



Policy - Conflict of Interest Policy

This policy addresses Conflict of Interest matters and applies to all employees, whether full-time, part-time or casual. The policy may also apply to contractors or consultants engaged by Council where the contract or engagement agreement specifies that this policy applies. It has been developed taking into account best practice, including the guidance provided from the Office of the Controller and Auditor-General.

1. Contents

1. Contents
2. Introduction
3. Definitions
4. Policy Statements
 - 4.1 Disclosing the conflict
 - 4.2 Managing the conflict
 - 4.3 Responsibilities
 - 4.4 Reporting
 - 4.5 Employee Interests Register
5. Gifts, Discounts and Hospitality
 - 5.1 Gifts of cash prohibited
 - 5.2 Disclosure of gifts, discounts and hospitality
 - 5.3 Decision whether gift, discount or hospitality can be accepted
6. Questions
7. References
8. Appendices
 - Appendix 1 - Employee Interests Register
 - Appendix 2 – Employee Interests Disclosure Form

Policy No.	Policy Sponsor	Approval Date and Date of Next Scheduled Review	Approved By	MORF Reference	Related Standards
34.0	Executive	Approved – 2 October 2018 Review due – 2 October 2020	Chief Executive	A387926	-



2. Introduction

Staff of local authorities will often have many connections in their communities through family and friends. From time-to-time, they will be conflicted when matters come before their local authority for decision. Office of the Controller and Auditor-General (OAG) guidance for public entities on managing conflicts of interest notes that such conflicts are inevitable in a small country and not necessarily a problem if they are managed properly.

OAG guidance also says that, most often, what needs to be managed (and be seen to be managed) is the risk of adverse public perception that could arise from overlapping interests.

Pre-existing or inevitable conflicts, such as those that arise from connections or existing interests, are slightly different from a conflict created by pursuing an opportunity while in the job. A local authority employee who wishes to pursue a private interest that might conflict with their role needs to consider the risk of adverse public perception of their actions. A conflict created by an employee's actions is likely to be perceived less favourably than a pre-existing or inevitable one beyond the employee's control.

Some people see no problem with a local authority employee pursuing an opportunity available to others, provided the conflict of interest that arises can be managed. Others will think it inappropriate, especially for a Chief Executive. In making judgments about whether to pursue private interests that conflict with their roles, employees need to consider how their actions will be perceived and the risk of opening their employer to criticism.

Even if the conflict is properly managed, some people may still perceive it as inappropriate for local authority staff members to pursue private financial interests and for their local authorities to allow them to do so. This shows that even an adequately managed conflict can lead to public perception problems.

Any local authority employee should carefully consider the effect of choosing to pursue a private financial interest, where that interest creates a conflict with their ability to perform their job. This requires judgment and thinking through possible scenarios, including whether the conflict might affect other areas of responsibility in the future. Their manager – and, for the Chief Executive, the Chair – should also think through the implications and be comfortable with their plan to manage those implications. This is particularly so for a Chief Executive because of the statutory responsibilities to advise Councillors and lead staff.

Although all local authority employees have the same rights and privileges as private individuals, those rights and privileges must be considered in the light of their responsibilities to the local authority. In some instances, a choice might have to be made.¹

This policy has been developed to be enabling and to provide guidance to employees of Council while setting some rules around disclosing actual, potential and perceived conflicts and around accepting gifts and other benefits.

¹ Extract from "Queenstown Lakes District Council: Managing a conflict of interest in a proposed special housing area". Office of the Controller and Auditor-General, 2015.

This policy applies to all employees, whether full-time, part-time or casual. The policy may also apply to contractors or consultants engaged by Council where the contract or engagement agreement specifies that this policy applies.

3. Definitions

For the purpose of this policy, unless otherwise stated, the following definitions shall apply:

Conflict of Interest

- If an employee's official duties or responsibilities to Council could be affected or compromised or perceived to be, by some other interest or duty that the employee may have.
- The other interest or duty might be:
 - the employee's own financial or business affairs;
 - a relationship (family or otherwise) or other role the employee has; or
 - an opinion or view held by the employee.
- The question to keep in mind is "might the employee's other interest create an incentive or bias for them to act in a way that may not be in the best interests of Council?"

Prohibited Activities

Employees may not be involved in:

- the decision to appoint or employ a person with whom the employee has a personal connection (familial or otherwise).
- the decision to conduct business with a person or organisation with whom the employee has a personal connection (familial or otherwise).
- influencing or participating in a decision to award grants or contracts where the employee is connected to a person or organisation that submitted an application or tender.
- influencing or participating in regulatory decisions (such as to grant a consent, certificate or permit) where the employee is connected to the applicant or a person who opposes the application.
- investigating a complaint where the employee has a personal connection (familial or otherwise) with either the complainant or the person or entity complained about.

Limited Activities

Activities which employees must have the approval of their Director or the Chief Executive to be involved in:

- owning shares in or working for organisations that have dealings with Council.
- making public submissions to Council in a private capacity.

4. Policy Statements

This policy is breached if an employee:

- (a) has a conflict of interest and knowingly becomes involved in prohibited activities.
- (b) has a conflict of interest and knowingly becomes involved or continues to be involved in a limited activity without the consent of their Director or the Chief Executive.
- (c) accepts a gift, discount or hospitality without following the process set out in this policy.

A breach of this policy may give rise to disciplinary action under the “Standards for Staff Conduct Policy” (MORF ID A40669).

4.1 *Disclosing the conflict*

All employees are expected to disclose all actual, potential or perceived conflicts of interest they have. Employees should err on the side of caution in deciding whether to make a disclosure. If they are unsure whether there is a conflict, they should discuss the matter with their Director or the Chief Executive.

Disclosure must be made to their Director or the Chief Executive at the earliest possible opportunity. If required by the Director or the Chief Executive, the disclosure must be in writing. The form for making such Declarations is provided in Appendix 2.

All conflicts of interest must be entered into the Employee Interests Register.

4.2 *Managing the conflict*

All conflicts will be assessed for risk to Council and appropriate treatments put in place relative to the severity of the assessed risk. Assessment and treatment will be determined at the Executive Team level, with the support of Human Resources if required.

If the conflict is deemed to be particularly sensitive by a Director or the Chief Executive, a written assessment of the conflict of interest must be undertaken.

Risk assessments and treatments must be entered into the Employee Register of Interests.

The risk assessment will take into account factors such as the following:

- (a) the type or size of the employee’s interest.
- (b) the nature or significance of the particular decision or activity being carried out by Council.
- (c) the extent to which the employee’s interest could specifically affect, or be affected by, Council’s decision or activity, or be perceived to do so.
- (d) the nature or extent of the employee’s current or intended involvement in Council’s decision or activity.

Remember: One of key objectives of this Policy is to preserve the reputation of Council and its employees.

A Director or Chief Executive will decide whether any changes to the employee's role or any other treatments are required to manage the conflict. A Director or Chief Executive will report this decision, in writing, to the staff member and their Manager in conjunction with Human Resources.

The types of changes or other treatments that may be appropriate in particular circumstances could involve:

- (a) seeking consent of all other affected parties for the involvement of the employee.
- (b) imposing additional oversight or review over the employee.
- (c) withdrawing the employee from discussion or decision-making on a particular issue.
- (d) excluding the employee from a committee or working group dealing with the issue.
- (e) withholding certain confidential information or placing restrictions on access to information.
- (f) transferring the employee (temporarily or permanently) to another position or project.
- (g) relinquishing the private interest.
- (h) resignation or dismissal from one or other position or entity.

In all cases, where Executive staff, Managers or senior staff are involved in conflicts of a pecuniary interest, a "one up" approval process will be applied. This will mean approval from the Chair of the Organisational Performance & Audit Committee (OPAC) if the Chief Executive is involved.

4.3 Responsibilities

Employees

- expected to disclose all actual, potential or perceived conflicts of interest they have.
- expected to comply with any changes or other treatments required to manage the conflict.

Managers

- Must make their Director or Chief Executive aware of any actual or perceived conflicts of interest that employees disclose to them.
- Must apply, review and report on any treatments imposed to manage conflicts of interest.
- Must ensure that known conflicts of interest are considered in the undertaking of any new work and raised to the appropriate Director if warranted.

Directors and Chief Executive

- Must risk-assess disclosed conflicts of interest and determine appropriate changes or treatments.
- Must share appropriate records/documentation with Human Resources.

4.4 Reporting

The Manager will report, in writing, on the monitoring and review of the conflict to their Director and Human Resources on a regular basis according to the nature of the conflict, the risk and its treatment.

If the conflict does not justify taking any action because it is too indirect or insignificant, the Director or Chief Executive will record in the Employee Interests Register, the disclosure and assessment and the decision to take no further action. The Executive Team will be advised.

Relevant records will be provided to Human Resources for the appropriate personnel file.

Where a conflict exists and is managed by one or other of the above treatments, a report will be prepared by the Manager on the conflict and the effectiveness of the treatments to preserve the reputation of Council and its employees. This report will be forwarded to the Executive Team for its consideration and recording on the Employee Interests Register.

The Employee Register of Interests, along with the Elected Member Interests Register, will be forwarded annually to the Organisational Performance and Audit Committee (OPAC) for its information.

4.5 Employee Interests Register

The Employee Interests Register will be held and managed by Human Resources. All disclosed conflicts, their risk assessment and treatments will be entered onto this register.

The Employee Interests Register will be reviewed in conjunction with the organisational risk register by the Executive Team on the same frequency and basis as the risk register.

5. Gifts, Discounts and Hospitality

5.1 Gifts of cash prohibited

No employee may accept any gift of cash of any value in relation to the performance of their duties, except as otherwise provided for in the Council's Policy entitled Prizes or Gifts Received (MORF ID A33392). Any offer of such a gift, whether accepted or not, must be reported immediately to the employee's Manager and Director. In the eyes of the public there is no difference between a cash gift and a bribe.

5.2 Disclosure of gifts, discounts and hospitality

Employees must disclose to their Manager, within seven days of the offer or receipt of:

- (a) all gifts of a value over \$200.
- (b) all discounts offered to employees (other than those offered via any employee purchasing scheme or those offered to all customers of a business).
- (c) all hospitality offered by a person or organisation that the employee has dealings within the performance of their duties.

5.3 Decision whether gift, discount or hospitality can be accepted

Where an employee has been offered or received a gift of a value over \$200, a discount from a business or hospitality, the Manager, after consultation with their Director or Chief Executive and Human Resources, may decide whether it is appropriate for the employee to accept or keep the gift, discount or hospitality. If it is decided that a gift cannot be accepted, the gift will be returned to the donor or, with the approval of the donor, given to charity.

In making this decision the following factors are relevant:

- (a) the value and nature of the gift, discount or hospitality.
- (b) the extent of personal benefit to the employee from the gift, discount or hospitality.
- (c) the context, reason or occasion for the gift, discount or hospitality.
- (d) any imminent decisions to be made by Council that could be seen to be affected by the acceptance of the gift, discount or hospitality.

All decisions on these disclosures are to be advised to Human Resources for recording on the Employee Interests Register.

6. Questions

Any questions regarding this policy should be put to the Director of Corporate Services, Human Resources or your Director.

7. References

1. Staff Handbook 2013 (MORF ID. A67859)
2. This Policy should be read together with the following other policies and processes:
 - Prizes or Gifts Received Policy 1996 (MORF ID. A33392)
 - Making a Protected Disclosure Policy 2000 (MORF ID. A33394)
 - Fraud Policy 2007 (MORF ID. A33377)
 - Standards for Staff Conduct 2009 (MORF ID. A40669)
 - Delegations Manual 2017 (MORF ID. A369969)
 - Recruitment Policy (Pending)
 - Sensitive Expenditure Policy (Pending)
3. *“Managing Conflicts of Interest; Guidance for Public Entities”*, Office of the Controller and Auditor-General, 2007. Report can be accessed at <https://www.oag.govt.nz/2007/conflicts-public-entities/docs/oag-conflicts-public-entities.pdf>
4. *“Queenstown Lakes District Council: Managing a conflict of interest in a proposed special housing area”*. Office of the Controller and Auditor-General, 2015. Report can be accessed at <https://www.oag.govt.nz/2015/queenstown-housing/docs/queenstown-housing.pdf>



8. Appendix 1

EMPLOYEE INTERESTS REGISTER

Date identified	Staff Member	Staff Member Title	Details of interest (including the Title of the Entity Involved with)	Risk Assessment (H/M/L)	Treatment	Follow up required (Y/N)	Date resolved
29 December 2018	Fred Bloggs		Is processing a consent. Personally knows the applicant for a consent	H	Removed from consent processing on this application	N	30 December 2018

NB. There is a separate Notification of Member’s Interest Register for elected members managed by the Executive Secretary.

Appendix 2 - Employee Interests Disclosure Form

Interest Disclosure

If you have an interest that you believe may result in a conflict (either real or perceived), please discuss the matter with your Manager, and complete and sign this declaration sending it to the Human Resources Manager for review. [See over the page for guidance]

Your interest or declaration will be added to Environment Southland’s Employee Interests Register, which is a register maintained by Human Resources and used to assist determinants for mitigating Conflict of Interest risk, and for this reason will be viewable by third tier managers and the Executive Team.

To be completed by staff member

Staff Member’s Name:	Title:
Entity’s Name/Identification:	Involvement (e.g. shareholder/director/other):
Nature of Interest/Declaration:	

Name of person making disclosure	Signature	Date
Name of Manager	Signature	Date

To be completed by HR

Received by HR		Date
Comments as required:		
Risk Assessment:		Date
Treatment Recommended:		
Executive Approval:		Date

What might represent a Conflict of Interest?

A conflict of interest can arise in a wide range of circumstances. Other interests that may overlap with official Council duties could be (but are not limited to) the following:

- being an employee, contractor, advisor, director, shareholder, or partner of another business or organisation
- pursuing a business opportunity
- being a committee member of a club, society, or association (but not a union)
- having a professional or legal obligation to someone else (such as being a trustee)
- a beneficial interest in a trust
- owning or occupying a piece of land (where a Council decision and/or activity could cause a conflict of interest)
- holding another public office
- participating in any political act, campaign, lobbying or activism that may influence views held for or against a person or issue (or being a relative or close friend of someone who is involved in such activities).

Council employees and representatives must disclose possible situations where they have, or could be perceived to have, an opportunity to gain advantage or benefit.
