

**CODE OF ETHICS  
EASTERN CAPE  
PROVINCE**

**25 AUGUST 2015**

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# BACKGROUND

- Literal meaning of Ethics is a system of moral principles that govern a behaviour.
- It is a system used by many organisations or companies to set acceptable behaviours in a form of Code of Ethics.
- The Code of Ethics usually provides guidance on what behaviour is expected from people.
- It means that as a person you should do the right thing even when there is no one looking.

# CODE OF ETHICS

- The Eastern Cape Provincial Legislature has a Code of Ethics.
- This Code is established in terms of the Powers, Privileges and Immunities of Parliament and Provincial Legislature Act and the Standing Rules.
- The Code of Conduct gets to be operationalised through the Standing Rules.
- It is stated step by step what needs to be done when the Code is contravened.

# IMPLEMENTATION OF THE CODE OF ETHICS

## **Establishment of Committee for inquiry into contempt (Ethics Committee)**

- There is a Standing Committee for inquiry into contempt as required by Section 12(2) of the Powers and Privileges Act....
- This Committee also functions as the Ethics Committee established in terms of the adopted Code of Ethics for Members.

## **Composition of the Committee for inquiry into contempt**

- The Ethics Committee is chaired by the Deputy Speaker or any member of the Executive Committee of the Legislature appointed by the House and consists of two or more Members appointed by the House.

# **Powers and Functions of the Committee**

(1) The Committee of Enquiry into contempt must-

(a) implement the Code of Ethics for Members of the Legislature;

(b) develop standards of ethical conduct for Members;

(c) serve as an advisory and consultative body, both generally

and to Members, concerning the implementation of the Code

of Ethics;

(a) regularly review the Code and make

recommendations for its amendment;

# CONT...

(2) The Committee must perform the functions required by Section 12 of the Powers and Privileges Act, in accordance with the procedure adopted by the Committee but subject to the requirements of the said Act.

(3) The Committee also performs the duties as required by Sec 25 of the Powers and Privileges Act subject to the following:

(i) the statement or remark by the member must be of such a nature that it has a detrimental effect on the person making the request;

(ii) the Committee must investigate whether the statement or remark by the member is with or without substance; and

(iii) the person making the request as well as the relevant member must be afforded the opportunity to be heard by the

committee **See Section 25 of Powers and Privileges Act 4 of 2004.**

# CONT...

- (iv) perform the other functions and exercise the powers reasonably assigned to the Committee in the Code and in terms of resolutions adopted in this House.
- (v) the Speaker may refer any matter in terms of the Code of Ethics to the Committee for investigation and recommendation.
- (vi) the Committee must report to the House at least annually on the operation and effectiveness of the Code of Ethics.



# HOW DOES THE ETHICS COMMITTEE WORK?

- The Committee considers complaints referred to it regarding contravention of the Code.
- Once a matter is referred to the Committee:
- The committee meets first to look at the matter, scrutinize information before it. (Hansard transcript, documents if any).
- Invite the relevant Member(s) in writing by a notice & ensure that the notice is delivered to the Member's office to give them an opportunity to explain himself/herself. (This does not mean a Member is guilty, but the Committee may have issues it wants to clarify to have better understanding of in order to make an informed finding).
- The notice should be accompanied by detailed charges.
- The Committee must consider the evidence on merits before it and once the Member is found guilty, the Committee recommends a sanction guided by the Code of Ethics.

# REFERRAL OF ETHICS COMMITTEE REPORT TO THE HOUSE

- The Committee must compile a report which must include its findings and recommendations to the House.
- The report must be tabled by the Chairperson or any Member of the Committee to the House.
- The report must be considered by the House with or without any debate.

# CONSIDERATION OF ETHICS COMMITTEE REPORT BY THE HOUSE

- After the report is considered the House may:
  - Confirm the report,
  - Vary the report with or without debating it or
  - Refer the matter back to the committee for further consideration .
- If the House confirms the report, the Speaker must impose the recommended sanction with due expedition.

# CONCLUSION

- Some of the Municipalities do implement the Code, however there is no consistency in that the Code is not operationalised through the Standing Orders instead a committee is established once there is a matter to be addressed.
- Whilst it is not easy to implement a Code of Ethics because of the political environment from which Legislatures and Councils operate, it must still be implemented as it helps preserve the Ethical standards that the public expects from their representatives.





# WESTERN CAPE PROVINCIAL PARLIAMENT



## CODE OF CONDUCT FOR MEMBERS OF THE WCPP

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JOINT COMMITTEE ON ETHICS AND MEMBERS' INTERESTS WORKSHOP ON CODE OF CONDUCT FOR  
PUBLIC OFFICE BEARERS – 27 October 2015

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## PURPOSE OF THE CODE

- Provide Members with guidelines on how to conduct themselves as public representatives by setting minimum standards of acceptable behaviour
- Hold Members accountable for the exercise of their powers
- Render Members personal interests subject to public scrutiny – thereby reducing secrecy and possible corruption



# PREAMBLE, PRINCIPLE AND OBLIGATIONS

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## Part 1

Promote accountability, responsibility and openness

WE, the Members of the Western Cape Provincial Parliament

recognising..

affirming...

Agree to abide, individually and collectively, by the principles, rules and obligations set out in this Code of Conduct.

## Part 2

Principles and general obligations

- ▣ Loyalty
- ▣ Primacy of the public interest
- ▣ Integrity
- ▣ Accountability
- ▣ Openness and honesty
- ▣ Act in good faith and meet obligations
- ▣ General obligations

## CONDUCT

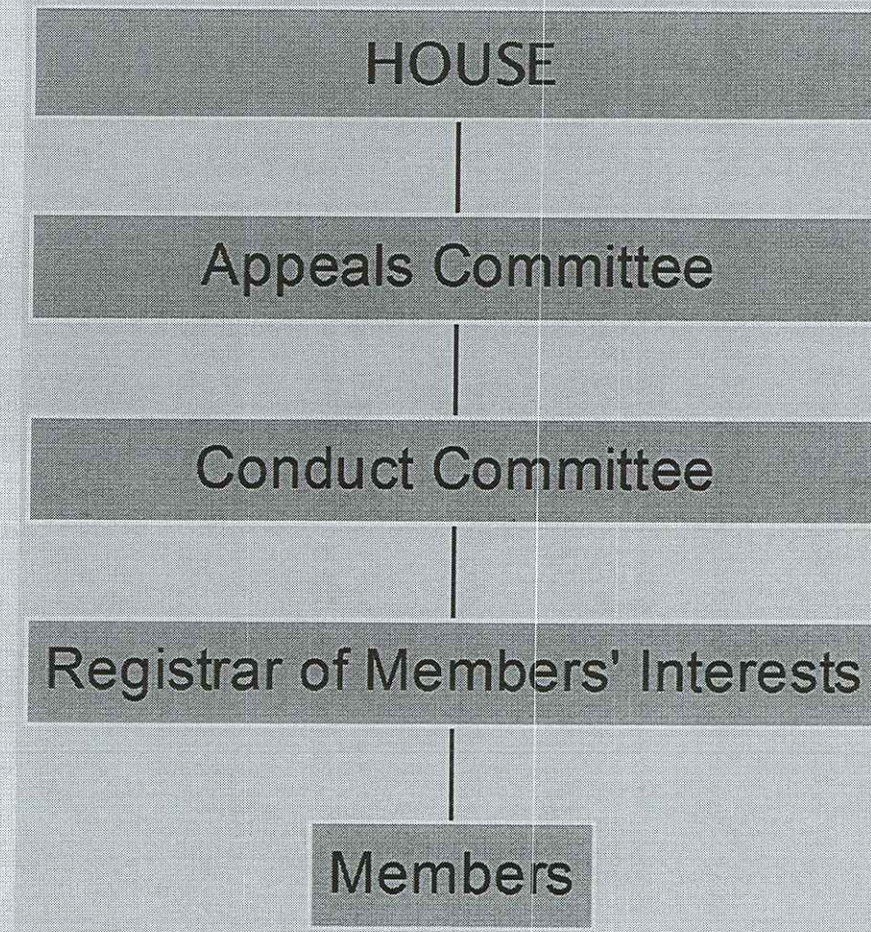
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### Part 3

- Declaration of interest in a matter before a Committee, parliamentary forum and proceedings of the Provincial Parliament
- Declaration of private interests when making representations to MEC
- Lobbying for reward
- Remunerated employment outside the WCPP
- Refrain from using "insider" information

## KEY ROLE PLAYERS

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## POWERS AND FUNCTIONS OF THE CONDUCT COMMITTEE

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Paragraph 14 of the Code:-

- implement the Code
- develop standards of conduct
- regularly review the Code and make recommendations for its amendment
- perform other functions in terms of the Code
- report to the House at least annually on its operations and effectiveness of the Code

## ROLE OF THE REGISTRAR

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- ▣ Maintain and monitor the operation of the Register of Members' Interests
- ▣ Provide advice on a confidential basis to individual Members and the Conduct Committee about the interpretation of the Code
- ▣ Monitoring the operation of the Code and where appropriate propose possible modifications to the Conduct Committee

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## ROLE OF THE REGISTRAR

- Register all complaints received
- Investigate and report on complaints received
- Shall act impartially
- Prepare guidance and provide induction courses for new Members on matters of conduct, propriety and ethics

## ROLE OF APPEALS COMMITTEE

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- Membership of the Appeals Committee is set out in the Code.
- The AC will hear appeals from Members who have been found guilty by the Conduct Committee of contravening the Code.
- The AC will consider the appeal and report its findings and recommendations to the House for sanction.

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## ROLE OF MEMBERS

- Members must make full disclosure of registrable interests
- Inform the Registrar of any changes in these interests
- Disclose any conflict of interest which may arise as soon as a Member becomes aware of it
- Conduct as public representatives must be beyond reproach



## TIME FRAMES FOR DISCLOSURES

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- Disclosures to be made 60 days after first sitting of new Provincial Parliament, or appointment of a Member

## COMPLETING THE REGISTER OF MEMBERS' INTERESTS

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Register consists of 3 parts:

- Declaration
- Public Disclosure Section; and
- Confidential Disclosure Section.

# DECLARATION TO COMPLY WITH THE CODE OF CONDUCT

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## AFFIRMATION

I, the undersigned MEMBER X, do truly affirm and declare as follows:

1. I have read the Members of the Western Cape Provincial Parliament Code of Conduct Act, Act 3 of 2002, and the Code issued in terms of the Act, and I understand the contents thereof.
2. I have completed the forms for the disclosure of Members' interests (attached hereto).
3. The information I have provided is true and correct to the best of my knowledge.

.....

Signature of Member

.....

Signature of Registrar / Witness

.....

Date

# Part A Public Part

## SHAREHOLDING AND FINANCIAL INTERESTS IN CORPORATE ENTITIES

NAME OF COMPANY	NUMBER OF SHARES	NATURE	NOMINAL VALUE	OTHER FINANCIAL INTERESTS
ABC (Pty) Ltd	100	Ordinary	R10000	Director of ABC (Pty) Ltd

- A share is any investment that provides a dividend, including unit trusts, equities or government bonds.
- Nature refers to ordinary or preference shares
- Nominal value refers to the current value of the shares
- Financial interests refer to any interests in which a Member expects to receive a dividend.
- [Shares and financial interests of a spouse, a permanent companion and dependent (to the extent that the member is aware thereof) must be disclosed in Confidential section.]

## OWNERSHIP AND ANY OTHER INTEREST IN LAND OR PROPERTY IN OR OUTSIDE SOUTH AFRICA

Description of Property	Location - Area	Extent of interest in property	Nature and value of property
Residence	Constantia	Owner / 100%	R3 000 000. 00
Holiday house	Kynsna	50% share in CC	R 2 000 000.00

- All land and property owned by a Member and any registrable interests (e.g. *usufruct, usus, habitatio*) therein must be disclosed.
- Includes land held by family trusts, or houses owned through CC's
- [Confidential Section: Details of value and bond indebtedness relating to residential property]

## PENSIONS

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Members are only required to disclose pensions that they are currently receiving.

- Members are not required to disclose contributions to pension funds
- [Confidential Section: Value of pensions]

<b>Source</b>	<b>Private or Public</b>
GEPF	Public

## REMUNERATED EMPLOYMENT OUTSIDE PROVINCIAL PARLIAMENT

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- Remuneration means the receipt of a benefit in cash or kind
- Political party's sanction –signature of Whip
- Employment must be compatible with Member's function as an elected representative.
- [Confidential Section: value of remuneration and benefits]

Type of Employment	Name and type of Business Activity
Part time Pilates instructor	Health and Racket Fitness Centre, Gym



## CONSULTANCIES OR RETAINERSHIPS

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- A Member must disclose any interest in any consulting firm or company that provides advice or professional services.
- A Member receiving a retainer fee must disclose it.

<b>Name of Consultancy or Retainership</b>	<b>Name and type of business activity</b>	<b>Value of remuneration or any benefits derived</b>
IIR Labour Relations	Labour Law Consultant	Retainer of R10 000.00 per annum Use of laptop

## DIRECTORSHIP AND PARTNERSHIPS

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- If remuneration is a result of this association, the partnership/ directorship must be disclosed.
- Directorship includes any position of director or alternate director, by whatever name the position is designated.
- A partnership is a legal relationship arising out of a contract between two or more persons with the object of making and sharing profits.
- [Confidential Section: Value of benefits derived]

Distillers	SAB
Type of business activity	Name of corporate body or partnership

## SPONSORSHIPS

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- All sponsorships or assistance directly to a Member from non-party (political) sources must be disclosed where it benefits the Member in his or her personal and private capacity.
- Sponsorship is received when another person or agency assumes the financial responsibility of a Member e.g. scholarship for a Member's child.

<b>Source of Sponsorship</b>	<b>Description of Assistance/ Sponsorship</b>	<b>Amount or Value</b>
Mr ABC	Payment of school fees	R5000.00

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## GIFTS AND HOSPITALITY

- Specify all gifts and hospitality with a value in excess of R1500
- gifts from a single source which cumulatively exceed the value of R1500 in any calendar year.
- Any hospitality intended as a gift in kind must be disclosed.
- Personal gifts from a family member and hospitality of a specifically traditional or cultural nature, need not be disclosed.

## BENEFITS OF A MATERIAL NATURE

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- Members must disclose any material advantage that s/he receives from any source e.g. discount rates that **are not available to the general public.**
- Need not disclose for e.g. preferential interests rates which a Member negotiates on his/her home loan.
- [Confidential section: disclose the value of the benefit.]

## TRAVEL

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- Visits paid for entirely by the Member, business visits unrelated to the Member's role as a public representative or formal visits paid for by the Member's political party or the government, including the Provincial Parliament, are **exempt** from disclosure.

- But trips by a committee sponsored by an outside source must be disclosed

- Where the nature of a visit requires confidentiality, it should be registered in the confidential section.

Sponsor	Description of journey
EU	Cost flights CT-ZRH 12/6-29/6/2002 S&T 600Fr, meals and accommodation 4 star hotel Visit by Standing Committee on Constitutional Affairs

**PART B - CONFIDENTIAL**

## CONFIDENTIAL DISCLOSURES – IMMEDIATE FAMILY

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The following disclosures will appear in the Confidential part of the Register:

Disclosures relating to family member:-

Shareholding and financial interests;

- Ownership and any other interest in immovable property;
- Consultancies or retainerships;
- Directorships and partnerships;
- Sponsorships;
- Gifts and hospitality;
- Travel;
- Benefits of a material nature



## DISCLOSURES BY MEMBER IN CONFIDENTIAL SECTION

Members must disclose the following in the Confidential section:

- Confidential travel;
- Liabilities;
- Directorship and partnership – – value of remuneration
- Value of pensions
- Value of remunerated employment outside Provincial Parliament

## GENERAL ISSUES and FAQs

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### Breach of the Code – para 21

Failure to disclose/ improper / inadequate disclosures may give rise to a breach of the Code

### Complaints procedure

- Complaints procedure, Investigation
- Findings of the Conduct Committee
- Penalty
- Appeal

### Reacting to media reports – para 27

Penalties

## GENERAL ISSUES cont.

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Public disclosure section open to public scrutiny and hence Members are cautioned:

- “When in doubt, disclose!”
- Confidential part kept in a safe
- If nothing to disclose – submit a nil return

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8000, Suid Afrika

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8000, South Africa

PO Box 648, Ekapa  
8000, Mzantsi Afrika

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**\*\*END\*\***





# UPDATE ON ACTIVITIES OF SDM ETHICS COMMITTEES

## OCTOBER 2015



**SEKHUKHUNE**  
District Municipality

BY COUNCIL SECRETARIAT

# INTRODUCTION

- The District consists of 5 LMs
- The District and all 5LMs established ethics committees by Council resolution in terms s79 of the Municipal structures Act in 2011
- The Province facilitated a District wide workshop on the roles of Ethics committees on the 5-6 December 2013.
- SDM also facilitated a District wide workshop for Ethics committees on 16 September 2015





# WORKSHOP CONTENT

**The workshop covered :-**

- **Definition and importance** of Ethics committees
- **Establishment and Functions**
- **Code of conduct which includes :-** General code of conduct, Attendance of meetings, Sanctions on non attendance of meetings, Disclosure of interests, Personal gain, Declaration of interests, Rewards, gifts and favours, unauthorised disclosure of information and interference in administration.



# WORKSHOP CONTENT

- Breach of the code
- Register and Registrable interests
- Dress code



# ENFORCEMENT

- Enforcement is a challenge throughout the district
- No frameworks to guide enforcement
- No frameworks to guide breach of the code (Submission of declaration of interests forms)
- No frameworks to guide breach of the Dress code.



# FUNCTIONALITY OF COMMITTEES

- Ethics committees have been established and induced but are not yet fully functional



THANK YOU







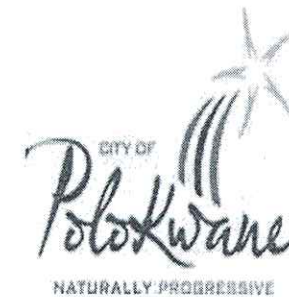






# CAPRICORN DISTRICT MUNICIPALITY

**PRESENTATION ON CODE OF CONDUCT  
FOR COUNCILLORS  
DATE : 27/10/2015  
VENUE :GOOD HOPE CHAMBER**



## PURPOSE

To outline mechanisms to promote  
and enforce compliance with  
Councilors Code of Code in the  
Capricorn District Municipality  
(CDM).

# **CDM CODE OF CONDUCT FOR COUNCILLORS**

CDM Council subscribes to the Code of Conduct for Councillors as prescribed in Schedule 1 of the Local Government Municipal Systems Act, No 32 of 2000.

# KEY REQUIREMENTS OF THE CODE

MUST NOT	MUST
<p>Use councillorship position for private gain or to improperly benefit another person (Exceptions)</p>	<p>Attend all Council and Committee meetings (Except when leave is granted or withdrawal required).</p>
<p>As full time councillor, undertake any other paid work without Council consent</p>	<p>Disclose interests he/she has on any matter before Council or own committee</p>
<p>Request/solicit/accept reward/gift/favour to do or not do his/her work in good faith/honesty/best interest of the Municipality</p>	<p>Declare specified financial interests and gifts above a prescribed value within 60 days of becoming a councillor and annually thereafter if any changes.</p>

# KEY REQUIREMENTS OF THE CODE

MUST	MUST NOT
	Interfere in administration without authorisation by council or as provided by law
	Use/take/acquire or benefit from municipal property/asset without a just cause.
	Disclose any privileged or confidential information of the Council or committee (unless permission is granted)

# ENFORCEMENT OF THE CODE

CDM enforces the Code through a 10 member Ethics, Rules, and Integrity Committee (inclusive of all political parties), established in terms of Section 79 of the Local Government : Municipal Structures Act, No 117 of 1998 for the following objectives:

# **ENFORCEMENT OF THE CODE**

- (a) To ensure compliance with the Councillors Code of Conduct and Standing Rules of Council; and
- (b) To investigate alleged breach(es) of the provision of the Code and make appropriate recommendations to the Council.

## **MECHANISMS TO PROMOTE AND ENFORCE COMPLIANCE**

- ❑ Adoption and implementation of an Annual Work Programme and Annual Schedule of Meetings.
- ❑ Regular (Quarterly) Reports to Council against the Annual Work Programme.



# **PERFORMANCE TARGETS OF THE COMMITTEE (2015/16)**

In order to ensure consistency and maintain sight of its objectives of promoting and enforcing compliance with the Code of Conduct, the Committee has developed performance indicators and targets against the key requirements of the Code.

# **KEY PERFORMANCE TARGETS OF THE COMMITTEE (2015/16)**

- Review of Council Standing Rules of Order;
- Development of Standing Procedure for Proceedings for the Imposition of a Fine or the Removal of a Councillor;
- Compilation of the Register of Financial Interest for 2015/16;

# **KEY PERFORMANCE TARGETS OF THE COMMITTEE (2015/16)**

- Development of Dress Code for Attendance of Council and Committee meetings;**
- Submission of 4 Analysis Reports (1 per Quarter) to Council on Councillors' attendance of meetings;
- Adoption of 2015/2016 Annual Work Programme; and
- Adoption of 2014/2015 Annual Report.

## KEY ACHIEVEMENTS - 2014/2015

- 100% annual declaration of interests by councillors;
- 85% average attendance of Council meetings, with 12 (23%) councillors attending all the 15 meetings held in the year;
- 0% complaints/allegation of breach lodged; and
- 100% scheduled meetings held and reports submitted to Council.



# THANKS

