



Conflicts and Disclosures of interest

ADOPTION DATE:	July 2019
REVISION DATE:	June 2020
DIVISION	Administration
RESPONSIBLE OFFICER:	Manager Finance and Administration
Note: P – Primary Author, S – Secondary Author	

POLICY OBJECTIVE:

This policy is designed to help Councillors and employees of the Council identify situations that present potential conflicts of interest and to provide a procedure which will allow a transaction to be treated as valid and binding even though a Councillor or employee has or may have a conflict of interest with respect to the transaction.

DEFINITIONS:

<i>Conflict of Interest</i>	<p>For purposes of this policy, the following circumstances shall be deemed to create Conflicts of Interest:</p> <p>A. Outside Interests:</p> <ol style="list-style-type: none"> a. A Contract or Transaction between Council and a Councillor or employee or a direct family member b. A Contract or Transaction between Council and any other organisation in which a Councillor or employee or a direct family member has a financial interest or of which such person is a director or employee <p>B. Outside Activities:</p> <ol style="list-style-type: none"> a. A Councillor or employee or a direct family member competing with Council in the rendering of services or in any other Contract or Transaction with a third party. b. A Councillor or employee or a direct family member having a financial interest in or a consultant or director of an organisation or individual that competes with Council in the provision of services or in any other Contract or Transaction with a third party. <p>C. Gifts, Gratuities and Entertainment:</p> <ol style="list-style-type: none"> a. A Councillor or employee accepting gifts, entertainment, or other favours from any individual or entity that: <ol style="list-style-type: none"> i. Does or is seeking to do business with of Council ii. Has received, is receiving, or is seeking to receive a loan or grant, or to secure other financial commitments from Council
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	<p>iii. Under circumstances where it might be seen that such action was intended to influence or possibly would influence a Councillor or employee in the performance of their duties</p> <p>b. This does not preclude the acceptance of items of nominal or insignificant value or entertainment of nominal or insignificant value which are not related to any particular transaction or activity of Council</p>
<i>Family member</i>	A spouse, domestic partner, parent, child or spouse of a child, brother, sister, or spouse of a brother or sister, of a Councillor or employee
<i>Financial Interest</i>	Is a financial interest of any kind, which, in view of all the circumstances, is substantial enough that it would, or reasonably could, affect a Councillor, employee's or family member's judgment with respect to transactions to which the entity is a party.
<i>Contract or Transaction</i>	Any agreement or relationship involving the sale or purchase of goods or services or receipt of a loan or grant, by Council The making of a gift to Council is not a contract or transaction.

RELEVANT LEGISLATION:

Local Government Act 2009 (s.172 – 174)

Housing Regulation 2003 (s.16)

BACKGROUND:

The Local Government Act provides in Section 172 that where a Councillor has a material personal interest in a matter to be discussed at a meeting the Councillor must inform the other Councillors and leave the meeting. The legislation contains more detail.

Section 173 provides that where a Councillor has (or could appear to have) a conflict of interest about a matter to be discussed, the Councillor must deal with the conflict of interest in a transparent manner. The legislation contains more detail of the required procedures.

Section 174 requires any Councillor, who knows of another Councillor's conflict of interest, to report that matter.

This policy goes beyond those requirements of the legislation in that:

- a) it deals with Councillors' conflicts of interest outside meetings of the Council, and
- b) it deals with conflicts of interest by staff.

POLICY STATEMENT:

The Council requires all Councillors and employees to act in all their dealings relating to the Council in such a way that the public interest is not adversely affected by any conflict between the interests of the person and the interests of the Council, or other people the Council deals with.

Specific procedures are set out below which will assist in ensuring that conflicts of interest are appropriately dealt with. However, procedures cannot entirely ensure that conflicts do not arise or are properly dealt with. This can only be achieved by a willingness of all involved to put the public interest ahead of their personal and family interests.

This policy is in addition to and not in place of the requirements of the legislation which continue to apply.

PROCEDURES:

1. Prior to Council action on a Contract or Transaction involving a Conflict of Interest, a Councillor, employee, or family member having a Conflict of Interest and who is in attendance at the meeting shall disclose all facts material to the Conflict of Interest. Such disclosure shall be reflected in the minutes of the meeting.
2. A Councillor, employee or family member who plans not to attend a meeting at which he or she has reason to believe that the Council will act on a matter in which the person has a Conflict of Interest shall disclose to the Chairperson all facts material to the Conflict of Interest. The chair shall report the disclosure at the meeting and the disclosure shall be reflected in the minutes of the meeting.
3. A person who has a Conflict of Interest shall not participate in or be permitted to hear the Council's discussion of the matter except to disclose material facts and to respond to questions. Such person shall not attempt to exert his or her personal influence with respect to the matter, either at or outside the meeting.
4. A person who has a Conflict of Interest with respect to a Contract or Transaction that will be voted on at a meeting shall not be counted in determining the presence of a quorum for purposes of the vote. The person having a conflict of interest may not vote on the Contract or Transaction and shall not be present in the meeting room when the vote is taken, unless the vote is by secret ballot. Such person's ineligibility to vote shall be reflected in the minutes of the meeting.
5. Councillor, employee or family members shall disclose to the Chairperson any Conflict of Interest as soon as the Conflict of Interest is known
6. In the event it is not entirely clear that a Conflict of Interest exists, the person with the potential conflict shall disclose the circumstances to the Chairperson who shall determine whether there exists a Conflict of Interest that is subject to this policy.

Confidentiality

7. Each Councillor or employee shall exercise care not to disclose confidential information acquired in connection with such status or information the disclosure of which might be adverse to the interests of Council
8. Furthermore, a Councillor or employee shall not disclose or use information relating to the business of Council for the personal profit or advantage of the Councillor, employee or a family member.

BUDGETARY IMPLICATIONS:

Nil

IMPLEMENTATION:

Policy:

Policy to be implemented by the Manager Finance and Finance

Policy commences immediately on adoption by Council

Policy applies to all employees of the Council.

Practice:

Dealing appropriately with matters of conflict of interest is the responsibility of every Councillor or employee of Council including contractors and consultants where they are acting on behalf of, or advising council.

To safeguard ALL Councillors and Council employees:

- Each new Councillor and employee shall be required to review a copy of this policy and to acknowledge in writing that he or she has done so
- Each Councillor and employee shall annually complete a disclosure form identifying any relationships, positions or circumstances in which the Councillor or employee is involved that he or she believes could contribute to a Conflict of Interest arising.

Such relationships, positions, or circumstances might include:-

- service as a director of or consultant to another ORGANISATION, or
- ownership of a business that might provide goods or services to Council.

Any such information regarding business interests of a Councillor, employee, or a Family Member shall be treated as confidential and shall generally be made available only to the Chairperson, CEO, and any committee appointed to address “Conflicts of Interest”, except to the extent additional disclosure is necessary in connection with the implementation of this Policy.

- This policy shall be reviewed annually by each member of the Council. Any changes to the policy shall be communicated immediately to all Councillors and employees

Disclosure Form

Each year, every Councillor and employee shall complete a disclosure form identifying any conflict of Interest.

Refer to Attachment A (below) for Council’s disclosure form.

DOCUMENT END

