

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 actual, potential and perceived conflicts of interest are fully and properly declared in accordance with the *Local Government Act 1989*.

2. INTRODUCTION

2.1 Employees are legally obliged to identify and disclose conflicts of interest under the *Local Government Act 1989*, Council’s Code of Conduct for Staff, and the terms and conditions of employment agreed upon at the commencement of their employment.

2.2 Conflicts of interest can be actual, potential or perceived:

- An **actual** conflict of interest occurs when the employee’s public duties **actually** conflict with their private interests.
- A **potential** conflict of interest occurs when the employee’s duties **could** conflict with their private interests. They may anticipate potential conflicts by thinking about how their private interests and associations might influence their public duties.
- **Perceived** conflicts can arise when the public or a third party could reasonably **form the view** that the employee’s private interests could improperly influence their decisions or actions, or the actions or decisions of the organisation. There is the perception that they may not be objective in their dealings as a result of the conflict.

2.3 The following seven types of conflicts of interest are prescribed in the *Local Government Act 1989*:

Direct Interest	<ul style="list-style-type: none"> • A direct interest exists if there is a reasonable likelihood that the employee would be directly affected if a matter is decided in a particular way.
Indirect Interest	<ul style="list-style-type: none"> • Close association – A person has a conflict of interest in a matter if a family member, relative or member of their household has a private interest in that matter. • Financial interest – A person has a conflict of interest if they are likely to receive a benefit or incur a loss, measurable in monetary terms as a result of a Council decision they make or influence. • Conflicting duty – A person has an indirect conflict of interest where they or a member of their family has a duty to another person or organisation that has an interest in the matter. • Applicable gift – A person has an indirect interest if they have received a gift in the past five years valued at \$500 or more from someone with a direct interest in a matter. • Interested party – A person has an indirect interest as an interested party where they have lodged an appeal, objected to a submission or are undertaking civic proceedings in relation to a matter. • Residential amenity – A person has an indirect interest where there is a reasonable likelihood that their residential amenity will be altered if a matter is decided in a particular way.

2.4 Some conflicts of interest may not fit clearly into the seven classes described above. This may include: where a close friend of the employee has a direct or indirect interest, a relative has an indirect interest, or a previous employer is affected. If the employee has other employment outside Council and any of the decisions, actions or advice affect the external employer, they are also likely to have a conflict of interest.

3. SCOPE

This procedure applies to:

- 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 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.

4.2 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. If it involves a Director the form should be submitted to the CEO.

4.3 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.

4.4 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.

4.5 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).

4.6 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 2013 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).

4.7 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.

4.8 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 be also be completed.

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

4.9 Register of Interests: Nominated officers and non exempt members of special committees must lodge primary and ordinary returns of interest in accordance with Section 81 of the *Local Government Act 1989*:

- Primary Returns – must be lodged after taking office or commencing a specified role.
- Ordinary Returns – must be lodged twice yearly while holding office or occupying the role.

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

4.10 Chief Executive Officer: If the Chief Executive Officer has a conflict of interest in a matter, they must report it to Council's Audit and Risk Committee meeting for noting.

4.11 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*.

4.12 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).

4.13 Breaches: Failure to disclose a conflict of interest is in breach of the *Local Government Act 1989* and may incur a penalty. Actions inconsistent with this procedure may also lead to disciplinary action.

4.14 Public Interest Disclosures: An employee who considers that a conflict 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), Public Interest Disclosures Officer (Director Corporate Services) or Welfare Manager (Manager People and Culture). The matter will be handled in accordance with the Public Interest Disclosure Procedure (P04/010).

4.15 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 Culture 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 Co-ordinator Governance for inclusion in the Conflict of Interest register.

Strategy	Management Action
<p>1. Register</p>	<p>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.</p> <p><i>This is most suitable for very low risk conflicts and potential conflicts, where recording the conflict is sufficient to provide transparency.</i></p>
<p>2. Restrict</p>	<p>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.</p> <p><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></p>
<p>3. Recruit</p>	<p>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.</p> <p><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></p>
<p>4. Remove</p>	<p>The employee removes themselves or is removed from the matter.</p> <p><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></p>
<p>5. Relinquish</p>	<p>The employee relinquishes the private interest that is creating the conflict.</p> <p><i>This is most suitable where the conflicted employee’s commitment to their public duties outweigh their attachment to their private interests.</i></p>
<p>6. Resign</p>	<p>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.</p> <p><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></p>

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: Co-ordinator Governance

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.
Private interests	An employee’s personal, family or business interests or to the private interests of people or organisations with whom the employee is closely associated.
Public duties	The responsibilities and obligations a Council employee has to members of the public in their role.

8. SUPPORTING DOCUMENTS

Document	Location
Code of Conduct for Staff	Intranet
Conflict of Interest – A Guide for Council Staff (October 2011), Department of Planning and Community Development	Intranet (Governance – Conflict of Interest Page)
Conflict of Interest Declaration Form (Staff) (F04/106)	Intranet (Governance - Conflict of Interest Page)
Gifts, Benefits and Hospitality Policy (A04/029)	Intranet (Governance – Gifts Benefits and Hospitality Page)
Information Privacy Policy (A04/039)	
<i>Local Government Act 1989, Sections 77A-79B, 80B, 80C and 95</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 2013	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