

Conflict of Interest

Know the rules about your member responsibilities and your personal business.

Do the right thing.

What is an interest?

An interest is a matter of personal or financial benefit to a member. Sometimes members are asked to make choices that affect both the community and their own interests.

If members have a personal or financial interest in a decision, they should disclose this interest at the meeting but cannot participate in the decision.

A member can be a council member, a local authority member or a member of a council committee or audit committee.

When do you have a conflict of interest?

A member has a conflict of interest if they, a family member, close friend or business partner might get money, work or other personal benefits because of a decision.

A conflict of interest can occur when making a decision on a matter where a member's interests or the interests of their friends, family, or business partners can be put above community interests.

Do all interests create a conflict?

No, not all interests create a conflict of interest.

Some situations where there is no conflict

A conflict of interest does not apply in some situations, for example:

- if the member's interest is a common interest that is shared with the general public or other ratepayers
- when discussing the level of member allowances and expenses.

If you are not sure that you have a conflict of interest, talk to your council's Chief Executive Officer (CEO) to find out.

For a list of situations where a member does not have a conflict of interest, see page 4.

What to do

If you have a conflict of interest, including a perceived, actual and potential conflict, you need to:

- tell other members at the meeting before the matter is talked about

- leave the meeting room while that decision is being talked about or voted on so that you cannot influence the decision
- tell your council CEO, who can help you to get more information.

If you have disclosed a conflict, you must remember to leave the meeting room before the decision is talked about or voted on. It is important that you do not influence the discussion of other members on the matter.

Section 116 of the *Local Government Act 2019* (the Act) requires the CEO to keep a record of conflicts of interests, which are kept in a *register of declared conflicts*.

Failure to disclose a conflict of interest

As a member, you need to make sure that the interests of the community always come first.

Not disclosing a conflict of interest is an offence in the Act and breaches the Code of Conduct.

Disclose the conflict as soon as you realise it. If you forget to disclose a conflict at the start of the meeting, disclose it as soon as you remember.

If you do not disclose a conflict of interest or do not leave the meeting room, the decision made can be questioned by a court and overturned or cancelled.

Your reputation in the community may be damaged if you are seen to be getting benefits for yourself, your family, friends or business partners because of your role as a member.

Example of a conflict of interest

Bernie is a council member. He also owns a local gardening maintenance business.

The council wants to employ someone to mow the grass in town and invites quotes from the public. Bernie submits a quote to do the job.

Because Bernie is a council member, he would have a conflict of interest if he takes part in the council's decision about who gets the job. This is because Bernie will get personal and financial benefit from that decision if he wins the job.

Bernie can submit a quote but he needs to disclose his conflict of interest and leave the meeting room when council talks about and makes a decision on who gets the job.

After the other council members have made a decision, Bernie can return to the meeting room and he can be told of the council's decision.

For more examples in relation to conflict of interest, see page 3.

Where can I get more information?

Ask your council's CEO for more information.

It's important to ask questions so you know your responsibilities as a member.

Contact the Office of the Independent Commissioner Against Corruption (ICAC), on free call 1800 250 918 or search publications at icac.nt.gov.au.

More examples for conflict of interest

Financial interest

A building company regularly sub-contracts to a bricklayer. The building company has tendered for a council contract to build a public toilet block. The bricklayer is a council member and may get contracting work in the future if this building company wins the contract. The council member has a financial interest and must disclose this conflict of interest to the council. The council member (the bricklayer) must leave the meeting room and not participate in decisions on awarding the contract.

In addition, a conflict of interest could arise before the contract is awarded if this bricklayer member raises with the council, in early discussions, the idea of a 'brick' toilet block building instead of a demountable block that the council had planned to build. The member could also have a conflict of interest after the contract has been awarded (if the same building company wins the contract) when council is discussing how well or bad the project is progressing if the member is the subcontractor.

Conflicting duties

A conflict of interest arises where there is conflict between a council member's duty to the community, and their duty to an employer, a political party or another organisation. For example, Councillor Samantha Smith, who works for a tree removal company, must disclose her conflict of interest and leave the meeting room when council discusses a tender from Councillor Smith's employer (conflicting duties to both her employer and the council). It is important to note that where there are conflicting duties that create a conflict of interest, and a council member takes part in the matter, the member runs the risk of breaching the Act and the Code of Conduct.

Perceived conflict of interest

Councillor John Jones was invited by a football club director to be a guest in the club's President's Box and to attend the club's presidential dinner free of charge for a semi-final game. The club later asks for funding from the council to work on its historic grandstand. Councillor Jones must disclose a conflict of interest and leave the meeting. He must not be part of the council's decision as a reasonable person may think Councillor Jones has been influenced by the personal gifts. Councillor Jones must notify the CEO of the gift and the CEO must record details of the gift in the register of declared gifts and benefits required under section 113 of the Act.

Close association

The brother-in-law of Councillor Aida Gray was contracted by the council to renovate several community facilities. A dispute arose about the quality of the work and council refused to make payments. Councillor Aida Gray's brother-in-law has started legal action against the council and the council must decide whether to contest the matter or agree to a settlement. Councillor Gray has a conflict of interest in this matter because of her close association with her brother-in-law. Gray must disclose this conflict of interest and not participate in the council decision. Councillor Gray cannot be in the meeting room while council discusses the matter and makes a decision.

Interest in common (no conflict)

The council is about to vote on putting in a new sprinkler system for a local reserve used by different community clubs. Councillor Roger Evans is an active member of the community cricket club that uses the reserve. Councillor Evans regularly plays cricket matches for the community cricket club. Some of the community members come to watch the community club's cricket games or they have a family member who

plays cricket at these matches. As the reserve is available for all residents to use either as a spectator or as a player, and Councillor Evans has the same access to the reserve as others in the community, Councillor Evans has an interest in common with other people and does not have a conflict of interest in this matter.

List of situations where there is no conflict

Under section 114(2) of the Act, a member does not have a conflict of interest in a matter arising for decision by the council, council committee, local board, or local authority if the matter is about:

- (a) an interest that the member or associate shares in common with the general public or a substantial section of the public;
- (b) an interest as an elector or ratepayer that the member or associate shares in common with other electors or ratepayers;
- (c) an interest so remote or insignificant that it could not reasonably be regarded as likely to influence a decision.