1. POLICY OBJECTIVE

1.1 Excellent governance is important in local government particularly because;

- it underpins the confidence that people have in their local council and its service delivery,
- it affects the quality of Council’s outputs by better planning, decision making, and implementation,
- it’s a value-adding activity and Council, as an organisation that practices excellence in governance, is more likely to be productive, efficient and effective,
- it significantly contributes to Council meeting its legislative responsibilities and minimises the risks of non-compliance, and
- it reminds Elected Members, Chief Executive Officer, Senior Management and Council employees that they are ultimately accountable to the Whyalla community which they serve.

1.2 Council has broad roles to play as defined by the *Local Government Act 1999*, but the fundamental meaning of that Act is clear. That is, that the primary role of Local Government and the Council in particular is to provide excellent governance for its community and stakeholders.

1.3 Four key principles to achieve excellence in governance are:

1.3.1 Culture and vision
A positive culture built on clear policies, an owned vision as espoused in Council’s Strategic Community Plan, and supporting strategies and procedures,

1.3.2 Roles and responsibilities
An acceptance of the different but complementary roles of the various elements within local government and the synergy produced by positive working relationships between these elements.

1.3.3 Decision making and management
Effective decision making and related management processes that reflect transparency and accountability.

1.3.4 Accountability, sound administrative practices and internal control
Council to account for the need for its activities and have systems in place which support and reinforce this accountability.
1.4 Council will use self assessment tools (such as the LGA’s Governance Audit), as well as external audits and other feedback to further review and develop its governance practices, which process will also be used as a mechanism for continuous improvement.

2. SCOPE

This policy applies to the Mayor and Elected Members, the Chief Executive Officer, Senior Management and all employees, and agents of the Whyalla City Council in all aspects of their responsibilities.

3. RISK MANAGEMENT

Risk Management is an important obligation the Whyalla City Council takes very seriously and pro-actively manages.

In the delivery of good governance, the Whyalla City Council is very aware that there may be risks that it’s Elected Members, Employees, the Community and Stakeholders may be exposed to in relation to governance of Council’s operations and activities.

The Council has a Risk Management Policy, a Risk Assessment Procedure, Risk Register and a number of other relevant policies and procedures as well as a Risk Management Framework all of which are available for viewing at www.whyalla.sa.gov.au

In the delivery of good governance, all elected members, employees and stakeholders should consider applicable perceived risks and, if necessary, communicate these to the Chief Executive Officer, Whistleblower Responsible Officer or supervisor if in doubt prior to the commencement of the contract, project, work, or operation.

4. DEFINITIONS

4.1 Good Governance – the process of decision making and the process by which decisions are implemented.

➤ Governance principles include policies and practices, roles and relationships, audit processes, protocols, reporting structures and systems and corporate culture.

4.2 Stakeholder – those people or entities who may affect, be affected by or perceive themselves to be affected by, a decision or activity. As recent corporate collapses have shown, the community is a major stakeholder in all Australian enterprises.
5. POLICY STATEMENT

Consistent with the objectives of the Local Government Act 1999, the Whyalla Council is required to implement good governance and appropriate, administrative practices and ensure a system of internal controls is in place, complied with and maintained. These systems for good governance and sound administration and internal controls include policies, procedures and practices that provide a framework, to ensure Council;

- functions and activities are provided in a planned, efficient and effective way,
- internal management policies are observed,
- assets are secured and protected from unauthorised use or loss, and
- records are complete, accurate and reliable.

In a constitutional democracy such as Australia, local councils have been given considerable power, authority and ability to influence or control the lives and conduct of individuals within their community. A key condition of that authority is that Local Government agrees to be, and is, held accountable for its performance.

Community members are entitled to expect that their Council officials, both elected members and officers, perform their duties to a high standard. This includes the right to expect the conduct of all of Whyalla Council’s officials to be in accordance with the accepted principles of good conduct in public administration which are;

- competence,
- courtesy and respect for individuals,
- efficiency,
- ethical behavior and integrity,
- fairness,
- openness and accountability,
- responsibility,

and are as detailed in Council’s respective Codes of Conduct for Elected Members and Employees.

Under these headings the following will apply at Whyalla Council.

5.1 Competence

Complying with the law.

A fundamental principle of good public administration is that public (and Council) officials comply with both the letter and the spirit of applicable law and policies. No Council officer or elected member has an unfettered power of discretion.
5.1.1 Responsibilities

All Council members and officers are under an obligation to know and understand the law relevant to the performance of their official duties. Any failure to comply with the law could be a criminal act or result in a breach of the law or a breach of discipline.

To facilitate compliance with legal requirements, Council and its senior officers should ensure that;

- management commitment to compliance is clear and unequivocal,
- the legal requirements which apply to each area of activity for which a manager is responsible are;
  - identified (including updates reflecting changes to the law), and
  - documented with reference to relevant provisions where required.
- staff are kept informed, briefed and/or trained about the key legal requirements relevant to their work,
- Elected Members and staff are made aware of the potential repercussions of non-compliance with legal requirements that apply to Council,
- record keeping systems and practices which capture evidence of compliance and non-compliance are in place, and
- if the law gives Council a specific discretion or delegation, it is to be exercised in a fair and reasonable way.

5.2 Complying with Council resolutions and employment directions

A principle of good public administration, and a fundamental requirement of the employment relationship, is that officers of Council must comply with the lawful and reasonable directions and instructions of their employer relating to matters of that employment.

4.2.1 Responsibilities

Officers must not willfully disobey or disregard any lawful and reasonable direction or instruction given to them by any person or the Council, having authority to make such directions. By the same token officers must decline to follow any unlawful order or instruction.
5.3 Complying with policies

A primary function of Council is to create and give effect to relevant policies of the elected body and to legislative requirements of the government of the day.

5.3.1 Responsibilities

5.3.1.1 Elected Members and officers should give effect to a lawful policy whether or not they personally agree with or approve of it.

5.3.1.2 Policies, codes and the like should not be applied inflexibly but on the basis of merit, with proper consideration being given to the particular circumstances of each individual case.

5.3.1.3 Officers should have regard to circulars, practice notes, codes, guidelines and the like issued by the LGA, or State Government or other agencies. They should comply with their terms unless there are justifiable grounds for taking another course of action within the scope of the specific discretion available to the decision maker.

5.4 Officers owe an obligation of fidelity to their employer, the Council

5.4.1 Responsibilities

5.4.1.1 There is a common law obligation of fidelity on all employees of Council that they will act in good faith and will assist the employer by supplying information known to the employee, which concerns Council’s business and operations.

5.4.1.2 The Elected Members, Chief Executive Officer and Senior Management must comply with all statutory reporting obligations that apply to them which includes;

- corporate reporting,
- reporting corrupt conduct to the police, and
- reporting on children and other vulnerable groups if at risk.

5.5 Elected Members, officers and employees must act ethically and with integrity in the performance of their functions and duties and avoid any conduct which could suggest or give the perception of any departure from honesty and integrity.

5.6 Officers of Council exercising any delegated or statutory authorised discretionary power should not;

- exercise such a power for an improper purpose,
5.7 Elected Members and employees of Council should not do favors, pressure somebody else to do favors or let somebody else pressure them to do favors that impact on the impartial performance of their duties or decision making.

5.8 Elected Members and employees should make sure that they are not under any financial, gift or other obligation to private individuals which could be used to influence, or reasonably be perceived as capable of influencing them to make a decision that gives unauthorised preferential treatment or other improper advantage to any person or body.

5.9 Information obtained by Elected Members and employees in the course of performing their official roles and duties is only to be used for official purposes.

5.10 Council and employees must follow relevant procedures regarding the storage, disclosure and distribution of confidential or sensitive personal, commercial or political information.

5.11 All Elected Members and employees must take every step to ensure that confidential information in any form (such as computer files), cannot be accessed by unauthorised people.

5.12 A reputation for integrity and professionalism can only be achieved and maintained if the community is confident that Council, Elected members, and employees are not influenced by gifts, benefits or bribes. A gift register is in place and is to be used to record all such gifts or favors made within policy guidelines.

5.13 Elected members and employees are to be scrupulous in their use of council owned property, official services and facilities and should not permit their misuse by any other person or body.

5.14 Facilities (such as vehicles, phones, computers, secretarial services), should be used strictly within the terms under which they are provided and for council duties and functions and for no other purpose.

5.15 Elected Members and employees should disclose a wrong doing appropriately (employees will be afforded the protection of the Whistleblowers Act) by their
colleagues or work area as soon as is reasonably practicable after they become aware of it.

5.16 Elected Members and employees should perform their official functions and duties, and exercise any discretionary powers, in ways that promote or pressure the public interest, ie for the common good.

5.17 Acting in the “public’s interest” is a concept that is fundamental to a representative democratic system of local government and to good public administration.

5.18 Elected Members and employees should at all times avoid situations in which their private interests conflict or might reasonably be perceived to conflict with the impartial fulfillment of their official responsibilities and the public interest. The pursuit of private interests must not interfere with the proper discharge of an elected members’ or employees job or council responsibilities.

5.18.1 Elected Members and employees of Council should submit themselves willingly to whatever; internal or public/official scrutiny is appropriate and applicable to their position, duties or activities.

5.18.2 Good record keeping assists in improving accountability and provides for transparent decision making. Reports to Council as well as file notes, and other records such as emails/letters etc must be kept and captured by Councils Records Management processes where council business is involved.

5.18.3 Information is held by Local Government and Council on behalf of the members of their community and the people of the state of South Australia. They have a right to know what has been or is being done or contemplated by Council, unless there are good and lawful reasons for access to be restricted.

The main mechanism to enable members of the public to obtain access to information held by Council is established under the Freedom of Information Act. Elected Members and employees at all times, when undertaking Council decision making and activities are to be aware of the provisions of the above Act.

5.19 It is a fundamental principle of sound governance and of good public administration that the conduct and performance of Council employees should be adequately and regularly reviewed. All employees from the Chief Executive Officer downwards shall undergo a performance assessment review at least once annually at Whyalla Council.

5.20 Fairness is an essential component of good decision making. It is an implied condition of the granting of delegated and/or statutory authorised power to the Council and relevant officers that it be exercised fairly.

5.21 Council the elected body, (for public policies) and management, (for internal administrative policies and procedures) will adopt and regularly review and revise in
accordance with Councils Integrated Management System, policies and procedures which set out the general approach to be followed in at least each major area of Council activity for which they are responsible. Such policies and procedures for their area are to be reviewed and updated regularly as required.

Councils policies and procedures are to be implemented consistently, unless the recorded merits of a particular case justify a different approach, in which case the reason for departure from policy are to be recorded in writing or by resolution of Council as appropriate.

5.22 Regulatory powers granted to Councils entail responsibility for the performance of two related functions to;

5.22.1 consider applications and issue authorisations (eg approvals, permits, licenses or consents) to permit activities within the parameters of those powers and

5.22.2 carry out an ongoing role to enforce the law in their areas of jurisdiction (eg by ensuring the terms and conditions of any authorisation are being complied with and that no relevant activity is being carried out without the required authorisation).

To properly perform their enforcement obligation relevant Council personnel shall follow established systems and programs for monitoring such matters, log and respond to relevant issues in a fair, consistent and timely manner and record such activities diligently.

5.23 Councillors, management and employees should all ensure that the identification, assessment, prevention or management of risk are integral parts of all their practices and procedures at Council.

5.24 It is in the interests of all concerned, Councils’ constituents and stakeholders that Council personnel attempt to resolve any disputes that may arise in the most timely and cost effective manner and where possible, without recourse to external agencies or the courts.

5.25 The handling of any complaints, (those concerning decisions of the Elected Body will follow the Internal Review of Council Decisions Policy) that may arise in regard to Councillors, employees or Council Committee Members and will incorporate the following principles:

5.25.1 Procedural fairness for both complainant and Council personnel or agent.

5.25.2 Speed to ensure that opportunity for further alleged misconduct and the potential for escalating ill feeling is minimised, as are opportunities to breach the confidentiality to which complainants and Council personnel are entitled.

5.25.3 Confidentiality for all parties where practicable and appropriate until such time as an investigative process is completed.
5.25.4 Meticulous record keeping including file notes and the reasons for all significant investigation related decisions.

The purpose of the investigation of a complaint is to establish and document relevant data, reach appropriate conclusions based on the available evidence, and determine a suitable response.

5.25.5 Council as an organisation, need to provide a supportive environment that encourages employees to make disclosures about serious matters involving misconduct and waste (refer to Whistleblowers Protection Policy).

5.26 The primary purpose of Council is to serve the Whyalla Community. Residents have a legitimate expectation that the service they receive from all areas of the Council organization and elected members and employees will be at the best standard that can be practicably achieved. All Council personnel are expected to provide relevant, responsive and quality service to the public, including necessary appropriate assistance and to perform their council duties in ways which emphasise the importance of service to the Whyalla community.

5. DOCUMENTATION

- Local Government Act 1999 and Regulations
- Elected Members Code of Conduct
- Employee Code of Conduct
- Fraud and Corruption Prevention Policy
- Whistleblower Protection Policy
- Internal Control Procedures

6. RESPONSIBLE PERSON

6.1 Elected Members, Chief Executive Officer and Group Managers for implementation and enforcement of the policy.

6.2 Manager Governance and Organisation Development for the timely review and revision of the policy.

7. AUTHORITY

Council resolution at meeting of 21 November 2011.
8. HISTORY

Inaugural Policy adopted 17 August 2009, as result of Governance Audit gap analysis process September 2008.
Revised Version 2, November 2011 supersedes the inaugural policy Version 1.