

1 PURPOSE

This procedure aims to:

- Promote an ethical culture where employees have a shared understanding of integrity and accept accountability for their actions
- Define what constitutes a conflict of interest and inform employees of their obligation to disclose and manage conflicts of interest when they arise
- Ensure that all general and material conflicts of interest are fully and properly declared in accordance with the *Local Government Act 2020*.

2 INTRODUCTION

2.1 Employees are legally obliged to identify and disclose conflicts of interest under the *Local Government Act 2020 Sections 126 - 131*, Council’s Code of Conduct for Staff, HRCC Governance Rules and the terms and conditions of employment agreed upon at the commencement of their employment.

2.2 The following two types of conflicts of interest are prescribed in the *Local Government Act 2020*

General Conflict of Interest (s127)	<ul style="list-style-type: none"> • The Act says a general conflict of interest exists if ‘an impartial, fair minded person would consider that the person’s private interests could result in that person acting in a manner that is contrary to their public duty’ • Private interests means any direct or indirect interest of a relevant person that does not derive from their public duty and does not include an interest that is only a matter of person opinion or belief • Public duty means the responsibilities and obligations that a relevant person has to members of the public in their role as a relevant person
Material Conflict of Interest (s128)	<ul style="list-style-type: none"> • The Act says a material conflict of interest exists if ‘an affected person would gain a benefit or suffer a loss depending on the outcome of the matter’ • The benefit may arise or the loss incurred either directly or indirectly and in a pecuniary or non-pecuniary form • A material conflict of interest involves specific relationships or situation that could result in a benefit or loss

2.3 There are a number of ways Conflict of Interest rules apply to staff:

- 2.3.1 Under delegation and exercising a council power, duty or function
- 2.3.2 When exercising any other statutory power, duty or function
- 2.3.3 Acting as a member of a delegated committee or a community asset committee
- 2.3.4 When providing advice/reports to council, a delegated committee, community asset committee or a member of council staff exercising a delegation

3 SCOPE

This procedure applies to: (referred to as ‘relevant person’ in the Act)

- Direct employees of Council (full-time, part-time, casual and fixed term)
- Council volunteers
- People on official work placements including work experience students
- People appointed to Council committees, working, reference and advisory groups, or any other Council decision-making body of Council, in either a paid or unpaid capacity
- Contractors or consultants engaged by Council including those engaged through an employment agency.

4 ACTIONS

- 4.1 Material Conflict:** For the purpose of Material Conflict, an affected person includes:
- 4.1.1 The relevant person
 - 4.1.2 A family member of the relevant person
 - 4.1.3 Body corporate of which the relevant person, their spouse or domestic partner is a Director or a member of the governing body
 - 4.1.4 Employer of the relevant person, unless the employer is a public body
 - 4.1.5 A business partner of the relevant person
 - 4.1.6 A person for whom the relevant person is a consultant, contractor or agent
 - 4.1.7 A beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee
 - 4.1.8 A person from whom the relevant person has received a Disclosable gift as defined in Sec 128 (4) of the Act (A Disclosable gift means any gift valued at or above \$500. If multiple gifts are received from a person, they must be treated as a single gift with an aggregate value. A gift includes any good or service other than volunteer labour)
- 4.2 Identifying Conflicts of Interest:** Council employees must act with integrity and accountability at all times, and avoid conflicts of interest when carrying out their Council duties. They should regularly consider the relationship between their private interests and public duties, to identify and disclose any conflicts as soon as they arise.
- 4.3 Disclosing a Conflict of Interest:** When an employee identifies a conflict of interest, they should immediately discuss the matter with their Manager/Supervisor, complete the Conflict of Interest Declaration Form (Staff), agree on the actions required to resolve the conflict, and submit the form to the relevant Director for approval. The CEO is then notified. If it involves a Director the form should be submitted to the CEO. If the member of staff is the Chief Executive Officer the written notice must be given to the Mayor. The completed form will be provided to the Governance Unit for inclusion on the Conflict of Interest Register.
- 4.4 Officers with Delegated Powers:** If an employee has a conflict of interest in a matter in which they also have a delegated power such as approving a permit, entering into a contract, recruiting staff or authorising an invoice, they must disclose the specific details of the conflict in writing to the Chief Executive Officer by completing the Conflict of Interest Declaration Form (Staff) as soon as they become aware of the conflict. They should also remove themselves from the decision-making process in relation to that matter.
- 4.5 Officers Providing Advice to Council:**
Where an employee is providing advice to Council or submitting a report to a Council briefing or meeting and they have a conflict of interest in the matter, they must disclose the specific details of the conflict at the time of providing advice. They should complete the Conflict of Interest Declaration Form (Staff), along with including the type, class and nature of conflict in their written report. This is to ensure that Council does not unknowingly act on advice from a person with a conflict of interest. Contractors are also required to make this disclosure and the Officer responsible for managing the contractor must make them aware of this requirement.
- 4.6 Gifts, Benefits and Hospitality:** To avoid conflicts of interest and maintain high levels of integrity and public trust, Council has a preference for no gifts. There is, however, some provision for acceptance of token (\$20 or less) or non token (over \$20) offers of a gift, benefit or hospitality.

Token offers (\$20 or less) of a gift, benefit or hospitality may be accepted as long as the offer doesn't create a conflict of interest or lead to reputational damage.

Non token offers (over \$20) of a gift, benefit or hospitality may be accepted if:

- There is a legitimate business reason for acceptance, it is offered in the course of the employee's work responsibilities, and has a benefit to Council.
- It does not raise an actual, potential or perceived conflict of interest or have the potential to bring the employee or Council into disrepute.

For further information/advice, refer to Council's Gifts, Benefits and Hospitality Policy (A04/029).

4.7 Tenders, Contracts and Purchasing: Council employees involved in the procurement process, in particular raising and approval of purchaser orders and requisitions, preparation of tender documentation, including writing tender specifications, tender opening, and tender evaluation panels, must:

- **Avoid** actual, potential or perceived conflicts that may arise between their official duties and their private interests. Private interests include the financial and other interests of employees and/or their relatives, close associates and friends.
- **Declare** that there is no conflict of interest. Where future conflicts, or relevant private interests arise, Council employees must inform their Manager and/or the chairperson of the relevant tender assessment panel, and allow them to decide (in consultation with the Governance Unit or others as appropriate) whether they should continue to be involved in the specific procurement exercise.
- **Observe** prevailing Council and *Victorian Local Government Best Practice and Procurement Guidelines 2024* on how to prevent or deal with conflict of interest situations; and not take advantage of any tender related information whether or not for personal gain.

Council staff shall at all times conduct themselves in ways that are, and are seen to be, ethical and of the highest integrity and will deal with suppliers in an honest and impartial manner that does not allow conflicts of interest.

For further information/advice, refer to Council's Procurement Policy (C04/019) and Procurement Procedure (P04/225).

4.8 Recruitment: When participating on an interview panel, employees must declare any conflict of interest which may affect their role on the panel. They must not be a relative or personal friend (inside/outside of work) of any candidate involved in the recruitment and selection process.

Should a declaration be made, the Recruitment Declaration of Conflict of Interest Form must be completed. It is the responsibility of the employing officer and/or relevant Director to develop a Management Plan to resolve the conflict. This may require the employee to withdraw from the panel.

External Employment: Where a person is employed with another organisation outside of Council in addition to their employment at Council, they should seek written permission from the Chief Executive Officer by completing the Outside Work Request Form (F04/061). They are likely to have a conflict of interest if the external employer may be affected by any decision, action or advice the employee provides. If any actual, potential or perceived conflicts of interest are identified, the Conflict of Interest Declaration Form (Staff) should also be completed.

For further information/advice, refer to Council's Outside Work Policy (A04/111).

4.9 **Personal Interest Return:** Nominated officers, members of a delegated committee and the CEO must lodge 'initial personal interests return' and 'biannual personal interest returns' in accordance with Section 132 to 136 of the *Local Government Act 2020*:

- Initial personal interests return – must be lodged within 30 days of an officer becoming nominated; being appointed to a delegated committee and within 30 days of becoming the CEO
- Biannual personal interests returns – must be lodged with the CEO by the end of periods 1 – 31 March and 1 – 30 September in accordance with *Local Government (Governance and Integrity) Regulations 2020*
- Matters to disclose in personal interest returns are stipulated in the Regulations
- A person who fails to lodge a personal interest return, gives incomplete or false information may be prosecuted in court and fined

For further information/advice, contact the Co-ordinator Governance.

4.10 **Conflict of Interest Register:** The Governance Unit is responsible for maintaining Council's Conflict of Interest Register in accordance with the *Privacy and Data Protection Act 2014* and the *Public Records Act 1973*.

4.11 **Privacy:** Reporting of conflicts of interest may involve disclosing personal information. Any personal information collected as part of a disclosure will be kept secure and handled according to Council's Information Privacy Policy (A04/039).

4.12 **Breaches:** Failure to disclose a conflict of interest is in breach of the *Local Government Act 2020*. Actions inconsistent with this procedure may also lead to disciplinary action.

4.12.1 Statutory Reporting

- a. If the CEO fails to disclose a conflict of interest in a delegated or statutory power, duty or function and exclude themselves from the matter, the Mayor must notify the Chief Municipal Inspector as soon as the mayor becomes aware of the failure to disclose a conflict of interest.
- b. If any other member of council staff fails to disclose a conflict of interest in a delegated or statutory power, duty or function and exclude themselves from the matter the CEO must notify the Chief Municipal Inspector as soon as the mayor becomes aware of the failure to disclose a conflict of interest. The CEO will carry out disciplinary action in accordance with Code of Conduct for Staff and P04/230 Performance Management Procedure.
- c. If a member of a delegated committee other than a councillor or staff member fails to disclose a conflict of interest in a matter and exclude themselves the CEO must notify council and recommend appropriate action
- d. A relevant person can only be charged with a criminal offence if the failure to disclose a conflict of interest relates to a Material Conflict of Interest.

For further information on disciplinary action please refer to P04/230 Performance Management Procedure.

- 4.13 **Public Interest Disclosures:** An employee who considers that a conflict of interest within their Unit, Department or Council may not have been disclosed, or is not being managed appropriately, should report the conflict to the Public Interest Disclosures Co-ordinator (Chief Executive Officer) or Public Interest Disclosures Officer (Director Corporate Services). The matter will be handled in accordance with the Public Interest Disclosure Procedure (P04/010).
- 4.14 **Management Strategies:** The strategy selected to manage the conflict of interest should reflect the identified risks and maintain the right balance between the private and public interests of the employee. If the conflict of interest requires ongoing management and review, the Governance Unit will forward the completed Conflict of Interest Declaration Form to the People and Safety Department for inclusion in the employee’s Staff Review. As circumstances can change over time, Managers/Supervisors should review conflict of interest management plans regularly to ensure they remain effective. Where a plan is amended, all affected parties should be notified and a copy of the amended plan provided to the Chief Executive Officer and Governance Unit for inclusion in the Conflict of Interest register.

Strategy	Management Action
1. Register	Make a formal written record of the conflict. All conflicts must be registered using the Conflict of Interest Declaration Form (Staff), regardless of any additional strategies adopted. <i>This is most suitable for very low risk conflicts and potential conflicts, where recording the conflict is sufficient to provide transparency.</i>
2. Restrict	Restrictions are placed on the employee’s involvement in the matter, for example, the conflicting employee is restricted from acting in relation to a particular element of the conflicting matter. <i>This is most suitable where the conflict is unlikely to occur frequently and the employee can effectively be separated from the subject activity.</i>
3. Recruit	An independent third party is used to oversee part or all of the process that deals with the matter to ensure that the private interests of the conflicted employee do not influence the decision making. <i>This is most suitable where the conflicted employee has specialised knowledge or skills and their involvement in the matter is desirable for the proper handling of the matter.</i>
4. Remove	The employee removes themselves or is removed from the matter. <i>This is most suitable where the matter involves higher risk and where placing restrictions on the employee or recruiting others to oversee the matter are not considered appropriate.</i>
5. Relinquish	The employee relinquishes the private interest that is creating the conflict. <i>This is most suitable where the conflicted employee’s commitment to their public duties outweigh their attachment to their private interests.</i>
6. Resign	Where relinquishing the interest is not possible, for example, relationship with family, and the conflict cannot be managed in the public interest using one of the other strategies, the employee may consider resigning. <i>This is most suitable where no other strategies are workable and the conflicted employee cannot or will not relinquish their private interest, and changes to their duties are not feasible.</i>

4.15 **Exemptions:** There are a number of exemptions that apply to Conflict of Interest and the Act states that a conflict of interest doesn't exist if;

- It's so remote or insignificant that it could not be reasonably regarded as capable of influencing the actions or decisions of the relevant person in relation to the matter
- It's held in common with a substantial proportion of the residents, ratepayers or electors of the municipal district and does not exceed the interest held by the other residents, ratepayers or electors
- The relevant person does not know the circumstances that give rise to the conflict of interest and could not be reasonably expected to know those circumstances
- It only arises because the relevant person is the representative of the Council on a not-for-profit organisation that has an interest in the matter and the relevant person receives no personal advantage from the not-for-profit organisation
- It only arises because a member of the relevant person family is a member but not an office holder of a not-for-profit organisation
- It only arises because the relevant person is a member of a not-for-profit organisation that has expressed an opinion or advocated for an outcome in regard to the matter
- It arises in relation to a decision by a councillor on a matter or in a circumstance that is prescribed to be exempt by the regulations

5 COMMUNICATION

This procedure will be available on the website and intranet and promoted at staff meetings. It will also be highlighted to new staff as part of the induction process.

6 RESPONSIBILITY

Responsible Owner: Coordinator Governance

This Policy will be reviewed every two years or earlier as required by changed circumstances including changes to legislation and plans, strategies or policies of HRCC.

7 DEFINITIONS

Definition	Meaning
Conflict of interest	Where an employee has a private interest in a Council matter that could improperly influence, or be seen to influence, their decisions or actions when performing their public duties.
Employee	For the purposes of this procedure, an "employee" includes direct employees of Council (full-time, part-time, casual and fixed term), Council volunteers, people on official work placements including work experience students, people appointed to Council committees, working, reference and advisory groups, or any other Council decision-making body of Council, in either a paid or unpaid capacity and contractors or consultants engaged by Council including those engaged through an employment agency.
Matter	A matter with which Council or a Council employee is dealing with, which will require a decision or action by Council or by the employee in relation to that matter. A matter that requires a power to be exercised or a duty or function to be performed in respect of the matter
Private interests	Is any interest a person has that does not derive from their public duty and can include a direct or indirect connection to the matter
Public duties	The responsibilities and obligations a Council employee has to members of the public in their role.
Relevant Person	Means a person who is a councillor, a members of adelegated committees who is not a councillor, or a member of Council staff (s126(1))

8 SUPPORTING DOCUMENTS

Document	Location
Code of Conduct for Staff	Intranet
Conflict of Interest – A Guide for Councillors, delegated committee members and Council Staff (October 2020)	Intranet (Governance – Conflict of Interest Page)
Conflict of Interest Declaration Form (Staff) (F04/106)	Intranet (Governance - Conflict of Interest Page)
Conflict of Interest Intranet page: Fact sheet, flow chart, types of exemptions	Intranet
Performance Management Procedure	Intranet
Gifts, Benefits and Hospitality Policy (A04/029)	Intranet (Governance – Gifts Benefits and Hospitality Page)
HRCC Governance Rules	Intranet
IBAC Conflict of Interest Guidance material	IBAC Website
Information Privacy Policy (A04/039)	Intranet
<i>Local Government Act 2020, Sections 77A-79B, 80B, 80C and 95 126, 127, 128, 129, 130</i>	Internet
<i>Local Government (Governance and Integrity) Regulations 2020</i>	Internet
Outside Work Policy (A04/111)	Intranet
Outside Work Request Form (F04/061)	Intranet
Procurement Policy (C04/019)	Intranet
Victorian Local Government Best Practice and Procurement Guidelines 2024	MAV Website www.mav.asn.au

9 DOCUMENT CONTROL

Version Number	Approval Date	Approval By	Amendment	Review Date
01	6 February 2017	EMT	<ul style="list-style-type: none"> New procedure 	New procedure
02	17 March 2020	EMT	<ul style="list-style-type: none"> Updated and expanded to reflect current best practice Conflict of Interest Declaration Form (Staff) and Register introduced 	17 March 2023
03	05 April 2022	EMT	<ul style="list-style-type: none"> Updated and expanded in accordance with <i>LGA 2020</i> and <i>LG (Governance and Integrity) Regulations 2020</i> 	05 April 2025
3.1	March 2023	n/a	<ul style="list-style-type: none"> New logo 	05 April 2025
3.2	April 2023	n/a	<ul style="list-style-type: none"> Updated Local Government supporting resource: In the Public Interest: A conflict of interest guide for councillors, delegated committee members and council staff (October 2020) 	05 April 2025
04	24 March 2025	EMT	<ul style="list-style-type: none"> Administrative updates Endorsed by ARC 20/03/2025 	24 March 2027

It is recognised that from time-to-time circumstances may change leading to the need for minor administrative changes to Council and Administrative Policies. Where an update does not materially alter a Policy, such a change may be made administratively, without the need for formal adoption by EMT or Council. Examples include a change to the name of a Council Department/Position Title, a change to the name of a Federal or State Government Department, and a minor update to legislation which does not have a material impact. However, all changes will be noted in the document control section and version number updated.