

Conflict of Interest Policy

Council Policy



Policy Name	Conflict of Interest Policy		
Type	Council Policy		
Owner	Elected Members		
Responsible Officer	Chief Executive Officer		
Authorised	Chief Executive Officer	Approval Date	29/09/2021
Records Number	[Records Number]	Next Review Date	29/09/2023

1 Purpose

While not intended to be exhaustive, the purpose of this Policy is to ensure that all Members understand and acknowledge their ethical and legal obligations in relation to conflicts of interest.

This Policy outlines the requirements and expectations of Members for identifying, disclosing and managing conflicts of interest.

This Policy applies to all Members. The Policy is a best practice procedure and does not create any binding obligations on the Council. The Policy may be varied by the Council from time to time at its discretion.

2 Definitions

For the purposes of this policy, the following definitions apply:

Term	Definition
Act	<i>Local Government Act 2019</i> (NT)
CEO	The Chief Executive Officer of the Alice Springs Town Council
Council	Alice Springs Town Council
Employee	A person who carries out work in any capacity for Council, including as a fulltime, part-time or casual employee, a contractor or subcontractor, an apprentice, trainee, student or volunteer
ICAC Act	<i>Independent Commissioner Against Corruption Act 2017</i> (NT)
Member	An elected member of Alice Springs Town Council
Regulations	<i>Local Government (General) Regulations 2021</i> (NT)

3 Policy Statement

A conflict of interest arises where your private circumstances or interests improperly influence, or may be perceived to influence, the performance of your official duty to serve the public interest.

3.1 Authority

The Act is the principal statutory instrument that governs issues related to conflicts of interest in the Council.

Clause 7 of the Code of Conduct in Schedule 1 of the Act requires that:

- 7.1 A member must avoid any conflict of interest, whether actual or perceived, when undertaking official functions and responsibilities.
- 7.2 If a conflict of interest exists, the member must comply with any statutory obligations of disclosure.

3.2 Conflicts of interest

A Member has a conflict of interest in a question arising for decision by the Council if the member has any of the following interest in how the question is decided:

- a) a direct interest;
- b) an indirect financial interest;
- c) an indirect interest by close association;
- d) an indirect interest due to conflicting duties.¹

3.2.1 Direct interest

A 'direct interest' is an interest that occurs when a member is likely to be directly affected if the matter is decided in a particular way.

3.2.2 Indirect financial interest

An 'indirect financial interest' is an interest that occurs when a member is likely to receive a benefit or incur a loss because another person has an interest.

¹ Section 114 of the Act

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3.2.3 Indirect interest by close association

An 'indirect interest by close association' is 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.

3.2.4 Indirect interest due to conflicting duties

An 'indirect interest due to conflicting duties' is 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.

3.2.5 Not conflicts of interest

The following are not considered to be a conflict of interest:

- a) an interest that the Member shares in common with the general public or a substantial section of the public;
- b) an interest as an elector or ratepayer that the Member shares in common with other electors or ratepayers; and/or
- c) an interest so remote or insignificant that it could not reasonably be regarded as likely to influence a decision.

3.3 Disclosure of interest

As soon as practicable after a Member becomes aware of a conflict of interest in a matter that has arisen or about to arise before the Council, the Member must disclose the interest that gives rise to the conflict at a Council meeting and to the CEO.

3.3.1 What members cannot do if they have a conflict of interest

The Member must not:

- a) be present at a Council meeting while a matter in which they have a conflict of interest is under consideration; or
- b) participate in any decision in relation to the matter; or
- c) engage in behaviour that may influence the Council's consideration of or decision in relation to the matter.

It is a legislative requirement that Members who have a conflict of interest as defined above leave the meeting room whilst a matter is being discussed or voted on so that these Members cannot influence the decision.

3.3.2 Approval from Chief Minister

The Chief Minister may approve the following on any conditions the Chief Minister considers appropriate:

- a) a Member's participation in the consideration of the matter in which they have a conflict of interest;
- b) a Member's participation in the decision in relation to the matter in which the member has a conflict of interest.

3.4 Offences

It is very important Members understand that contravention of the conflicts of interests provisions in the Act carry substantial financial penalties and imprisonment terms.

It is an offence if the Member intentionally engages in conduct, and the conduct results in a failure to disclose an interest and the Member is reckless in relation to the result. This offence carries a penalty of 100 penalty units or imprisonment for 6 months.

The Member also commits an offence if they intentionally engage in conduct and that conduct results in a contravention of clause 3.3.1 above or a condition of an approval in clause 3.3.2 above and the Member is reckless in relation to the result. This offence carries a penalty of 100 penalty units or imprisonment for six months.

The value of a penalty unit is calculated in line with changes to Darwin's Consumer Price Index (CPI). The value of a penalty may change each financial year. As of 1 July 2021 one penalty unit equals \$157.

3.5 Register of declared conflicts

The CEO is required to keep a register setting out conflicts of interest declared by Council Members.

The register must set out:

- a) the name of the member making the disclosure of the conflict of interest;
- b) the nature of the interest that gives rise to the conflict of interest;
- c) the nature of the question on which the conflict of interest arises; and
- d) any other matter prescribed by regulation.

The register must be published on the Council's website.

The CEO must review and update the register of declared conflicts within 10 business days after a meeting in which a conflict is declared.

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3.6 Annual return of interests

All Council Members are required to submit an annual return to the CEO containing the details prescribed by the Regulations. The following details related to conflicts of interests are required to be prescribed in members' annual return:

- a) if the Member has membership in an organisation for which a conflict of interest with the person's duties could foreseeably arise or be seen to arise - the name of the organisation;
- b) if the person has any other interest where a conflict of interest with a person's duties could foreseeably arise or be seen to arise - the nature of the interest.

3.7 ICAC Act

The ICAC Act also applies to Members in relation to conflicts of interest.

Under the ICAC Act, a Member will have engaged in corrupt conduct if they fail to adequately manage an actual or perceived conflict of interest. Accordingly, Members will need to:

- a) disclose an interest about which there may arise a *perception* of a conflict; and
- b) proceed to manage that interest *adequately*.

The ICAC Act does not expressly deal with what is considered to be a *perceived* conflict of interest.

For the purposes of this Policy, a conflict of interest will be said to be *perceived* in the sense that it appears that decisions made in the course of a person's role may be influenced by their private interests or other duties, whether or not that is in fact the case.

Actual and perceived conflicts will be viewed by the Council as equally serious matters, and both should be disclosed and will be dealt with under the legislative regimes.

4 Related Documents

- Local Government Act 2019
- Local Government (General) Regulations 2021
- Obligations of Council Members policy
- Breach of Code of Conduct policy
- Media policy

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5 Communication and Training

Will this policy be communicated through internal communications?	Yes
Where will this policy be available?	Intranet, Content Manager, hard copy in each workplace, copy with every new employee engagement / contract
Will training needs arise from this policy? If yes, who will be responsible.	Yes, Director Corporate Services

6 Management Sign off

APPROVED:

Robert Jennings
Chief Executive Officer

Date: 25 02 22