

*Report by David Backhouse, General Manager*

### **RECOMMENDATION**

- 1. That Council adopt the amended Council Code of Conduct.**
- 2. That Council invite expressions of interest for Council's conduct review committee.**
- 3. That Council adopt the amended Code of Meeting Practice.**

### PURPOSE OF REPORT

Council's Code of Conduct and Code of Meeting Practice have been amended in response to changes to the Local Government Act and Regulations. Copies of the draft Codes are contained in the attachments to this report. As changes are due to amendments to legislation, there is no requirement to place these amended codes on public exhibition.

### REPORT

#### **Code of Conduct**

Under section 440 of the Local Government Act, NSW Councils must adopt a Code of Conduct that either incorporates provisions or is consistent with the Model Code of Conduct. The first Model Code of Conduct for Local Councils in NSW first came into effect on 1 January 2005 and applied to all NSW Councils. Strathfield Council adopted this Code in March 2005. Council was also required to establish conduct committees to consider relevant complaints about the conduct of Councillors and/or the General Manager and adopted in June 2005 the Operation of Council Conduct Committee Policy.

A recent review was conducted by the Department of Local Government of the Model Code of Conduct. The review resulted in a substantial revision of the Model Code. The revised Code of Conduct took effect on 27 June 2008 by amendment to the Local Government (General) Regulation 2005.

The major amendments to the Code are summarised below. A copy of the amended Code is attached.

#### General Conduct Obligations

General conduct obligations apply to all Council officials including Councillors, Council staff, contractors, administrators and volunteers. The Code imposes sanctions for failure to comply with an applicable provision of the standards of conduct.

If a Councillor is found to be in breach of the Code of Conduct, they must comply with any Council resolution requiring them to take action as a result of a breach.

#### Conflict of Interests

The section on conflicts of interest has been substantially changed, especially in relation to political donations and Councillors' conflicts of interest. Political donations provisions now require Councillors to treat a political donation in excess of \$1000 as a significant non-pecuniary conflict of interest and must be disclosed in writing. Councillors must absent themselves from voting if a related matter is presented to Council meeting for resolution. Councillors are required to determine whether or not contributions below \$1000 create a significant conflict of interest.

The Code now clarifies the action that is required to be taken if a council official has a non-pecuniary conflict of interest and provides for actions for significant and less than significant non-pecuniary conflict situations.

#### Personal Benefit

The Code includes definitions of token gifts and benefits and gifts and benefits of value, which provide clarity about what is and what is not a gift/benefit of value or of token value.

Clauses in the existing code which require declaration of gifts totalling over \$500 by Councillors and designated persons is not replicated in the new Code as it is an existing requirement in the Local Government Act.

#### Relationship between Council Officials

There have been modifications to the section governing relationships between Councillors and Councils staff. The amended Code makes it clear that inappropriate interactions are a breach of the Code.

The Code states that it is inappropriate for Councillors to make personal attacks on council staff in a public forum.

#### Complaint Handling and Conduct Committee

The amended Code includes new complaint handling procedures, complaint assessment criteria and the operating guidelines for the conduct review committee/reviewer.

The complaint handling requirements and the complaint assessment criteria now provide for the use of a range of methods for the resolution of complaints, give clearer guidance about the referral of complaints to the conduct review committee/reviewer, clarify the role of the Mayor and the General Manager in relation to complaint management and provide for annual reporting to council by the General Manager on a summary of complaints under the Code of Conduct.

Council's Conduct review committees/reviewers are required to act in accordance with the operating guidelines that are provided in the amended Code.

The amended Code requires that members of conduct committees or the sole reviewers are persons independent of Council i.e. a person who is not an employee of Council, has not current or ongoing contractual relationship with Council of any kind or is not employee of any entity with such a contractual relationship, who are 'appropriately qualified persons of high standing in the community' to be members of a "conduct review committee" and/or to act as "sole conduct reviewers".

The conduct review committee comprises of three (3) or more such persons. The conduct review committee and/or sole conduct reviewer will review the allegations of breaches of the code of conduct by Councillors in the accordance with the procedures in the code.

To ensure that Council has in place a conduct review committee, it is recommended that expressions of interest are invited through newspaper advertisements.

As the amended Code has adopted new guidelines for conduct committees, the policy adopted in June 2005 called 'Operation of Council's Conduct Committee Policy' has been superseded

### **Code of Meeting Practice**

Section 360 of the Local Government Act provides for Councils to adopt their own Code of Meeting Practice for the conduct of Council and Committee meetings of Council where all members are Councillors. The Code must incorporate regulations which are made to comply with the Act. Council may include additions as long as these are consistent with the Act and Regulation. After adoption of the Code (section 360 (2)), Council must conduct its meetings in accordance with the adopted Code of Meeting Practice.

This Code of Meeting Practice is automatically amended from time to time to accord with any changes to the Local Government Act and the Local Government (General) Regulation. In view of changes, Council's has been reviewed and amended. These changes do not require public notification under sections 361 to 363 of the Act.

### REFERRAL FROM OTHER DEPARTMENT

No referral was required.

### FINANCIAL IMPLICATIONS

There are no financial implications.

### ATTACHMENTS

1. Amended Code of Conduct
2. Amended Code of Meeting Practice