

EM04: Conflict of Interest

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Background

This policy has been developed to ensure that the public know and can be confident that the decisions made by the Belyuen Community Government Council through its elected members or council committees are carried out with proper standards of integrity, diligence and concerns for the public interest of the Belyuen community.

Legislative References

- Sections 114 – 116 of the *Local Government Act 2019*.

Scope

This policy applies to all council members and members of council committees on the commencement of the *Local Government Act 2019*.

Definitions

Direct interest means an interest that occurs when a member is likely to be directly affected if the matter is decided in a particular way.

*Example for definition **direct interest***

A company controlled by the member is tendering for a contract that is being discussed by the council.

Indirect financial interest means an interest that occurs when a member is likely to receive a benefit or incur a loss because another person has an interest.

*Example for definition **indirect financial interest***

The member has shares in, or is employed by, a company that is tendering for a contract that is being discussed by the council.

Indirect interest by close association means an interest that occurs when an associate of a member has a direct or indirect interest, or a resident of the member's household has a direct interest.

*Examples for definition **indirect interest by close association***

- 1 *The member's sibling is suing the council and the council is considering whether to settle the matter.*
- 2 *A resident of the member's household is tendering for a contract that is being discussed by the council.*

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Indirect interest due to conflicting duties means an interest that occurs when a member is a director, partner, agent, trustee, manager, office holder or employee of a person or entity, including a non-profit body or association, that has a direct interest.

Examples for definition indirect interest due to conflicting duties

- 1 *The member is a director of a non-profit body or association that is seeking a sponsorship or donation being discussed by the council.*
- 2 *The member is an employee of a non-profit body or association that is tendering for a contract being discussed by the council.*

Member, for the purposes of this policy, includes council members, audit committee members and council committee members.

Policy

The Belyuen Community Government Council is committed to ensuring that all decisions are fair, transparent and free from actual or perceived conflicts of interest. The Council recognises that members may hold a number of legitimate interests outside of the workplace. However, members are responsible for ensuring that these interests are disclosed and evaluated so as not to create any conflicts of interest.

Where real, or perceived, conflicts of interest arise the member will not participate in decision making and make the conflict known the Council or CEO.

Identifying Conflicts of Interest

As soon as practicable after a member becomes aware of a conflict of interest in a matter that has arisen or is about to arise before an audit committee, a council, or a council committee, the member must disclose the interest that gives rise to the conflict (the relevant interest):

- (a) at a meeting of the audit committee, council, council committee or local authority; and
- (b) to the CEO.

If a member is unsure whether there is a conflict of interest, full details should be given to the Council and/or the CEO depending on the situation. Alternatively, independent legal advice may be sought. Members are asked to disclose interests at every meeting of Council.

No participation in consideration or decision

If a member has identified that there is a real or perceived conflict of interest, the member must **not**:

- (a) be present at the meeting in which the matter is to be discussed; or
- (b) participate in any decision in relation to the matter; or
- (c) engage in behaviour that may influence the other members of the council, audit committee or council committee.

Recording Conflicts of Interest

All conflicts of interest disclosed by members shall be recorded in the Register of Declared Conflicts within five (5) business days of the conflict being declared.

Ministerial Exemption

Under section 115(3) of the *Local Government Act 2019*, the member may seek an exemption from the Minister in relation to the member's participation in the consideration of, or the decision in relation to, a matter in which the member has a conflict of interest. The member should seek advice from the CEO or Local Government Association of the Northern Territory (LGANT) in these circumstances.

Failure to Declare Conflicts of Interest

Failure to declare a conflict of interest can amount to a criminal offence under the *Local Government Act 2019* and may be a breach of clause 7 (Conflict of interest) of the code of conduct.

Registers

The CEO will maintain a Register of Declared Conflicts. The register of declared conflicts will be published on the website and will include:

- (a) the name of the member making the disclosure of the conflict of interest; and
- (b) the nature of the interest that gives rise to the conflict of interest; and
- (c) the nature of the question on which the conflict of interest arises; and
- (d) any other matter prescribed by regulation.

Revision History

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1	28/7/2020	8.3.7.20	NA