



## **Governance & Risk**

Policy 9.20

Conflict of Interest Policy

**Version 1**

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# 1. Overview

## Objectives

The purpose of this policy is to set standards and provide guidance on how to manage conflicts of interest in an ethical manner.

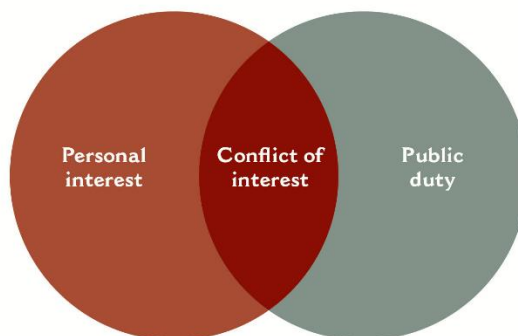
Lithgow City Council (LCC) is committed to preventing adverse consequences that can arise from conflicts of interest, as well as the appearance of favouritism, undue influence, or impropriety.

## Scope

This policy applies to all staff, Councillors, consultants, contractors, and outsourced service providers performing work for LCC.

## What is a conflict of interest?

A conflict of interest exists when a reasonable person might perceive that your personal interests could be favoured over your public duties. In practice, this requires a connection or overlap between those interests and duties, as shown in the figure below.



In addition to the requirements of your job description, your official duties include a requirement to act accordance with the policies, procedures, codes, and values of LCC.

A Conflict of Interest can be classified as Pecuniary Interest or Non-Pecuniary Interest:

### **Pecuniary Interest (Financial Interest)**

A pecuniary interest - occurs where there is a reasonable likelihood or expectation of **financial gain or loss** to the person or associated person.

An associated person includes the person's spouse or de facto partner, relative and any associated businesses.

### **Non-Pecuniary Interest (Non-Financial Interest)**

Non-Pecuniary Interests are private or personal interests that **are not financial** but may still conflict with your public duty.

This includes:

- Personal or private interests/relationships,
- Club membership, and/or
- Involvement in community groups.

### **Policy in Summary**

You must:

- disclose all conflicts of interests in accordance with this policy and as soon you become aware of a conflict.
- cooperate with the General Manager, Director, Manager, or other staff to ensure conflicts of interest are properly managed.
- not allow your personal interests to affect the way you carry out your duties.
- protect the reputation of LCC by considering how a conflict-of-interest situation might be perceived.
- declare in the LCC Conflict of Interest Declaration Form {refer to Annexure D (1)} any personal interests that have the potential to affect the way you carry out your duties.

LCC will maintain a Conflict-of-Interest Declaration Register based on the declarations.

Conflict of interest declarations lodged by staff must include a clear action plan developed by the supervisor in consultation with the staff member concerned and recorded in the Conflict-of-Interest Declaration Register.

## **2. Policy in detail**

### **About conflicts of interest**

Managing conflicts of interest is important because ratepayers rightly expect that staff of LCC, or their close connections and associates, should never be in a position to obtain undue personal

benefits. This reflects the view that public office is held for the public good, not the purposes or benefits of the officeholder. Therefore, any conflict of interest that is concealed or mismanaged can damage the reputation of LCC. Note the following important points.

- In most cases, only you will be aware of the potential for a conflict of interest. Consequently, the onus is on you to identify and declare any in accordance with this policy.
- It can be challenging to objectively assess whether your own personal interests are in conflict with your public duties. Therefore, you should err on the side of caution and make a disclosure if you are unsure about whether you have a conflict of interest.

### **Avoiding conflicts of interest**

While having a conflict of interest is not necessarily wrong, you should avoid placing yourself in conflicting situations where it is practical to do so. This can be achieved by avoiding:

- assignments and tasks that could conflict with your private interests (which you should discuss with your supervisor).
- investments or financial arrangements that could relate to your duties.
- commercial dealings with suppliers and other stakeholders that are not on a normal arm's length basis.
- situations in which professional relationships could develop into personal relationships.
- social media activity that could be perceived as compromising your impartiality.

To help determine if a conflict of interest exists, consider the six P's:

- **Personal interest** - Do I have personal interests that may conflict or be perceived to conflict with my public duties?
- **Potential benefit** - Could there be benefits for me now or in the future that could cast doubt on my objectivity?
- **Perception** - How will my involvement in the decision or action be viewed by others?
- **Proportionality** - Does my involvement in the decision appear fair and reasonable in all circumstances?
- **Public scrutiny** - What if my involvement was questioned publicly?
- **Promises** - Have I made any promises or commitments in relation to the matter?

## **Disclosure**

If there is a conflict of interest or if the answer is unclear, you should:

- Inform your supervisor of the conflict or potential conflict of interest in writing using the Conflict-of-Interest Declaration Form.
- Follow the directions of the Supervisor and Governance & Risk Manager.

Failure to declare an interest, even where you believe there is no actual conflict, but a conflict of interest might be perceived by others, could damage your personal reputation, and bring Council into disrepute.

In addition to the requirements in this policy, you should also comply with the requirements of LCC to disclose conflicts of interest during processes relating to:

- Procurement (tendering, purchasing & contracting).
- Recruitment and selection.
- Complaints management and disciplinary process.
- Receiving gifts, benefits, or hospitality.
- Managing private/public partnerships.
- Project Management.
- Sale of council land and other assets.
- Land use planning, development assessment and other regulatory approvals.
- Property & Legal Services.

You must make a new or revised disclosure if there is a significant change in the nature of your conflict of interest. If you change roles or report to a different manager, you should apprise your new manager of the details of your conflict of interest and any plan of management.

Any failure to disclose a conflict of interest, or conduct which favours a personal interest, is a breach of this policy.

### **When may a conflict of interest not arise?**

A conflict of interest may not arise in limited circumstances from a policy perspective. However, if a situation is unclear, disclosure is the most appropriate course of action:

- it 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 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.
- it only arises because the relevant person is a member of an organisation that has expressed an opinion or advocated for an outcome in regard to the matter.
- Refer to Part 4, section 4.6 of the Model Code of Conduct for Local Councils made under section 440 of the Local Government Act for a detailed list of interests that do not have to be disclosed.

### **Managing a conflict of interest**

In order to manage or prevent any conflict of interest it is essential that you are open and transparent with Council. The interests of LCC and the public interest should be put ahead of personal interests. Once your conflict of interest has been disclosed in accordance with this policy you must:

- together with your supervisor, discuss and document how your conflict of interest will be managed. This should be done by completing the relevant sections of the Conflict-of-Interest Declaration Form.
- adhere to the agreed, documented approach to managing your conflict of interest.
- promptly notify your manager in writing of any significant changes to your conflict of interest and update the document with your manager or prepare a new document with your manager.
- regardless of any disclosure that you have made, never favour your personal interests.

If you are a supervisor and one of your staff has disclosed a conflict of interest, you must:

- ensure the disclosure is in writing and is recorded in the Conflicts of Interest Register by completing the Conflict-of-Interest Declaration Form.
- if necessary, make further enquiries to verify the accuracy and completeness of the disclosure.
- together with the affected employee/contractor, discuss and document how the conflict of interest will be managed by completing a Conflict-of-Interest Declaration Form.

- conflict of interest declarations lodged by staff must be considered in close reference to Part 4 and Part 5 the Code of Conduct.
- forward a copy of the completed Conflict-of-Interest Declaration Form to Human Resources.
- discuss any agreed management action if unclear or requires further guidance with the Governance & Risk Manager.
- monitor and regularly review the situation to ensure compliance with the agreed management plan.
- record of any breaches of the agreed management plan. Provide a copy in writing to the staff member(s) concerned, the section Manager and/or Director and the Human Resources Manager for consideration and action.

Supervisors should always consider whether the circumstances warrant removing an employee from the duties that are in conflict with their personal interests. While not always practical, this approach eliminates much of the risk.

Supervisors, including contract and project managers, should also be aware that the responsibilities set out above also apply to contractors, service providers and other entities acting on behalf of LCC that disclose conflicts of interest.

If you are a Director and one of your managers / supervisors has entered into an action plan on a disclosed conflict of interest, you must:

- acknowledge and review the Conflict-of-Interest Declaration Form and authorise any action plan included in Section 3 of the form.
- escalate any declaration that may give rise to potential fraud & corruption (refer to Fraud & Corruption Control Plan) to the General Manager.

If you are the General Managers and one of the Directors or equivalent has disclosed a conflict of interest, you must:

- acknowledge and review the Conflict-of-Interest Declaration form and authorise any action plan included in Section 3 of the form in consultation with Director, Finance & Governance.
- acknowledge and review the Conflict-of-Interest Declaration form and authorise any



action plan included in Section 3 of the form in consultation with the Director on potential fraud & corruption elements of employee declaration (refer to Fraud & Corruption Control Plan).

- provide guidance on remedial actions to eliminate potential Fraud & Corruption

### **Managing privacy**

Conflicts of interest can involve the disclosure of information that may be private in nature, such as details about personal finances and relationships. While you must disclose this information, if required, personal information should only be shared with staff on a genuine need-to-know basis.

### **Further policy requirements**

The following additional policy requirements apply.

#### **Dealing with yourself or your family**

You must not process transactions, make decisions, or be involved in workplace duties that involve your personal affairs as a citizen interacting with LCC, without the written authorisation of your supervisor. The same requirement applies to matters involving members of your immediate family. In addition, you may not self-approve transactions that provide you with a personal financial benefit (for example, payroll, overtime, leave and expense reimbursement matters) unless you have written permission.

#### **Personal dealings with suppliers and service providers**

You should avoid making personal purchases from the suppliers and service providers of LCC unless they are on an arm's-length basis. Seeking discounts or favourable terms from suppliers for personal purchases could create a conflict of interest. If you are in any doubt, seek advice from your supervisor.

#### **Secondary employment or business**

All employees must ensure that any private business interests or secondary employment, does not interfere with their Council responsibilities.

Secondary employment should not:

- Conflict with official duties.

- Interfere with Council work.
- Involve the use of confidential information gained through Council.
- Involve the use of Council resources or time.
- Discredit Council.
- Disadvantage Council.

Employees need to apply in writing (using a Secondary Employment Form) to the General Manager prior to undertaking any secondary employment.

### **Disclosure of personal interests by senior executives**

Senior executives (Director level and above) and designated individuals must make a written declaration of private financial, business, personal or other interests or relationships that have the potential to influence, or could be perceived to influence, decisions made, or advice given. The Director, Finance & Governance is responsible for coordinating compliance with this requirement for Senior Executives, however, the required information should be provided by completing the Conflict-of-Interest Declaration Form.

## **3. Breaches**

Breaches of this policy may result in disciplinary action in accordance with the LCC Code of Conduct A. Breaches that are reasonably suspected to amount to corrupt conduct will be reported to the NSW Independent Commission Against Corruption. Breaches that amount to criminal conduct will be reported to the police. You must report any reasonably suspected breaches of this policy to relevant contact officers listed in Annexure B.

## **4. Further information**

Further information about this policy and the management of conflicts of interest can be obtained by contacting the Governance & Risk Manager.

Related policies include:

- LCC Code of Conduct.
- Public Interest Disclosure Policy.
- Fraud and Corruption Control Plan.

## **5. Roles and responsibilities**

Each of the following has specific assigned responsibilities under this policy:

- General Manager
- Employees and Councillors
- Supervisors / Managers
- Director Finance & Governance
- All Directors and Executive Managers
- Human Resources Manager
- Governance and Risk Manager
- Audit, Risk and Improvement Committee

### **General Manager**

This role is responsible for:

- the general conduct and management of LCC in accordance with the core values of the ethical framework for the local government sector.
- acknowledging and reviewing the Conflict-of-Interest Declaration form and authorising any action plan included in Section 3 for Directors or equivalent in consultation with Director Finance & Governance.
- acknowledging and reviewing the Conflict-of-Interest Declaration form and authorising any action plan included in Section 3 of the form in consultation with the Director on potential fraud & corruption elements of the employee declaration (refer to Fraud & Corruption Control Plan).
- Receiving, reviewing and recording any action plan included in the Councillor Conflict-of-Interest Declaration Form.
- providing guidance on remedial actions to eliminate potential Fraud & Corruption.
- reporting reasonably suspected corrupt conduct to the NSW Independent Commission Against Corruption.

## **Employees and Councillors**

Employees and Councillors are responsible for:

- as a general rule, placing the interests of LCC and the public interest ahead of personal interests.
- disclosing all conflicts of interest in writing (and, where relevant, disclosing personal interests) in accordance with this policy.
- adhering to the agreed, documented approach to managing conflicts of interest.
- reporting reasonably suspected breaches of this policy in accordance with the Code of conduct, Public Interest Disclosure Policy and Fraud and Corruption Control Plan.

## **Supervisors / Managers**

Supervisors / managers are responsible for:

- ensuring that their staff, including consultants, contractors, and outsourced service providers, comply with this policy.
- providing leadership in dealing with conflicts of interest.
- exercising sound judgment when considering how the conflicts of interest of their staff should be managed.
- reporting reasonably suspected breaches of this policy in accordance with Code of conduct, Public Interest Disclosure Policy and Fraud and Corruption Control Plan.
- ensuring that relationships with suppliers and other contractors remain on a professional footing, free of conflicts of interest.
- regularly (monthly) review conflict of interest management plans in the policy.

## **Director Finance & Governance**

Responsible for:

- maintaining an overall framework of Governance and internal control.
- receiving and investigating reports of breaches of this policy by Directors, General Manager.
- advising the General Manager on reporting reasonably suspected corrupt conduct to the NSW Independent Commission Against Corruption.

## **All Directors and Executive Managers**

Responsible for:

- all Directors and Executive Manager are responsible for acknowledging and reviewing the Conflict-of-Interest Declaration Form and authorising any action plan included in Section 3 of the form.
- escalating any declaration that may give rise to potential fraud & corruption (refer to Fraud & Corruption Control Plan) to the General Manager.

## **Human Resources Manager**

The Human Resources Manager is responsible for:

- maintaining a register of conflicts of interests.
- maintaining a register of personal interests by senior executives and designated employees.
- providing written and verbal guidance on this policy, where required.
- developing and delivering any required training on conflicts of interest.
- ensuring that the frameworks and registers of LCC are maintained and current.
- prepare periodic reports to the General Manager, documenting Conflict of Interest declarations made by staff and action plans to address those conflicts.

## **Governance & Risk Manager**

This role is responsible for:

- ensuring that the frameworks of LCC reflect the risk of conflicts of interest.
- assisting the policy owner, managers, and staff to manage the risk posed by conflicts of interest.
- auditing compliance with this policy.
- updating this policy every 4 years.

## **Audit, Risk, and Improvement Committee**

- ensures that it receives and considers periodic reports documenting staff conflicts of interest and undertake scheduled reviews of Council's policies and processes for management and reporting of such conflicts.

## **6. Additional information – personal interests that can conflict with public duties**

Personal interests that may trigger a conflict of interest include:

- financial interests.
- people who are more than acquaintances.
- connections to people who have provided income or may provide income.
- organisations and clubs, and people connected to them.
- connections to people and entities who have given benefits or favours.
- other close connections.

As a general rule, the personal interests of your family members and close connections are considered to be your personal interests.

### **Financial interests**

Financial interests can be direct or indirect, short- or long-term, and can stem from both gains and losses. The financial interests of your immediate family members or any other member of your family economic unit are normally deemed to be your interests. Examples of financial interests include:

- sources of income, including secondary employment.
- ownership or lease of land, buildings, and property.
- shares or investments in companies, partnerships, or other entities.
- beneficial interest in a trust or deceased estate.
- loans or debts.
- an option to buy or sell an asset or any other anticipated future financial benefit.

### **People who are more than acquaintances**

Any relationship with a person, who is more than an acquaintance, could be a personal interest. This typically includes spouses, relatives (including relatives by marriage), friends, romantic partners, close colleagues, mentors, and social connections. It can also include people with whom you formerly had a close relationship, for example, a previous spouse, ex-colleague, or an old friend. Feelings of enmity or hatred towards a person can also constitute a personal interest.

### **Connections to people who have provided or may provide income.**

Other sources of income are financial interests. However, the people and entities associated with that income are also likely to be personal interests. Examples can include:

- any current provider of secondary or other employment.
- current or former business partners.
- customers, significant suppliers or contractors of a private business or other employer.
- providers of future employment or business opportunities.
- relationships with former employers and colleagues, especially if there is ongoing social contact.

### **Organisations and clubs, and people connected to them.**

A personal interest may arise from a connection with organisations or clubs that may be professional, sporting, recreational, community, arts, social and so forth. Hobbies about which you are passionate could also be classed as a personal interest.

### **Connections to people and entities who have given benefits or favours.**

Officials may have a personal interest if they could feel indebted or obligated to anyone who has provided gifts, benefits, hospitality, or favours. It is not necessarily the gift or benefit itself that causes the conflict of interest, but the potential relationship and sense of obligation or expectation that could arise.

## **7. Additional information – options for managing conflicts of interest**

This policy requires supervisors to develop and implement a plan for managing conflicts of interest. Supervisors/Directors/GM should be guided by the options set out below.

Options for reducing or amending the involvement of the conflicted employee or contractor include:

- removal from the relevant assignment or task.
- limiting involvement to certain aspects of the process, including segregating, or reducing duties.
- temporary placement in a less senior role.
- closer supervision or adding members to the team.
- exclusion from certain discussions or meetings.
- confinement to an advisory role with no decision-making authority or financial delegations.
- exclusion from critical record keeping roles.
- Preventing dealings with external parties (such as tenderers).
- changing reporting lines.
- limiting access to certain systems, information, and assets.
- ensuring that a colleague of equal or greater seniority (to the conflicted person) is involved in the matter.
- engaging an independent expert to work on aspects of the matter.
- engaging a peer or subject-matter expert to review the work of the conflicted person.

Options for reducing or amending the influence of the conflicted employee or contractor include:

- transferring the matter to another unit or team that is unconnected with the conflicted official.
- transferring the conflicted person to another project, branch, or unit (temporarily or permanently).
- creating a physical separation between the conflicted person and decision-makers.
- removing access to electronic and physical records.
- informing relevant colleagues that there is a conflict of interest and instructing them on how to meet probity requirements.

Options for managing the personal interest of the conflicted employee or contractor include:



- obtaining agreement to relinquish ownership or control of a financial interest, such as shares or land.
- prohibiting secondary employment.
- obtaining an undertaking from the conflicted person to refrain from communicating with a particular person during a process, such as a recruitment exercise or a tender.

## **Annexure A**

The Conflict-of-Interest Policy should be read in conjunction with the following Council policies that form an integral part of the management and disclosure of Conflict of interest and related policies:

1. Code of Conduct
2. Model Public Interest Disclosure Policy
3. Fraud and Corruption Control Plan

## **Annexure B**

Names and contact details of Conflict-of-Interest officers for Lithgow City Council:

Ross Gurney  
Director, Finance & Governance  
6354 9950  
[ross.gurney@lithgow.nsw.gov.au](mailto:ross.gurney@lithgow.nsw.gov.au)

Renaë Delosa  
Manager, Human Resources  
6354 9968  
[Renaë.delosa@lithgow.nsw.gov.au](mailto:Renaë.delosa@lithgow.nsw.gov.au)

Raj Singh  
Governance and Risk Manager 6354 9960  
[raj.singh@lithgow.nsw.gov.au](mailto:raj.singh@lithgow.nsw.gov.au)

## Annexure C

### List of integrity agencies

| Integrity agency                                 | What they investigate  | Contact information  |
|--|--|--|
| <b>The NSW Ombudsman</b>                         | Most kinds of <b>serious maladministration</b> by most agencies and public officials (but not NSW Police, judicial officers, or MPs) | Telephone: 1800 451 524 between 9am to 3pm Monday to Friday<br><br>Writing: Level 24, 580 George Street, Sydney NSW 2000<br><br>Email: <a href="mailto:info@ombo.nsw.gov.au">info@ombo.nsw.gov.au</a>  |
| <b>The Auditor-General</b>                       | <b>Serious and substantial waste of public money</b> by auditable agencies   | Telephone: 02 9275 7100<br><br>Writing: GPO Box 12, Sydney NSW 2001<br><br>Email: <a href="mailto:governance@audit.nsw.gov.au">governance@audit.nsw.gov.au</a>   |
| <b>Independent Commission Against Corruption</b> | <b>Corrupt conduct</b>   | Telephone: 02 8281 5999 or toll free on 1800 463 909 (callers outside Sydney) between 9am and 3pm, Monday to Friday<br><br>Writing: GPO Box 500, Sydney NSW 2001 or faxing 02 9264 5364<br><br>Email: <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a> |
| <b>Office of Local Government</b>                | <b>Local government pecuniary interest contraventions</b>  | Email: <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a>  |
| <b>The Information &amp; Privacy Commission</b>  | <b>Privacy contraventions</b><br><b>Government information contraventions</b>  | Telephone: 1800 472 679<br><br>Writing: GPO Box 7011, Sydney NSW 2001<br><br>Email: <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>   |

# Annexure D

## Conflict of Interest Declaration Forms



Conflict-of-Interest-Declaration-Form-LC

Staff Form



Conflict-of-Interest-Declaration-Form-LC

Councillor Form

|                                  |                 |                           |      |                        |            |
|----------------------------------|-----------------|---------------------------|------|------------------------|------------|
| <b>Maintained by Department:</b> |                 | <b>Approved by:</b>       |      |                        |            |
| <b>Reference:</b>                | Policy Register | <b>Council Policy No:</b> | 9.20 | <b>Effective Date:</b> | 01/02/2024 |
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| <b>Attachments:</b>              |                 |                           |      |                        |            |