

Conflicts of Interest – CEO & Employees

Council Policy



Policy Name	Conflicts of Interest – CEO & Employees		
Type	Council Policy		
Owner	Chief Financial Officer		
Responsible Officer	Chief Executive Officer		
Decision Number	22872	Approval Date	23/01/2024
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1 Purpose

The community has the right to expect that the Chief Executive Officer (CEO), employees and other representatives of Alice Springs Town Council perform their duties in a fair and unbiased way and that the decisions they make are not affected by self-interest or personal gain. Conflicts of interest can arise when individuals are influenced, or appear to be influenced, by personal interests when doing their jobs. The perception of a conflict of interest can be as damaging as an actual conflict because it undermines public confidence in the integrity of Council.

The purpose of this policy is to set out a framework to ensure that any actual, potential or perceived conflicts of interest are appropriately identified, considered and managed.

2 Definitions

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

Term	Definition
CEO	The Chief Executive Officer of Alice Springs Town Council appointed under section 165 of the <i>Local Government Act 2019</i> .
Conflict of Interest	Involves a conflict between the public duty and private interests of the employee or other representative, where such private interests could improperly influence the performance of their official duties and responsibilities.
Official Duties	Includes work that may be defined by a position description or via directions given by a supervisor, Manager, Director or CEO.
Non-pecuniary Interests	Interest that does not have a financial component. They arise from personal or family relationships, or involvement in sporting, social or cultural activities. They include any tendency toward favour or prejudice resulting from friendships, animosity or other personal involvement with another person or group. These are not limited to pecuniary interests or to interests that can bring direct personal gain or help avoid personal loss. They also include many social and professional activities and interests.

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Pecuniary Interests	(also known as “material personal interests”) involve an actual or potential financial gain or loss. Money does not need to change hands for an interest to be pecuniary. People have a pecuniary interest if they (or a relative or other close associate) own property, hold shares, have a position in a company bidding for government work, or receive benefits (such as concessions, discounts, gifts or hospitality) from a particular source
Private Interests	Can be pecuniary or non-pecuniary in nature and are those personal, professional or business interests that can benefit or disadvantage us as individuals, or others we may wish to benefit or disadvantage. They also include the personal, professional or business interests of individuals or groups we associate with (e.g. relatives, friends, non-profit associations). They can include avoiding personal losses as well as gaining a personal advantage, whether financial or otherwise. Private interests are not necessarily personal to the employee or other representative and include the interests of their related persons. Private interests arise in a wide variety of circumstances including, but not limited to, when the employee or other representative: a. has a family home or investment property; b. has a pecuniary (financial and economic) interest, such as debts or assets; c. has family or private businesses; d. has competing interests (for example, secondary employment); e. has non-pecuniary affiliations with for-profit and non-profit organisations, sporting bodies, clubs and associations; f. has delegations to professional, community, ethnic, family or religious groups in a personal or professional capacity, or relationships to people living in the same household; g. has a connection to customer/s, contractor/s, volunteer/s or other employee/s of Council who are related persons; h. has directorships, whether active or silent in any business regardless of the business structure (for example, company, unincorporated entity, trust, sole trader, not-for-profits).

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Term	Definition
Related Persons	Anyone who is part of the employee's or other representative's immediate family, such as a spouse or a de facto spouse, or a wholly or substantially dependent child or someone who is wholly or substantially dependant on the employee or other representative, or someone whose affairs are otherwise closely linked with an employee or other representative. A connection to a related person who is a client, contractor, volunteer or another employee of Council can give rise to a conflict of interest in the performance of the employee's or other representative's duties and responsibilities and must be notified and managed under this policy. Examples of Related Persons include: - any personal relationship including but not limited to past and present friendships, consensual sexual or romantic relationships - personal friendships which extend outside of work for Council; - any direct or indirect family relations (including spouse, de facto partner, children, siblings, parents and relations by marriage); and - any other close personal relationships which may create a perceived or potential conflict of interest by connection to the employee's and other representative's functions and duties for Council.

3 Policy Statement

This policy applies to the following:

- The CEO and all Council staff employed by Alice Springs Town Council, regardless of the capacity in which they are employed;
- all temporary agency staff;
- all authorised representatives;
- all contractors whilst engaged in any capacity; and
- all volunteers.

For the purposes of this policy, the above scope will be referred to as "employees and other representatives". Council provides a diverse range of services and is trusted with a range of decision-making powers so that it can govern in the best interests of the Alice Springs community. These powers must be exercised properly and impartially, with integrity and in accordance with the *Local Government Act 2019* (the Act).

Avoiding conflicts of interest is an important factor in public decision making. This is particularly important at local government level, where councillors and staff have interests in the local area and close connections within the local community.

The employees and other representatives are responsible for regularly considering the relationship between their personal interests and official duties in order to proactively identify any actual, perceived or potential conflicts of interest that may influence any actions or decisions made while carrying out official Council duties. They need to be honest, open and transparent in their disclosure of conflicts of interest and follow appropriate processes relating to the identification, disclosure, self-management and monitoring of their conflicts of interest.

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The employees and other representatives 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 everyone in an honest and impartial manner that does not allow conflicts of interest.

3.1 What is a Conflict of Interest

Conflicts of interest can relate to pecuniary or non-pecuniary interests, and they can exist when the employee or other representative is carrying out an activity that is required as part of their official role. There are certain Council functions or areas that may be considered particularly “high risk” in terms of conflicts of interest. These include:

- a. recruitment and selection;
- b. procurement (tendering, purchasing, and contracting);
- c. external employment;
- d. receiving gifts, benefits, or hospitality;
- e. regulatory activity and complaints management;
- f. employee disciplinary processes; and
- g. sale of Council land and other assets.

3.2 Recruitment and Selection

When participating on an interview panel, employees or other representatives must declare any conflict of interest which may affect their role on the panel. They must not be a relative or close friend (inside/outside of work) of any candidate involved in the recruitment and selection process.

If there is need for a declaration, the employee or other representative should discuss the matter with the Selection Panel, agree on the actions required to resolve the conflict which may include the employee or other representative to withdraw from the selection panel, and submit the form to the CEO for approval.

3.3 Procurement

Council employees and other representatives must always avoid situations in which private interests might reasonably be deemed to have the potential to conflict with their Council duties. They should not participate in any action or matter associated with the arrangement of a contract including evaluation, negotiation, recommendation, or approval, where that person or any member of their immediate family has a direct or indirect interest or holds a position of influence or power in a business undertaking tendering for the work.

If employees or other representatives are required to deal with external suppliers or contractors, they must avoid placing themselves in situations of a potential conflict of interest. Suppliers and contractors include (but are not limited to) those who supply Council with goods, services and works. A potential conflict of interest could arise if employees are involved in a decision-making process that might provide or be seen to provide them or a close associate or a family member with a benefit. If they (or a close associate or a family member) have an existing financial interest in an actual or potential supplier or contractor to Council, this interest must be declared and they should not participate in any decisions affecting that supplier or contractor.

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Council employees or other representatives involved in the broader procurement processes, 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.

Where conflicts of interest or relevant private interests arise, Council employees or other representatives must inform the CEO, using the relevant Conflict of Interest Declaration form, so that a decision can be made as to whether the Council employee or other representative should continue to be involved in the specific procurement process.

3.4 External Employment

Where an employee is working for another organisation (whether in a paid or voluntary capacity) outside of Council in addition to their employment at Council, they should seek written permission from the Chief Executive Officer and ensure any actual, potential or perceived conflicts of interest are disclosed and managed.

3.5 Receiving Gifts, Benefits or Hospitality

Employees must comply with Council's Gifts and Benefits Policy (Staff). Non-compliance could result in an actual, potential or perceived conflict of interest and can lead to allegations or perceptions of corruption.

3.6 Regulatory Activity and Complaints Management

Employees or other representatives should not participate in any regulatory activity or complaints management process which involves a related person or their own private interests. In any such situations a conflict of interest must be declared.

3.7 Employee Disciplinary Processes

When participating in an employee disciplinary process, employees or other representatives must declare any actual, potential or perceived conflict of interest which may affect their role in this process. They must not be a relative or close friend (inside/outside of work) of any employee being subject to a disciplinary process.

If there is need for a declaration, the employee or other representative should discuss the matter with their Manager or Director, complete the relevant Conflict of Interest Declaration form and submit the form to the CEO for approval. The employee or other representative will need to withdraw from involvement in the disciplinary process.

3.8 Sale of Council Land and Other Assets

An employee or other representative involved, to any extent, in a process of selling Council land or other assets must avoid situations of an actual, potential or perceived conflict of interest. They must declare a conflict of interest if a related person has some interest in participating in the sale or their own private interests will be impacted. This is regardless of whether the employee or other representative has any delegated decision-making authority. They must declare a conflict of interest to the CEO who will determine whether the employee or other representative can have any involvement in the sale process.

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3.9 Types of Conflict of Interest

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

- a. **Actual conflict of interest** - where an employee or other representative has private or professional interests that conflict with his or her duty to put the public interest first.
- b. **Perceived conflict of interest** - where an employee or other representative appears to have private or professional interests that conflict with his or her duty to put the public interest first. This may arise even if the employee, contractor or volunteer has not acted in conflict of their duties to Council, but the existence of particular circumstances and relationships may create the perception amongst other employees, other representatives or the public, that a conflict exists.
- c. **Potential conflict of interest** - where it is reasonably possible that an employee's or other representative's private or professional interests will give rise to an actual or perceived conflict of interest.

All conflicts of interest need to be disclosed. The key is to determine whether the situation is likely to interfere or appear to interfere with the independent judgment the employees and other representatives are required to demonstrate in performing their official duties.

3.10 Disclose and Manage a Conflict of Interest

When an employee or other representative identifies a conflict of interest, they should immediately discuss the matter with their Manager or Director, agree on the actions required to resolve the conflict, complete the relevant Conflict of Interest Declaration form and submit the form to the CEO for approval.

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

If it involves the Chief Executive Officer, the form is to be submitted to the Council.

The Act also requires the CEO and senior employees of Council to disclose their conflicts of interest in two ways.

Section 178 of the Act requires these officers to provide Council with an annual return of interests within 14 days of being employed, or by 30 September each year they are employed.

Section 179 of the Act makes it an offence not to disclose a conflict of interest in which an employee or the CEO is required or authorised to act or give advice.

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 CEO as soon as they become aware of the conflict. They should also remove themselves from the decision-making process in relation to that matter.

3.11 Failure to Comply

Any breach of this Policy may result in disciplinary action, including, but not limited to, issue of a warning, demotion, suspension or termination of employment. For Alice Springs Town Council contractors, it may result in the termination or non-renewal of a contract for service.

Section 179 of the Act provides a range of penalties if the CEO and employees fail to comply with disclosing conflicts of interest, including a substantial fine.

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Deliberate non-disclosure of a conflict of interest or lack of adequate management of a conflict of interest may amount to a reasonable suspicion of corrupt conduct. Irregularities that appear to involve improper conduct must also be reported to the Independent Commissioner Against Corruption (ICAC).

5 Related Documents

- *Code of Conduct for CEO*
- *Code of Conduct for Employees*
- *Gifts and Benefits policy – CEO and employees*
- *Fraud and Corruption Control policy*
- *Procurement policy*
- *Form – Conflict of Interest Declaration*
- *Local Government Act 2019*
- *Local Government (General) Regulations 2021*
- *Independent Commissioner Against Corruption Act 2017*

6 Version History

Version	Date	Action/Description of changes made	By
V02-00	16/01/2024	Updated to align with legislation	Manager Governance
V01	26/09/2023	New policy	Acting Director Corporate Services

7 Communication and Training

Will this policy be communicated through internal communications?	Yes
Where will this policy be available?	Intranet and ASTC website
Will training needs arise from this policy? If yes, who will be responsible.	Manager Governance