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|  | Fact Sheet | Conflict of interest | September 2015  Audience | All members |

This **Fact Sheet** outlines Regional Council (the Council) policy on conflict of interest.

This policy aims to manage any actual, potential or perceived conflicts of interest that arise through a member’s duties. This policy is based on:

* upholding public sector values
* supporting transparency and accountability
* promoting individual responsibility for integrity and impartiality
* building a supportive organisational culture.

The policy applies to:

* all members of the Council, including co-opted members and observers
* all persons sitting as members of any committee or working group established by the Council
* suppliers, contractors and consultants engaged by the Council to undertake projects and activities in the Council’s name and with the Council’s authority.

## Relevant legislation

Section 7(b) (iv) of the *Public Administration Act 2004* (PAA) requires all public sector employees and other public officials to avoid any real or apparent conflicts of interest. Council members are defined as public officials under the PAA. As entities covered by Part 5 of the PAA, Councils must have processes in place to deal with conflicts of interest (s. 81(f)).

## Conflicts of interest

Conflicts of interest in the public sector are conflicts between public duties and private interests. These conflicts can be actual, potential or perceived.

* An actual conflict of interest is one where there is a real conflict between a member’s public duties and responsibilities and their private interests.
* A potential conflict of interest arises where a member has private interests that could conflict with their public duties.
* A perceived conflict of interest can exist where a third party could form the view that a member’s private interests could improperly influence the performance of their duties, now or in the future.

A conflict of interest can arise from avoiding personal losses, as well as gaining personal advantage, financial or otherwise.

## Private interests

An interest means anything that can have an impact on an individual or group. The term ‘private interests’ includes not only a Council member’s own personal, professional or business interests, but also the personal, professional or business interests of individuals or groups closely associated with them, including relatives, friends or even rivals and enemies.

There are two types of private interests:

* Pecuniary interests involve an actual, potential or perceived financial gain or loss. Money does not need to change hands for an interest to be pecuniary. People have a pecuniary interest if they (or a relative or close associate) own property, shares, have a position in a company or receive benefits or concessions, discounts, gifts or hospitality from a particular source.
* Non-pecuniary interests do not have a financial component. They may arise from personal or family relationships, or involvement in sporting, social or cultural activities. They include any tendency toward favour or prejudice resulting from friendship, animosity or other personal interests.

## Responsibilities of members

Members of Regional Councils have the following responsibilities:

* Being aware of your obligations to avoid conflicts of interest where possible, and to manage those conflicts of interest that cannot be avoided
* Assessing whether your private and personal interests conflict, have the potential to conflict, with your official duties
* Taking reasonable steps to restrict the extent to which a private interest could compromise, or be seen to compromise, your impartiality when carrying out your official duties
* Disclosing conflicts of interest you may have in accordance with specified procedures
* Abstaining from involvement in official decisions and actions that could reasonably be seen to be compromised by your private interests and affiliations
* Avoiding private action in which you could be seen to have an improper advantage from inside information that you have access to because of your official duties
* Not using your official position or government resources for private gain
* Ensuring that there is no perception that you have received an improper benefit that may influence the performance of your official duties
* Not taking improper advantage of your official position or privileged information gained in that position when seeking employment outside the public sector
* Complying with the requirements of this policy, related specific policies and procedures, and any relevant Code of Conduct.

## Declaration of interests

When appointed to a Council, members must complete a ‘[Declaration of private interest’ form](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubconflictdec.docx). This is remade annually or when there is a significant change in the member’s circumstances.

Declarations are held securely in a Register and headline matters are reported to each meeting of the Council. The Register is controlled by the Manager, ACFE Board Secretariat.

## Disclosure of conflicts of interest

Members must disclose conflicts of interest or suspected conflicts of interest as soon as they arise.

Some examples of duties where conflicts could occur include:

* accepting membership of a funding assessment panel
* accepting membership of an awards judging panel
* accepting membership of a working group or committee of the Council
* recommending to the ACFE Board a funding allocation to an organisation.

A checklist to assist members to determine if they have a conflict is at ‘[Is there a conflict of interest?](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubconflictquery.docx)’. A disclosure form is at ‘[Conflict of interest declaration and action’](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubconflictactionform.docx).

## Managing conflicts of interest

Conflicts of interest must be disclosed using the forms at ‘[Declaration of private interests’ form](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubconflictdec.docx)or **‘**[Conflict of interest declaration and action’](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubconflictactionform.docx)as appropriate. Once disclosed, the conflict, if one is deemed to exist, will be managed using the model outlined in [‘Conflict of interest management flowchart’](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubconflictflowchart.docx).

A management strategy will be prepared for each declared conflict of interest and recorded on the form at ‘[Conflict of interest declaration and action’](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubconflictactionform.docx). It will record what management strategy will be followed, and be signed by the relevant parties.

For each identified conflict of interest, the form at ‘[Conflict of interest declaration and action’](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubconflictactionform.docx) will be completed and retained securely for the period prescribed by the *Public Records Act 1973*.

Reporting potential or actual conflicts and making declarations of private interest may involve disclosing personal information. All information will be handled in accordance with the *Privacy and Data Protection Act 2014*.

## Breaches of this policy

Breaches of this policy by a member will result in sanction/s and will be proportionate to the seriousness of the breach.

Serious breaches may lead to dismissal and/or reporting to the [Independent Broad-based Anti-corruption Commission](http://www.ibac.vic.gov.au/) or Victoria Police.

## Further information

[Fact Sheet | Inducting and mentoring new members](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubfsinducting.docx)

[Fact Sheet | Leading Regional Council](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubfsleading.docx)

‘[Declaration of private interests’ form](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubconflictdec.docx)

[‘Is there a conflict of interest?’ checklist](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubconflictquery.docx)

[‘Conflict of interest declaration and action’ form](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubconflictactionform.docx)

[‘Conflict of interest management flowchart and guide to managing a conflict of interest](http://www.education.vic.gov.au/Documents/about/research/acfepublications/rchubconflictflowchart.docx)’