



GREATER SHEPPARTON CITY COUNCIL

CONFLICT OF INTEREST POLICY

Effective: 27 August 2024

CONFLICT OF INTEREST POLICY

Version:	2
Business Unit:	Corporate Governance
Responsible Officer:	Manager Corporate Governance
Adopted By:	Council on 27 August 2024
Next Review:	27 August 2028

1. PURPOSE

The purpose of this Policy is to provide guidance to all relevant persons on specific circumstances that give rise to a conflict of interest, clarify the types of interests that constitute a conflict of interest, and set out the process that must be followed in disclosing a conflict of interest.

2. OBJECTIVE

The objective of this Policy is to ensure that all relevant persons act with integrity, mitigate risks and comply with legislative obligations through recognising and disclosing interests (whether they are actual, potential or perceived) that can conflict with their public duty, in order to achieve effective governance standards.

Working in tandem with a well-established system for identifying, disclosing, managing and reporting conflicts of interests, this Policy is expected to achieve increased public accountability and reduce the risk of corruption, misconduct and bias in the operational and decision-making processes.

3. SCOPE

This policy applies to all relevant persons of Greater Shepparton City Council (**Council**) as defined in this Policy.

4. DEFINITIONS

Reference term	Definition
Act	The term Act means the <i>Local Government Act 2020</i> .
Affected person	As defined by the section 128(3) of the Act The term affected person includes: <ul style="list-style-type: none">• the relevant person;• a family member of the relevant person;• a body corporate of which the relevant person or their spouse or domestic partner is a Director or a member of the governing body;• an employer of the relevant person, unless the employer is a public body;• a business partner of the relevant person

	<ul style="list-style-type: none"> • a person for whom the relevant person is a consultant, contractor or agent; • a beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee; or • a person from whom the relevant person has received a disclosable gift.
Relevant person	<p>As defined by the 126(1) of the Act</p> <ul style="list-style-type: none"> • a Councillor; or • a member of a delegated committee who is not a Councillor; or • a member of Council staff.
Family member	<ul style="list-style-type: none"> • a spouse or domestic partner of the relevant person; or • a parent, grandparent, sibling, child, grandchild, step-parent, step-sibling or step-child of the relevant person or of their spouse or domestic partner; or • any other relative that regularly resides with the relevant person.
Disclosable gift	<p>The term disclosable gift means one or more gifts with a total value of, or more than, \$500 or if an amount is prescribed for the purposes of the subsection 128 (4) of the Act, the prescribed amount, received from a person in the 5 years preceding the decision on the matter:</p> <ul style="list-style-type: none"> • if the relevant person held the office of Councillor, was a member of Council staff or was a member of a delegated committee at the time the gift was received; or • if the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation: <p>but does not include the value of any reasonable hospitality received by a relevant person at an event or function that the relevant person attended in an official capacity as a Councillor, member of Council staff or member of a delegated committee.</p>
Matter	<p>The term matter means a matter with which a Council, delegated committee, or a community asset</p>

	<p>committee or a member of Council staff is concerned and that will require;</p> <p>(a) a power to be exercised, or a duty or function to be performed, or a decision to be made, by the Council, delegated committee or community asset committee in respect of the matter; or</p> <p>(b) a power to be exercised, or a duty or function to be performed, or a decision to be made by a member of Council staff in respect of the matter.</p>
Not-for-profit organisation	<p>The term not-for-profit organisation means a body that:</p> <p>(a) operates exclusively for charitable, civil, sporting or other social purposes; and</p> <p>(b) does not share or allocate the funds or profits of the body or organisation with the owners, shareholders or executives of the body or organisation.</p>
Private interests	<p>The term private interests means any direct or indirect interest of a relevant person that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief.</p>
Public duty	<p>The term public duty means the responsibilities and obligations that a relevant person has to members of the public in their role as a relevant person.</p>
Conflict of Interest	<p>Means a 'general conflict of interest' and/or a 'material conflict of interest' as defined in section 127 and 128 of the Act respectively.</p>
Pecuniary	<p>Means where there is a reasonable likelihood or expectation of appreciable financial loss or gain to the person, or to other persons.</p> <p>Money does not need to change hands. The interest exists if a relevant person or an affected person:</p> <ul style="list-style-type: none"> • owns a property; • holds shares, investments or other business interests; • has a position in a company bidding for work with Council; • receives benefits such as concessions, discounts, gifts or hospitality from a particular source;

	<ul style="list-style-type: none"> • holds office in a corporation(public, private or trustee), incorporated association, or other entity; or • has any other relevant financial interest, for example: <ul style="list-style-type: none"> ▪ is entitled to receive income derived from a contract; ▪ is a beneficiary or trustee of a trust; or ▪ is entitled to receive income from an office held for payment/reward or from a trade, vocation, or profession.
Non-pecuniary	Means non-financial

5 REQUIREMENTS

Conflicts of interest are inevitable and can arise without anyone being at fault. Nevertheless, relevant persons are best placed to identify if and when a conflict of interest or potential conflict of interest exists. They have a duty to place the public interest above their private interests. Therefore, it is imperative that any conflicts of interest are disclosed and effectively managed with transparency.

Although, conflicts of interests may occur in any part of Council, some functions and activities pose higher risks than others and may require increased vigilance. These high risk areas include decisions taken by Councillors or decisions concerning recruitment, procurement, the issue of infringements and prosecutions, application for permits and applications for grants.

5.1 What is a Conflict of Interest?

Generally, a conflict of interest occurs when the private interests, associations or duties of a relevant person conflict with their public duties and responsibility to act in the public interest.

For the purposes of this Policy, a relevant person has a conflict of interest if they have:

- (a) a general conflict of interest within the meaning of section 127 of the Act; or
- (b) a material conflict of interest within the meaning of section 128 of the Act.

5.2 General Conflict of Interest

Subject to section 5.4 of this Policy, a relevant person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

5.3 Material Conflict of Interest

Subject to section 5.4, a relevant person has a material conflict of interest in respect of a matter if an Affected Person would gain a benefit or suffer a loss depending on the outcome of the matter.

The benefit may arise or the loss may be incurred:

- directly or indirectly; or
- in a pecuniary or non-pecuniary form.

5.4 Exemptions

In certain circumstances, a relevant person will be deemed not to have a conflict of interest if an exemption applies. It is therefore important that consideration is given to the potential application of the following exemptions prior to making a disclosure:

- the conflict of interest is so remote or insignificant that it could not be reasonably regarded as capable of influencing the actions or decisions of the relevant person in relation to the matter;
- the interest that would give rise to a conflict of interest is held in common with a substantial proportion of the residents, ratepayers or electors of the municipal district and does not exceed the interest held by the other residents, ratepayers or electors;
- the relevant person does not know the circumstances that give rise to the conflict of interest, and could not be reasonably expected to know those circumstances;
- the interest only arises because the relevant person is the representative of the Council on a not-for-profit organisation that has an interest in the matter and the relevant person receives no personal advantage from the not-for-profit organisation;
- the interest only arises because a family member of the relevant person is a member but not an office-holder of a not-for-profit organisation;
- the interest only arises because the relevant person is a member of a not-for-profit organisation that has expressed an opinion or advocated for an outcome in regard to the matter;
- the interest arises in relation to a decision by a Councillor on a matter or in a circumstance that is prescribed to be exempt by the regulations, including:
 - the nomination or appointment by the Council of a Councillor to a position for which the Councillor will not be remunerated;
 - the nomination or appointment by the Council of a Councillor to a position in the Municipal Association of Victoria or in another body that has the purpose of representing the interests of Councils;
 - a submission by the Council to an electoral structure review under section 16 of the Act or a ward boundary review under section 17 of the Act;
 - the nomination of a Councillor for election to the office of Mayor or Deputy Mayor;
 - the election of a Councillor to the office of Mayor or Deputy Mayor under section 25 or 27 of the Act;
 - the appointment of a Councillor to the office of Acting Mayor under section 20B of the Act;
 - the payment of allowances to the Mayor, Deputy Mayor or Councillors as provided for under section 39(6) of the Act;
 - the adoption of an expenses policy by the Council under section 41 of the Act;
 - a decision by the Council to deal with a matter in an alternative manner under section 67 of the Act;
 - the establishment of a delegated committee under section 67 of the Act;
 - the appointment of a Councillor as a member or chairperson of a delegated committee;

- the adoption, review or amendment of a Councillor Code of Conduct under section 139 or 140 of the Act;
- an application for an internal arbitration process under section 143 of the Act;
- an application to a Councillor Conduct Panel under section 154 of the Act;
- an application to VCAT for a review of a Councillor Conduct Panel decision under section 170 of the Act;
- a resolution by the Council related to a declaration under section 158(1) of the *Local Government Act 1989*;
- a resolution by the Council that has the effect of making the Councillors eligible or ineligible for the superannuation guarantee under any taxation legislation;
- a matter related to preparing or adopting a budget or a revised budget under Part 4 of the Act if:
 - (i) the budget or revised budget includes funding for that matter; and
 - (ii) the Council previously approved that matter and the proposed funding for that matter; and
 - (iii) a Councillor who had a conflict of interest in respect of that matter disclosed the conflict when the Council previously considered and made the decision in respect of that matter and approved the proposed funding for that matter;
- a matter related to preparing or adopting a Community Vision, Council Plan, Financial Plan, Asset Plan or Revenue and Rating Plan (a relevant document) under Part 4 of the Act if:
 - (i) the relevant document includes that matter; and
 - (ii) the Council previously approved that matter for inclusion in a relevant document; and
 - (iii) a Councillor who had a conflict of interest in respect of that matter disclosed the conflict when the Council previously considered and made any decisions in respect of the matter;
- a matter for which:
 - (i) a decision by the Council has been made under section 67 of the Act;
 - (ii) any component part of the matter in which a Councillor had a conflict of interest has been resolved; and
 - (iii) the Councillor disclosed the conflict of interest when the Council previously considered that component part of the matter.

5.5 Disclosure of a Conflict of Interest

Where a relevant person has a conflict of interest in respect of a matter they must:

- complete a Statement of Disclosure of Conflict of Interest Form, available via any of the following locations:
 - Online form available via Councils internal website
 - Via the Councillor Portal;

- PDF form, provided as Attachments via hard copy;
- disclose the conflict of interest in accordance with any procedures specified in Council's Governance Rules; and
- comply with the process outlined within this document, and any other applicable Council Policy (including the Employee Code of Conduct) or Procedure.

5.6 Responsibilities

The policy outlines the general responsibility for all relevant persons and specific responsibility for different categories as follows:

5.6.1 Councillors and Delegated and Community Asset Committee Members

Councillors and members of Delegated and Community Asset Committees must disclose any conflict of interest in accordance with the Governance Rules and this Policy as soon as practicable after the matter is identified. Such disclosures will be truthful and complete, and submitted to the Chief Executive Officer through the Governance Department.

5.6.2 Managers and Supervisors

Managers and supervisors who become aware that one of their staff have a conflict of interest shall ensure that the conflict of interest has been disclosed in accordance with the Employee Code of Conduct and this Policy, and establish appropriate measures to manage it. It is the responsibility of all Managers and Supervisors to document any measures put in place to manage the conflict of interest, as well as ensure any necessary system controls have been implemented.

5.6.3 Governance Department

The Governance Department shall be responsible for the administration of Council's conflict of interest regime. This includes:

- maintaining a Register of Conflicts of Interest disclosed in accordance with this Policy;
- notifying the Chief Executive Officer of every conflict of interest disclosure made and included on the register;
- ensuring the Register is available only to line management and to others where required by law (such as the Local Government Inspectorate);
- issuing a reminder to all staff annually of their obligation to disclose conflicts of interest in accordance with this Policy;
- reviewing this Policy in accordance with the policy review cycle; and
- where a conflict of interest arises and the matter cannot be referred or managed through any other avenue, the Governance Compliance Officer may be requested to prepare a de-identification report to enable the matter to be dealt with independently. If the Governance Compliance Officer is the subject of the declaration the de-identification report will be completed by the Team Leader Governance or Manager Corporate Governance.

5.6.4 Public Interest Disclosure

Any person who considers that a conflict of interests may not have been disclosed or managed appropriately should notify their Manager. Alternatively, they may contact

Council's Public Interest Disclosure Coordinator or any of the Public Interest Disclosure Officers (as identified within the Public Interest Disclosure Policy) if they suspect the failure to disclose could be reasonably be considered as constituting or leading to improper conduct.

5.7 Policy Breaches

A failure to identify, disclose and manage a conflict of interest in accordance with this Policy may result in an internal investigation. All employees will be provided with procedural fairness through any such formal process. Additionally, actions inconsistent with this Policy may be unlawful and subject to legislated penalties.

Where the Chief Executive Officer forms the view that a breach of this Policy and/or legislation has occurred, they will report the matter to the appropriate authority and support any subsequent investigation.

6 RELATED POLICIES

- Councillor Code of Conduct
- Employee Code of Conduct
- Public Transparency Policy
- Public Interest Disclosure Policy
- Procurement Policy
- Fraud and Corruption Control Policy
- Councillor Gift Policy
- Governance Rules
- Recruitment and Selection Operational Policy

7 RELATED LEGISLATION

- *Local Government Act 2020*
- *Public Interest Disclosure Act 2012*

8. REVIEW

The Team Leader Governance is to review this document every four years, within six months after an election, in conjunction with the Executive Leadership Team and Council.

9. ATTACHMENTS

- Disclosure of Conflict of Interest Form – Councillor or Committee Member
- Disclosure of Conflict of Interest Form – Council Officer

DOCUMENT REVISIONS

Version #	Date Adopted	Date Effective
1	17 February 2015	17 February 2015
1.1	20 June 2017	20 June 2017
1.2	20 April 2021	20 April 2021
2	27 August 2024	27 August 2024

STATEMENT OF DISCLOSURE OF CONFLICT OF INTEREST (Sections 126 – 131 of the *Local Government Act 2020*)

Councillor / Committee members are required to submit a disclosure of any conflict of interest in accordance with Part 6 (Council integrity), Division 2, of the Local Government Act 2020.

Section A: to be completed by Councillor / Committee Member making statement and submitted to the Chief Executive Officer or their delegate before the meeting (where possible).

1. Name of Councillor / Committee Member: _____

2. Name of Meeting / Activity:

- *details if under Auspices of Council:* Choose meeting type
- *additional details (if required):* Choose an item.

3. Date of Council / Committee Meeting: Click or tap to enter a date.

4. Date of Disclosure: Click or tap to enter a date.

5. Agenda Item No: _____

6. Agenda Item Description _____

7. Details of the conflict of interest (please include name of affected person, if applicable)

a. If **General** Conflict of Interest (defined in s. 127 of the Act):

Details of Officer's private interest: _____

b. If **Material** Conflict of Interest (defined in s. 128 of the Act):

- S. 128 (2) – benefit or loss Choose an item.
- S. 128 (3) – affected person Choose an item.

8. Is the Councillor/Committee Member claiming an exemption under s. 129 of the Local Government Act 2020 Choose an item.

If yes to item 8, please choose the most relevant option as to why the exemption is relevant. Choose an item.



9. The Councillor / Committee member commits to take the following action:

Choose an item.

Signed: _____ Date: _____ / _____ / _____

Section B: FOR OFFICE USE ONLY - to be completed by the officer responsible for Council or Committee Minutes

The Councillor/Committee member complied with their indicated commitment to take the action as stated in item 9 of the statement? Yes No

- Time Councillor / Committee member left the meeting: _____
- Time Councillor / Committee member returned to the meeting: _____

During the period that the Councillor / Committee member was absent from the meeting:

- (a) Was a vote taken on the item? Yes No
- (b) Did the Councillor/Committee Member exit the meeting before the discussion and not vote on the item? Yes No

Comments (if required):

Print Name: _____ Signature: _____
(Responsible Officer)

Collection Notice

Greater Shepparton City Council manages your personal information in accordance with its Privacy Policy and the *Privacy and Data Protection Act 2014*.

Your personal information is collected to record your disclosure of interests in accordance with the requirements of Part 6, Division 2 of the *Local Government Act 2020*. It is disclosed to the Chief Executive Officer and governance staff. It may also be disclosed in the meeting minutes of Council, Delegated Committees, and Community Asset Committees. Disclosures will also be available in publicly available records of any meetings held under the auspices of Council.

If you do not provide the requested information you may be in breach of the *Local Government Act 2020*. To gain access to your personal information please contact the Team Leader Governance on 5832 9868.



STATEMENT OF DISCLOSURE OF CONFLICT OF INTEREST (Sections 126 – 131 of the *Local Government Act 2020*)

Council Officers are required to submit a disclosure of any conflict of interest in accordance with Part 6 (Council Integrity), Division 2, of the Local Government Act 2020.

This form is to be completed by the Council Officer making the statement.

Please save to E22/4413 and add notes to Content Manager acknowledging declaration.

Set workflow to your Manager/Director > Chief Executive Officer > Governance Administration

1. Name of Council Officer _____
2. Position Title _____
3. Date of Disclosure _____
4. Details of the conflict of interest (please include name of affected person, if applicable)

c. If **General** Conflict of Interest (defined in s. 127 of the Act):

Details of Officer's private interest: _____

d. If **Material** Conflict of Interest (defined in s. 128 of the Act):

- S. 128 (2) – benefit or loss Choose an item.
- S. 128 (3) – affected person Choose an item.

5. Please provide further details including Council Officer's actions with regard to the Conflict of Interest:

Disclosure made by: _____ Dated: _____

(Name and Position Title)



GUIDANCE NOTES

This form must be completed where a Council Officer holds either (or both) a General or Material Conflict of interest as defined by Section 127 and 128 of the *Local Government Act 2020 (The Act)*.

The following can be used as a basic guide when determining the nature of a potential Conflict of Interest. However the Act should always be referred to for a comprehensive list of provisions which outline an officer's Conflict of Interest obligations. If unsure, please seek advice from the Governance Team.

General Conflict of interest:

A general conflict of interest arises when it could be reasonably considered that an officer's personal interests could result in them acting in a manner that is contrary to their public duty.

Example: You are a bookings officer and receive two separate requests to reserve a particular Council venue on the same day. Both requests were received at the same time, and only one can be accommodated. One of the requests is received from a club which you are an active member of.

Material Conflict of Interest:

A material conflict of interest may be present when a matter would result in a benefit or loss to the Council Officer personally, or to:

- a family member;
- a body corporate of which the officer (or their spouse / partner) is a Director or board member;
- an employer (excluding public bodies such as Council);
- a business partner;
- an individual for whom you are a consultant, contractor or agent;
- a beneficiary under a trust, or an object of a discretionary trust of which you are a trustee; or
- a donor of a disclosable gift (to which the value exceeds \$500).

Example: You are on a grant assessment panel, or tender evaluation panel, and identify that one of the applicants is a family member.

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Your personal information is collected to record your disclosure of interests in accordance with the requirements of Part 6, Division 2 of the *Local Government Act 2020*. It is disclosed to your Direct Supervisors, the Chief Executive Officer and Governance officers. It may also be disclosed upon request of Auditors or Integrity Agencies as part of the conduct of investigations or compliance monitoring activities.

If you do not provide the requested information you may be in breach of the *Local Government Act 2020*. To gain access to your personal information please contact the Team Leader Governance on 5832 9868.