

CODE OF CONDUCT

Preamble

The Code of Conduct provides Council members, committee members and staff in local government with consistent guidelines for an acceptable standard of professional conduct. The code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability.

The code is complementary to the principles adopted in the *Local Government Act 1995* and regulations which incorporates 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.
- d. More efficient and effective local government.

The code provides a guide and a basis of expectations for Council members, committee members and staff. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective local government responsibilities may be based.

Statutory Environment

The Code of Conduct observes statutory requirements of the *Local Government Act 1995* section 5.103 – Codes of Conduct and *Local Government (Administration) Regulations 1996* section 34B and 34C.

Rules of Conduct

Council members acknowledge their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed rules of conduct as described in the *Local Government Act 1995* and *Local Government (Rules of Conduct) Regulations 2007*.

1. Roles

1.1 Role of Council Member

The primary role of a Council member is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the Town of Cottesloe will be the focus of the Council member's public life.

The role of Council members as set out in section 2.10 of the *Local Government Act 1995*.

A Councillor —

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

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 of Cottesloe'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.
- Having an awareness of the statutory obligations imposed on Council members and on local governments.

In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through the integration of environmental protection, social advancement and economic prosperity.

1.2 Role of Staff

The role of staff is determined by the functions of the Chief Executive Officer as set out in section 5.41 of the *Local Government Act 1995*.

The CEO's functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;*
- (b) ensure that advice and information is available to the council so that informed decisions can be made;*
- (c) cause council decisions to be implemented;*
- (d) manage the day to day operations of the local government;*
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;*
- (f) speak on behalf of the local government if the mayor or president agrees;*
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to S 5.37(2) in relation to senior employees);*
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*

1.3 Role of Council

The role of the Council is in accordance with S 2.7 of the *Local Government Act 1995*.

- (1) The council —*
 - (a) directs and controls the local government's affairs; and*
 - (b) is responsible for the performance of the local government's functions.*
- (2) Without limiting subsection (1), the council is to —*
 - (a) oversee the allocation of the local government's finances and resources; and*

(b) *determine the local government's policies.*

1.4 Relationships between Council Members and Staff

An effective Councillor will work as part of the Council team with the Chief Executive Officer and other members of staff. That teamwork will only occur if Council members and staff 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 observe their statutory obligations which include, but are not limited to, the following:

- Accept that their role is a leadership, not a management or administrative one.
- Acknowledge that they have no capacity to individually direct members of staff to carry out particular functions.
- Refrain from publicly criticising staff in a way that casts aspersions on their professional competence and credibility.

2. Conflict and Disclosure of Interest

2.1 Conflict of Interest

- a. Council members, committee members and staff will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- b. Staff will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Town of Cottesloe, without first making disclosure to the Chief Executive Officer. 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.
- c. Council members, committee members and staff will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the local government area or which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).
- d. Council members, committee members and staff who exercise a recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- e. Staff will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity. 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.

2.2 Financial Interest

Council members, committee members and staff will adopt the principles of disclosure of financial interest as contained within the *Local Government Act 1995*.

2.3 Disclosure of Interest

In this clause, and in accordance with Regulation 34C of the *Local Government (Administration) Regulations 1996*, 'interest' means:

‘An interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association’.

- (a) *A person who is an employee and who has an interest in any matter to be discussed at a council or committee meeting attended by the person is required to disclose the nature of the interest -*
 - (i) *in a written notice given to the CEO before the meeting; or*
 - (ii) *at the meeting immediately before the matter is discussed.*
- (b) *A person who is an employee and who has given, or will give, advice in respect of any matter to be discussed at a council or committee meeting not attended by the person is required to disclose the nature of any interest the person has in the matter -*
 - (i) *in a written notice given to the CEO before the meeting; or*
 - (ii) *at the time the advice is given.*
- (c) *A requirement described under items (a) and (b) excludes an interest referred to in S 5.60 of the Local Government Act 1995.*
- (d) *A person is excused from a requirement made under items (a) or (b) to disclose the nature of an interest if –*
 - (i) *the person's failure to disclose occurs because the person did not know he or she had an interest in the matter; or*
 - (ii) *the person's failure to disclose occurs because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.*
- (e) *If a person who is an employee makes a disclosure in a written notice given to the CEO before a meeting to comply with requirements of items (a) or (b), then -*
 - (i) *before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and*
 - (ii) *immediately before a matter to which the disclosure relates is discussed at the meeting*
the person presiding is to bring the notice and its contents to the attention of the persons present.
- (f) *If -*
 - (i) *to comply with a requirement made under item (a), the nature of a person's interest in a matter is disclosed at a meeting; or*
 - (ii) *a disclosure is made as described in item (d)(ii) at a meeting; or*
 - (iii) *to comply with a requirement made under item (e)(ii), a notice disclosing the nature of a person's interest in a matter is brought to the attention of the persons present at a meeting, the nature of the interest is to be recorded in the minutes of the meeting.*

3. Personal Benefit

3.1 Use of Confidential Information

Council members, committee members and staff 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 and in good faith, or to improperly cause harm or detriment to any person or organisation.

3.2 Intellectual Property

The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the Town of Cottesloe upon its creation unless otherwise agreed by separate contract.

3.3 Improper or Undue Influence

Council members and staff will not take advantage of their position to improperly influence other Council members or staff in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

3.4 Gifts

In this clause, and in accordance with Regulation 34B of the *Local Government (Administration) Regulations 1996*,

'activity involving a local government discretion' means an activity -

- (a) *that cannot be undertaken without an authorisation 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 S 5.82(4) except that it does not include -

- (a) *a gift from a relative as defined in S 5.74(1); 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 an 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 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 an employee, means -

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

(a) *A person who is an employee is to refrain from accepting a prohibited gift from a person who -*

- (i) *is undertaking or seeking to undertake an activity involving a local government discretion; or*
- (ii) *it is reasonable to believe is intending to undertake an activity involving a local government discretion.*

(b) *A person who is an employee and who accepts a notifiable gift from a person who*

- (i) *is undertaking or seeking to undertake an activity involving a local government discretion; or*

- (ii) *it is reasonable to believe is intending to undertake an activity involving a local government discretion,*
shall notify the CEO, in accordance with item (c) and within 10 days of accepting the gift, of the acceptance.

(c) *The notification of the acceptance of a notifiable gift must be in writing and include -*

- (i) *the name of the person who gave the gift; and*

- (ii) *the date on which the gift was accepted; and*
- (iii) *a description, and the estimated value, of the gift; and*
- (iv) *the nature of the relationship between the person who is an employee and the person who gave the gift; and*
- (v) *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) –*
 - (1) *a description; and*
 - (2) *the estimated value; and*
 - (3) *the date of acceptance,**of each other gift accepted within the 6 month period.*
- (d) *The CEO is to maintain a register of notifiable gifts and record in it details of notifications given to comply with a requirement made under item (c).*
- (e) *This clause does not apply to gifts received from a relative (as defined in S 5.74(1) of the Local Government Act 1995) or an electoral gift (to which other disclosure provisions apply).*
- (f) *This clause does not prevent the acceptance of a gift on behalf of the local government in the course of performing professional or ceremonial duties in circumstances where the gift is presented in whole to the CEO, entered into the Register of Notifiable Gifts and used or retained exclusively for the benefit of the local government.*

4. Conduct of Council Members, Committee Members and Staff

4.1 Personal Behaviour

- a. Council members, committee members and staff will:
 - (i) Act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code.
 - (ii) Perform their duties impartially and in the best interests of the Town of Cottesloe uninfluenced by fear or favour.
 - (iii) Act in good faith (for example, honestly, for the proper purpose, and without exceeding their powers) in the interests of the Town of Cottesloe and the community.
 - (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) Always act in accordance with their obligation of fidelity to the Town of Cottesloe.
- b. Council members will represent and promote the interests of the local government, while recognising their special duty to their own constituents.

4.2 Honesty and Integrity

Council members, committee members and staff will:

- a. Observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards.
- b. Bring to the notice of the Mayor any dishonesty or possible dishonesty on the part of any other member, and in the case of an employee to the Chief Executive Officer.
- c. Be frank and honest in their official dealing with each other.

4.3 Performance of Duties

- a. While on duty, staff will give their whole time and attention to the Town of Cottesloe’s business and ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably both on them and on the Town of Cottesloe.
- b. Council members and committee members will at 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. Council members and committee members will be as informed as possible about the functions of the Council, and treat all members of the community honestly and fairly.

4.4 Compliance with Lawful Orders

- a. Council members, committee members and staff 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.
- b. Council members, committee members and staff will give effect to the lawful policies of the Town of Cottesloe, whether or not they agree with or approve of them.

4.5 Administrative and Management Practices

Council members, committee members and staff will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

4.6 Corporate Obligations

4.6.1 Standard of Dress

Council members, committee members and staff are expected to comply with neat and responsible dress standards at all times. Accordingly:

- a. Council members and committee members will dress in a manner appropriate to their position, in particular when attending meetings or representing the Town of Cottesloe in an official capacity.
- b. Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual staff.

4.6.2 Communication and Public Relations

- a. All aspects of communication by staff (including verbal, written or personal), involving Town of Cottesloe activities should reflect the status and objectives of the Town of Cottesloe. Communications should be accurate, polite and professional.
- b. As a representative of the community, Council members need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so Council members should acknowledge that:
 - As a 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.
 - Information of a confidential nature ought not be communicated until it is no longer treated as confidential.

- Information relating to decisions of the Council on approvals, permits and so on ought only be communicated in an official capacity by a designated officer of the Council.
 - Information concerning adopted policies, procedures and decisions of the Council is conveyed accurately.
- c. Committee members accept and acknowledge it is their responsibility to observe any direction the Town of Cottesloe may adopt in terms of advancing and promoting the objectives of the Committee to which they have been appointed.

4.7 Appointments to Committees

As part of their representative role Council members are often asked to represent the Council on external organisations. It is important that Council members:

- Clearly understand the basis of their appointment.
- Provide regular reports on the activities of the organisation.

5. Dealing with Council Property

5.1 Use of Local Government Resources

Council members and staff will:

- a. Be scrupulously honest in their use of the Town of Cottesloe’s resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body.
- b. Use the Town of Cottesloe resources entrusted to them effectively and economically in the course of their duties.
- c. Not use the Town of Cottesloe’s resources (including the services of Council staff) 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).

5.2 Travelling and Sustenance Expenses

Council members, committee members and staff 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 Town of Cottesloe in accordance with Town of Cottesloe policy and the provisions of the *Local Government Act 1995*.

5.3 Access to Information

- a. Staff will ensure that Council members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities.
- b. 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.

Adopted	25 March 2002
Reviewed	27 June 2005
Reviewed	28 April 2008
Expected date of review	

DEFENCE RESERVIST LEAVE

1. Objectives

To ensure that members of the Australian Defence Reserve Service employed by the Town of Cottesloe are able to access a reasonable amount of leave for that purpose.

2. Principles

It is recognised that the Australian Defence Reserves are an important part of our national defence strategy and that support to the Australian Defence Reserves is essential to their continued effectiveness. This policy applies to all employees who are reservists and undertake training and/or military service with the Australian Defence Forces.

3. Issues

3.1 *Defence Reserve Service (Protection) Act 2001 (the Act)*

- 'Defence Service' means service in a part of the Reserves and includes training.
- Reserve service may be continuous full-time defence service or other defence service (e.g. short periods of defence reserve service which may include training), and must not prejudicially affect employees' entitlements or other conditions of employment.
- The Act does not invoke any obligation on employers to pay the Reservists' remuneration in respect of the civilian employment whilst absent on defence service or to provide make-up pay in circumstances where the Defence Force pay is lower than employees' public sector pay.
- Any entitlements relating to Reserve service (including training) and/or military service contained in industrial awards or agreements will continue to apply, subject to them satisfying the provisions of the Act.
- There is no scope for employers to ask employees to limit the number of training courses per year or to take less reserve service leave as this is in breach of the Act. Section 17 of the Act draws no distinction between essential and non-essential training or service and specifically contemplates a reservist 'volunteer(ing)' for service or training.
- There is no discretion under the Act for employers to refuse requests for reserve service or training leave, irrespective of inconvenience to the employer or the non-essential nature of the leave. Employers are only entitled to verify that the leave request relates to the actual reserve service or training.

3.2 **Employer Support Payment Scheme**

In 2001, the Commonwealth Government introduced legislation to enhance and encourage Reserve personnel. One of the key features of the new Reserve legislation has been the introduction of the Employer Support Payment (ESP). This payment is available employers who release Reservists for more than two weeks per year.

The Scheme involves payment of an amount equivalent to the average weekly full-time ordinary time earnings as calculated by the Australian Bureau of Statistics, and is as

recognition of the costs and/or disruption to employers caused as a consequence of releasing a reservist for a period of continuous Defence service.

Service that is considered under the ESP is:

- Ordinary Reserve Service, and
- Voluntary continuous full-time service, if the relevant Service Chief (that is the Chief of Navy, Army or Air Force) or their delegates have designated the service as protected service.

Under the Scheme an employer is eligible to receive the ESP once a Reservist has completed 14 days continuous Reserve service in any financial year. The qualifying period can be undertaken as a single period or as multiple periods of continuous Defence service, as long as each period of continuous Defence service is a minimum of five consecutive days.

Further details of the operation of the Australian Defence Force Reserves ESP Scheme can be obtained from the Defence Reserve Support Council on 1800 803 485 or their website www.defence.gov.au/reserves.

4. Policy

- a. Employees applying for Defence Reservist Leave are required to provide evidence from the Defence Force of the extent of the leave requirement.
- b. Employees wishing to take Defence Reservist Leave are to provide reasonable notification to the Organisation. Generally this should be three months prior to the period of leave required.
- c. At the discretion of the Chief Executive Officer, paid leave may be granted to employees who are members of the Defence Forces Reserves for the purpose of participating in training camps, or equivalent continuous duty. This leave will be in addition to the use of annual leave entitlements, however employees electing not to use annual or long service leave credits for defence service and/or military service shall be granted leave without pay.
- d. Leave for Reservists is typically 4 weeks (20 working days or 28 calendar days) leave each year although an additional 2 weeks leave to allow for a Reservists' attendance at recruit/initial employment training will be granted where required.
- e. Where the Employer agrees to make payment for Defence Reservist Leave it will be paid on the basis of the difference between the employee's normal weekly salary (calculated on the same basis as annual leave provisions) and the remuneration received from the Armed Services. Should the amount received from the Armed Services be greater than the normal weekly salary, no additional payments will be made by the Organisation. Superannuation contributions will be based on the employee's normal weekly salary.
- f. 'Continuous full-time defence service' (excluding any time taken on annual or long service leave), will not count for annual leave or sick leave, as the employee's contract is temporarily suspended. These entitlements will accrue with the relevant Defence Force during the period of service. For periods of defence service other than continuous full-time defence service, employees' entitlements will continue to accrue with their employer.

- g. Full time military service will count as service for long service leave purposes.
- h. Unpaid Leave will be treated as leave without pay.
- i. The period of military service will count as service for increment progression and increments falling due whilst the employee is absent should be processed as normal.
- j. An employee's contract is suspended whilst undertaking continuous full-time defence service. In order to preserve employment entitlements, an employee must notify the Town to resume duty as soon as reasonably practicable and not more than 30 days after the completion of the period of military service.
- k. Staff taking Defence Reservist Leave are required to pay normal rental during their absence should they have access to employee housing.
- l. The Employer will keep Reservist employees who are undertaking peacetime training or deployment informed of critical developments in the workplace e.g. organisational change, salary related matters (enterprise or workplace agreement negotiations).

Adopted	22 August 2005
Reviewed	26 August 2013
Expected date of review	

EQUAL EMPLOYMENT OPPURTUNITY

1. Objective

To recognise Town of Cottesloe's legal obligations under the *Equal Opportunity Act 1984* and under the *Fair Work Act 2009*.

2. Principles

Equal employment opportunity principles apply equally to Councillors and employees.

The principles of equal employment opportunity are:

- Promotion of equal employment opportunity based solely on merit to ensure that discrimination does not occur.
- Provision of training that is consistent with equal opportunity principles.
- Ensuring that all promotional policies and opportunities are directed towards providing equal opportunity to all employees.
- Ensuring that all offers of employment are directed to providing equal opportunity.
- Refusal to tolerate harassment within the workplace.
- Provision of an enjoyable, challenging, involving, harmonious work environment for all employees where each employee has an opportunity to progress to the extent of their ability.

3. Issues

Town of Cottesloe has an ongoing commitment to raise awareness for the need and desirability of Equal Employment Opportunity practices and to ensure compliance with the requirements of the *Equal Opportunity Act 1984*.

To ensure that equal employment opportunity practices are implemented, there is a need to establish a management plan which will include provision for:

- an action plan
- establishment and periodic review of consultative committee
- appointment of grievance officers
- establishment of performance indicators
- appropriate training programmes
- review and monitoring of personnel practices and policies
- provision for periodic review of management plan
- periodic review of the Equal Employment Opportunity policy
- periodic review of all policies.

4. Policy

- a. The Town of Cottesloe recognises its legal obligations under the *Equal Opportunity Act 1984* and will actively promote amongst councillors and employees equal employment opportunity based solely on merit to ensure that discrimination does not occur on the grounds of sex, marital status, pregnancy, race, impairment or disability, religious or

- political convictions, age, family status and responsibility, sexual and racial harassment, gender history, sexual orientation, or spent conviction.
- b. All employment training with the Town of Cottesloe will be consistent with providing equal opportunity to all employees provided their relevant experience, skills and ability meet the minimum requirements for such training.
 - c. All promotional policies and opportunities with the Town of Cottesloe will be directed towards providing equal opportunity to all employees provided their relevant experience, skills and ability meet the minimum requirements for such promotion.
 - d. All offers of employment within the Town of Cottesloe will be directed towards providing equal opportunity to prospective employees provided their relevant experience, skills and ability meet the minimum requirements for engagement.
 - e. The Town of Cottesloe is fully committed to *Equal Opportunity Act 1984* and therefore will not tolerate harassment within its workplace. Harassment is defined as any unwelcome offensive action or remark concerning a person’s race, colour, language, ethnicity, political or religious convictions, gender, marital status, age, family status and responsibility or impediment (impairment). Harassment, (whether sexual or otherwise) can be perpetrated in many forms and this may include, but is not exclusive to:
 - i. Physical intimidation, touching, mocking or gesturing.
 - ii. Threats both verbal and physical made in order to secure some behavioural co-operation or state of compliance by the harassed person.
 - iii. The inappropriate use of information technology including telephones and computers and in particular the use of e-mail or the internet to subject a person to sensory imagery that is not solicited by them and is unwelcome to them.
 - iv. The public display of posters, photographs, screen savers and other art mediums when the item displayed or shown could be considered improper or offensive by any person or staff member employed by the Town of Cottesloe.
 - f. The equal employment opportunity goals of the Town of Cottesloe are designed to provide an enjoyable, challenging, involving, harmonious work environment for all employees where each has the opportunity to progress to the extent of their ability. All employees of the Town of Cottesloe must understand that if they knowingly contravene the *Equal Opportunity Act 1984* or this policy, then they will face disciplinary action.
 - g. The Town of Cottesloe will establish and implement an Equal Employment Opportunity Management Plan which will include an action plan for achieving the objectives of this policy and will provide adequate resources for implementing the Equal Employment Opportunity Management Plan.
 - h. The Equal Employment Opportunity Management Plan will be reviewed at least once every three years.

Adopted	27 February 2012
Expected date of review	

LEAVE DEFERMENT

1. Objectives

Prevent accumulation of leave credits.

2. Principles

Annual leave shall be taken at times mutually convenient for the employer and the employee. Leave shall be taken within 12 months of the date which the leave became due, unless deferral is authorised in accordance with the procedures specified in this policy.

3. Issues

- The cost of providing relief during extended period of leave.
- Minimisation of cashflow fluctuations resulting from leave accruals.
- Minimise risk of misappropriation.
- Minimisation of leave liability.

4. Policy

Annual and Long Service Leave shall be taken within 12 months of the date on which the leave becomes due.

An employee wishing to defer leave for more than 12 months shall apply to the Chief Executive Officer for approval for deferral.

An application to defer leave beyond 12 months shall include reasons for the deferral and comments from the employees' Manager. The period of deferral shall be specified in the application.

In granting an application for deferral beyond 12 months, the Chief Executive Officer shall decide whether it is appropriate to fix a pay rate that shall apply when the leave is taken.

Adopted	September 1995
Reviewed	23 November 2009
Expected date of review	

RECRUITMENT AND SELECTION

1. Objectives

Ensure that staff selection processes are fair and equitable and that responsibility and accountability measures are addressed in that procedure.

2. Principles

Appropriate staff selection is the foundation for effective management and implementation of Council's policy and programs.

3. Issues

Staff selection and appointment processes are subject to scrutiny by outside agencies, including statutory bodies. Relevant legislations governing the recruitment and selection process are as follows:

- *Workplace Relations Act 1996*
- *Fair Work Act 2009*
- *Age Discrimination Act 2004*
- *Human Rights and Equal Opportunity Commission Act 1986*
- *Equal Opportunity for Women in the Workplace Act 1999*
- *Local Government Act 1995*
- *Equal Opportunity Act 1984*

The process used should be fair and equitable for all applicants. All staff are responsible, either directly or indirectly, to the Chief Executive Officer, who in turn is accountable for staff performance to Council. The Chief Executive Officer therefore has a responsibility to ensure that staff are selected on merit and in his/her opinion, are the 'best fit' for the position, as determined by the Duty Statement and selection criteria established prior to advertising.

A further issue is that of career path development for existing staff, including opening opportunities for promotion within the organisation.

4. Policy

4.1 Job Description and Selection Criteria

Each position within the Town of Cottesloe shall have a selection criteria and duty statement approved by the Chief Executive Officer prior to advertising.

4.2 Advertising

Vacant positions shall be advertised (depending on the position to be advertised):

- internally amongst staff
- regionally, within local newspapers
- statewide, through the appropriate media
- job websites, especially ones that can specifically target the position advertised

This decision to be made by the Chief Executive Officer in consultation with the Executive Officer and the appropriate Manager.

4.3 Selection Panel

Selection panels for all positions will usually be a maximum of three persons inclusive of the current supervisor of the position advertised. The Chief Executive Officer reserves the right to sit on all selection panels.

The Manager of the appropriate section shall chair the Selection Panel.

The Mayor or his/her representative may observe selection procedure for any Manager's position.

The selection panel for any Manager's position may include an independent expert in the relevant field.

The Selection Panel for the position of Chief Executive Officer shall be determined by the Council.

4.4 Selection Process

To provide a uniform selection process for applicants to vacancies and to create an ethical foundation to which consistent selection decisions are made. This includes:

- a. Ensuring all selection procedures comply with the Local Government's Equal Opportunity Policy.
- b. Ensuring that all appointments are made on merit.
- c. Developing and maintaining procedures to assist in ensuring the most suitable candidate is appointed.
- d. Ensuring that selection procedure are clear, valid and consistently applied by those involved in selecting candidates and that they provide for fair and equitable treatment for those who apply for employment.
- e. Basing selection decisions and criteria directly on the demands and requirements of the job and the competencies identified as necessary for satisfactory performance.
- f. Ensuring that all employees involved in the selection process are properly trained in order that the objectives of the policy are met.
- g. Observing any legal requirements which apply to the selection process.

4.5 Ethical Considerations for the Selection Process

Staff who are responsible for selecting applicants to fill Local Government positions should be familiar with the ethical considerations behind their decision making process.

The ethical consideration involved in the selection process related to:

- The principles of merit (choosing the best person for the job)
- Avoiding discrimination
- Natural justice and fair treatment

Using the selection process to unfairly advantage one applicant over another can have a detrimental effect on people's careers, morale and motivation, and ultimately on the level of confidence that employees at large have in the recruitment and selection processes.

4.6 Interview and Appointment Process

Interviews will be conducted in line with Equal Employment Opportunity guidelines.

After the interview the selection panel needs to determine the most suitable person for the appointment to the position. It also needs to ensure appropriate pre-appointment action.

The selection panel needs to determine action if there is no suitable applicant.

After all of the interviews are completed – decide whether any of these applicants are suitable for the position, based on the panel members' assessment of the applicants against the selection criteria.

If there isn't a suitable applicants, the panel may decide to:

- Readvertise (perhaps more widely) and re-examine and modify the position requirements.
- Assess the best applicant's ability to meet the position requirements if supplementary training were provided.
- Review the adequacy of the process followed.

It is advisable that the panel prepare a selection report following the interviews that provide quantifiable reasons for the decisions made. The report will contain a recommendation and be signed off by the chairperson. A selection report should contain a comparative analysis of each of the applicants and any areas of concern.

Other information to be provided includes:

- A description of the position and selection criteria
- Outlines the process to date
- How the position was advertised
- How many applicants received
- Make up of panel
- Time and place of interviews
- How many applicants were interviewed

Where two applicants are considered by the Selection Panel to be equally meritorious, and one resides within the Western Suburbs, that person shall be offered the position.

Recommendations for appointment shall be endorsed by the Chief Executive Officer prior to a formal offer of employment being made.

For Senior Manager positions, a recommendation shall be made to Council through the committee process.

Lobbying of Selection Panel, Chief Executive Officer or Councillors, either by or on behalf of an applicant may disqualify that applicant.

A satisfactory medical examination for which Council will bear the cost must be undertaken prior to confirmation of appointment.

4.7 Reference Checking

Reference checks are an important part of the selection process as they provide the selection panel with more information on which to make comparisons between interviewed applicants.

The purpose of reference checking is to check facts provided by the applicant (previous positions, duties undertaken, skills and responsibilities etc.) and to obtain an assessment from the referee as to the applicant's suitability having regard to the selection criteria.

Standard questions should be asked of each referee. The referee should be allowed and encouraged to speak freely, therefore a free ranging conversation beyond the selection criteria should not be stopped.

The referee should be asked to provide factual information or to give examples of observations made or opinions given about the applicant. These requests should be made in a way that does not reflect doubt on the referee nor stops the flow of discussions.

The interviewer should not give opinions or ask questions which may lead the referee to reach a conclusion as to what the interviewer thinks. The interviewer should ask the referee about the applicant's weakness as well as their strengths and equal opportunity principles must be exercised at all stages of the selection process.

4.8 Employment Conditions

4.8.1 Pre-Employment Medical Checks

Pre-employment medical checks of prospective employees can raise equal opportunity, privacy, occupational health and safety and objectivity issues. It is recommended that medical examinations should only be undertaken for legitimate job-related purposes and the reason for requesting the examination should be clearly stated to prospective employees, preferably during the course of the selection interview. Any examination should related specifically to the requirements of the job in question, which means that particular physical attributes required for the job should be accurately identified beforehand. Testing procedures should be fair and consistently applied.

For sedentary positions, it may be more appropriate for prospective employees to complete a signed checklist detailing their medical fitness. This checklist can require the employee to disclose any injury, illness or disability that is likely to prevent them from carrying out the duties of the position.

Prior to the appointment, prospective employee should undergo a pre-employment medical with and appropriately experienced medical practitioner or a group specializing

in these types of medicals to ensure that the person is able to perform the duties of the position to an established standard.

The *Equal Opportunity Act 1984* prohibits discrimination in employment on the grounds of impairment, except where the impairment prevents the person from being able to perform the job. The standards established by the medical practitioner must reflect what is required of the person to perform the work involved.

4.8.2 Criminal Record and National Police Certificate

Western Australian legislation prescribes that it is unlawful for a Local Government to discriminate against a job applicant on the basis of any ‘spent’ conviction, which allows criminal records to be amended to remove references to certain offences after a period of non-offending.

Overall the Local Government will consider:

- The inherent requirements of the position
- The need to ask about a job applicant’s criminal past
- The manner in which the information, once obtained, can be used

In response to highly mobile population, the need to protect the vulnerable or ‘at risk’ members of the community and to cater for community and to cater for community expectation, the Western Australian Police Service has discontinued the issuance of a ‘State Police Certificate’ in favour of a ‘National Police Certificate’.

4.8.3. Other Conditions

Staff appointed to carry out functions within externally funded projects, are appointed for the term of that funding, unless dismissed in accordance with the conditions laid out within *Local Government Industrial Award 2010*.

Unless otherwise specified, all appointments to the Town of Cottesloe shall be in accordance with *Local Government Industrial Award 2010*.

4.9 Dismissals

The Chief Executive Officer may dismiss staff only after the procedure set down within the *Local Government Industrial Award 2010*, as appropriate, has been undertaken, or for reasons of gross misconduct.

4.10 Staff Development

Staff are encouraged to participate in career development and training opportunities relevant to their position and future career development.

Adopted	28 May 2012
Expected date of review	