

COR006 – Code of Conduct

1. POLICY CERTIFICATION

Policy title:	Code of Conduct (Employee and Contractor)
Policy number:	COR006
Category:	Policy
Classification:	Corporate Services and Sustainability
Status:	Approved, In-Force

2. PURPOSE

The Code of Conduct (the Code) outlines what Roper Gulf Regional Council (Council) considers to be the acceptable behavioural standards of its employees and contractors, ethical responsibility, transparency and accountability for carrying out their roles and responsibilities.

The Code is based on applicable law and has been collated as the authoritative guideline on employee and contractor conduct, and prevails over all other corporate or contractual documents in the event, and to the extent of any inconsistency.

The Code provides an authoritative reference for Council's employees and contractors commitment to professional and ethical behaviour including but not limited to:

- understand the standard of conduct expected of them;
- fulfil their statutory obligations pertaining to upholding the public interest;
- fulfil their statutory obligations pertaining to integrity;
- fulfil their statutory obligations pertaining to impartiality;
- comply with their statutory obligations as outlined at Chapter 9 of the *Local Government 2019*; and
- act in a way that enhances public confidence in the integrity of local government.

3. ORGANISATIONAL SCOPE

This policy applies to all Council employees and contractors in all their duties, roles and responsibilities. This includes any employee or contractor who:

- a) work for, or provide services to Council on a contract basis; or
- b) a person who works for Council under an arrangement with a labour hire agency; or
- c) a person (other than a member Council, a local authority, or a council committee) acting under powers of Council conferred by delegation; or
- d) a person directly employed by Council; and
- e) a volunteer.

4. POLICY STATEMENT

Employee and contractors of Council will conduct themselves in a manner which is honest, respectful, and safe. They will discharge their duties without fear or favour, affection or ill-will, while maintaining the utmost concern for, and uphold the public

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interest. They will act to the best of their ability, with integrity and honesty, and exercise due diligence and care when performing tasks for which they are qualified.

All employees and contractors must not engage in misconduct, or serious misconduct.

Employee and contractors will act in accordance with applicable law and all Council policy requirements, including the Workplace Safety, and will not divulge confidential information or make public comment without prior authorisation from the Chief Executive Officer (CEO).

Failure by an employee or contractor to comply with the Code may lead to disciplinary action.

5. DEFINITIONS

Code of Conduct	Standards of behaviour expected of staff in the employment Roper Gulf Regional Council
RGRC	Roper Gulf Regional Council
Public Interest	<p>A concern common to the public at large, or a significant portion of the public, rather than a specific concern of a particular party, whether public or private.</p> <p>The concern of the public rather than those of the private, personal, parochial, or partisan.</p> <p>A concept aggregating any number of interests that may bear upon a disputed question that is of general – as opposed to merely private – concern.</p> <p>The objective of or the approach to be adopted, in decision-making rather than a specific and immutable outcome to be achieved.</p> <p>The test which determines whether a matter is in the public interest or not has two (2) components:</p> <p>(1) Objectives and Outcomes – that the objectives and outcomes of the decision-making process are in the public interest, and,</p> <p>(2) Process and Procedure – that the process adopted and procedures followed by decision-makers in exercising their discretionary powers are in the public interest.</p>
Private Person	Natural An individual person in a private capacity, rather than the same person in their official capacity as a public officer.
Misconduct	For the purpose of the Code of Conduct, misconduct includes (but is not limited to):

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	<ul style="list-style-type: none"> • whether through an act or omission, failing to meet an obligation arising out of a duty, a policy, a contract, or law, without a reasonable excuse; • failing to obey lawful and reasonable instructions of Council, including via reporting lines; • failing to follow defined policies, processes and rules; • failing to share relevant information with Council; • unacceptable disruptive behaviour; • unauthorised absence from the workplace; and • Repeatedly being late for work without lawful excuse. <p>When proven, misconduct may provide a valid reason for termination of an employee's employment with notice.</p>
<p>Serious Misconduct</p>	<p>For the purposes of the Code of Conduct, Council refers to the <i>Fair Work Act 2009</i> (Cth), and as such the definition of Regulation 1.07 of the <i>Fair Work Regulations 2009</i> (Cth) applies, and this is summarised as follows:</p> <p>1.07 Meaning of <i>serious misconduct</i></p> <p>(1) For the definition of <i>serious misconduct</i> in section 12 of the Act, serious misconduct has its ordinary meaning.</p> <p>(2) For subregulation (1), conduct that is serious misconduct includes both of the following:</p> <p>(a) wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the contract of employment;</p> <p>(b) conduct that causes serious and imminent risk to:</p> <p>(i) the health or safety of a person; or</p> <p>(ii) the reputation, viability or profitability of the employer's business.</p> <p>(3) For subregulation (1), conduct that is serious misconduct includes each of the following:</p> <p>(a) the employee, in the course of the employee's employment, engaging in:</p> <p>(i) theft; or</p> <p>(ii) fraud; or</p> <p>(iii) assault; or</p>

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	<p>(iv) sexual harassment;</p> <p>(b) the employee being intoxicated at work;</p> <p>(c) the employee refusing to carry out a lawful and reasonable instruction that is consistent with the employee’s contract of employment.</p> <p>When proven, misconduct may provide a valid reason for termination of an employee's employment with or without notice.</p>
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6. PRINCIPLES

6.1 Act with Honesty and Integrity

Employees and contractors must act in an honest, impartial and transparent manner that is reflective of their public position. This means that the common law standard of “*without fear or favour, affection or ill-will*” applies. In other words, employees and contractors of Council are required to always act impartially, objectively, and in a transparent manner.

Furthermore, they must not place themselves under any actual or perceived financial or other obligation to any individual or organisation that might reasonably be thought to influence them in the performance of duty, role or responsibility.

This is summarised as:

- being open and transparent in dealings;
- using delegated powers responsibly and accountably;
- avoiding conflicts of interest;
- striving to earn and kept a high level of public trust; and
- acting in good faith (e.g. honestly) in the interests of Council, its constituents, and the public in general.

6.2 Diligence, Due Care

Employees and contractors must exercise due care, diligence and skill in performing their duties, role and responsibilities. They must seek all relevant information pertaining to a task or decision, ask for clarification and instruction when required, and understand the ramifications of decisions and actions, including indecision or lack of action.

In other words, employees and contractors must make informed decisions when discharging their duties, to the limit of their ability, skill, qualification and delegation. When unable to perform their duties due to lack of, or conflicting information, or skill, or qualification, or ability, or for any other reason, they must seek clarification and/or further instruction or training.

When in doubt, employees and contractors must not engage in a task, or make a decision if it affects another party, or compromises safety.

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6.3 Public Interest

Employees and contractors must uphold the public interest when discharging their duties including making decisions. They must ensure that the public interest always prevails over personal preference, operational expedience and general or specific convenience.

Employees and contractors have a legal duty to act in the best interest of the public, by promoting and supporting the key principles of leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of Council.

Employees and contractors must, on request, be able to demonstrate how their actions and/or decision-making is in the public interest.

6.4 Disclosure and Conflicts of Interest

Employees and contractors must disclose any interests that may perceivably or in fact conflict with ability to meet the requirements prescribed at Clauses 6.1 to 6.3 of this Code, especially if it affects, or perceived to affect their ability to act impartially.

Examples of this include but are not limited to **pecuniary** (financial) interests and **personal** interests where employees and contractors, or their families, or friends, or associates, may or could obtain some advantage beyond the official remuneration package.

Employees and contractors are required to declare their interests upon commencing employment or duties with Council, and may be required to further do so on a regular basis. Furthermore, employees and contractors must be proactive in assessing any actual or potential conflict of interest as it arises and formally declare said interest and conflict.

Employees and contractors must not engage in private work with or for any other person or body with an interest in a current or proposed contract with Council without first disclosing such an interest to, and obtaining authorisation from the Chief Executive Officer.

Employees and contractors with recruitment and / or other discretionary functions must make a full disclosure to, and obtain authorisation from the Chief Executive Officer, to deal with relatives, friends, business associates, or any similar party.

An employee or contractor who has a personal or financial interest in a matter in regard to which they are required or authorised to act or give advice:

- (a) must disclose the interest:
 - (i) if the employee or contractor is the CEO - to Council; or
 - (ii) in any other case - to the CEO; and
- (b) must not act in the matter except as authorised by the CEO or the council (as the case requires).

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Conflict of Interest matters in Local Government are serious matters, and failure to comply with the provisions of this Code, that itself is based on applicable law, may result in disciplinary action including dismissal, and, the matter being forwarded onto Police, the Independent Commission Against Corruption (ICAC), or any other regulatory body as appropriate, for investigation and prosecution.

6.5 Must not Disclose Confidential Information

As a public body, Council has strict requirements pertaining to confidential information. An employee or contractor must not disclose confidential information obtained in the course of their duties except as may be required for the staff member's official duties. An employee or contractor must not make improper use of confidential information obtained in the course of the staff member's work.

An employee or contractor makes improper use of information if the staff member uses it to gain some private benefit or to inflict harm on another.

Use of official and confidential information beyond that required as part of one's official duties is considered improper use of information.

Improper use of information, especially, confidential information is considered to be a serious disciplinary matter.

Council's position on information management is strictly on a 'need to know' basis. Employees and contractors must not discuss confidential information, and must undertake every reasonable precaution to prevent unauthorised disclosure(s). If an employee or contractor is unsure if information is confidential or not, they *must* assume that it is until formal clarification is obtained from the Chief Executive Officer, a General Manager, or the Manager Corporate Compliance.

Examples of confidential information include but are not limited to:

- An individual's personal information including personal contact details, address, income, medical information, or any other information pertaining to personal circumstance;
- Commercial – in – Confidence information pertaining to current or proposed business dealings;
- Information that is brought into being during the development and announcement of policy;
- Information pertaining to investigations, disciplinary, or performance matters;
- Legal information, especially that subject to legal professional privilege;
- Information including the opinion of a third party, that has not explicitly authorised that information to be made public; and
- Information prescribed by the Australian Privacy Principles (Cth), or Information Privacy Principles as being confidential.

Unauthorised access to or disclosure of (including export outside of Council systems), or failing to prevent or report an unauthorised access to or disclosure of confidential

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information (when one was in the position to do so) is considered a serious disciplinary matter, and may constitute several offences depending on the nature of the disclosure.

6.6 Improper or Undue Influence

Employees and contractors must not take advantage, or seek to take advantage of their position with Council to improperly influence other employees in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage for themselves or for any other person or body.

6.7 Gifts and Bribery

Employees and contractors must not seek or otherwise accept (directly or indirectly) from any person or body, any immediate or future gift, gratuity, or benefit (Token gifts and token acts of hospitality) for themselves or for any other person or body, relating to their status as employees or contractors of Council, or their performance of any duty, function or work within or for Council or its interests.

Non-compliance with the provisions listed at Clause 6.1 to 6.7 (inclusive) of this code involving the seeking or obtaining of gifts, gratuity, or other benefit, is considered to be a serious disciplinary matter and enters the realm of Part IV the *Criminal Code Act 1983* and will be actioned as such.

6.8 Respect and Courtesy

Employees and contractors must treat others with respect and courtesy at all times. This includes but is not limited to not using derogatory terms towards others, observing the rights of other people, treating people with courtesy and recognising the different duties and roles others have within Council.

Employees or contractors must not engage in, or overlook, any bullying or harassment of others, or engage in unlawful discrimination.

If employees or contractors observe, or believe on reasonable grounds that bullying or harassment, or unlawful discrimination is occurring, they must formally report it to a staff member of managerial or higher position as soon as practicable.

Failure to do so may be considered to be an accessorial breach of the Code.

6.9 Accept Reasonable Direction

Comply with any lawful and reasonable direction given by someone in Council who has authority to give that direction.

6.10 Public Conduct

Employee and contractors must conduct themselves in a manner that promotes and upholds the good reputation and public image of Council at all times.

This includes not making public comments on matters relating to Council or their employment with in a public capacity, (other than those delegated by the Council).

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Employee or contractors must be aware of situations that may cause tension between the public and private roles and in such cases give priority to their public role.

An employee's or contractor's rights to maintain their own political opinions and convictions are not to be impinged upon by this clause.

Council recognises that such convictions are not a basis for lawful discrimination by this Clause or anti-discrimination legislation, however it is the responsibility of individuals to ensure that their personal convictions and beliefs as private natural persons do not in perception or fact conflict or unduly influence their public positions.

6.11 General conduct

All employees and contractors must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, they must avoid conduct that:

- contravenes an any Act, associated regulations and Council's relevant administrative requirements;
- constitutes misconduct or serious misconduct;
- is detrimental to the pursuit of the charter of Council;
- 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 other employee or contractors, members of the public or your decision making process;
- causes, comprises or involves prejudice in the provision of a service to the community.

6.12 Fairness

Employee or contractors have an obligation to perform their duties and role in a consistent manner, act promptly and fairly.

6.13 The Chief Executive Officer

The Chief Executive Officer is subject to complying with, and ensuring that all provisions of this Code are upheld. In addition to the provisions of this Code applicable to all employees and contractors, the Chief Executive Officer must:

- (a) provide full and faithful support to Council by providing accurate, frank and impartial advice;
- (b) implement Council's policies and decisions;
- (c) be familiar with, and ensure that the prescribed requirements of the *Local Government Act 2019* and applicable law are applied and complied with;
- (d) take all reasonable steps to ensure organisational compliance with applicable law, and that the decisions of Council and conduct of its employees and contractors is compliant with the same;
- (e) ensure that effective and lawful administrative processes are in place and complied with, and are adequate to Council's needs and obligations;

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- (f) ensure compliance with Chapter 9 of the *Local Government Act 2019* and its prescribed provisions pertaining to Council’s staff and associated principles and processes; and
- (g) ensure a safe working environment.

6.14 Compliance with the Code of Conduct

It is the responsibility of every employee and contractor to ensure that they comply with the provisions of this Code.

It is the ultimate responsibility of the Chief Executive Officer to ensure that this Code is complied with by all employees and contractors.

6.15 Breaches of the Code of Conduct

Alleged breaches of the Code of Conduct shall be formally investigated in accordance with the principles set out in the COR005 Corporate Processes Policy.

Proven breaches of the Code of Conduct may result in various forms of remedial or disciplinary action including dismissal and subsequent referral to, and prosecution by other regulatory bodies.

7. Applicable Law

Cited Acts	<i>Local Government Act 2019</i>
Applicable Acts (not exhaustive)	<i>Information Act 2002;</i> <i>Criminal Code Act 1983;</i> <i>Anti-Discrimination Act 1992;</i> <i>Fair Work Act 2009 (Cth)</i> <i>Fair Work Regulations 2009 (Cth);</i> and <i>Privacy Act 1988 (Cth).</i>
Cited Case Law	Nil
Other Reference Material	COR005 Corporate Processes Policy

8. DOCUMENT CONTROL

Policy number	COR006
Policy Owner	Corporate Services and Sustainability
Endorsed by	Council
Date approved	12/4/2012
Revisions	February 2021, March 2024
Amendments	April 2024
Next revision due	2028

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9. CONTACT PERSON

Position

Manager Human Resources

Contact number

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