



CONFLICTS OF INTEREST – ELECTED MEMBERS

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1 PURPOSE

The community has the right to expect that Elected Members 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 elected members 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 elected members 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 all Elected Members of Council.

3 DEFINITIONS

Associate means the definition outlined at Section 8 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 an elected member of council is, or could be, influenced by a private interest when performing an official function.

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.

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.

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 staff have interests in the local area and close connections within the local community.

WHAT IS A CONFLICT OF INTEREST?

Sometimes elected members are asked to make choices that affect both the community and their own interests. If members have either a financial or non-financial interest in a decision, they should appropriately disclose this interest and not participate in the decision-making process.

An elected member has a conflict of interest in a question arising for decision by the audit and risk management committee, Council or a council committee if the elected member, or an associate of the elected member, has any of the following interests in how the question is decided:

- a direct interest
- an indirect financial interest
- an indirect interest by close association
- an indirect interest due to conflicting duties.

A direct interest occurs when an elected member is likely to be directly affected if the matter is decided in a particular way. These can affect financial or non-financial interests.

Indirect financial interest occurs when an elected member is likely to receive a benefit or incur a loss because another person has an interest, for instance owning shares in a company tendering for contract being decided by Council.

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

Indirect interest due to conflicting duties occurs when an elected 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.

TYPES OF CONFLICT OF INTEREST

Conflicts can be actual, potential, or perceived.

An **actual** conflict occurs when the elected members public duties conflict with their private interests at the time a decision is being made.

A **potential** conflict occurs when an elected member 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 elected members 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 elected members are required to demonstrate in performing their official duties.

WHAT IS NOT A CONFLICT OF INTEREST?

Section 114(2) of the *Local Government Act 2019* states that a conflict of interest does not apply in some situations, for example:

- if the elected member's interest is a common interest that is shared with the general public or other ratepayers, or
- is so remote or insignificant that it could not reasonably be regarded as likely to influence a decision.

DISCLOSE AND MANAGE A CONFLICT OF INTEREST

The *Local Government Act 2019* requires elected members to disclose their conflicts of interest in two ways.

Section 111 requires elected members to provide the Chief Executive Officer with an annual return of interests within 60 days of being elected, or September 30 in a non-election year. This annual return is also published on Council's website.

Sections 115 and 116 require an elected member to disclose a conflict of interest as soon as they become aware of it, and this will be noted in a register of declared conflicts which is published on Council's website. The order of business for Ordinary Meetings of Council provide an opportunity for elected members to declare conflicts of interest.

The elected member must also tell other members at the meeting before the matter is talked about and leave the meeting room while that decision is being talked about or voted on so that the decision cannot be influenced.

FAILURE TO COMPLY

The *Local Government Act 2019* provides a range of penalties if elected members fail to comply with disclosing conflicts of interest, or intentionally engage in conduct that results in a failure to disclose a conflict of interest, including fines or imprisonment, or losing their position on Council.

Irregularities that appear to involve improper conduct must also be reported to the Minister and the Independent Commissioner Against Corruption (ICAC).

5 ASSOCIATED POLICIES/DOCUMENTS

Code of Conduct for Elected Members
Gifts and Benefits policy – elected members
Annual return of interests
Register of declared conflicts
Fraud and Corruption Control policy

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	14/04/2023	Created	CEO