

GREATER SHEPPARTON CITY COUNCIL

CONFLICT OF INTEREST POLICY

Adopted by Council: **Day Month Year**

Next Review: **Day Month Year**



CONFLICT OF INTEREST POLICY

Code:	37.POL6
Version:	1.2
Business Unit:	Corporate Governance
Responsible Officer:	Manager Corporate Governance
Approved By:	Chief Executive Officer
Adopted By:	Council Day Month 2020
Next Review:	Day Month Year

DOCUMENT REVISIONS

Version #	Summary of Changes	Date Adopted
1	Policy first drafted and adopted.	17 February 2015
1.1	Reviewed and updated.	20 June 2017
1.2	Amended to reflect changes introduced by Local Government Act 2020	2020

PURPOSE

The purpose of this Policy is to ensure that all Council representatives act with integrity when carrying out their public duties and understand their obligations regarding the disclosure of conflicts of interest in accordance with *the Local Government Act 2020 (the Act)*.

Members of the public should have confidence that Council representatives are acting in the best interests of the municipal community.

OBJECTIVE

It is essential that Council operates in a manner that is transparent and accountable, and promotes ethical decision making.

In order to achieve effective governance standards, full disclosure of all material or general conflicts of interest are mandatory.

SCOPE

This policy applies to all representatives of Greater Shepparton City Council (Council). This includes, but is not limited to, Councillors, employees, committee members, volunteers, contractors and consultants.

DEFINITIONS

Reference term	Definition
<i>Affected person</i>	<p>The term <i>affected person</i> includes:</p> <ul style="list-style-type: none"> • the Council representative; • a family member of the Council representative which means: <ul style="list-style-type: none"> ○ a spouse or domestic partner of the Council representative; ○ a parent, grandparent, sibling, child, grandchild, step-parent, step-sibling or step-child of the Council representative or of their spouse or domestic partner; or ○ any other relative that regularly resides with the Council representative; • a body corporate of which the Council representative or their spouse or domestic partner is a Director or a member of the governing body; • an employer of the Council representative, unless the employer is a public body;

	<ul style="list-style-type: none"> • a business partner of the Council representative; • a person for whom the Council representative is a consultant, contractor or agent; • a beneficiary under a trust or an object of a discretionary trust of which the Council representative is a trustee; or • a person from whom the Council representative has received a disclosable gift.
Council Representative	<p>The term Council representative includes a</p> <ul style="list-style-type: none"> • Councillor • council officer • delegated or community asset committee member • volunteer • contractor; or • consultant <p>either appointed, employed, engaged or elected to represent the Greater Shepparton City Council.</p>
Disclosable gift	<p>The term disclosable gift means one or more gifts with a total value of, or more than, \$500 received from a person in the 5 years preceding the decision on the matter:</p> <ul style="list-style-type: none"> • if the Councillor was a Councillor at the time the gift was received; or • if the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation: <p>but does not include the value of any reasonable hospitality received by the Councillor at an event or function that the Councillor attended in an official capacity as a Councillor.</p>
Matter	<p>The term matter means a matter with which the Council, delegated committee, or a community asset committee is concerned and that will require a power to be exercised, or a duty or function to be performed, or a decision to be made, by the Council.</p>

Not-for-profit organisation	The term not-for-profit organisation means a body that: (a) operates exclusively for charitable, civil, sporting or other social purposes; and (b) does not share or allocate the funds or profits of the body or organisation with the owners, shareholders or executives of the body or organisation.
Private interests	The term private interests means any direct or indirect interest of a Council representative Councillor that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief.
Public duty	The term public duty means the responsibilities and obligations that a Council representative has to members of the public in their Council role.

POLICY

1. What Is A Conflict Of Interest?

For the purposes of this Policy, a Council representative has a conflict of interest if he or she has:

- (a) a general conflict of interest within the meaning of section 127 of the Act; or
- (b) a material conflict of interest within the meaning of section 128 of the Act.

2. General Conflict of Interest

Subject to section 4 of this Policy, a Council representative has a general conflict of interest in a matter if an impartial, fair-minded person would consider that his or her private interests could result in that individual acting in a manner that is contrary to their public duty.

3. Material Conflict of Interest

A Council representative has a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

The benefit may arise or the loss may be incurred:

- directly or indirectly; or
- in a pecuniary or non-pecuniary form.

4. Exemptions

In certain circumstances a Council representative will be deemed not to have a conflict of interest if an exemption applies. It is therefore important that consideration is given to the potential application of the exemptions prior to making a disclosure.

A conflict of interest does not arise if any of the following applies:

- the conflict of interest is so remote or insignificant that it could not be reasonably regarded as capable of influencing the actions or decisions of the Council representative in relation to the matter;
- the interest that would give rise to a conflict of interest is held in common with a substantial proportion of the residents, ratepayers or electors of the municipal district and does not exceed the interest held by the other residents, ratepayers or electors;
- the Council representative does not know the circumstances that give rise to the conflict of interest, and could not be reasonably expected to know those circumstances;
- the interest only arises because the Council representative is the representative of the Council on a not-for-profit organisation that has an interest in the matter and receives no personal advantage from the not-for-profit organisation;
- the interest only arises because a family member of the Council representative is a member but not an office-holder of a not-for-profit organisation; or
- the interest only arises because the Council representative is a member of a not-for-profit organisation that has expressed an opinion or advocated for an outcome in regard to the matter;
- the interest arises in relation to a decision by a Council representative on a matter or in a circumstance that is prescribed to be exempt by the regulations, including:
 - the nomination or appointment by the Council of a Councillor to a position for which the Councillor will not be remunerated;
 - the nomination or appointment by the Council of a Councillor to a position in the Municipal Association of Victoria or in another body that has the purpose of representing the interests of Councils;
 - a submission by the Council to an electoral structure review under section 16 of the Act or a ward boundary review under section 17 of the Act;
 - the nomination of a Councillor for election to the office of Mayor or Deputy Mayor;
 - the election of a Councillor to the office of Mayor or Deputy Mayor under section 25 or 27 of the Act;

- the appointment of a Councillor to the office of Acting Mayor under section 20B of the Act;
- the payment of allowances to the Mayor, Deputy Mayor or Councillors as provided for under section 39(6) of the Act;
- the adoption of an expenses policy by the Council under section 41 of the Act;
- a decision by the Council to deal with a matter in an alternative manner under section 67 of the Act;
- the establishment of a delegated committee under section 67 of the Act;
- the appointment of a Councillor as a member or chairperson of a delegated committee;
- the adoption, review or amendment of a Councillor Code of Conduct under section 139 or 140 of the Act;
- an application for an internal arbitration process under section 143 of the Act;
- an application to a Councillor Conduct Panel under section 154 of the Act;
- an application to VCAT for a review of a Councillor Conduct Panel decision under section 170 of the Act;
- a resolution by the Council related to a declaration under section 158(1) of the *Local Government Act 1989*;
- a resolution by the Council that has the effect of making the Councillors eligible or ineligible for the superannuation guarantee under any taxation legislation;
- a matter related to preparing or adopting a budget or a revised budget under Part 4 of the Act if:
 - (i) the budget or revised budget includes funding for that matter; and
 - (ii) the Council previously approved that matter and the proposed funding for that matter; and
 - (iii) a Councillor who had a conflict of interest in respect of that matter disclosed the conflict when the Council previously considered and made the decision in respect of that matter and approved the proposed funding for that matter;
- a matter related to preparing or adopting a Community Vision, Council Plan, Financial Plan, Asset Plan or Revenue and Rating Plan (a relevant document) under Part 4 of the Act if:
 - (i) the relevant document includes that matter; and

- (ii) the Council previously approved that matter for inclusion in a relevant document; and
- (iii) a Councillor who had a conflict of interest in respect of that matter disclosed the conflict when the Council previously considered and made any decisions in respect of the matter;
- o a matter for which:
 - (i) a decision by the Council has been made under section 67 of the Act;
 - (ii) any component part of the matter in which a Councillor had a conflict of interest has been resolved; and
 - (iii) the Councillor disclosed the conflict of interest when the Council previously considered that component part of the matter.

5. Disclosure of a Conflict of Interest

Where a Council representative has a conflict of interest in respect of a matter they must:

- complete a Statement of Disclosure of Conflict of Interest Form, available via any of the following locations
 - o Online form available via Councils internal website / portal;
 - o Interactive word document available via Councillor Resource's folder in DocsOnTap.
 - o PDF form, provided as Attachment 1 or via hard copy;
- disclose the conflict of interest in accordance with Council's Governance Rules; and
- comply with the procedures specified in the Governance Rules.

RELATED POLICIES & DIRECTIVES

- *Councillor Code of Conduct*
- *Code of Conduct Policy 46.POL35*

RELATED LEGISLATION

- *Local Government Act 1989*
- *Local Government Act 2020*

REVIEW

The Team Leader Governance is to review this document every four years, within six months after an election, in conjunction with the Executive Leadership Team.

Peter Harriott
Chief Executive Officer

Date

ATTACHMENTS

Attachment 1: Statement of Disclosure of Conflict of Interest Form

STATEMENT OF DISCLOSURE OF CONFLICT OF INTEREST

(Sections 126 – 131 of the *Local Government Act 2020*)

Councillor / Committee members are required to submit a disclosure of any conflict of interest in accordance with Part 6 (Council integrity), Division 2, of the Local Government Act 2020.

Section A: to be completed by Councillor / Committee Member making statement and submitted to the Chief Executive Officer or their delegate before the meeting (where possible).

1. Name of Councillor / Committee Member:
2. Name of Meeting / Activity:

 - *details if under Auspices of Council:*
 - *additional details (if required):*

3. Date of Council / Committee Meeting:
4. Date of Disclosure:
5. Agenda Item No:
6. Agenda Item Description
7. Details of the conflict of interest:

Conflict of Interest (s. 127 & 128 of the Act):

 - If **General** Conflict of Interest: (s. 127)*

 - details of Councillor's private interests:

 - If **Material** Conflict of Interest: (s. 128)*

 - S. 128 (2), the benefit or loss:
 - S. 128 (3), the affected person:

Specific details of the Conflict of Interest, including (if applicable), the name of the affected person:

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8. Exemptions under Section 129 of the LG Act 2020

Councillor / Committee member claiming an exemption under s. 129 of the Act:

If the Councillor is claiming an exemption from Section 129 of the LG Act 2020 having a conflict of interest.

Please provide details of why the exemption is relevant:

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9. Councillor / Committee member's actions with regards to the conflict or interest:

The Councillor / Committee member commits to take the following action:

Signed: Date:/...../.....
(Councillor /Committee Member)

Section B: to be completed by the officer responsible for Council or Committee Minutes

The Councillor / Committee member complied with their indicated commitment to take the action as stated in item 9 of the statement? Yes No

- Time Councillor / Committee member left the meeting:
- Time Councillor / Committee member returned to the meeting:

During the period that the Councillor / Committee member was absent from the meeting:

(a) Was a vote taken on the item? Yes No

(b) Did Councillor / Committee Member exit the meeting before discussion of, and not vote on, item? Yes No

Comments (if required):

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Print Name: Signature:

(Responsible Officer)

Collection Notice

Greater Shepparton City Council manages your personal information in accordance with its Privacy Policy and the *Privacy and Data Protection Act 2014*.

Your personal information is collected to record your disclosure of interests in accordance with the requirements of Part 6, Division 2 of the *Local Government Act 2020*. It is disclosed to the Chief Executive Officer and governance staff. It may also be disclosed in the meeting minutes of Council, Delegated Committees, and Community Asset Committees. Disclosures will also be available in publically available records of any meetings held under the auspices of Council.

If you do not provide the requested information you may be in breach of the *Local Government Act 2020*). To gain access to your personal information please contact the Team Leader Governance on 5832 9868.