

PURPOSE

The purpose of this policy is to set out a framework for managing and monitoring conflicts of interest, not to restate legislated and Code of Conduct requirements. Resources, including decision making tools and templates are also available in the annexure to assist persons to deal with conflicts of interest.

SCOPE

This policy applies to all persons administered by, or working for, Glenorchy City Council, including the General Manager and all employees (including full-time, fixed-term, part-time, and casual workers). It also applies to Elected Members and Members (such as the board of a council authority).

RELATED DOCUMENTS

- Elected Member Code of Conduct
- Audit Panel Code of Conduct
- Good Governance Framework
- Code of Tenders and Contracts
- Receipt of Gifts and Benefits
- Committee Guide and Procedures
- Meeting Procedures
- Related Party Disclosures Directive
- Sponsorship
- Legal Services Policy
- Committee Nominations and Appointments
- Fraud Control and Corruption Prevention
- Counselling and Discipline Directive

STATUTORY REQUIREMENTS

Acts	<i>Local Government Act 1993</i>
Regulations	<i>N/A</i>
Australian/International Standards	<i>N/A</i>

DEFINITIONS

Act means the Local Government Act 1993;

Actual Conflict of Interest means a conflict between a person's official duties and responsibilities in serving the public interest, and their personal interest(s) exists.

Elected Member means a councillor or Alderman;

Member has the same meaning as in Section 3 of the Act;

Non-Pecuniary Interest means an interest that is not financial or monetary in nature but arises from such things as personal relationships, beliefs or involvement in social, cultural, religious or sporting activities.

Pecuniary Interests means an actual or potential financial gain or loss for the person, their family, friends or close associates.

Perceived Conflict of Interest means when a reasonable person, knowing the facts, would be likely to consider that a conflict of interest may exist, whether this is the case or not.

Potential Conflict of Interest means a personal interest that could conflict with their official duties at some later point in time.

POLICY STATEMENT

Background

The management of conflict of interest situations is both a requirement of legislation and an ethical decision with broader consequences, including for the reputation of Council. The Local Government Act 1993, prescribes the minimum obligation for Elected Members and Members and the Audit Panel. The Elected Members and employees also have to follow Codes of Conduct that require the appropriate management of conflicts of interest.

A conflict of interest may affect a person's judgement as to what is in public interest, or it may lead to a bias in their decision making. It is not always possible to avoid a conflict of interest, but all conflicts of interest must be managed appropriately. A conflict of interest is not necessarily unethical or wrong, if managed appropriately.

It is important that any Actual, Perceived or Potential conflict of interest is identified, disclosed and effectively managed (including avoided if possible). Management of conflicts of interest must be fair, transparent, accountable and free from bias.

Persons to whom this policy applies must:

- disclose any actual, perceived or potential conflict of interest;
- seek independent advice about how a conflict will be managed; and
- be encouraged to report any actual, perceived or potential conflict of interest that they observe.

The Conflict of Interest Procedures (outlined below) specify:

- how and to whom disclosures or reports must be made;
- the roles and responsibilities of various persons;
- steps or processes that may be used to avoid or manage a conflict of interest; and
- how a conflict of interest is to be recorded or reported.

Considerations

A person's ethics must always guide them regarding declaring and managing a conflict of interest. This is because a conflict of interest is essentially derived from business and personal relationships. Decision making in these relationships is a matter of judgement based on the context and potential perception of third parties "looking in".

This policy requires that all employees (including the General Manager) lead with integrity and by example. This process is assisted through good decision making. It is recommended that the following guide provided by the Integrity Commission is used to inform decision making:

Is it legal?

- What laws apply in the workplace and how do they relate to your decision? Is my decision in accordance with the law? If you are in doubt, please seek advice from the Senior Legal Counsel.

Is it informed?

- How does Council's Code of Conduct apply to your decision? Is it aligned?
- How does the relevant professional body code of conduct and ethics apply to your decision? Is it aligned?
- How do other workplace policies and directives apply (see Related Supporting Documentation section below)? Have you complied with them?
- How does my decision sit with the values of Council? Are they aligned?

Is it fair?

- What would a work colleague think of your decision? Would they agree?
- What would an informed person think about your decision? Would they agree?
- Do you have any self-interest in the decision?
- You should be able to answer yes to all the above questions, excluding the self-interest declaration.

What is a Conflict of Interest?

A conflict of interests arises when the private interests of an employee (or of a close associate of the employee) conflict with the employee's activities that they are involved with on behalf of Council. A conflict of interest can be *potential, actual* or *perceived* in nature.

The Act defines an *interest* as:¹

A councillor or member has an interest in a matter if the councillor or member or a close associate would, if the matter described in a particular manner, have an expectation of receiving or be likely to receive a pecuniary benefit or pecuniary detriment.

A *Close Associate* can be any one or more of the following:²

"...A person is a close associate of a Councillor or Member if that person is –

- (a) A body corporate of which the councillor or member is a director or a member of the governing body; or
- (b) a proprietary company in which the councillor or member is a shareholder; or
- (c) a public company in which the councillor or member is directly or indirectly a substantial shareholder; or

¹ Section 49

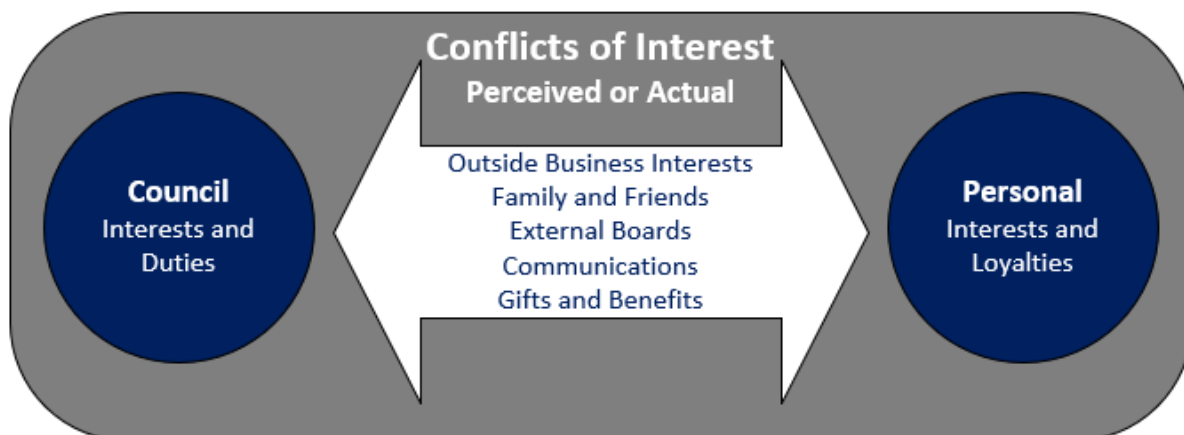
² Section 51

- (d) a beneficiary under a trust or an object of a discretionary trust of which the councillor or member is a trustee; or
- (e) a business partner of the councillor or member; or
- (f) the employer or an employee of the councillor or member; or
- (g) a person from whom the councillor or member has received, or might reasonably be expected to receive, a fee, commission or other reward for providing professional or other services in relation to a matter being dealt with (or to be dealt with) by the council, council committee, special committee, controlling authority, single authority or joint authority; or
- (h) the spouse or partner of the councillor, member, councillor's son or daughter or member's son or daughter; or
- (i) the son, daughter, brother, sister, mother or father of the councillor or member, or of their spouse or partner.

A conflict of interest is often further defined as pecuniary or non-pecuniary in nature. That depends on whether the interest involves potential, perceived or actual gains or losses that are financial (involve money) or otherwise. Examples of non-pecuniary interests include, but are not limited to:

- you are a member of a club, organisation or association likely to be impacted by the Council decision; and
- other emotional or social ties (eg. friends, religious, philosophical) that might influence your decision.

Non-pecuniary interests are generally not dealt with in detail by the legislation. They are regulated through the various Codes of Conduct that apply to Council roles.



All conflicts of interest must be managed whether they are pecuniary or non-pecuniary, or if regulated by explicit legislation or not.

Examples - Where could a conflict of interest exist?

Planning Meetings

Examples of where a conflict of interest could occur are listed below. This list is non-exhaustive.

- Attending Committee meetings as a decision maker or as a person making a recommendation;
- Undertaking a complaints (internal and external) investigation;

- Undertaking a procurement, including:
 - developing the evaluation criteria;
 - reviewing tenders and quotes;
 - inviting / contacting parties to quote / tender; and
 - negotiating with staff of a prospective contractor.
- Dealing with customer requests;
- Dealing with contractors and consultants.

Examples - When does a conflict not arise?

There are some situations when a person is not required to declare a pecuniary interest. This includes:³

- (a) *the benefit or detriment is one received in common with all or a substantial proportion of the electors of the municipal area; or*
- (b) *the matter relates to an insurance policy or an indemnity policy being considered or taken out by the council, single authority or joint authority to insure or indemnify councillors or members or their spouses or partners unless the matter relates to, or is a claim made by, the councillor or member; or*
- (c) *in relation to the consideration of an application or request for approval, authorisation, licence, permit, exemption or other right under this or any other Act, the extent of the interest of the councillor, member or close associate is no greater than that of any other member of the public; or*
- (d) *the matter relates to the making of a rate or charge under [Part 9](#); or*
- (e) *the matter relates to any allowances or expenses payable to all councillors or members; or*
- (f) *the interest is a beneficial interest in shares of a company or other body where the total nominal value of those shares does not exceed whichever is the lesser of the following amounts:*
 - i. *an amount of \$10,000;*
 - ii. *an amount which is 1% of the total nominal value of the issued share capital of the company or body.*

Please obtain advice from Corporate Governance if you are unsure. Please refer to Section 52 for further information. Where there is any doubt, it is appropriate to declare such actual, potential or perceived pecuniary interests and follow the procedure outlined in this policy.

What if the rules are unclear?

A person's ethics must always guide them regarding declaring and managing a conflict of interest. This is because a conflict of interest is essentially derived from business and personal relationships. Decision making in these relationships is a matter of judgement based on the context and potential perception of third parties "looking in".

³ Section 52

This policy requires that all employees (including the General Manager) lead with integrity and by example. This process is assisted through good decision making. It is recommended that the following guide provided by the Integrity Commission is used to inform decision making:

Is it legal?

- What laws apply in the workplace and how do they relate to your decision? Is my decision in accordance with the law? If you are in doubt seek advice.

Is it informed?

- How does Council's Code of Conduct apply to your decision? Is it aligned?
- How does the relevant professional body code of conduct and ethics apply to your decision? Is it aligned?
- How do other workplace policies and directives apply (see Related Supporting Documentation section below)? Have you complied with them?
- How does my decision sit with the values of Council? Are they aligned?

Is it fair?

- What would a work colleague think of your decision? Would they agree?
- What would an informed person think about your decision? Would they agree?
- Do you have any self-interest in the decision?
- You should be able to answer yes to all the above questions, excluding the self-interest declaration.

Procedure

The Act determines the procedure that applies for pecuniary conflicts of interests, whether actual, potential or perceived in nature. Non-pecuniary interests are also required to be declared in a similar manner. The process to be followed is relevant to the role of the individual at Council.

The General Manager may also provide further advice on the way in which the conflict of interest is to be managed.

Elected Members

Where an Elected Member identifies that they have an actual, potential or perceived interest (both pecuniary and non-pecuniary), they must adhere to the following procedure in all circumstances:

Process Flow	Steps	Legislative or Other Requirement	Responsible Person
Interest Identified	1 Actual, Perceived or Potential conflict of interest is identified by the Elected Member relating to any interest of themselves, or that of a close associate	<u>Elected Members and Members</u> Sections 49 and 51 of the Local Government Act. Elected Member Code of Conduct. Local Government (Model Code of Conduct) Order 2016, Part 2. (Employee Members also see s.55A and GCC Staff Code of Conduct.) <u>Audit Panel</u> Sections 51, 52 and 55B of Local Government Act. Audit Panel Code of Conduct. Local Government (Model Code of Conduct) Order 2016, Part 2	Relevant Elected Member/Member/Audit Panel Member
Declare the interest	2 The Elected Member declares an interest before any further discussion on the matter commences.	<u>Elected Members and Members</u> Section 48(2) (Members -Section 48A (2)) <u>Audit Panel</u> Section 55C(2)	Relevant Elected Member/Member/Audit Panel Member
Exit discussion relating to the interest	3 The Elected Member must exclude themselves from the meeting and leave the room in which the discussion is taking place.	<u>Elected Members and Members</u> Section 48(1) and 48(3) <u>Audit Panel</u> Section 55C(2)	Relevant Elected Member/Member/Audit Panel Member
Declare interest in writing.	4 The Elected Member must, by notice of writing, advise the General Manager of the details of the interest that the Elected Member has declared within 7 days of so declaring (A Member declares it to the SEO of the relevant body).	<u>Elected Members and Members</u> <u>Section 48(4) (Members Section 48A(4))</u>	Relevant Elected Member/Member/Audit Panel Member
Interest recorded in meeting minutes	5 The General Manager must ensure that the declaration of interest is recorded in the minutes of the meeting in which the declaration was made.	<u>Elected Members and Members</u> Section 48(5)(a) (Members see Section 48A(5)) <u>Audit Panel</u> Section 55C(4)	General Manager/Audit Panel Chairperson

Process Flow	Steps	Legislative or Other Requirement	Responsible Person
Interest recorded in register	6 The General Manager must record the details of the interest declared in register of interests kept by Council	<u>Elected Members and Members</u> Section 48(5)(b) (Members see Section 48A(6)(a)) <u>Audit Panel</u> Section 48A(6)(b) and 55(4)(a)	General Manager

The declaration of interest form is attached in **Annexure 1** of this policy.

The Act enables any Elected Member to inspect the register that relates to the declared interests of any Audit Panel Member.⁴

Employees (Including the General Manager)

Where an employee has an interest in any matter in which they:

- (a) provide advice; or
- (b) make a decision or determination; or
- (c) makes a recommendation to the council or council committee;

they must provide written notification to the General Manager (or where the interest relates to the General Manager, the Mayor), of the particulars of the interest. Whilst there is no timeframe associated with notification to the General Manager (Or Mayor), the employee, as soon as reasonably practicable is required to make the declaration to the General Manager and before any advice, decisions, determinations or recommendations are made.

Process Flow	Steps	Legislative or Other Requirement	Responsible Person
Interest Identified by Employee	1 The employee or General Manager identifies that they have an interest in a matter which he or she: (a) provides advice to the Council or Council Committee; or (b) makes a decision or determination; or (c) makes a recommendation to the Council or Council Committee	Sections 49 and 51 of Local Government Act GCC Staff Code of Conduct.	Sections 49 and 51 of Local Government Act See Code of Conduct.
Employee declares interest in writing	2 The Employee must notify the General Manager, in writing, of the interest. Where the General Manager has an interest, the declaration of interest in writing must be to the Mayor	Section 55(1) of Local Government Act Relevant Code of Conduct	Employee or General Manager

⁴ Section 55D(3)

Process Flow	Steps	Legislative or Other Requirement	Responsible Person
Interest managed	3 Appropriate steps are to be made by the employee and their supervisors to manage the situation (see "Managing Conflict of Interest" below)		Employee, Employee's manager and General Manager
General Manager / Mayor advises of interest to Council	4 The General Manager is to advise the Council of the existence of any interest notified by an Employee	Section 55(2)(a) of Local Government Act	General Manager
Interest recorded in register	5 The General Manager must keep a register of the interests of all employees	Section 55(2)(b)	General Manager

Noticing a Conflict of Interest in Others

Process Flow	Steps	Legislative or Other Requirement	Responsible Person
Conflict of interest identified by any person	1 Any person who considers that an Elected Member, Audit Panel Member, Member, or Employee has an interest in a matter under consideration.	Section 49 and 51 of Local Government Act. Relevant Code of Conduct. Local Government (Model Code of Conduct) Order 2016, Part 2.	Any Person
The details of the interest are put in writing	2 The person who identifies the actual, potential or perceived conflict of another, must place in writing to the General Manager (or if a Member Chief Executive Officer of that authority), details of that actual, potential or perceived interest of another.	Section 53 of Local Government Act. Members - Section 53A (1) of Local Government Act.	Any Person
Notification of affected persons	3 The General Manager, upon receipt of the notification, will advise: (a) the person, subject of the notification, the particulars of the declaration; and (b) all relevant Elected Members, Audit Panel Members, Members of Special Committees.		General Manager

Process Flow	Steps	Legislative or Other Requirement	Responsible Person
	If a Member, the Chief Executive Officer, upon receipt of the notification will notify: <ul style="list-style-type: none"> (a) the Chairperson of the relevant body; and (b) The Member who is subject of the notification. 		
<div style="border: 1px solid black; border-radius: 10px; padding: 5px; width: fit-content;">Interest recorded in register</div>	4 The General Manager (or relevant Chief Executive Officer of a Single Authority or Joint Authority) is to keep a register of all interests.	Members - Section 53B	General Manager/ Chief Executive Officer

The declaration of interest form is attached in **Annexure 3** of this policy.

Managing Conflict of Interest

The 5 Rs for Managing Employee Conflicts of Interest:

REGISTER: (discuss and record) all actual and potential or perceived conflicts of interest with your supervisor, and then, together plan and carry out actions to manage the issue. Register this interest per the process outlined in this document.

RESTRICT: your exposure to any actual, perceived or potential conflict of interest.

RECRUIT: someone to oversee the process that is completion neutral and has no direct involvement or interest in the situation.

REMOVE: yourself from the situation nor the issue.

RELINQUISH: (give up or suspect) the private interest that is causing the conflict of interest.

Whilst there is no timeframe associated with notification to the General Manager (Or Mayor), the employee, as soon as reasonably practicable is required to make the declaration to the General Manager and before any advice, decisions, determinations or recommendations are made.

The conflict of interest form is attached in **Appendix 2** of this policy.

Notification of an Interest of Another

Elected Member, Special Committee Member, Audit Panel Member, Employee and General Manager

Any person who considers that another person has an actual, potential or perceived interest in a matter being dealt with by Council, Council Committee, Special Committee, Controlling Authority, or Audit Panel must notify the General Manager in writing of that interest.

Registers

Council must maintain a register of all interest of its Aldermen, members of Committees, Audit Panel members and employees (including the General Manager).

The register is maintained by the Corporate Governance Department on behalf of the General Manager.

Inspecting a Register of Interests

Any person, by notice in writing to the General Manager, apply to inspect the register of interests of any/all Aldermen. Upon receipt of this application, the General Manager is to allow the applicant to inspect the register of interests of Aldermen.

An Elected Member of Council that has established a special committee or controlling authority may inspect the register of interests of that body. The Register of Interests of Members is exempt from the provisions of the *Right to Information Act 2009*.

An Elected Member of Council may inspect the part of the register that relates to the members of the audit panel established by the Council they have established. The Register of Interests of Member of an Audit Panel are exempt from the provisions of the *Right to Information Act 2009*.

Non-Disclosure of a Conflict of interest

In accordance with Council's relevant Codes of Conduct (as listed in the *Related Supporting Documentation* section below) non-disclosure of a potential, perceived or actual conflict of interest may be subject to disciplinary action.

Unmanaged conflicts of interest can also have severe reputational impact on individuals and the Council, even it is only a perceived or potential conflict of interest.

DOCUMENT CONTROL

Version:	1.0	Commencement Date:	26 September 2023
Minutes Reference	Council Meeting, 25 September 2023 (Item 9)		
Previous Versions:			
Responsible Directorate	Corporate Services	Controller:	Manager People & Governance
ECM Document No.:	Policies by Directorate		

ANNEXURE 1
DECLARATION OF INTEREST - FORM

Alderman, Audit Panel Members, Members of Special Committees


Interest Declared

Full Name:

Meeting of:

Meeting Date:

Item Number:

Type of Interest Declared (Tick appropriate box)

I have an interest in the above item

I am aware that a close associate has an interest in the above item

Details of Interest

Please provide details of the interest that you have declared. Please also advise on how you plan to manage this conflict of interest. If there is insufficient room, please attach a separate sheet.

Signature

Signed:

Date:

Where do I submit this form?

 Completed forms are to be submitted to the office of the General Manager, **within 7 days** of the declaration.

Where can I get further information?

Please direct any queries to Corporate Governance.

Office Use Only:

General Manager:

Signed:


Date Received:

Corporate Governance:

Date Received:

Date Registered:

ANNEXURE 2

DECLARATION OF INTEREST - FORM Employees and General Manager	
	
Interest Declared	
Full Name:	
Position Title:	
Position Number:	
Type of Interest Declared (Tick appropriate box)	
<input type="checkbox"/>	I have an interest in:
<input type="checkbox"/>	I am aware that a close associate has an interest in:
A matter in respect of which I: (Tick appropriate box)	
<input type="checkbox"/>	Provide advice to Council or a Council Committee
<input type="checkbox"/>	Make a decision or determination
<input type="checkbox"/>	Make a recommendation to Council or Council Committee
Details of Interest	
Please provide details of the interest that you have declared. Please also advise on how you plan to manage this conflict of interest. Please attach a separate sheet if there is insufficient room for all details.	

Where do I submit this form?

Completed forms are to be submitted to the office of the General Manager.

Where can I get further information?

Please direct any queries to Corporate Governance.

Office Use Only:

General Manager:			
Signed:		Date Received:	
Corporate Governance:			
Date Received:		Date Registered:	

ANNEXURE 3

NOTIFICATION OF AN INTEREST OF ANOTHER - FORM	
Details of Person Notifying the Interests of Another	
Full Name:	
Date of Notification:	
Position & Number: <i>(if applicable)</i>	
Details of Person Considered to Have a Pecuniary Interest in a Matter:	
Name of the Person:	
Please Select the Appropriate Role of the Person Considered to have a Pecuniary Interest:	
<input type="checkbox"/>	An Elected Member, Member of a Special Committee or Audit Panel Member has an interest in a matter to be, or being, dealt with by Council, Council Committee, Special Committee, Controlling Authority or Audit Panel
<input type="checkbox"/>	A Member of a board of a single authority or joint authority has an interest in a matter to be, or being, dealt with by a single authority or joint authority
Has an interest in the following matter:	
Meeting Date:	
Item No:	
Meeting of: (e.g. Council)	
Details of Interest	
Please provide the details of the pecuniary interest that you consider the person has in the matter (attach separate sheet if required):	
Signature	
Signed:	Date:

Where do I submit this form?

Completed forms are to be submitted to the office of the General Manager.

Where can I get further information?

Please direct any queries to Corporate Governance.

Office Use Only:

General Manager:			
Signed:		Date Received:	
Corporate Governance:			
Date Received:		Date Registered:	

CONFLICT OF INTEREST DECLARATION FORM - PROCUREMENT
 Employees and General Manager


If you have not already made a declaration covering all procurement matters in the course of your employment with Council, you must complete this form and send it to Corporate Governance.

Council's Code for Tenders and Contracts and the Local Government Act require you to disclose and take reasonable steps to avoid any conflict of interest in connection with any Council procurement processes you are involved in. Additionally, if you have a role in evaluating tenders and quotes you must confirm that you do not have a conflict of interest before evaluating any submissions.

For procurement a conflict of interest can include any financial, personally beneficial, business, family or close personal relationship with a tenderer or bidder or having received or been offered gifts or hospitality by a tenderer or bidder.

If you have an actual, perceived or potential conflict of interest in undertaking your duties as they relate to a procurement process that you are involved in, you must complete the disclosure below and detail any actions you will take to manage or resolve the conflict of interest in the conflict management plan.

If you do have a conflict of interest, you should also make the person in charge of the procurement process aware of the perceived or potential conflict of interest immediately and seek advice on the appropriate action to take. Do not continue to participate in the evaluation tenders or bids.

Disclosed conflicts of interest will be included on the Conflicts of Interest Register and reported to the General Manager's office.

EMPLOYEES DETAILS

Full Name:	
Position Title:	
Procurement details or brief description of the purchase:	
Role in the procurement process or purchase:	
Declaration date:	
Signature of declaring officer or employee:	

CONFLICT OF INTEREST DETAILS

Please provide a brief outline of the nature of the conflict of interest. If left blank there are no conflicts of interest.

Conflict Management Plan: If you can, propose any actions that you think may help to manage or resolve the conflict without compromising the procurement process.

I declare that the above details are correct to the best of my knowledge, and I make this conflict of interest declaration in good faith. I agree to update this disclosure if anything changes throughout the period of this specific procurement or until such a time as the conflict ceases to exist.

Signature:		Date:	
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Received and registered by:

Corporate Governance			
Date Received		Date Registered	