



# Conflict of Interest Policy

<b>Responsible Manager</b>	Head of Corporate Affairs
<b>Head of power</b>	<i>Local Government Act 2009 Local Government Regulation 2012 Torres Strait Island Regional Council Code of Conduct</i>
<b>Authorised by</b>	Council
<b>Authorised on</b>	21 April 2021
<b>Implemented from</b>	May 2021
<b>Last reviewed</b>	April 2021
<b>Review history</b>	2019
<b>To be reviewed on</b>	June 2023
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in all Council decision making.

All Council employees have a duty to make decisions free of conflicts and carry out their public duties to high ethical standards. Council is committed to ensure that all Council employees make confident, transparent and fair decisions as part of their regular work routine.

Council is committed to developing and maintaining the highest levels of integrity and public trust and serving the public interest. Council is committed to preventing adverse consequences that can arise from conflicts of interest through encouraging and supporting the identification, disclosure, and appropriate management and monitoring of employee conflicts of interest.

Employees must regularly consider the relationship between their personal interests and their official duties in order to honestly and transparently identify disclose and manage any conflicts in the public interest.

The purpose of this policy is to clearly define the obligations, roles and responsibilities that concern actual, potential or perceived employee conflicts of interest, to ensure decision-making and actions are fair, unbiased and carried out in the public interest.

## 2. Application

This policy applies to all employees of Torres Strait Island Regional Council.

Conflicts of Interest relating to the role of Councillors have not been provided for in this policy due to the specific legislative requirements under the *Local Government Act 2009* and *Local Government Regulation 2012*, and the Councillor Code of Conduct.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Local Government Act 2009*, the *Local Government Regulation 2012*, and the *Public Sector Ethics Act 1994*, as well as Council's Code of Conduct, and Procurement and Ethical Sourcing Policy.

## 4. Definitions

**Associate** – Includes a spouse, parent, child, parent-in-law, or other relative, friend, co-worker, an entity which an associate has an interest in, whether direct, or indirect, or a legal or beneficial interest, including companies and directorships related to associates.

**Conflict of interest** - a “conflict of interest” means any matter that arises when a person’s private interest conflict with their duty to serve the public interest. A conflict of interest exists when a reasonable person might think that a Council employee’s personal interest interferes or appears to interfere, or where an employee’s personal interest may influence, or be seen to influence, their decisions or actions in the performance of their official duties.

**Perceived conflict of interest** – The public or a third party could form the view that personal interests could improperly influence an employee’s decision or action, now or in the future. Whilst it may or may not eventuate as a real conflict, it is important to disclose a perceived conflict of interest, for transparency purposes.

**Potential conflict of interest** - Personal interests that could conflict with a Council employee’s official duty. This refers to circumstances where it is foreseeable, that a conflict may arise in the future and steps should be taken now to mitigate that future risk.

**Real conflict of interest** – situation where there is an actual conflict between the

Council employee's official duties and their personal interests.

**Employee/s** – Any person employed directly by Torres Strait Island Regional Council, regardless of their employment status (full time, part time, casual, volunteer) and contractors, undertaking duties on behalf of Council.

**Official Duties** – Means the performance of an employee's role at Council, including their public duty to act with the highest ethical standards and integrity when making decisions, and when exercising any power or authority which has been entrusted by Council.

**Personal interests** – Personal interests include private, professional or business interests, as well as the interests of individuals that you associate with, such as family, dependants and friends. This includes any monetary interests, which reasonably may result in an actual or potential financial gain or loss for an employee or an associate. A personal interest may also include non-monetary interests that do not have a financial component, but may arise where an opportunity to advantage or disadvantage an employee or any associate of the employee, occurs due to involvement in any sporting, social or cultural activities with the employee or associate. Examples of personal interests include:

- ownership in a family business which tenders for Council contracts;
- family members or associates who own businesses that are contracted by Council;
- an employee with secondary employment in a business that contracts with Council;
- property interests that may be positively or negatively affected by activities of Council;
- associates applying for jobs with Council;
- employees or associates involved in local sporting groups who lodge funding applications with Council; or
- employees or associates board membership of a local community group applying for funding or grants from Council.

**Public interest** – Acting in the public interest means carrying out duties for the benefit of the public, in a fair and unbiased way, and making decisions that are not affected by personal interests, private associations or the likelihood of personal gain or loss for employees or associates.

## 5. Conflict of Interest

Employees must perform their duties in a fair and unbiased way and in the public interest, ensuring that decisions and actions are not impacted by their personal interests or the likelihood of gain or loss for them or others that they may wish to benefit or disadvantage.

A conflict of interest occurs when personal interests interfere, or appear to interfere, with the performance of official duties.

A conflict of interest can occur when a person:

- has a friend or family member who will potentially benefit from a purchase or contract either through employment or as an owner or shareholder of the business;
- has feelings of ill-will towards, or prejudice against, a person, particular product or service which could unfairly bias the selection process;
- has a second job with a supplier who is interested in, or is already, doing business with Council;
- has property interests that will be positively or negatively affected by the activities of Council;
- has an interest in a sporting or cultural organisation, which could influence their decision-making.

### 5.1 Employee obligations

Employees must regularly consider the relationship between their personal interests and official duties in order to honestly and transparently identify, disclose and manage any conflicts

in the public interest.

Decisions and actions by employees must not be affected by personal interests, which may result in personal gain or any loss (monetary or non-monetary) to employees or their associates.

Council employees must disclose and manage any actual, perceived or potential conflict of interest to ensure that they do not allow their personal interests to discredit, or conflict in any way, with their obligation to Council, or provide an opportunity for employees or their associates to gain any benefit, or be disadvantaged.

A Conflict of Interest Declaration Form must be completed as soon as an employee becomes aware of a potential, perceived or real conflict of interest.

It is important to understand that conflicts of interest occur, and inevitably Council employees will have occasions when their personal interests come into conflict, with carrying out their official duties. However, when conflicts of interest are not identified, disclosed and managed appropriately, adverse consequences such as serious misconduct or corruption may arise.

The *Public Sector Ethics Act 1994* and the *Local Government Act 2009* provide guiding principles for employees regarding conflicts of interest including:

- Ensuring decision making is carried out in the public interest;
- Good governance of and by the local government; and
- Integrity and impartiality.

Council will ensure adverse consequences that arise from employee conflicts of interest are prevented by:

- educating staff on the identification, disclosure and management of conflicts of interest;
- proactively identifying and monitoring business processes that are prone to high risk of conflicts; and
- maintaining supporting structures, systems, clear processes and procedures for the disclosure, management and monitoring of conflicts of interest.

## **5.2 Areas within Council that pose a higher risk with regard to conflicts of interest**

Some business functions and processes of Council may be more prone to conflicts of interest and include, but are not limited to:

- recruitment and selection processes, managing of staff;
- procurement, entering into contracts and contract management;
- allocating donations, grants, sponsorships and financial incentives;
- collecting, retaining, accessing or using confidential information;
- regulatory roles including:
  - inspecting, testing, regulating or monitoring standards, business, equipment or premises;
  - issuing, or reviewing the issue of, fines or other sanctions;
  - issuing permits, qualifications or licences;
- where concurrent or other employment occurs (for example board positions, part-time, casual employment and voluntary positions);
- complaints management; and
- the exercise of discretionary power in decision making, such as planning decisions.

Extra care should be taken when engaging in these processes.

## **6. Roles and Responsibilities**

The Mayor and Councillors are responsible for demonstrating leadership and good governance of the Council and decision-making that is made in the public interest.

The Chief Executive Officer, Executive Officers, Head of Departments and Managers are required to provide leadership with regard to disclosing, managing and monitoring conflicts of interest; and ensure policies, procedures and other work instructions requiring reference to this policy and any supporting procedure or processes are in place, in particular, for higher risk areas of Council.

All employees 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;
- being honest, open and transparent in their disclosure of conflict of interest; and
- following internal procedures relating to the identification, disclosure, self-management and monitoring of their conflicts of interest.

All employees who also have supervisory responsibilities must:

- ensure employees who they manage, disclose and manage any conflicts of interest and take appropriate action, where an employee has not done so; and
- monitor any management approach that is required to be taken by their direct reports for any conflicts of interest that may exist.

The Governance Branch is responsible for:

- ensuring clear policy and procedures are in place for Council employees to follow, to identify, disclose and manage conflicts of interest;
- maintaining a confidential centralised system for the disclosure, management and monitoring of conflicts of interest for Council employees;
- proactively educating all staff on their responsibilities with regard to conflicts of interest, and focussing on areas within Council that pose a higher risk with regard to conflicts of interest; and
- the confidential management of employee conflicts of interest. Conflicts of interest records may be the subject of applications under the *Right to Information Act 2009* and/or the *Information Privacy Act 2009*, where a decision may be made on whether it is in the public interest to release information relating to employee conflicts of interest.

Manager Responsible for Review:

Head of Corporate Affairs

**Adoption:**  
**Due for Revision:**

21 April 2021  
June 2023



Ilario Sabatino  
A/Chief Executive Officer