

Conflict of Interest Policy

Policy Owner:	Chief Executive
Policy Sponsor:	General Manager Strategy & Support
Approved By:	Waikato District Council
Approval Date:	13 April 2015
Resolution Number:	WDC1504/06/1/1/5
Next Review Date:	March 2018

Objectives

The objective of this policy is to:

- provide best practice guidance to Council members and staff making work decisions so that such decisions are seen to be transparent and unbiased and without giving rise to any perception of conflict of interest;
- set rules around disclosing actual, potential and perceived conflicts and accepting gifts and other benefits; and
- set out Council's expectations for its members and staff and to ensure compliance with the provisions of the legislation and good practice guides listed below;
- preserve public trust in Council by avoiding actual, perceived or potential bias.

Introduction

Elected members and employees of Council have a number of professional and personal interests and roles. Conflicts of interest sometimes cannot be avoided but they need not cause problems when promptly disclosed and well managed.

The policy defines a range of circumstances that may constitute conflicts of interest. Associated processes and guidelines for identifying and managing conflicts of interest are provided separately in Promapp and are to be read in conjunction with this Policy document.

This policy is intended to reflect best practice, and will generally be applied by Council.

Application

This policy applies to all elected members, including community boards and committees, and all Council managers and staff, whether full-time, part-time or casual.

It also applies to contractors or consultants engaged by Council where the contract or engagement agreement has specified that this policy applies.

All Council members and staff are responsible for complying with this policy. Senior managers are also responsible for ensuring that their staff adhere to it. If Council staff are unclear about the application of this policy to specific circumstances or situations they should seek clarification from their manager who may seek clarification or advice from their General Manager or Chief Executive.

Relevant Documents / Legislation

<u>Legislation</u>	Local Authorities (Members' Interests) Act 1968
<u>Associated Guidelines</u>	Managing Conflicts of Interest : Guidance for Public Entities (Office of the Auditor-General) Guidance for Members of Local Authorities about the Local Authorities (Members' Interests) Act 1968
<u>Policies</u>	WDC Gifts & Hospitality Policy WDC Procurement of Goods & Services Manual (Section 4.6) WDC Code of Conduct (staff) WDC Code of Conduct (Council and Community Committees)
<u>Processes</u>	Manage Disclosures of Interests Register - Elected Members Manage Disclosures of Interests Register – Senior Management and Staff Identify, Declare and Manage a Conflict of Interest (Staff) Identify, Declare and Manage a Conflict of Interest (Elected Members) Evaluate Tenders – Part A

Definitions

Conflict of Interest	means any situation when a person has a financial, personal or business interest sufficient to influence or appear to influence the impartial exercise of their official Council duties or professional judgement.
Council	means Waikato District Council.
Matter	means the Council's performance of its functions or the exercise of its powers, or an arrangement, agreement or contract the Council has entered into or proposes to enter.
Member	means elected members of Waikato District Council including Community Boards and Community Committees of Meremere and Te Kauwhata.
Senior Staff	means the Chief Executive, General and Third Tier Managers of the Waikato District Council.
Business Interest	A Council staff member or elected member will have a business interest in an enterprise seeking to do business with the Council if they: <ul style="list-style-type: none">• are a director of the enterprise;• are an owner of or partner in the enterprise;• have a shareholding in the enterprise;• have a close personal or familial relationship with a person who is an owner or partner or significant shareholder in the enterprise.
Financial Interest	means anything of monetary value, including but not limited to: <ul style="list-style-type: none">• Salary or payments for service, e.g. consulting fees and honoraria;• Equity interests, e.g. stocks, stock options and other ownership interests;• Gifts;• Allowances, forgiveness of debts, interests in real estate or personal property, dividends, rents, capital gains; and• Intellectual property rights, e.g. patents, copyrights and royalties from these rights.

The term does not include salary or other remuneration received from or approved by Council.

Personal Interest A Council staff member or elected member has a personal interest in a matter if their spouse or partner, or other person in their family with whom there is a close friendship or relationship, could be advantaged or disadvantaged by any decision that the staff or elected member either can make, or does make, or is in a position to influence.

Relevant Interest is when an elected or staff member has a business, financial or personal interest in a company, trust, or community organisation that is likely to do business with council at any time.

Policy Statements

1.0 Principles and Ethics

1.1 Elected Members and Staff

Elected members and staff must carry out their duties in an efficient and competent manner and avoid any behaviour which might impair their effectiveness, or damage the integrity or standing of council. Thus it is fundamental to the protection of the reputation of Waikato District Council that no elected or staff members have, or are perceived to have, a conflict between their official responsibilities and their personal interests.

A conflict of interest can arise where two different interests overlap, i.e. in any situation where an elected or staff member has a financial interest, a private or personal interest or business interest sufficient to influence or appear to influence the impartial exercise of their official duties or professional judgment.

Members and staff must at all times avoid situations where their integrity might be questioned or where they may appear to favour one party, supplier or customer over another. In addition, members and staff must act honestly and impartially and in no circumstances reveal or make private use of personal, confidential or other non-public information obtained as a result of their employment by the Council.

The existence of a conflict of interest may not necessarily mean that the elected or staff member concerned has done anything wrong or that the interests of Council or the public have been compromised. For an elected or staff member a conflict of interest that creates risks may be where their duties or responsibilities to Council could be affected by some other interest or duty that they may have. For example, other interests or duties might exist for an elected or staff member because of their own financial affairs; a relationship (private or personal interest) or other role (business interest) that the elected or staff member has; or something the elected or staff member has said or done.

Disclosure provides transparency and protects those concerned from allegations of duplicity and enables the avoidance of being unwittingly placed in situations that may lead to a conflict of interest.

1.2 Contractors/Consultants/Providers

Conflicts of interest in relation to consultants, contractors and goods/service providers may arise as a result of:

- the contractor or service provider also being an employee of the Council;
- a Council employee having an “interest” in a contractor or service provider and having the opportunity to be involved in discussions and/or decision making with

respect to that consultant, contractor or service provider about any potential agreement or contract;

- the consultant, contractor or service provider having an “interest in” or relationship with a third party outside of the Council which could influence their relationship with the Council.

2.0 Policy Statements

2.1 Council staff and members are to conduct themselves at all times under the above principles, ensuring that:

- self-interest or personal factors are not permitted to influence their decision making;
- financial, family, personal or business relationships or interests do not in fact, nor appear to, unfairly advantage or disadvantage other Council staff, elected members or other individuals or organisations;
- they are not involved in the appointment process of people with whom they have a close personal or family relationship;
- they do not take part in discussions, deliberations, decision-making or voting on a matter in which he/she (or a member of his/her immediate family or a dependent) has a material interest, except with consent of the Council/Committee Chair/Manager;
- they observe the highest standards of behaviour in accepting gifts or rewards. Any gift that might attract the suspicion of improper motive, or which obligates the individual should not be accepted. In any event all gifts offered (received or not) are to be declared (refer to WDC Gifts & Hospitality Policy and Elected Members’ Code of Conduct);
- Council’s name, resources, information and time are not used for private or personal benefit without prior written consent of an authorised person;
- any conflict of interest identified is declared as soon as possible;
- where a manager has received a declaration of interest from a staff member, appropriate steps are taken to resolve the situation as soon as possible, in accordance with process;

2.2 Council staff and members should acquaint themselves with the relevant policies and processes referred to in this policy.

2.3 As part of the induction process, new Council members and staff will receive advice on how to identify, report, and manage conflicts of interest.

2.4 Council members must monitor any business interactions between the Council and any company or organisation in which the member has a material interest and ensure that such business does not exceed \$NZ25,000 (including GST) in value without the prior approval of the Auditor-General.

Members shall:

- declare any interests in contracts in the Council’s Interest Register (see 2.7 below)
- discuss any proposed interest in contracts (of whatever value) in advance with the Chief Executive and/or the OAG and follow the advice that they are given;
- not participate in decision-making relating to any contract in which they have an interest;
- not accept any gifts (including hospitality, entertainment) from tendering parties where the Council or local board/committee will be part of the decision-making process.

2.5 Council staff shall not participate in the following activities, unless otherwise authorised in writing:

- being involved in a decision to appoint or employ a relative;
- conducting business on behalf of the Council with a relative's company;
- owning shares in (or working for) any organisation that has dealings with (or that are in competition with) the Council;
- being involved in any public consultation process on behalf of the Council where the staff member is involved in the same process on behalf of him/herself or another entity, except where considered reasonable (e.g. a rates staff member who lives in the district might need to explain rates increases);
- accepting gifts in connection with their official role (see WDC Gifts & Hospitality Policy for parameters); or
- influencing or participating in a decision to award grants or contracts where the member is connected to a person or organisation that submitted an application or tender.

2.6 Every elected and staff member has an obligation to declare any material interests relevant to Council activities and to ensure that any conflict arising from the material interests is noted and managed appropriately.

2.7 **Interests Registers**

Council will maintain two Interests Registers (one for members and one for staff) which are to be updated:

- a) at least annually in relation to Council members and senior staff, as detailed in 2.8 below; and
- b) as required when an elected or staff member declares a conflict of interest at any time during the year (as detailed in the relevant 'Identify, Declare and Manage Conflicts of Interest' process).

Both Registers will be maintained by the Council Support Manager and shall include approved action plans where relevant.

The Elected Members Interests Register (or a fair and accurate summary of its contents) will be made available for public inspection.

2.8 **Annual Declarations**

Elected members and senior staff must make full and complete annual declarations of relevant interests as at 31 January each year. Such declarations must be received by the Council Support Manager by the last day of February. Members and senior staff may also advise as soon as practicable during the year if any relevant new interests arise (refer to Guidance Notes in Appendix A). All declarations are recorded in the relevant Interests Register.

The annual declaration must notify the Council of the nature and extent of any relevant interest (refer to definition), including:

- 1) Company directorships and controlling interests.
- 2) Interests (such as shares and bonds) in companies and business entities.
- 3) Any employment.
- 4) Beneficial interests in trusts.
- 5) Membership of community organisations, for example clubs, environmental protection organisations, churches or charitable bodies within the Waikato district.
- 6) Appointments (except those made by the Council), e.g. to a University Council or Government agency.
- 7) Interests in land, within the Waikato district, whether as owner or tenant.

The above interests are defined in the Register of Members' Interests - Schedule of Requirements (Appendix A). These definitions should also be used by senior staff wherever relevant. Note: In some cases the declarations also involve the interests of the member or manager's spouse or partner, family and close friends – refer to the Schedule.

2.9 Council and committee agendas will include a 'standing' item for the disclosure of any interest relating to any agenda item.

2.10 **Contractors/Consultants/Providers**

Consultants, contractors, and providers of goods and services are required to disclose to the Council at the time of their engagement any potential conflicts of interest with their engagement. As an outcome of this disclosure, the Council may insert an appropriate clause into any formal agreement/contract to manage the disclosed situation should that be possible. In some cases, the Council will reserve the right to terminate agreements or contracts which are compromised as a result of a conflict of interest.

Policy Review

This policy will be reviewed as deemed appropriate by the Executive Team, at least once every three years.

Appendix A – Register of Members’ Interests - Schedule of Requirements

I. Definitions

For the purposes of the return and registration of interests, unless the context otherwise required:

Business entity means any body or organisation, whether incorporated or unincorporated, that carries on any profession, trade, manufacture, or undertaking for pecuniary profit, and includes a business activity carried on by a sole proprietor.

Company means:

- a) A company registered under Part 2 of the Companies Act 1993, or
- b) A body corporate that is incorporated outside New Zealand

Effective date of the return means the date at which the return is effective as required by Clause 2.8 of the Conflicts of Interest policy.

Employed means employed under a contract of service, but does not include holding the position of a member of the Waikato District Council or one of the local boards or any internal Council political appointment (e.g. Committee Chairperson).

Relevant Interest is when an elected or staff member has a business, financial or personal interest in a company, trust, or community organisation that is likely to do business with council at any time.

2. Duty to Make Returns

Every member must make an annual return of interests in each year as at 31 January. In the case of members elected to the governing body or a local board for the first time during the preceding 12 months, the disclosure is not required to include information that relates to the period before their election.

The annual return must be transmitted by the member to the Council Support Manager by the last day of February each year.

3.0 Contents of Return Relating to Members’ Position as at Effective Date of Return (31 January)

Every return of interests must contain the following information as at the effective date of the return:

- a. The name of each **company** of which the member, or spouse, partner or close friend, singly or between them own, whether directly or through a nominee, issued capital of the company; and
- b. The name of each **company** of which the member or spouse, partner or close friend is the managing director or the general manager (by whatever names they are called) of the company; and
- c. If the member is employed, the name of each **employer** of the member and a description of the main business activities of each of those employers; and
- d. The name of each **trust** of which the member is aware, or ought reasonably be aware, that he/she is a beneficiary or a trustee; and
- e. The name of each **community organisation** (for example clubs, environmental protection organisations, churches or charitable bodies) within the Waikato District, to which the member belongs and whether the member is a member of the organisation’s governing body or equivalent, such as executive or management committee; and

- f. **Appointments** (except those made by the Council) e.g. to a University Council or Government agency; and
- g. The location of each **property** within the WDC boundaries in which the member has a **pecuniary interest**, unless the member has no beneficial interest in the property.

Guidance Notes relating to the making of returns:

The following explanatory notes are intended to assist members in preparing their returns for the register but a final judgment on interpreting the requirements is the responsibility of the members themselves.

- You may have financial interests that are not covered by the requirements for the register but do need to be declared orally to a committee before you participate in debate relating to that interest. This might include an interest you have acquired but is not due for registration until several months later, or it may relate to an interest of a family member. If in any doubt, you should consider making an oral declaration to the committee before participating in consideration of a related item of business, regardless of any written registration.
- There is no formal requirement to register any change in your interests after 31 January each year (or any other date required for an initial return) until the next return is required. However the requirements for an oral declaration will apply to any interests that have not been registered.
- At no stage are you required to state the actual value or extent of any interest. You simply need to register its existence.
- If any interest is held jointly with another person or persons, you should indicate the interest. You can list it as jointly owned but do not need to name the other owner(s).