

## CONFLICTS OF INTEREST – CEO AND EMPLOYEES

Type:	Council Policy - Governance		
Owner:	Chief Executive Officer		
Responsible Officer:	Manager Governance and Risk		
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Legislation Reference:	The <i>Local Government Act 2019</i>		

### 1 PURPOSE

The community has the right to expect that the Chief Executive Officer (CEO) and employees of Katherine Town Council perform their duties in a fair and unbiased way and that the decisions they make are not affected by self-interest or personal gain. Conflicts of interest can arise when individuals are influenced, or appear to be influenced, by personal interests when doing their jobs. The perception of a conflict of interest can be as damaging as an actual conflict because it undermines public confidence in the integrity of Council.

The purpose of this policy is to set out a framework to guide the CEO and employees of Katherine Town Council to ensure that any actual, potential or perceived conflicts of interest are appropriately identified, considered and managed.

### 2 SCOPE

This policy applies to the CEO and all Council staff employed by Katherine Town Council, regardless of the capacity in which they are employed.

### 3 DEFINITIONS

**CEO** means the Chief Executive Officer of Katherine Town Council appointed under Section 165 of the *Local Government Act 2019*.

**Conflict of Interest** means a situation in which an individual's private interests interfere, or appear to interfere, with their duty to put the public interest first. It refers to circumstances where the CEO or an employee of council is, or could be, influenced by a private interest when performing an official function.

**Direct interest** exists when a person has a clear, immediate, and personal stake in a decision or outcome.

**Financial interests** mean the following (not exhaustive):

- shares
- trustee or beneficiary of a family or business trust
- owner of real estate
- directorship of a company
- partnership
- substantial source of income (eg additional employment)
- debts.

**Indirect interest** exists when a person is connected to a decision or outcome through another person or entity, rather than benefiting personally.

**Official role** include work that may be defined by a position description or via directions given by a supervisor, Manager or CEO.

**Non-financial interests** mean the following (not exhaustive):

- effects on or from family or spouse/partner, friends or associates
- political membership
- other memberships of another organisation (not for profit, sporting bodies, clubs and associations)
- hostility or competition with another individual, family or group
- future employment or business ventures.

**Private Interests** can be personal, professional or business interests that can benefit or disadvantage us as individuals, or others we may wish to benefit or disadvantage. They also include the personal, professional or business interests of individuals or groups we associate with (e.g. relatives, friends, non-profit associations). They can include avoiding personal losses as well as gaining a personal advantage, whether financial or otherwise. Private interests are not necessarily personal to the employee or other representative and include the interests of their related persons.

**Related Persons** is anyone who is part of the employee's or other representative's immediate family, such as a spouse or a de facto spouse, or a wholly or substantially dependent child or someone who is wholly or substantially dependent on the employee or other representative, or someone whose affairs are otherwise closely linked with an employee or other representative. A connection to a related person who is a client, contractor, volunteer or another employee of Council can give rise to a conflict of interest in the performance of the employee's or other representative's duties and responsibilities and must be notified and managed under this policy.

## 4 DETAILS

Council provides a diverse range of services and is trusted with a range of decision-making powers so that it can govern in the best interests of the Katherine community. These powers must be exercised properly and impartially, with integrity and in accordance with the *Local Government Act 2019*.

Avoiding conflicts of interest is an important factor in public decision making. This is particularly important at local government level, where councillors and employees have interests in the local area and close connections within the local community.

The CEO and 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. They need to be honest, open and transparent in their disclosure of conflicts of interest and follow appropriate processes relating to the identification, disclosure, self-management and monitoring of their conflicts of interest.

The CEO and Council employees shall at all times conduct themselves in ways that are, and are seen to be, ethical and of the highest integrity and will deal with everyone in an honest and impartial manner that does not allow

conflicts of interest.

## WHAT IS A CONFLICT OF INTEREST?

Conflicts of interest can relate to financial and non-financial interests, and they can exist when the employee is carrying out an activity that is required as part of their official role.

There are certain Council functions or areas that may be considered particularly “high risk” in terms of conflicts of interest. These include:

- recruitment and selection
- procurement (tendering, purchasing, and contracting)
- receiving gifts, benefits, or hospitality
- regulatory activity and complaints management
- employee disciplinary processes
- sale of Council land and other assets.

## TYPES OF CONFLICT OF INTEREST

Conflicts can be actual, potential, or perceived.

An **actual** conflict occurs when the CEO or employee’s public duties conflict with their private interests at the time a decision is being made.

A **potential** conflict occurs when the CEO or employee considers their private interests and associations and can reasonably anticipate the possibility these could unduly influence their public duties. The link must be reasonably foreseeable and not remote. Steps can then be taken to mitigate any risk.

A **perceived** conflict occurs when it could be perceived by a fair-minded, impartial person that a conflict between the CEO or employee’s private interests is present and could improperly influence their decisions or actions, or the actions or decisions of Council.

All conflicts of interest need to be disclosed. The key is to determine whether the situation is likely to interfere or appear to interfere with the independent judgment the CEO and employees are required to demonstrate in performing their official duties.

## RECRUITMENT AND SELECTION

When participating on an interview panel, employees must declare any conflict of interest which may affect their role on the panel. They must not be a relative or close friend (inside/outside of work) of any candidate involved in the recruitment and selection process.

If there is need for a declaration, the employee will provide an email outlining the conflict of interest to the CEO. It may require the employee to withdraw from the selection panel.

## PROCUREMENT

Council employees must always avoid situations in which private interests might reasonably be deemed to have the potential to conflict with their Council duties. They should not participate in any action or matter associated with the arrangement of a contract including evaluation, negotiation, recommendation, or approval, where that person or any member of their immediate family has a direct or indirect interest or holds a position of influence or power in a business undertaking tendering for the work.

If employees are required to deal with external suppliers or contractors, they must avoid placing themselves in situations of a potential conflict of interest. Suppliers and contractors include (but are not limited to) those who supply Council with goods, services and works. A potential conflict of interest could arise if employees are involved in a decision-making process that might provide or be seen to provide them or a close associate or a family member

with a benefit. If they (or a close associate or a family member) have an existing financial interest in an actual or potential supplier or contractor to Council, this interest must be declared and they should not participate in any decisions affecting that supplier or contractor.

Council employees involved in the broader procurement processes, in particular raising and approval of purchaser orders and requisitions, preparation of tender documentation, including writing tender specifications, tender opening, and tender evaluation panels, must avoid actual, potential or perceived conflicts that may arise between their official duties and their private interests.

Where conflicts of interest, or relevant private interests arise, Council employees must inform their Manager and/or the chairperson of the relevant tender assessment panel and allow them to decide (in consultation with the CEO as appropriate) whether they should continue to be involved in the specific procurement exercise.

## EXTERNAL EMPLOYMENT

Where an employee is working for another organisation (whether in a paid or voluntary capacity) outside of Council in addition to their employment at Council, they must seek written permission from the Chief Executive Officer and ensure any actual, potential or perceived conflicts of interest are disclosed and managed.

## DISCLOSE AND MANAGE A CONFLICT OF INTEREST

When an employee identifies a conflict of interest, they should immediately discuss the matter with their Manager/Supervisor, complete the Conflict of Interest Declaration Form (Employees), agree on the actions required to resolve the conflict, and submit the form to the relevant Manager for approval.

If it involves a Manager the form should be submitted to the CEO.

If it involves the Chief Executive Office, the form is to be submitted to the Mayor.

All Conflicts of Interest Forms must be provided to the Manager Governance and Risk for recording in the Conflict of Interest Register.

The *Local Government Act 2019* also requires the CEO and senior employees of Council to disclose their conflicts of interest in two ways.

Section 178 requires these officers to provide Council with an annual return of interests within 14 days of being employed, or by September 30<sup>th</sup> each year they are employed.

Sections 179 makes it an offence not to disclose a conflict of interest in which an employee or the CEO is required or authorised to act or give advice.

If an employee has a conflict of interest in a matter in which they also have a delegated power such as approving a permit, entering into a contract, recruiting staff or authorising an invoice, they must disclose the specific details of the conflict in writing to the Chief Executive Officer as soon as they become aware of the conflict. They should also remove themselves from the decision-making process in relation to that matter.

All employees with a delegation must provide an annual return of interest as prescribed by the *Local Government Act 2019*.

## FAILURE TO COMPLY

Any breach of this Policy may result in disciplinary action, including, but not limited to, issue of a warning, demotion, suspension or termination of employment. For Katherine Town Council contractors, it may result in the termination or non-renewal of a contract for service.

Section 179 of the *Local Government Act 2019* provides a range of penalties if the CEO and employees fail to comply with disclosing conflicts of interest, including a substantial fine.

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. Irregularities that appear to involve improper conduct must

also be reported to the Independent Commissioner Against Corruption (ICAC).

## 5 ASSOCIATED POLICIES/DOCUMENTS

- Code of Conduct for CEO
- Code of Conduct for Employees
- Gifts and Benefits policy – CEO and employees
- Fraud and Corruption Control policy
- Procurement policy
- Form – Conflict of Interest Declaration
- Instrument of Delegation Council to CEO
- Instrument of Delegation CEO to Staff

## 6 REFERENCES AND RELATED LEGISLATION

- *Local Government Act 2019*
- *Local Government (General) Regulations 2021*
- *Independent Commissioner Against Corruption Act 2017*

### Revision History

Version	Approval date	Details of change	Responsible officer
1	30/07/2014	Created	CEO
2	23/01/2023	Reviewed and updated, elected members moved to new policy	CEO
3	10/02/2026	Reviewed with administrative amendments; removal of 'What is not a conflict of interest' section; inclusion of definitions direct and indirect interest, official role, private interest and related persons; changed director to manager; included all employees with delegation must submit an annual return of interest, and inclusion of the Instrument of Delegation policies.	Manager Governance and Risk