



## Conflict of Interest Policy

Department/Unit	Governance & Risk Department	First Implemented	December 2023	Review Date	December 2027
Origin	Coordinator Governance and Risk	Reviewed	-	Version	1
Authorising Officer	Endorsement by Council	Effective From	12 December 2023	TRIM Reference	E513/2

### Purpose/Objective

This Policy provides guidance on specific circumstances that give rise to a conflict of interest and clarifies the types of interests that constitute a conflict of interest, the process that must be followed and the consequences or actions that may be taken for failing to comply with the requirements of the *Local Government Act 2020*. Recognising and declaring interests, whether they are actual, potential or perceived, mitigates risk and reputational damage to Council.

### Policy Statement

All Council employees have a duty to place the public interest above their private interests.

Council employees must serve the community by carrying out work tasks, making decisions and taking actions that are fair, transparent, and accountable and in accordance with relevant laws, overarching governance principles and Mansfield Shire Council policies and procedures.

A conflict of interest arises where an employee's private interests can influence or be seen to influence their public duty. Conflicts of interest are inevitable and can arise without anyone being at fault. This is particularly so for Council employees who likely have interests in the local area and close connections within the local community. The avoidance of, or appropriate management of conflicts of interest, ensures Council operates in the public interest.

This policy gives effect to the following overarching governance principles under the *Local Government Act 2020*:

- ▶ Council decisions are to be made and actions taken in accordance with the relevant law;
- ▶ Priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- ▶ The ongoing financial viability of Council is to be ensured;

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- ▶ The transparency of Council decisions, actions and information is to be ensured.

Section 130 of the *Local Government Act 2020* outlines the offences in the event a person fails to disclose a general or material conflict of Interest.

## Definitions

Term	Definition
<b>Affected person</b>	A 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, 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.
<b>CEO</b>	Chief Executive Officer of Mansfield Shire Council
<b>Conflict of interest</b>	Where an employee has private interests that could improperly influence, or be seen to influence, their decisions or actions in the performance of their public duties.
<b>Council</b>	Mansfield Shire Council
<b>Councillor</b>	A person elected by eligible residents and ratepayers in a Local Government election or by-election.
<b>Disclosable gift</b>	Means one or more gifts with a total value of more than \$500, or if an amount is prescribed, the prescribed amount received from a person in the 5 years preceding the decision on the matter. This does not include the value of any reasonable hospitality received by the relevant person at an event or function that the relevant person attended in an official capacity as a Councillor or member of Council staff.
<b>Employee</b>	People who are employed by the Chief Executive Officer or by a person authorised by the Chief Executive Officer to employ Council staff and employed to perform, or assist in performing, the functions of Council and or the Chief Executive Officer. It also includes agency staff, temporary contract staff and contractors engaged by Council.
<b>Family member</b>	A spouse or domestic partner of the relevant person, a parent, grandparent, sibling, child, step-sibling or step-child of the relevant person or of their

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Term	Definition
	spouse or domestic partner, step-parent and any other person that regularly resides with the relevant person.
<b>General conflict of interest</b>	Is a conflict where an impartial, fair minded person would consider that the employee's private interests could result in that person acting in a manner that is contrary to their public duty. Employees must exercise good judgement in identifying situations where they have general conflicts of interest.
<b>Matter</b>	Means a matter which a Council, Delegated Committee, or a member of Council staff is concerned and that will require a power to be exercised, or a duty or function to be performed or a decision to be made by the Council, Delegated Committee in respect of that matter; or 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 a matter.
<b>Material conflict of interest</b>	Is a conflict where an employee would gain a benefit or suffer a loss of interest depending on the outcome of a matter. Material conflicts of interest specify particular situations and are more clearly defined and easier to identify than general conflicts of interest.
<b>Private interest</b>	<p>Is any interest a person has that does not derive from their public duties as an employee. A private interest means anything that can influence an employee. Private interests include direct interests, such as an employee's own personal, family, professional or business interests. They also include indirect interests, such as the personal, family, professional or business interests of individuals or groups with whom the employee is, or was recently, closely associated.</p> <p>Private interests may be pecuniary (i.e. financial), which includes any actual, potential or perceived financial gain or loss. They may also be non-pecuniary, which includes any tendency toward favour or prejudice resulting from personal or family relationships, such as friendships, enemies, or sporting, cultural or social activities.</p>
<b>Public duty</b>	Is an employee's obligation to perform their role as a member of Council staff, acting in the public interest in accordance with the Local Government Act, the overarching governance principles, and this policy.
<b>Actual conflict of interest</b>	Is a real conflict between an employee's public duty and their private interests.

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Term	Definition
<b>Potential conflict of interest</b>	Arises when an employee's private interests could conflict with their public duties. This refers to circumstances where it is foreseeable that a conflict may arise in future and steps should be taken now to mitigate that risk.
<b>Perceived conflict of interest</b>	Is where the public or a third party could form the view that an employee's private interests could improperly influence their decisions or actions, or the actions or decisions of Council.

## Scope

This policy applies to all Council employees, Councillors, contractors, consultants, volunteers and other authorised personnel of Mansfield Shire Council.

## Responsibilities

Overall responsibility for the application of this Policy is held by the Chief Executive Officer.

Managers are responsible for ensuring their staff comply with the principles, practices and any associated procedures of this policy. Management, employees, contractors and volunteers are to be familiar with, and competent in, the application of this Policy, and are accountable for the delivery of this policy within their areas of responsibility.

The Governance & Risk Department is the owner of this policy. Any reviews of this Policy must be made in consultation with the Coordinator Governance and Risk and General Manager Business & Economic Development.

## References / Related Policies

- ▶ Local Government Act 2020 s.126 – 131 (the Act)
- ▶ Local Government (Governance and Integrity) Regulations 2020
- ▶ Governance Rules 2020
- ▶ Councillors' Code of Conduct
- ▶ Employee Code of Conduct
- ▶ Public Records Act 1973
- ▶ Gift, Benefits and Hospitality Policy
- ▶ Risk Management Policy
- ▶ Procurement Policy
- ▶ Employee Conflict of Interest Declaration Workflow (*Appendix 2*)

## Gender Impact Assessment

The Conflict of Interest Policy has considered the Gender Equality Act 2020 in its preparation but is not relevant to its content. The Conflict of Interest Policy has been assessed as not requiring a Gender Impact Assessment (GIA).

## Implementation

This Policy is effective from 12 December 2023.

## Review Date

This Policy is to be reviewed by December 2027.

## Authorisation to Implement Policy

Signed: \_\_\_\_\_

Councillor

Witnessed: \_\_\_\_\_

Chief Executive Officer

Approval dated: 12 December 2023

**Mansfield Shire Council reserves the right to review, vary or revoke this Policy at any time.**