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.



- (ii) Council Members and Employees shall at all times be mindful of their responsibility to maintain full and accurate records in the performance of their duties.
- (iii) In particular, Employees shall ensure that file notes are drafted and placed on record immediately, or as soon as practicable, following discussions on issues of substance with persons other than Employees, Council Members or Forum/Committee Members. Such issues shall include matters impacting on the Council or the Town and matters affecting the public interest.

2.7 Harassment and Discrimination

- (i) Council Members and Employees you must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination, on the grounds of sex, pregnancy, age, race (including their colour, nationality, descent, ethnic or religious background), political affiliation, marital status, disability, homosexuality or transgender.
- (ii) The Town will ensure compliance with the principles and provisions of the Equal Opportunity Act 1984 (WA). This commitment extends to ensuring that recruitment and selection, promotion and advancement will be solely on the basis of equity and fairness and that appointment will be based on merit.
- (iii) All people have a right to work in an environment that is free from sexual harassment. Sexual harassment will not be tolerated in the Town of Vincent. Any Council Member, or Employee found to be committing sexual harassment will be subject to discipline and/or termination proceedings.

2.8 Development Decisions

- (i) Council Members have a duty to ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. Council Members must avoid impropriety and must also avoid any occasion for suspicion and any appearance of improper conduct.
- (ii) In determining development applications, it is essential that Council Members are highly conscious of the potential for even the slightest impropriety to lead to suspicion of misconduct. This means Council Members must ensure that no action, statement or communication between themselves and applicants or objectors conveys any suggestion of willingness to provide concessions or preferential treatment.



2.9 Lobbying

2.9.1 Introduction

“*Lobbying*” is used to cover those types of communication between local government Council Members and the community that include representations to Council Members by special interest groups, by individuals with a direct interest in a council decision and by advocates acting on behalf of others.

Lobbying is common in local government. The most common form occurs when a group or individual makes direct contact with an Council Member in an attempt to influence a council decision.

Appropriate lobbying of Council Members is considered normal. In many cases lobbying is part of the democratic process and is an acceptable feature of the relationship between citizens and their elected representatives.

2.9.2 Inappropriate Lobbying

It is in the public interest that lobbying is fair and does not undermine public confidence in impartial decision-making. Lobbying is a two-way process between Council Members and lobbyists.

Council Members should take care that their duty to consider issues fairly and properly is not compromised by participating in lobbying practices that are outside the bounds of appropriate or lawful behaviour.

It is not possible to define every type of activity that could constitute inappropriate or unlawful lobbying. Generally, however, inappropriate or unlawful conduct on the part of someone lobbying an Council Member usually involves an attempt to obtain preferential consideration or treatment based on factors other than the merits of the matter. Examples include:

- (i) accepting undisclosed payments or benefits while making a decision that affects the gift giver’s interests;
- (ii) accepting a political donation in return for the favourable exercise of discretion during decision-making;
- (iii) granting access to a particular individual or group while *unreasonably* denying similar access requested by another party;



- (iv) fettering discretion by giving undertakings to an interested party prior to considering all the information relevant to a decision;
- (v) acting in a manner that exceeds the role of a Council Member as defined in section 2.8, 2.9 or 2.10 of the Local Government Act;
- (vi) disclosing confidential information while being lobbied; and
- (vii) being unduly influenced by factors that are irrelevant to the merits of the matter under consideration.

2.9.3 Transparency

Council Members should exercise judgement when deciding whether to be involved in private meetings with people seeking to influence a council decision. Suspicions of inappropriate lobbying can occur when lobbying is not open to public scrutiny. Regardless of whether such suspicions are justified, they still have the potential to undermine public confidence in council decision-making and adversely affect an Council Member's reputation.

Transparency is a useful means of governing accountability and perceptions of fairness in lobbying processes. There are a number of ways Council Members can help ensure transparency whilst being lobbied. These include:

- documenting meetings with proponents;
- generally conducting meetings in official locations, such as Council premises;
- having other people present during meetings;
- inviting applicants who have approached them for a meeting to discuss significant developments, to write to the Town seeking a meeting with all Council Members and relevant employees;
- providing copies of information presented during lobbying meetings to Town employees for consideration and assessment (if required), distribution to other Council Members and filing as part of Council's records;
- asking people who have requested a meeting to put their arguments in writing;



- making a declaration at a Council meeting about lobbying activities they have been engaged in that are not part of Council's formal processes.

2.9.4 Tendering

The lobbying of Council Members by tenderers about the outcome of a tender process is an exception to the principle that lobbying is permissible. In other words, lobbying of Council Members by tenderers is NOT permissible.

(Reference: Clause 2.9 Independent Commission Against Corruption - "Lobbying Local Government Councillors" - August 2006.)



3. CONFLICT OF INTERESTS

3.1 Conflict of Interest

- (i) Council Members and Employees will ensure that there is no actual, or perceived conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- (ii) Employees will not engage in private work with or for any person or body with an interest in a proposed or current business dealing with the local government, without first making disclosure to the Chief Executive Officer, or in the case of the Chief Executive Officer, to the Mayor. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
- (iii) Employees will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity.
- (iv) Employees who exercise a recruitment, regulatory, inspectorial or other discretionary function must make disclosure before dealing with closely associated persons, close relatives or close friends and, whenever possible, or in doubt, should disqualify themselves from dealing with those persons. This disclosure must be made in writing to their Director and/or Chief Executive Officer. In the case of the Chief Executive Officer, disclosure to the Mayor is required.

An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti discriminatory legislation.

3.2 Financial Interest

Council Members and Employees will adopt the principles of financial interest as contained within the Local Government Act 1995. (Sections 5.59 to 5.90. Subdivision 2, Division 6.)

3.3 Disclosure of Interest - Impartiality [Local Government (Administration) Regulations 1996 - Regulation 34C]

- (i) In addition to disclosure of financial interests, Council Members and Employees, including persons under a contract for services –
 - Attending a Council or committee meeting; or
 - Giving advice to a Council or committee meeting;



are required to disclose any interest they have in a matter to be discussed at the meeting that could give rise to a reasonable belief that the impartiality of the person having the interest would be affected.

- (ii) Where an interest must be disclosed under (i) above, the disclosure is to be made at the meeting immediately before the matter is discussed or at the time the advice is given, and is to be recorded in the minutes of the meeting.

This is not limited to, but may include, situations where Council decisions affect the person's close relative (not already defined as a "*closely associated*" financial interest), a close friend or a sporting or community association of which the person is an Council Member or office bearer.

3.4 Disclosure of Election Campaign Donations

In the interests of uncompromised decision making, the Town of Vincent requires all electoral candidates to comply with the Local Government Act 1995 and its associated regulations in disclosing electoral donations. A candidate is to disclose information about any electoral related gift with a value of \$200 or more that may be received within the six (6) month period prior to the relevant election day.

- (i) A "gift" includes a gift of money, a gift which is non-monetary but of value, a gift in kind or an inadequate financial consideration or the receipt of a discount (where the difference or the discount is more than \$200 worth), financial or other contribution to travel, the provision of a service for no consideration or for inadequate consideration, and a firm promise or agreement to give a gift at some future time.

A gift does not include a gift by will; a gift by a relative; a gift that the candidate would have received notwithstanding his or her candidature; or the provision of volunteer labour.

- (ii) The disclosure of a gift is to be made to the Chief Executive Officer in the manner prescribed by Regulation and in doing so identify specified information.
- (iii) Details about each gift are to be disclosed on the prescribed form and submitted within three days of receiving the gift. Information to be supplied includes the name of the candidate, the name and address of the donor, the date the gift was promised or received, the value of the gift and a description of the gift.
- (iv) The disclosure period commences six months prior to the relevant election and finishes three days after the election day for unsuccessful candidates and on the start day for financial interest returns for successful candidates.



Town of Vincent Code of Conduct

- (v) The Chief Executive Officer is to establish and maintain an Electoral Gift Register. Disclosure forms are to be placed in the electoral gift register upon receipt by the Chief Executive Officer in a manner that clearly identifies and distinguishes the candidates. The Electoral Gift Register is to be kept available for public inspection.
- (vi) In accordance with the Local Government (Elections) Regulations, 1999, a maximum penalty of \$5,000 may be imposed on a candidate who fails to comply with the disclosure requirements.



4. PERSONAL BENEFIT

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

4.1 Definitions

In this Code, unless the contrary appears;

“activity involving a local government discretion” means an activity –

- (a) that cannot be undertaken without an authorization from the local government; or
- (b) by way of a commercial dealing with the local government;

“gift” has the meaning given to that term in section 5.82(4) of the Act except that it does not include –

- (a) a gift from a relative as defined in section 5.74(1) of the Act; or
- (b) a gift that must be disclosed under regulation 30B of the *Local Government (Elections) Regulations 1997*; or
- (c) a gift from a statutory authority, government instrumentality or non-profit association for professional training;

“notifiable gift” in relation to a person who is a Council Member or Employee, means –

- (a) a gift worth between \$50 and \$300; or
- (b) a gift that is one of 2 or more gifts given to the Council Member or Employee by the same person within a period of 6 months that are in total worth between \$50 and \$300.

“prohibited gift” in relation to a person who is a Council Member or Employee, means –

- (a) a gift worth \$300 or more; or
- (b) a gift that is one of 2 or more gifts given to the Council Member or Employee by the same person within a period of 6 months that are in total worth \$300 or more.



4.2 Gifts and Benefits

- (i) Council Members and Employees must not:
 - seek or accept a bribe or other improper inducement;
 - by virtue of their position acquire a personal profit or advantage which has a monetary value, other than one of a notifiable or hospitality gift.
- (ii) Council Members and Employees must not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence them to:
 - act in a particular way (including making a particular decision)
 - fail to act in a particular circumstance
 - otherwise deviate from the proper exercise of your official duties.
- (iii) Council Members and Employees may accept gifts or benefits of a nominal or token value that do not create a sense of obligation on their part.

4.3 Acceptance of Gifts

- (i) Council Members and Employees shall not seek or accept (directly or indirectly) from any person or body, any immediate or future gift, reward, donation, inducement or benefit for themselves or for any other person or body, relating to their status with the Council, or their performance of any duties or work which touches or concerns the Council.
- (ii) Council Members and Employees may accept acts of moderate hospitality for community related events or events related to the performance of their duties for the Town. If applicable, the acceptance of these acts of hospitality must be promptly recorded in the relevant Gifts Register, kept by the Town.

4.4 Gifts of Value

- (i) Council Members and Employees must never accept an offer of money, regardless of the amount.



- (ii) Council Members and Employees must avoid situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, is securing or attempting to influence or secure a favour from them or the Council.
- (iii) Council Members and Employees must also take all reasonable steps to ensure that their immediate family members do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour. Immediate family members ordinarily include parents, spouses, children and siblings.

4.5 Prohibited Gifts

A person who is a Council Member or an Employee must not accept a prohibited gift from a person –

- (a) who is undertaking or seeking to undertake; or
- (b) who it is reasonable to believe is intending to undertake,

an activity involving a local government discretion.

4.6 Notifiable Gifts

- (i) A person who is a Council Member or an Employee and who accepts a notifiable gift from a person –

- (a) who is undertaking or seeking to undertake; or
- (b) who it is reasonable to believe is intending to undertake;

an activity involving a local government discretion must, within 10 days of accepting the gift, notify the Chief Executive Officer of the acceptance in accordance with sub-clause (ii).

- (ii) Notification of the acceptance of a notifiable gift is to be in writing and is to include –

- (a) the name of the person who gave the gift; and
- (b) the date on which the gift was accepted; and
- (c) a description, and the estimated value, of the gift; and
- (d) the nature of the relationship between the person who is a Council Member or Employee and the person who gave the gift; and



- (e) if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift” (whether or not it is also a notifiable gift under paragraph (a) of that definition) –
- (i) a description; and
 - (ii) the estimated value; and
 - (iii) the date of acceptance,
- of each other gift accepted within the 6 month period.
- (iii) The Chief Executive Officer must maintain a register of gifts in which details of notices received are recorded.

4.7 Hospitality Gifts

- (i) A “hospitality gift” is a gift (or a combination of gifts in any one annual return period) with a value of less than \$50 and these are not required to be recorded in the Town’s Gifts Register. These gifts are not limited to, but may include items such as:
- Trinket gifts of an insignificant nature.
 - Minor items of apparel (eg ties, scarves, cuff-links, tie pins).
 - Minor items of a promotional nature (eg coasters, diaries, mouse pads, mugs pens, pencils).
 - Provision of flowers, food, beverages, liquor (gifts of single bottles of reasonably priced alcohol) and refreshments of small amounts.
 - Free or subsidised meals, of a modest nature, and/or beverages that have been arranged primarily for, or in connection with, the discussion of official business.
 - Free meals, of a modest nature, and/or beverages provided to persons who formally represent their council at work related events such as training, education sessions, workshops.
 - Refreshments, of a modest nature, provided at conferences where you are a speaker/presenter.
 - Invitations to appropriate out of hours “cocktail parties” or social functions organised by groups, such as, council committees and community organisations.
- (ii) Where an Council Member's or Employee's partner is invited to attend an official function that is related to the Town, with the Council Member or Employee, the partner may accept “notifiable gifts” or moderate acts of hospitality.
- (iii) The acceptance of “notifiable gifts” and/or moderate acts of hospitality by a particular Council Member or Employee from a person(s) or organisation on a frequent basis shall not be permitted.



Town of Vincent Code of Conduct

- (iv) No company, organisation or individual with a proprietary or beneficial interest may pay or contribute to any expenses associated with the inspection, evaluation or trial of any goods or services which the Town may or may not wish to acquire, provided however that the Town may require the payment of those expenses as a standard condition applicable to all parties with an interest in providing the required goods or services to the Town.
- (v) Where a gift(s) of a civic nature exceeds \$300 is received from a visiting dignitary as part of civic/ceremonial protocols and/or customs, they can only be accepted on behalf of the Town and shall become the property of the Town.

This Section does not apply to gifts received from a relative (as defined in section 5.74(1) of the Local Government Act) or an electoral gift (to which other disclosure provisions apply).



5. RELATIONSHIPS BETWEEN COUNCIL MEMBERS AND EMPLOYEES

5.1 Relationships between Council Members and Employees

- (i) Effective Council Members will work as part of the Council team with the Chief Executive Officer and other Council Members and Employees. That teamwork will only occur if Council Members and Employees have a mutual respect and co-operate with each other to achieve the Council's corporate goals and implement the Council's strategies. To achieve that position Council Members need to:
 - (a) accept that their role is a leadership, not a management or an administrative one;
 - (b) acknowledge that they have no capacity to individually direct Employees to carry out particular functions;
 - (c) refrain from publicly criticising Employees (including whether in a Council meeting or via the media) in a way that casts aspersions on their professional reputation, character, ability, integrity, competence or credibility; and
 - (d) ensure that no restrictions or undue influence is placed on the ability of Employees to give professional advice to the Council.
- (ii) At the same time, Employees will recognise the Council Members' views and opinions often reflect valid community viewpoints that should be considered in conjunction with professional opinion. Employees will therefore make every effort to assist Council Members in the performance of their role, and to achieve the satisfactory resolution of issues that they may raise in the performance of their official role.
- (iii) Council Members have the right to raise various issues and requests with the Chief Executive Officer, in accordance with the Council's Policy/Protocols which states:
 - “(a) The Mayor and Councillors are to refer their requests to the Chief Executive Officer, or if appropriate, the relevant Director; and*
 - (b) Requests/complaints are to be forwarded (preferably in writing) direct to the Chief Executive Officer for entering into the Register of Council Members' Requests. Routine requests may be forwarded direct to the relevant Director.*



Town of Vincent Code of Conduct

- (c) *Council Member Requests will be actioned within ten (10) working days and a written response will be provided to the Council Member advising of the action taken.*
- (d) *Where a Council Members' Request requires a diversion of considerable staff resources (eg more than one (1) days research) or where the matter has not been included in the Town's current Budget, the Chief Executive Officer will discuss the request with the relevant Council Member."*
- (iv) The Chief Executive Officer is responsible to the Council for performance and direction of all Employees and delegates/contractors and the use of resources, in the day-to-day management of the Town.
- (v) Council Members and Employees should endeavour to resolve serious conflict through initial discussion facilitated by either the Mayor or the Chief Executive Officer. In any case involving the Mayor and Chief Executive Officer, by the Deputy Mayor or other appropriate person, to be jointly agreed by both.
- (vii) Employees have an obligation to:
- give their attention to the business of council while on duty;
 - ensure that their work is carried out efficiently, economically and effectively;
 - carry out lawful directions given by any person having authority to give such directions; and
 - give effect to the lawful policies, decisions and practices of the council, whether or not the Employee agrees with or approves of them.

5.2 Inappropriate Interactions

- (i) The following interactions are inappropriate and therefore Council Members shall not approach Employees:
- (a) other than Chief Executive Officer or Directors for information on sensitive or controversial matters;
- (b) outside the Council building or outside hours of work to discuss council business.



Town of Vincent Code of Conduct

- (ii) Council Members must:
- (a) refrain from directing Town Employees other than by the Mayor giving appropriate direction to the Chief Executive Officer in the performance of Council's functions by way of a Council or committee resolution;
 - (b) refrain from, in any public or private forum, directing or influencing, or attempting to direct or influence, any other Employee of the Council or a delegate of the Council in the exercise of the functions of the Employee or delegate;
 - (c) refrain from contacting an Employee unless in accordance with procedures governing the interaction of Council Members and Employees that have been authorised by the Chief Executive Officer;
 - (d) not contact or issue instructions to any of the Town's contractors or tenderers, including the Town's legal advisers;
 - (e) not be overbearing or threatening to Employees;
 - (f) not direct or pressure (or attempt to) Employees in the performance of their work, or recommendations they should make;
 - (g) not approach Employee organisations; for example unions and associations; in relation to employee matters that relate to individual Employees rather than broader industrial policy issues;
 - (h) not attend on-site inspection meetings with lawyers and/or consultants engaged by the Town associated with current or proposed legal proceedings (other than those where approval has been granted to participate).
- (iii) Employees shall not:
- (a) approach Council Members directly on individual employee matters;
 - (b) refuse to give information which is available to other Council Members to a particular Council Member because of the Employee or Council Member's political views;
 - (c) provide ad hoc advice to Council Members without recording or documenting the interaction as they would if the advice was provided to a member of the community;



- (d) meet with developers alone and outside standard office hours to discuss development applications or proposals.

5.3 Dealings with Council by Council Members and Employees

- (i) All commercial/business dealings (including the awarding of contracts) with the Town by Council Members and Employees (and their closely associated persons) shall at all times be open, transparent and accountable.
- (ii) All Council Members and Employees (and their closely associated persons) wishing to carry out any business activities with the Town shall only do so in strict accordance with the Council's Policy relating to:

“Dealings with the Town of Vincent by Council Members and Employees (and their closely associated persons), including the awarding of contracts to business entities closely associated with Council Members and Employees.”

5.4 Land Dealings and Personal Development Applications

- (i) Council Members and Employees will lodge written notice with the Chief Executive Officer, or in the case of the Chief Executive Officer, to the Mayor, describing an intention to undertake a dealing in land within the Town or which may otherwise be in conflict with the Council's functions (other than purchasing their principal place of residence, or a site for such a purpose).
- (ii) Council Members who have lodged a development application with the Town shall only discuss the matter with Employees in staff-only areas of the Town, or on the site that the application refers to.



6. DEALINGS WITH TOWN RESOURCES

6.1 Use of Local Government Resources

Council Members and Employees will:

- (i) be scrupulously honest in their use of the local government's resources and shall not misuse them or permit the misuse (or the appearance of misuse) by any other person or body;
- (ii) use the local government resources entrusted to them effectively and economically in the course of their duties;
- (iii) not use the local government's resources (including the services of Council Employees) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer);
- (iv) must use Town resources ethically, effectively, efficiently and carefully in the course of your public or professional duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate;
- (v) must be scrupulous in the use of council property, including intellectual property, official services and facilities and should not permit their misuse by any other person or body;
- (vi) must avoid any action or situation which could create the impression that council property, official services or public facilities are being improperly used for your own or any other person or body's private benefit or gain;
- (vii) must not convert any property of the Town to their own use unless properly authorised; and
- (viii) must not use the Town's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

6.2 Travelling and Sustenance Expenses

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



Council Members and Employees shall be diligent in ensuring that the expenses claimed in accordance with Council policy relate to their function as an Council Member or Employee, and are appropriately acquitted.

6.3 Use of Town Property for Election Purposes

The interests of an Council Member in their re-election is considered to be a personal interest and as such the reimbursement of travel expenses incurred on election matters is not appropriate. Council letterhead, council logo and other information that could give the impression it is official council material must not be used for these purposes.

6.4 Access to Council Buildings

- (i) Council Members are entitled to have access to the Council chamber, committee room, mayor's office (subject to Mayor's approval), councillor's rooms, non-employee work areas and public areas of council's buildings during normal business hours and for meetings. Should Council Members need access to these facilities at other times, authority is required from the Chief Executive Officer in order that necessary arrangements can be made.
- (ii) Council Members must not enter employee-only areas of Town buildings without the approval of the Chief Executive Officer or as provided in the procedures governing the interaction of Council Members and Employees.



7. ACCESS TO INFORMATION

7.1 Access to Information

- (i) In accordance with the Local Government Act, Council Members are to be given access to all information for them to properly perform their functions and comply with their responsibilities as Council Members.
- (ii) Council Members will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.
- (iii) The Town must provide access to the documents available under section 5.92 of the *Local Government Act 1995* to all members of the public, and to Council Members. The Town must also provide Council Members with information sufficient to enable them to carry out their civic functions.
- (iv) Council Members who have a personal (as distinct from civic) interest in a document of the Town have the same rights of access as any member of the public.
- (v) Employees have an obligation to provide full and timely information to Council Members about matters that they are dealing with, in accordance with council procedures.
- (vi) Council Members have an obligation to properly examine all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter.

7.2 Use and Security of Information

Council Members and Employees:

- (i) will not use confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially, or to improperly cause harm or detriment to any person or organisation;
- (ii) must only access information needed for official business;
- (iii) must protect confidential information;
- (iv) must not use confidential information for personal purposes or for any non-official purpose;
- (v) must only release confidential information if they have authority to do so; and
- (vi) must only use confidential information for the purpose it is intended to be used.



7.3 Request for Information – Personal Interest

An Council Member or Employee:

- (i) making an enquiry on a matter being considered by the Town's administration or the Council in which that Council Member or Employee has a personal/financial interest shall seek the information only from the Chief Executive Officer and that when required by the Chief Executive Officer the request shall be in writing; and
- (ii) must not use confidential information gained through their official position for the purpose of securing a private benefit for themselves or for any other person.

7.4 Refusal of Access to Documents

The Chief Executive Officer must act reasonably in deciding whether a document sought by Council Members should be made available under section 5.92 of the *Local Government Act 1995* or because it is relevant to the performance of the Council Member's civic duty. The Chief Executive Officer must state the reasons for the decision if access is refused.



8. COMMUNICATION AND PUBLIC RELATIONS

8.1 Communication

- (i) Employees shall respond to written, electronic and verbal enquiries in accordance with the Council's Customer Service Charter;
- (ii) Unless on approved leave of absence or unavailable for other reasons, Council Members shall respond to all written, electronic and verbal enquiries as soon as practicable, but in any case within forty-eight (48) hours of receiving telephone calls and within five (5) days of receiving written enquiries.

An adequate response includes delegation to the Town's employees for comment, response and action directly to the enquirer.

- (iii) All aspects of communication by Council Members and Employees (including verbal, written or personal), involving the Council's activities should reflect the status and objectives of the Council. Communications should be accurate, polite and professional.

8.2 Mayor to Speak on Behalf of the Council

In accordance with the Local Government Act 1995, the spokespersons for the Council are the Mayor and with the Mayor's authorisation, the Chief Executive Officer, either of whom may make a statement on behalf of the Council.

The Mayor or Chief Executive Officer will only express the view or position of the Council, where the Council has formally determined a view or position. Where the Council has not determined the matter or has no clear view/position, the Mayor or Chief Executive Officer may express a personal view, providing they clearly preface such remarks as being their own personal views and not those of the Council.

8.3 Corporate Obligations

As representatives of the community, Council Members need to be not only responsible to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so Council Members should acknowledge that:

- (a) as a Council Member of the Council there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council;
- (b) information relating to decisions of the Council on approvals, permits and so on ought be communicated in an official capacity by a designated employee of the Town;



- (c) information concerning adopted policies, procedures and decisions of the Council is conveyed accurately; and
- (d) information of a confidential nature shall not be communicated until it is no longer treated as confidential.

8.4 Expression of Personal Views

Council Members are free to make their own personal position known about any matter, which is pertinent to the business of the Town, including Council decisions provided that it cannot be construed to be a statement on behalf of the Council.

- (a) Council Members and Employees will refrain from making personal statements to the media without clearly prefacing such remarks that they are personal views and not those of the Council;
- (b) Council Members and Employees will not adversely reflect on a Council decision; and
- (c) This shall not prejudice an individual member's right to express a personal opinion on issues of public interest.

8.5 Comment During Public Consultation Period

- (i) Council Members and Employees:
 - (a) will refrain from making public comment expressing a personal opinion which is biased, or may be perceived as biased or prejudging a matter whilst the matter is being advertised for public comment and/or is yet to be considered and determined by the Council;
 - (b) will clearly preface any of their remarks as being their own personal views and not those of the Council or possibly be construed to be on behalf of the Council; and
 - (c) will encourage members of the public to make a written submission to the Town.
- (ii) The Mayor and/or the Chief Executive Officer will take appropriate action (including issuing a statement to the media) correcting any misinformation or erroneous information which is in the public area.



8.6 Defamation

Council Members should acknowledge that:

- (a) Comments by Council Members at meetings of the Council and/or Committees, Forums, Working or Advisory Groups of the Council are covered only by qualified privilege against defamation. This qualified privilege may not extend to comments by Employees.
- (b) A Council Member can only rely on the defence of qualified privilege whilst exercising the proper discharge of their duties, and doing so in the public interest.
- (c) In order to maintain qualified privilege, a Council Member should ensure that comments made are pertinent to the business of local government and they are not made maliciously or without due regard to whether they represent the truth.

8.7 Council Member Accessibility

Council Members shall ensure that they make themselves accessible to the Town of Vincent community through publication of at least one of the following. Selection of the following will be at the discretion of the Council Member:

- (a) Private and/or Town address or PO Box and Town provided telephone/facsimile number;
- (b) Business telephone number;
- (c) Mobile telephone number;
- (d) Facsimile number; or
- (e) Email address.

(Note: Any telephone/facsimile or mobile phone provided by the Town will automatically be made available to the public and will be widely published.)

Council Members contact details will be published in a range of Council communications (eg: Council publications, community notice boards, community directory and the Town of Vincent website).



9. IMPLEMENTATION, REVIEW AND COMPLIANCE

9.1 Implementation and Review

- (a) The original Code of Conduct for the Town of Vincent was first adopted on 26 August 1996 and reviewed and amended as required by the Local Government Act 1995.
- (b) The Council will review the Code after each Ordinary Council Election (ie. every 2 years) and any amendments to the Code will be subsequently communicated to Council Members, Employees and the community.

9.2 Matters not dealt with by this Code

(i) Rules of Conduct Regulations

Council Members are required by the Rules of Conduct Regulations to observe the rules of conduct prescribed in the Rules of Conduct Regulations and those rules do not form part of this Code.

The Local Government (Rules of Conduct) Regulations 2007 cover the following key areas:

- *"Principles of general behaviour;*
- *Local Law as to conduct at meetings;*
- *Use of information;*
- *Securing unauthorised advantages or disadvantages;*
- *Misuse of Council resources;*
- *Prohibition against involvement in administration;*
- *Relations with local government employees;*
- *Disclosure of interest adversely affecting impartiality; and*
- *Restriction on receiving, and disclosure of, certain gifts."*

(Local Government (Official Conduct) Amendment Act 2007 (Explanatory Notes)

(ii) The Act

Certain conduct and actions by Council Members and Employees constitutes an offence under the Act and is not dealt with by this Code.

9.3 Enforcement of the Code

- (i) Any Council Employee or Council Member having concerns with regard to an actual, perceived, potential, intended or unintended breach of either the specific provisions or the spirit of the Code of Conduct, or any provisions of the Local Government Act, Regulations or Local Laws, should discuss those concerns with the Chief Executive Officer where such matters relate to Council Members or Employees, or the Mayor in the case of matters involving the Chief Executive Officer.



- (ii) Matters the subject of a complaint shall be treated in the strictest confidence until such time as an appropriate investigation has been undertaken.
- (iii) Any actions taken as a result of a breach will be made in accordance with the provisions of any applicable legislative requirement and the Town's responsibilities as an employer.
- (iv) Serious and/or repeated breaches of the Code will be reported to the Council or appropriate Authority for consideration and appropriate action, where necessary.

Note: Council Members are required to make a declaration to comply with the Council's Code of Conduct upon being sworn in.

9.4 Dealing with Complaints and Allegations

- (i) If a person has any complaint concerning the performance, ability, character or integrity of any Council Member or Employee, or of any act or omission of an Council Member or Employee, and desires to bring such complaint to the notice of the Council, he or she shall notify the Chief Executive Officer of the complaint, in writing and preferably be verified by a Statutory Declaration, as prescribed by the Oaths, Affidavits and Statutory Declarations Act 2005, giving such details as are available in order that the complaint may be investigated and, if necessary reported upon by the Chief Executive Officer.
- (ii) Any serious complaint or one which alleges misconduct or corruption must be verified by a Statutory Declaration, as prescribed by the Oaths, Affidavits and Statutory Declarations Act 2005,
- (iii) The complaint must be given in confidence and shall;
 - (a) identify the complainant and the person against whom the complaint is made;
 - (b) set out the details of the complaint, alleged breach of the Code of Conduct and/or legislation; and
 - (c) be in writing, or in the prescribed form and preferably verified by a Statutory Declaration, as prescribed by the Oaths, Affidavits and Statutory Declarations Act 2005.
- (iv) Any person who has lodged a complaint, or any Council Member or Employee against whom a complaint has been made, must keep confidential the complaint, until the complaint has been determined or finalised.



- (v) Employees:
 - (a) Any complaint about an Employee (other than the Chief Executive Officer) shall be dealt with administratively by the Chief Executive Officer.
 - (b) Any complaint about the Chief Executive Officer shall be in writing, preferably in the form of a Statutory Declaration and signed by the person or persons making the complaint and shall be addressed to the Mayor, with a copy to the Chief Executive Officer and will be dealt with as part of the performance review of the Chief Executive Officer, or as agreed by the Mayor and the Chief Executive Officer.
- (vi) Council Members:
 - (a) Any complaint about a Council Member shall be in writing, in the prescribed form (attached as Appendix 1 to this Code) and be reported to the Chief Executive Officer.

9.5 Procedure for Dealing with Complaints and Allegations

All complaints and allegations will;

- (i) be treated as confidential and will ensure that the principles of “natural justice” and “procedural fairness” are followed at all times,
- (ii) for Employees be dealt with in accordance with the Council’s Policy No 4.1.3 Complaint Management and Procedures; and
- (iii) for Council Members, be dealt with in accordance with the Act, and Regulations or where applicable, with the Council Policy 4.1.3 Complaint Management and Procedures.

9.6 Protection of Persons Reporting Unacceptable or Illegal Behaviour

The Chief Executive Officer is to ensure that Council Members and Employees who report unacceptable or illegal behaviour of Council Members or Employees (that is, whistleblowers) are not in any way disadvantaged or victimized because of their actions. The Chief Executive Officer’s action is limited to matters for which he/she has responsibility and/or jurisdiction to act.

9.7 Corruption and Crime Commission Act 2003

Council Members and Employees must be aware of the Corruption and Crime Commission Act 2003 which requires the Principal Officer of an organisation (ie: the Chief Executive Officer) to report possible misconduct or corruption to the Commission. Penalties will prevail if a person who makes a complaint: -



Town of Vincent Code of Conduct

- (a) has his or her safety or career prejudiced, or threatened to be prejudiced;
- (b) is intimidated or harassed; or
- (c) has an act done to his or her detriment because of having assisted the Commission, or furnished information to the Commission.

Definitions:

The Corruption and Crime Commission has produced the following information:

“Misconduct” essentially occurs if a public officer (which includes Local Government Council Members and Employees):

- Corruptly Acts or Corruptly Fails to Act – in the performance of the functions of the public officer’s office of employment;
- Corruptly Takes Advantage for Own Benefit or Detriment to Another – a public officer corruptly takes advantage of the public officer’s office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person; or
- Commits an Offence in Official Capacity – a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years’ imprisonment.

OR

A public officer engages in conduct that:

- adversely affects or could adversely affect, the honest or impartial performance of the functions of a public authority or public officer whether or not acting in their official capacity at the time;
- involves the public officer performing his or her functions without honesty or impartiality;
- constitutes or involves a breach of trust placed in the public officer by reason of his or her office or employment as a public officer; or
- suggests that the public officer misused information for personal benefit or the detriment of another person.



AND constitutes or could constitute:

- an offence against the Statutory Corporations (Liability of Directors) Act 1996;
- an offence against any other written law; or
- a disciplinary offence that could lead to termination of employment if the disciplinary process in the Public Sector Management Act were applied (even if the Public Sector Management Act does not apply to the position).

What Does Corruptly Mean?

The term corruptly is not defined under the Act. Corruption usually involves calculated, often continuing, covert and wrongful exercise of public duty or function. The Criminal Code also provides guidance by defining the offence of corruption at section 83, in the following terms:

“ . . . Any public officer who, without lawful authority or a reasonable excuse:

- (a) acts upon any knowledge or information obtained by reason of his office or employment;*
- (b) acts in any matter, in the performance or discharge of the functions of his office or employment, in relation to which he has, directly or indirectly, any pecuniary interest; or*
- (c) acts corruptly in the performance or discharge of the functions of his office or employment;*

so as to gain a benefit, whether pecuniary or otherwise, for any person, or so as to cause a detriment, whether pecuniary or otherwise, to any person.”



Town of Vincent Code of Conduct

10. CODE OF CONDUCT DECLARATION

Declaration:

I: _____

have read and understand the conditions of the Town of Vincent Code of Conduct and hereby agree to abide by the requirements of this document.

SIGNED: _____
(Employee/Council Member)

DATE: _____



REFERENCES AND FURTHER READING

Independent Commission Against Corruption - *"Lobbying Local Government Councillors"* August 2006.

Department of Local Government (NSW) *"The Model Code of Conduct for Local Government in NSW"* December 2004.

Department of Local Government and Regional Development *"Council Members Relationship with Developers"* Operational Guideline No 12 - April 2006.



Town of Vincent Code of Conduct

COMPLAINT FORM

NOTE TO PERSON MAKING THE COMPLAINT: This form should be completed, dated and signed by the person making a complaint of a breach of the Town's Code of Conduct and should be submitted to the Chief Executive Officer of the Town of Vincent.

DETAILS OF PERSON WHO IS MAKING THE COMPLAINT		
Name:	Given Name(s)	Family Name
Address:		Postcode:
Telephone No. Home	Work	Mobile
Email address:		

NAME OF PERSON ALLEGED TO HAVE COMMITTED BREACH <Separate form for each person>

.....

DATE OF ALLEGED INCIDENT

...../...../.....

WITNESS DETAILS: If there is/are any person(s) who witnessed the alleged breach, and who is/are willing to provide information, state the name and contact details of each person.

WITNESS NO 1		
Name:	Given Name(s)	Family Name
Address:		Postcode:
Telephone No. Home	Work	Mobile
Email address:		

WITNESS NO 2		
Name:	Given Name(s)	Family Name
Address:		Postcode:
Telephone No. Home	Work	Mobile
Email address:		

