



Policy Name	Conflict of Interest (Elected, Local Authority and Council Committee Members)	
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1. PURPOSE

This document sets out West Arnhem Regional Council’s approach to the identification and declaration of conflicts of interest by our Elected Members, Local Authority Members and Council Committee Members. It outlines the requirements for actual, potential, or perceived conflicts of interest which may, or have, arisen in the course of duties conducted for the Council, to be managed in accordance with Council and regulatory requirements.

2. SCOPE

This policy applies to all Elected Members, Local Authority Members, and Council Committee Members of the West Arnhem Regional Council.

3. DEFINITIONS

In the context of this policy the following definitions apply:

The Act means the *Local Government Act*.

Breach means an act of breaking or failing to observe a law, agreement, or code of conduct.

Conflict of interest means a **potential, perceived** or **actual** conflict between a member’s official duties and responsibilities in serving the public interest, and their own private interests. A conflict of interest can arise from avoiding personal losses, as well as gaining a personal advantage – whether financial or otherwise. This includes advantages to relatives, friends, and business associates.

Conflicts of interest can be pecuniary or non-pecuniary:

- A **pecuniary interest** involves an actual or potential financial gain or loss. It may result from the member or related party owning property, holding shares or a position in a company bidding for government work, accepting gifts or hospitality, or receiving an income from a second job. Money does not have to change hands for an interest to be pecuniary.



- A **non-pecuniary interest** does not have a financial component but may arise from personal or family relationships or involvement in sporting, social, community or cultural activities. They include any tendency toward favour or prejudice resulting from friendship, animosity or other personal involvement that could bias a member's judgment or decisions.

A conflict of interest may be actual, perceived, or potential:

- An **actual** conflict of interest exists where the actions of a member, at the present time, could be influenced by the member's private interests.
- A **perceived** conflict of interest arises where it appears that decisions that a member makes in the course of undertaking their official duties may be influenced by the member's private interests, whether or not this is in fact the case.
- If a member is in a situation where their future decision making may be influenced by their private interests, the member has a **potential** conflict of interest.

Disclosure is the act of releasing all relevant information to the Council that may influence a member's decision making.

Executive Management Team means the Chief Executive Officer, Chief Corporate Officer, Chief Operating Officer, Manager People & Learning and Executive Manager Office of the CEO.

Good governance is about the processes for making good decisions. Good governance is enabled by strategic planning, participation, transparency, rule of law, responsiveness, and fairness.

Interest means anything that can have an impact on an individual or group. It includes anything that can bring a benefit or disadvantage to a member, or others an individual may wish to benefit or disadvantage.

Member means an Elected Member of Council, or Local Authority Member, or Council Committee Member.

Private interests are those personal, professional, or business interests that can benefit or disadvantage us as individuals. They also include the personal, professional, or business interests of individuals or groups we associate with, for example family members, friends, contractors, etc.

Public interest means the collective interest of the entire community, not the sum of individual interests nor the interest of a particular group.

Transparency means to be open or that one has nothing to hide regarding the operations and management of the Council, a Council committee, and a local authority.

4. POLICY STATEMENT

Council is committed to supporting our Elected Members, Local Authority Members and Council Committee Members (members) to perform their duties in a fair and unbiased way, and to ensuring that appropriate processes are in place to assist members to act impartially and in accordance with the public interest at all times.

The public is entitled to have confidence in the integrity of their public officials, and to know that a member's personal interests do not conflict with their public duties.

This policy outlines the responsibilities of members to identify, disclose and manage conflicts of interest. It also defines the mechanisms that Council has in place to comply with the legislative requirements regarding the management of declared interests.





Responsibility of Elected and Local Authority Members

All members must place the public interest above their private or personal interests when carrying out their official duties.

Members can achieve this by:

- Always abiding by the Code of Conduct (Elected Members, Local Authority Members, Council Committee Members) when carrying out their official duties.
- Always avoiding situations that may give rise to a conflict of interest (whether actual or perceived) when undertaking their official duties.
- Proactively identifying and declaring any conflicts of interest, in compliance with any statutory obligations of disclosure.

It is the member's responsibility to identify and disclose any conflict of interest, including any actual, perceived, or potential conflict of interest, when required to do so.

To help them identify conflicts of interest, members can refer to the *Guide to Identifying Conflicts of Interest*.

If you are in doubt as to whether you have a conflict of interest, you should discuss that doubt with your peers (e.g. the Mayor or other Elected or Local Authority Members). Where appropriate, you can also seek advice from the CEO and other members of Council's Executive Management Team. In some circumstances you may also decide to obtain your own independent legal advice.

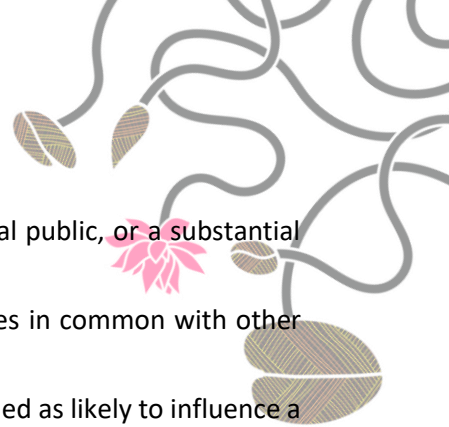
Regardless of any advice you may receive, ultimately you are accountable for deciding whether you have a conflict of interest, and where relevant, for making a disclosure of that interest.

Conflict of Interest

As described in the Act, a member has a conflict of interest in a question arising for decision, if the member or an associate of the member has any of the following interests in how the question is decided:

- A **direct interest**: an interest that occurs when a member is likely to be directly affected if the matter is decided in a particular way. For example, if a company controlled by the member is tendering for a contract that is being discussed by the council.
- An **indirect financial interest**: an interest that occurs when a member is likely to receive a benefit or incur a loss because another person has an interest. For example, if the member has shares in, or is employed by, a company that is tendering for a contract that is being discussed by the council.
- An **indirect interest by close association**: an interest that occurs when an associate of a member has a direct or indirect interest, or a resident of the member's household has a direct interest. For example, a member's sibling is suing the council and the council is considering whether to settle the matter, or a resident of the member's household is tendering for a contract that is being discussed by the council.
- An **indirect interest due to conflicting duties**: an interest that occurs when a member is a director, partner, agent, trustee, manager, office holder or employee of a person or entity, including a non-profit body or association, that has a direct interest. For example, the member is a director of a non-profit body or association that is seeking a sponsorship or donation being discussed by the council.





However, each of the following is not a conflict of interest:

- An interest that a member or associate shares in common with the general public, or a substantial section of the public.
- An interest as an elector or ratepayer that the member or associate shares in common with other electors or ratepayers.
- An interest so remote or insignificant that it could not reasonably be regarded as likely to influence a decision.

Disclosure of Interest by a Member

As soon as practicable after a member becomes aware of a conflict of interest in a matter that has arisen or is about to arise before an audit committee, a council, a council committee or local authority, the member must disclose the interest that gives rise to the conflict:

- At the relevant meeting of the audit committee, council, council committee or local authority; and
- To the Chief Executive Officer (CEO).

The CEO must record the disclosure in the *Register of Declared Conflicts*.

A member must not, without the approval of the Minister:

- Be present at a meeting of the audit committee, council, council committee or local authority while a matter in which the member has a conflict of interest is under consideration; or
- Participate in any decision in relation to the matter; or
- Engage in behaviour that may influence the audit committee, council, council committee or local authority's consideration of or decision in relation to the matter.

The Minister may approve a member's participation in the consideration of, or a decision on, a question in which the member has a conflict of interest on conditions the Minister considers appropriate.

Where the person disclosing the interest is an Elected Member, the disclosure is to be announced at the commencement of the meeting and noted in the minutes. When the item involving the conflict of interest is called, the Elected Member must leave the meeting. Their absence is to be noted in the minutes.

The Elected Member is unable to participate in any discussion on the item including any part of the decision-making process.

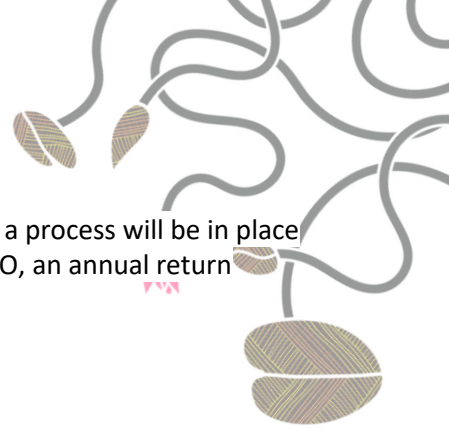
Similarly, where the person disclosing the interest is a Local Authority Member or Council Committee Member, the disclosure should be announced at the commencement of the meeting and noted in the minutes. When the item involving the conflict of interest is called, the Local Authority Member/Council Committee Member should leave the meeting, and their absence should be noted in the minutes. The Local Authority Member/Council Committee Member should not participate in any discussion of the item.

Failure to Disclose

A failure to disclose a real or perceived conflict of interest may be deemed a breach of the *Code of Conduct (Elected Members, Local Authority Members, Council Committee Members)*.

The failure of an Elected Member to make a disclosure is in breach of their statutory obligations under the *Local Government Act*. If an Elected Member is found to have committed an offence in relation to not disclosing an interest, they may be liable for penalty as per the penalties outlined in Section 115 of the Act.





Annual Return of Interest

As part of good governance practice and in accordance with Section 110 of the Act, a process will be in place to enable the requirement for Elected Members to complete and lodge with the CEO, an annual return disclosing their interests and containing the details prescribed by regulation.

The CEO will keep a *Register of Interests (Elected Members)*.

A copy of the register will be published on Council’s website.

Registering Declared Conflicts

The CEO will register declared conflicts of interest by Elected, Local Authority, Council Committee and Audit Committee Members, setting out the declared conflicts in accordance with section 116 of the ACT.

A copy of the register will be published on Council’s website.

Each entry of a disclosure listed on the register is to be kept for a period of three years after the conclusion of the next general election.

Responsibilities

- All members are responsible for identifying and disclosing any conflict of interest, including any actual, perceived, or potential conflict of interest, when required to do so.
- All Elected Members must complete an annual *Disclosure of Interest Form* within 60 days of their election, and by no later than 30 September each year for the duration of their membership.
- The Governance Coordinator is responsible for facilitating Elected Members to complete their annual *Disclosure of Interest Form*.

5. Responsibilities

The Chief Executive Officer is the Policy Custodian for this policy and is responsible for reviewing the operation of the policy (every 3 years or more frequently as may be required), and for monitoring continuing relevance, effectiveness, and consistency with related documents and the Law.

Following approval of this policy document, the Chief People and Capability Officer (or a nominated delegate) is also responsible for ensuring that the implementation and communication plan is implemented and that all Council employees have access to the policy.

6. Related Documents

Legislation and References

- Local Government Act 2019 (NT)
- Local Government (Administration) Regulations (NT)

Policy documents

- Code of Conduct (Elected, Local Authority and Council Committee Members) Policy
- Gifts, Benefits and Hospitality (Elected and Local Authority Members) Policy

Procedures

Nil

Instructions, tools, guidelines, forms and templates

- Disclosure of Interest Form
- Guide to Identifying Conflicts of Interest
- Register of Interests (Elected Members)
- Register of Declared Conflicts (Elected, Local Authority and Council Committee Members)

