

CONFLICTS OF INTEREST POLICY

MANAGEMENT DIRECTIVE



1 Scope

This policy applies to Rockhampton Regional Council workers. This policy does not apply to Councillors as they are captured under the *Local Government Act 2009* and Code of Conduct for Councillors in Queensland.

2 Purpose

The purpose of this policy is to ensure conflicts of interest are identified, reported and managed in a way that allows Council to conduct its business with integrity, honesty and fairness. This policy promotes transparency in Council business and ensures workers operate in a way that aligns with the fundamental ethics principles detailed in the Code of Conduct.

3 Related Documents

3.1 Primary

Nil

3.2 Secondary

Crime and Corruption Act 2001

Information Privacy Act 2009

Human Rights Act 2019

Local Government Act 2009

Local Government Regulation 2012

Public Interest Disclosure Act 2010

Public Sector Ethics Act 1994

Right to Information Act 2009

Code of Conduct

Conflicts of Interest Procedure

Conflict of Interest Register

Conflict of Interest Declaration Form

Delegation and Authorisation Policy

Delegations Corporate Register

Discipline Procedure

Internal Register of Interests

Internal Register of Interests Procedure

Privacy Policy

LEGAL AND GOVERNANCE USE ONLY

Adopted/Approved:	Approved, 8 September 2020	Department:	Office of the CEO
Version:	1	Section:	Workforce and Governance
Reviewed Date:	12 October 2020	Page No:	Page 1 of 6

4 Definitions

To assist in interpretation, the following definitions apply:

Associated Persons	Persons associated with an identified senior and professional employee: (a) Spouses; (b) Dependent children; (c) Any person that is totally or substantially dependent; and (d) Any person whose affairs are so closely connected with the affairs of an identified senior and professional employee that a benefit derived by the person, or a substantial part of it, could pass to the identified senior and professional employee.
CEO	Chief Executive Officer A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> . This includes a person acting in this position.
Conflict of Interest	A conflict; whether actual, perceived or potential; between official duties in serving the public interest and personal interests.
Corrupt Conduct	As defined in the <i>Crime and Corruption Act 2001</i> , conduct of a person (regardless of whether the person holds or held an appointment) that fulfils each of the following elements: (a) Adversely affects, or could adversely affect, directly or indirectly, the performance of functions, or the exercise of powers of a UPA or a person holding an appointment; (b) Results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that: (i) Is not honest or is not impartial; or (ii) Involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or (iii) Involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and (c) Would, if proved, be a criminal offence; or a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment. Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment, that fulfils each of the following elements: (a) Impairs, or could impair, public confidence in public administration; and (b) Involves, or could involve, any of the following: (i) Collusive tendering; (ii) Fraudulent applications for licences, permits or other authorities under an Act with a purpose or object of any of the following (however described): (A) Protecting health or safety of persons; (B) Protecting the environment; or (C) Protecting or managing the use of the State's natural, cultural, mining or energy resources;

LEGAL AND GOVERNANCE USE ONLY

Adopted/Approved:	Approved, 8 September 2020	Department:	Office of the CEO
Version:	1	Section:	Workforce and Governance
Reviewed Date:	12 October 2020	Page No:	Page 2 of 6

	<p>(iii) Dishonestly obtaining, or helping someone to dishonestly obtain, benefits from the payment or application of public funds or the disposition of State assets;</p> <p>(iv) Evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue; or</p> <p>(v) Fraudulently obtaining or retaining an appointment; and</p> <p>(c) Would, if proved, be a criminal offence; or a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.</p>
Council	Rockhampton Regional Council
Councillor/s	The Mayor and Councillors of Council, within the meaning of the <i>Local Government Act 2009</i> .
Identified Senior and Professional Employees	<p>Employees appointed to any of the following positions, including employees acting in any of the following positions for a period greater than three months:</p> <p>(a) Manager Civil Operations;</p> <p>(b) Manager Fitzroy River Water;</p> <p>(c) Manager Infrastructure Planning;</p> <p>(d) Manager Project Delivery;</p> <p>(e) Manager Rockhampton Regional Waste and Recycling;</p> <p>(f) Manager Communities and Culture;</p> <p>(g) Gallery Director;</p> <p>(h) Manager Community Assets and Facilities;</p> <p>(i) Coordinator Community Assets;</p> <p>(j) Coordinator Community Facilities;</p> <p>(k) Manager Parks;</p> <p>(l) Manager Planning and Regulatory Services;</p> <p>(m) Manager Corporate and Technology Services;</p> <p>(n) Coordinator Fleet Services;</p> <p>(o) Coordinator Property and Insurance;</p> <p>(p) Coordinator Information Systems;</p> <p>(q) Coordinator Procurement and Logistics;</p> <p>(r) Contracts and Tenders Supervisor;</p> <p>(s) Chief Financial Officer;</p> <p>(t) Chief Audit Executive;</p> <p>(u) Manager Strategy and Planning;</p> <p>(v) Manager Airport; and</p> <p>(w) Manager Tourism, Events and Marketing.</p>
Internal Register of Interests	A written declaration of the financial and non-financial interests, as listed in Schedule 5 of the <i>Regulation</i> , of an identified senior and professional employee and associated persons of an identified senior and professional employee.
Regulation	<i>Local Government Regulation 2012</i>
Supervisor	An employee appointed to a position delegated a corporate band 5 or a higher corporate band delegated in accordance with the Delegation and Authorisation Policy and detailed in the Delegations Corporate Register.

LEGAL AND GOVERNANCE USE ONLY

Adopted/Approved:	Approved, 8 September 2020	Department:	Office of the CEO
Version:	1	Section:	Workforce and Governance
Reviewed Date:	12 October 2020	Page No:	Page 3 of 6

UPA	<p>Unit of Public Administration</p> <p>As defined in the <i>Crime and Corruption Act 2001</i>, includes the following:</p> <ul style="list-style-type: none"> (a) The Legislative Assembly, and the parliamentary service; (b) The Executive Council; (c) A department; (d) The police service; (e) A local government; (f) A corporate entity established by an Act or that is of a description of a corporate entity provided for by an Act which, in either case, collects revenues or raises funds under the authority of an Act; (g) A noncorporate entity, established or maintained under an Act, that: <ul style="list-style-type: none"> (i) Is funded to any extent with State moneys; or (ii) Is financially assisted by the State; (h) A State court, of whatever jurisdiction, and its registry and other administrative offices; and (i) Another entity prescribed under a regulation.
Worker	<p>Employee, contractor or subcontractor, an employee of a contractor or subcontractor, an employee of a labour hire company assigned to work for Council, work experience participant or a volunteer.</p>

5 Policy Statement

Council is committed to conducting its business in a way that aligns with the fundamental ethics principles as detailed in the Code of Conduct. That is, being guided by behaviours that ensure integrity and impartiality; the promotion of public good; a commitment to the system of government; and accountability and transparency.

Conflicts of interest; whether actual, perceived or potential; may diminish the public's trust in the way Council does business. This policy provides guidance to ensure all workers undertake their duties and responsibilities in a manner which places the public interest above their personal interests.

5.1 Conflicts of Interest

A conflict of interest occurs when there is a conflict, there appears to be a conflict, or a conflict may arise in the future between official duties and responsibilities in serving the public interest and personal interests.

Conflicts may arise in a variety of situations including, but not limited to:

- (a) Family and close personal relationships;
- (b) Previous, secondary and future employment;
- (c) Financial interests;
- (d) Memberships in clubs, associations or parties; and
- (e) Asset ownership including property ownership.

The existence of a conflict is not an issue in itself and is often inevitable. It is a requirement that any conflict; whether actual, perceived or potential; be appropriately identified, reported and managed to ensure Council is able to undertake business in a transparent and impartial manner.

Deliberate non-disclosure of a conflict of interest or lack of adequate management of a conflict of interest may amount to a reasonable suspicion of corrupt conduct. Council has a zero tolerance approach and is committed to eliminating and/or minimising the potential of any corrupt conduct within Council.

LEGAL AND GOVERNANCE USE ONLY			
Adopted/Approved:	Approved, 8 September 2020	Department:	Office of the CEO
Version:	1	Section:	Workforce and Governance
Reviewed Date:	12 October 2020	Page No:	Page 4 of 6

5.1.1 Actual Conflicts of Interest

An actual conflict of interest occurs when there is a direct conflict between current official duties and responsibilities with Council and existing personal interests.

5.1.2 Perceived Conflicts of Interest

A perceived conflict of interest occurs when there is potential for a personal interest to reasonably be perceived as being in conflict with official duties and responsibilities of Council. This perception can occur irrespective of whether the conflict is real or not.

5.1.3 Potential Conflicts of Interest

A potential conflict of interest occurs when it is reasonable to believe a conflict may arise in the future between official duties and responsibilities with Council and personal interests.

5.1.4 Pecuniary and Non-Pecuniary Interests

Conflicts may arise from pecuniary and non-pecuniary interests. A pecuniary interest occurs when there is a financial gain or loss; or potential for a financial gain or loss; in relation to a conflict. A non-pecuniary interest occurs when there is a personal benefit or detriment caused; or the potential for a personal benefit or detriment to be caused; which is not financial in relation to an interest.

5.2 Dealing with Conflicts of Interest

Conflicts of interests may arise from time to time and in some instances are unavoidable. All workers are responsible for ensuring conflicts are appropriately identified, reported and managed in accordance with the Conflicts of Interest Procedure.

5.2.1 Identifying Conflicts of Interest

It is the responsibility of each individual to identify when a conflict; whether actual, perceived or potential; has or may arise between their personal interests and their official duties and responsibilities.

5.2.2 Reporting Conflicts of Interest

All conflicts; whether actual, perceived or potential; must be declared on a Conflict of Interest Declaration Form by the affected worker to be given to their supervisor. This declaration must be made as soon as the conflict is identified or when any change to a conflict occurs. If it is unclear if a conflict exists, the matter must be declared to allow a determination to be made.

It is acknowledged by declaring a conflict of interest a worker may be required to disclose personal information. Such information will be captured and stored in accordance with Council's Privacy Policy.

All workers have an additional responsibility to report any suspicion of conflicts of interest; whether actual, perceived or potential; about others to their supervisor.

5.2.3 Managing Conflicts of Interest

Once a conflict has been declared and determined as a conflict of interest, the affected worker must remove themselves from any and all decision making processes relating to the conflict until such time as the conflict has been resolved.

It may be necessary for additional processes to be put in place either as an interim measure or permanent measure to ensure Council can continue to conduct business in a transparent and impartial manner.

Ultimately, the determination as to whether a conflict exists or not; and how the conflict is to be managed; rests with the CEO.

Confirmed conflicts of interest will be recorded and maintained in Council's Conflicts of Interest Register.

LEGAL AND GOVERNANCE USE ONLY

Adopted/Approved:	Approved, 8 September 2020	Department:	Office of the CEO
Version:	1	Section:	Workforce and Governance
Reviewed Date:	12 October 2020	Page No:	Page 5 of 6

5.3 Internal Register of Interest

Identified senior and professional employees have an additional responsibility to fully disclose their and their associated persons interests to be included in an Internal Register of Interests. This is to ensure the Code of Conduct ethics principles and the *Local Government Act 2009* principles are upheld.

Identified senior and professional employees must provide or update; as required; an Internal Register of Interests with information as outlined in Schedule 5 of the *Regulation* and in accordance with the Internal Register of Interest Procedure.

5.4 Employment Outside of Council

Employees must seek approval for any employment undertaken outside of their official duties with Council. Council does not intend to limit employees from holding secondary employment, provided the other employment or business does not:

- (a) Create or develop a conflict of interest;
- (b) Effect the performance of official Council duties, including safety related matters;
- (c) Bring Council’s reputation into disrepute; or
- (d) Involve Council resources.

5.5 Breaches of Policy

Breaches of this policy, including requirements detailed in the Code of Conduct, may result in disciplinary action being taken in accordance with the Discipline Procedure.

6 Review Timelines

This policy is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by the CEO.

7 Document Management

Sponsor	CEO
Business Owner	Executive Manager Workforce and Governance
Policy Owner	Executive Manager Workforce and Governance
Policy Quality Control	Legal and Governance



LEGAL AND GOVERNANCE USE ONLY			
Adopted/Approved:	Approved, 8 September 2020	Department:	Office of the CEO
Version:	1	Section:	Workforce and Governance
Reviewed Date:	12 October 2020	Page No:	Page 6 of 6