

POLICY:-	
Policy Title:	Disclosure of Interests at Meetings Policy
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Current Policy adopted by Council:	15 September 2022
Resolution Number:	210/22
Next Policy Review Date:	2025

PROCEDURES/GUIDELINES:-	
Date procedure/guideline was developed:	
Procedure/guideline reference number:	

RESPONSIBILITY:-	
Draft Policy developed by:	General Manager
Committee/s (if any) consulted in the development of this Policy:	Nil
Responsibility for implementation:	General Manager
Responsibility for review of Policy:	Director of Finance and Administration

OBJECTIVE

This policy has been produced to guide Councillors and staff as to the disclosure of pecuniary and non-pecuniary interests in accordance with Chapter 14 of the *Local Government Act 1993* and Council's Code of Conduct.

POLICY STATEMENT

Pecuniary Interests

Pecuniary interests must be disclosed in accordance with Chapter 14 of the *Local Government Act 1993* and Council's Code of Conduct.

A Councillor or other member of a Council Committee who is present at a meeting and has a pecuniary interest in any matter which is being considered must disclose the nature of that interest to the meeting as soon as practicable.

Specifically, Part 4 of the Code of Conduct requires that Councillors or members of a Committee Meeting disclose the interest to the meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter. The person should complete the Councillors Disclosure of a Pecuniary Interest form and submit it to the General Manager.

Non-Pecuniary Interests

Under Council's Code of Conduct, Councillors and staff must also disclose non-pecuniary interests.

If a person has a non-pecuniary interest in a Council Meeting or Committee Meeting, the person must inform the meeting of the interest as soon as possible. Depending on the nature of the interest, it may be appropriate for the person not to take part in the consideration, discussion and/or vote on the matter.

Note: Disclosure of Pecuniary and Non-Pecuniary Interests also applies at meetings of external bodies/committees to which Council has appointed a person. When disclosing a Pecuniary or Non-Pecuniary Interest at a Council Meeting or Committee Meeting. The person should also complete the Councillors Disclosure of a Non-Pecuniary Interest form and submit it to the General Manager.

DISCLOSING INTERESTS AT MEETINGS

Pecuniary Interests

Section 439 AA (1) of the Local Government Act (Part 4 Clause 4.1 of the Code of Conduct) defines a Pecuniary Interest as:-

“An interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in Clause 4.3.”

Section 439 AA (4) continues that: “A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in a code of conduct as not being required to be disclosed.”

Pecuniary Interests must be disclosed in accordance with Part 4 of the Code of Conduct. The Office of Local Government has indicated that it is the intent of Part 4 of the Code of Conduct that the nature of the interest is **required** to be disclosed.

Non-Pecuniary Interests

Part 5 of the Code of Conduct defines a Non-Pecuniary Interest as:-

“Private or personal interests a council official has that do not amount to a pecuniary interest as defined in Clause 4.1 of the this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.”

If you have disclosed a non-pecuniary conflict of interest you have a broad range of options for managing the conflict. The option you choose will depend on an assessment of the circumstances of the matter, the nature of your interest and the significance of the issue being dealt with. You must deal with a non-pecuniary conflict of interest in at least one of these ways as follows:-

- It may be appropriate that no action is taken where the potential for conflict is minimal. However, Council officials should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (for example, participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (for example, relinquishing or divesting the personal interest that creates the conflict or reallocating the conflicting duties to another Officer).
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the relevant provisions of the Part 4 of the Code of Conduct apply (particularly if you have a significant non-pecuniary conflict of interest).
- Include an independent person in the process to provide assurance of probity (for example, for tendering or recruitment selection panels).

Note: Please refer to Part 4 of the Code of Conduct for further details concerning Pecuniary Interests.

Please refer to the Part 5 of the Code of Conduct for further details concerning Non-Pecuniary Interests.

ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

GUIDING CHECKLIST FOR COUNCILLORS, OFFICERS AND COMMUNITY COMMITTEES

ETHICAL DECISION MAKING

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Could your possible conflict of interest lead to private gain or loss at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

CONFLICT OF INTEREST

- A conflict of interest is a clash between private interest and public duty.

There are two types of conflict:-

1. Pecuniary – regulated by the Code of Conduct and the Office of Local Government; and
2. Non-pecuniary – regulated by Code of Conduct, ICAC, Ombudsman, Office of Local Government (advice only).

THE TEST FOR CONFLICT OF INTEREST

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of "corruption" – using public office for private gain.
- Important to consider public perceptions of whether you have a conflict of interest.

IDENTIFYING PROBLEMS

- 1st** Do I have private interest affected by a matter I am officially involved in?
- 2nd** Is my official role one of influence or perceived influence over the matter?
- 3rd** Does my private interest conflict with my official role?

Whilst seeking advice is generally useful, the ultimate decision rests with the person concerned.

AGENCY ADVICE

Officers of the following agencies are available during office hours to discuss the obligations placed on Councillors, Officers and Community Committee members by various pieces of legislation, regulation and codes.

Contact	Phone	Email	Website
ICAC	(02) 8281 5999 Toll Free 1800 463 909	icac@icac.nsw.gov.au	www.icac.nsw.gov.au
Office of Local Government	(02) 4428 4100	olg@olg.nsw.gov.au	www.olg.nsw.gov.au
NSW Ombudsman	(02) 9286 1000 Toll Free 1800 451 524	nswombo@ombo.nsw.gov.au	www.ombo.nsw.gov.au

Relevant Legislation and Related Council Policies

- Local Government Act 1993;
- Local Government (General) Regulation 2021;
- Crimes Act 1900;
- Environmental Planning and Assessment Act 1979;
- Ombudsman Act 1974;
- Independent Commission against Corruption Act 1988 (ICAC);
- Public Interest Disclosures Act 1994;
- Government Information (Public Access) Act 2009;
- State Records Act 1998;
- Privacy and Personal Information Protection Act 1998;
- Code of Conduct and Procedures for the Administration of the Code of Conduct;
- Code of Business Practice;
- Code of Meeting Practice;
- Delegations of Authority Policy;
- Interaction between Councillors and Staff Policy;
- Privacy Policy;
- Access to Information Policy;
- Government Information (Public Access) Policy;

- Public Interest Disclosures - Internal Reporting Policy;
- Bribes, Gifts and Benefits Policy;
- Complaints Management Policy;
- Corporate Credit Card Policy;
- Councillor Training and Development Policy;
- Designated Person Disclosing Interests Returns Policy;
- Digital Information Security Policy;
- Disclosures of Interest at Meetings Policy;
- Fraud and Corruption Prevention Policy;
- Related Party Disclosures Policy;
- Procurement Policy;
- iPad Policy;
- Harassment Policy;
- Privacy Management Plan;
- Section 355 Committee Policy; and
- Statement of Ethical Principles.

VARIATION

Council reserves the right to vary or revoke this policy.