

Governance Rule

Procedure for Disclosure of Conflict of Interests

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Responsible Manager	Executive Manager Governance, Communications and Engagement

*Unless replaced, this policy will still apply beyond the review date.

Related internal policies, procedures and guidelines	<ul style="list-style-type: none">• Governance Rules• Public Transparency Principles• Councillor Code of Conduct
Related legislation	<ul style="list-style-type: none">• <i>Local Government Act 2020</i>

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1 Definition

Sections 127 & 128 of the *Local Government Act 2020* (the Act) define when a Councillor will have a conflict of interest either general, or material. The onus is on the Councillor to identify any conflicts of interest in matters before Council or a delegated committee.

2 Conflict of interest (sections 126 – 131)

- **General conflict of interest** based on assessment of an impartial, fair-minded person (private interests conflicting with public duty)
- **Material conflict of interest** based on an **affected person** gaining a benefit or suffering a loss
- General **exemptions apply**

3 Material conflict of interest (section 128)

- **Affected person** would gain a benefit or suffer a loss depending on the outcome of the matter
- The benefit/loss can be-
 - direct or indirect
 - pecuniary or non-pecuniary
- Affected person can be a Councillor, staff member and committee member or a family member, body corporate, employer, business partner, consultant, contractor, agent, trustee or recipient of a **disclosable gift**

4 Conflict of interest exemptions

- Remote or insignificant
- Interest held in common with a **substantial proportion** of residents, ratepayers or electors
- Reasonably unaware of circumstances
- Council representative on not-for-profit organisation
- Membership of sporting club or community body
- Member of body that has expressed an opinion or advocated for an outcome
- Matter prescribed to be exempt for Councillors only

Councillors must comply with the requirements of sections 130 and 131 (Disclosure of conflict of interest) of the Act.

A Councillor or member of a delegated committee who has a conflict of interest in a matter before Council or a delegated committee, or a community asset committee or which arises in the exercise of a delegates power by a council staff member or a statutory function under any Act:

- a) should complete a 'Disclosure of Conflict of Interest Form' and lodge it with the Chief Executive Officer prior to the commencement of the Meeting;
- b) must disclose any conflict of interest which he/she has in an item of business at the time specified on the Agenda;
- c) must immediately before the consideration of the relevant matter, classify the conflict of interest as either a general conflict of interest or a material conflict of interest, specifying the particular kind of any material conflict of interest and describing the nature of the interest;
- d) must leave the Chamber prior to discussion on the matter;
- e) must notify the Chairperson that he/she is leaving the Chamber; and
- f) must remain outside the Chamber or any other area in view or hearing of the Chamber until the vote has been taken.

In the event that the Chairperson has disclosed a conflict of interest, he/she must vacate the Chair and a temporary Chairperson must be elected in accordance with subrule 1.3 of the Governance Rule – Election of the Mayor and Deputy Mayor.

Where a Councillor has vacated the Chamber after disclosing a conflict of interest, the Councillor must be called back into the Chamber before the meeting can advance to the next item of business.

Disclosure of Conflict of Interest at other meeting by a Councillor is subject to these rules and section 131 of the *Local Government Act 2020*. A member of Council staff must comply with section 130 of the *Local Government Act 2020*.