

THE CITY OF
GREATER GEELONG

CONFLICT OF INTEREST POLICY

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Introduction

PURPOSE

The purpose of this Policy is to provide information and guidance to all Relevant Persons regarding identifying and managing potential and perceived conflicts of interest in accordance with their obligations under the Act.

SCOPE

This Policy applies to Councillors, members of Delegated Committees, including those who are Councillors, members of Community Asset Committees who are Councillors and members of Council staff.

This Policy:

- outlines the categories of conflict of interest covered in the Act and how these can be identified;
- sets out Council's procedures for declaring and managing conflicts of interest;
- promotes understanding of and compliance with the conflict of interest provisions in the Act;
- promotes Council's commitment to maintaining high standards of good governance and minimising public perceptions of bias; and
- outlines Council's record-keeping requirements in respect of any declared conflicts of interest.

Definitions

The following definitions apply to this Policy:

Term	Definition
Act	The <i>Local Government Act 2020</i> .
Council	City of Greater Geelong.
ELT	The Executive Leadership Team of Council, as constituted from time to time.
Municipality	The municipal district of Council.
Officers	Members of Council staff.
Policy	This Conflict of Interest Policy as adopted by Council.
Relevant Person	A person to whom the conflict of interest provisions in the Act apply.

Policy

Councillors, Delegated Committee members, Community Asset Committee members and Officers hold positions of public trust. They must perform their duties impartially and in the best interests of the community.

Council acknowledges that conflicts of interest will arise for Relevant Persons and that they cannot always be avoided. They must, however, be identified and appropriately disclosed to ensure that Council maintains high standards of transparency, accountability and public trust.

1. PRINCIPLES

- 1.1 Council is committed to and will uphold the following principles in applying this Policy:
 - 1.1.1 Public interest: All Relevant Persons have a duty to place the public interest above their private interests when fulfilling their roles as Relevant Persons.
 - 1.1.2 Transparency: All Relevant Persons will contribute to the transparency of Council's decision-making by avoiding (wherever possible), or identifying and disclosing, any conflict of interest.
 - 1.1.3 Accountability: Each Relevant Person is personally responsible and accountable for avoiding (wherever possible), or identifying and disclosing, any conflict of interest.

2. CONFLICT OF INTEREST CATEGORIES

- 2.1 A conflict of interest under the Act may be *general* or *material*.
- 2.2 **General conflict of interest**
 - 2.2.1 A Relevant Person has a general conflict of interest in a matter if an impartial, fair minded person would consider that the Relevant Person's private interests could result in them acting in a manner that is contrary to their public duty.
 - 2.2.2 Private interests means any direct or indirect interest of a Relevant Person that does not derive from their public duty (in this instance, as a Councillor, Delegated or Community Asset Committee member, or Officer). It does not, though, include an interest that is only a matter of personal opinion or belief (e.g. religious beliefs).
 - 2.2.3 Public duty means the responsibilities and obligations that a Relevant Person has in their role at Council.
- 2.3 **Material conflict of interest**
 - 2.3.1 A Relevant Person has a material conflict of interest in a matter where 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 may be incurred directly or indirectly and in a pecuniary or non-pecuniary form.
 - 2.3.2 An 'affected person', for the purposes of a material conflict of interest, includes:
 - 2.3.2.1 the Relevant Person;
 - 2.3.2.2 a family member of the Relevant Person;
 - 2.3.2.3 a body corporate, including incorporated associations, of which the Relevant Person or their spouse or domestic partner is a director or a member of the governing body;

- 2.3.2.4 an employer of the Relevant Person, unless the employer is a public body;
- 2.3.2.5 a business partner of the Relevant Person;
- 2.3.2.6 a person for whom the Relevant Person is a consultant, contractor or agent;
- 2.3.2.7 a beneficiary under a trust or an object of a discretionary trust of which the Relevant Person is a trustee; and/or
- 2.3.2.8 a person from whom the Relevant Person has received a disclosable gift (as defined in the Act – currently a gift or gifts with a total value over \$500).

2.4 Exemptions

- 2.4.1 A conflict of interest will not arise in the following circumstances:
 - 2.4.1.1 the interest is remote or insignificant;
 - 2.4.1.2 the interest is held in common with a substantial portion of residents, ratepayers or electors in the Municipality and does not exceed the interest held by them;
 - 2.4.1.3 the Relevant Person has no knowledge of the interest;
 - 2.4.1.4 the interest only arises because the Relevant Person is the representative of 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;
 - 2.4.1.5 the interest only arises because a family member of the Relevant Person is a member, but not an office-holder, of a not-for profit organisation;
 - 2.4.1.6 the interest 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 regards to the matter; and
 - 2.4.1.7 in respect of a Relevant Person who is a Councillor, the interest arises in relation to a matter or in a circumstance that is prescribed to be exempt by regulations made under the Act.

3. IDENTIFYING CONFLICTS OF INTEREST

- 3.1 The following examples provide some guidance on real or perceived conflicts of interests, contrasted with interests which will not be in breach of the Act. However, conflicts of interest should be judged by the specific circumstances of each case.

Potential conflicts of interest	Interests that are not in breach
An Officer assists in the preparation of a Council Report regarding a decision on a planning permit for their daughter's property.	A Governance Manager must engage a mediator for a Councillor Code of Conduct complaint and his former employer is a mediator.
A Councillor is a part owner of a development company which submits a planning application to Council.	A Councillor is a member (and not a board member) of a local surf lifesaving club. The Councillor took part in a planning decision in relation to the club's property. Her interests do not exceed others as a substantial proportion of the local community are members of surf lifesaving clubs.
An Officer makes a decision on a proposal to vary parking signs in the street where they live.	A Delegated Committee member works in gambling research for a university and voted on Council's strategic plan, which includes an objective to reduce harm associated with gambling.

A Contract Manager is issuing a purchase order under a panel contract where his wife's business is a panel member.	A Councillor's brother is a member (but not an office holder) of a community hockey club and the Councillor is involved in the consideration of an application for funding made by the club.
A Delegated Committee member takes part in a decision about a liquor licensing permit for a business next door to their property.	An Officer is deciding on a Local Law permit being sought by a couple whose café she frequents at lunchtime.
A Planning Officer's extremely close friend (note – the friendship must be akin to a familial relationship to give rise to a conflict of interest) is an applicant for a planning permit for which she is writing the Officer Report to Council.	A Planning Officer's friend is an applicant for a planning permit for which she is writing the Officer Report to Council.

4. DISCLOSING CONFLICTS OF INTEREST

- 4.1 Chapter 6 of Council's Governance Rules sets out the procedures for disclosing and managing a general or material conflict of interest in certain circumstances. Those procedures govern circumstances where:
- 4.1.1 a Councillor has a conflict of interest in a matter being considered at a Council meeting at which they are present or intend to be present;
 - 4.1.2 a member of a Delegated Committee has a conflict of interest in a matter being considered at a Delegated Committee meeting at which they are present or intend to be present;
 - 4.1.3 a Councillor has a conflict of interest in a matter being considered at a Community Asset Committee meeting at which they are present or intend to be present;
 - 4.1.4 a Councillor has a conflict of interest in a matter being considered by a meeting held under the auspices of Council at which they are present;
 - 4.1.5 an Officer has a conflict of interest in a matter in respect of which they are preparing, or contributing to the preparation of, a report for consideration at a Council meeting, Delegated Committee meeting or Community Asset Committee meeting; and
 - 4.1.6 an Officer has a conflict of interest in a matter in connection with their exercise of a delegated power or statutory function.
- 4.2 All Relevant Persons must ensure that they comply with the procedures set out in the Governance Rules in respect of disclosing a general or material conflict of interest.

5. MANAGING CONFLICTS OF INTEREST

- 5.1 If you suspect that you or another Relevant Person may have a potential or perceived conflict of interest, it is important to manage it properly to ensure that Council's decision-making processes are not compromised.
- 5.2 Any Relevant Person who suspects they have a potential or perceived conflict of interest should:
- 5.2.1 disclose the conflict of interest in accordance with the Governance Rules;
 - 5.2.2 discuss the implications of the conflict of interest with the Governance Unit and seek additional advice if required; and
 - 5.2.3 in consultation with the Governance Unit (and, in the case of an Officer, their direct manager), prepare and implement a management plan that will outline how the conflict of interest will be managed.

6. POLICY NOT EXHAUSTIVE

- 6.1 This Policy is intended to provide guidance to Relevant Persons when identifying and managing conflicts of interest. This Policy does not provide an exhaustive set of circumstances in which conflicts of interest might arise.
- 6.2 Relevant Persons are required to use their own judgement on 'case by case' basis. If further advice or guidance is needed, Relevant Persons should contact the Governance Unit.

Implementation of this Policy

MONITORING AND REPORTING

All conflicts of interest will be monitored and reported on by the Governance Unit.

Conflicts of Interest declared by Councillors will be recorded in the Council Agenda's & Minutes.

ADVICE AND ASSISTANCE

The Responsible Officer for this Policy manages the provision of advice to the organisation regarding this Policy.

A person who is uncertain how to comply with this Policy should seek advice from this person or from their Manager.

RECORDS

Council must retain records associated with this Policy and its implementation in accordance with its Records Information Management Policy

REVIEW

Council should review and, if necessary, amend this Policy within 4 years of the Approval Date.

References

Legislation

Local Government Act 2020

Other Documents

Records Information Management Policy