



Name	EM06 Conflict of Interest
Policy Type	Council
Responsible Officer	Chief Executive Officer
Approval Date	21/06/2022
Review Date	20/06/2026

### 1. Purpose

Litchfield Council is committed to placing public interests before private interests and avoiding private gain at public expense. This policy details the issue of conflicts of interest and how it is managed.

### 2. Scope

This policy applies to members of the Council, the Risk Management Audit Committee and Council Committees.

### 3. Definitions

For the purposes of this Policy, the following definitions apply:

Conflict of Interest	A conflict of interest occurs when there is a clash between a person's private interest and their public duty. It involves a lack of impartiality, however arising, and whether or not financial gain or loss is involved.
Pecuniary Interest	This is an interest that a person has in a matter because of the reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated. Associated persons include relatives, partners and employers.
Non-Pecuniary Interest	This is any private interest that does not relate to money e.g. arising out of kinship, friendship, membership of an association, society or trade union, or involvement or interest in an activity.
Elected Member	For the purpose of this policy, Elected Member also includes a non elected committee member on the Risk Management Audit Committee and Council Committees.

**4. Policy Statement**

4.1. The community has the right to expect that Elected Members perform their duties in a fair and unbiased way and that the decisions they make are not affected by self-interest or personal gain. Conflicts of interest arise when Elected Members are influenced, or appear to be influenced, by personal interests when doing their jobs. The perception of a conflict of interest can be as damaging as an actual conflict, because it undermines public confidence in the integrity of the organisation involved and its staff.

4.2. Provisions in the *Local Government Act 2019*

4.2.1. As per *Section 114(1) of the Local Government Act 2019*, a member can have any of the following interests;

- a) a direct interest;
- b) an indirect financial interest;
- c) an indirect interest by close association;  
an indirect interest due to conflicting duties.

4.2.2. As per *Section 114(2) of the Local Government Act 2019*, the following is not a conflict of interest;

- 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.

4.3. Elected Members and Conflict of Interest

4.3.1. Elected Members must act in the public interest and must not take into account personal interests or any other irrelevant considerations. Conflict of interest means a lack of impartiality, however arising and whether or not financial gain or loss is involved.

4.3.2. A conflict of interest arises where an individual has a private or personal interest, perceived or real, which could affect their capacity as an Elected Member to perform their public or professional duties in an impartial manner.

4.3.3. Having a public/professional duty and a private/personal interest does not mean there is automatically a conflict of interest. However, if there is a conflict of interest, how it is dealt with is very important and in doing so, the person concerned must not do anything which they could not justify to the public or which suggests reasonable suspicion of improper conduct or preferential treatment.

4.3.4. Conflicts of interest can be pecuniary or non-pecuniary.

#### 4.4. Potential Areas of Conflict

##### 4.4.1. Tendering and Purchasing

Example: Council has tendered for the provision of professional services. An Elected Member is employed by a company which has tendered for the provision of these services. This may affect, or it may reasonably be suspected that it could affect, their ability to make an unbiased decision when the tender is considered by Council.

##### 4.4.2. Chief Executive Officer (CEO) Recruitment

Example: A member of the selection panel has a close relationship with one of the applicants for the job. This conflict of interest could bias, or could reasonably be expected to bias, the decision of the panel.

##### 4.4.3. Gifts and Benefits

Example: A developer seeking a decision by Council in their favour regarding stormwater approvals offers an Elected Member free tickets to a major sporting event. The Elected Member's impartiality when dealing with the supplier could be compromised if the offer was accepted.

##### 4.4.4. Information and Opportunities

Elected Members may have business and professional interests in the local government area they represent. Conflicts can arise if their public positions allow them access to information and opportunities that could be used to advance their personal and business interests.

#### 4.5. Disclosing Conflicts of Interest

4.5.1. Elected Members who believe they have an interest in a matter, pecuniary or otherwise, must declare that interest in any meetings or discussions where that matter is considered.

#### 4.6. Disclosures at Meetings

4.6.1. An Elected Member who has a conflict of interest in any matter with which the Council is concerned and who is present at a meeting of the Council at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.

4.6.2. The Elected Member who discloses a conflict of interest must not be present at, or in sight of, the meeting of the Council:

- a) at any time during which the matter is being considered or discussed by the Council, or
- b) at any time during which the Council is voting on any question in relation to the matter.

4.6.3. The attention of Elected Members is drawn to the following criteria to determine the extent of disclosure of the nature of the interest to the meeting necessary to observe statutory requirements of *Section 114 of the Local Government Act 2019* and that some detail of the interest be disclosed and satisfy the requirements of the Act for greater transparency and accountability in the management and operation of the Council:

- a) The details are sufficient to enable other Elected Members and the public to appreciate in general terms the connection of the person with the matter under consideration.
- b) The disclosure does not reveal sensitive information which is not relevant to the matter before the Council.
- c) The disclosure does not reveal information which may be unnecessarily damaging to the reputation of some person(s) with whom the person disclosing the interest is associated.
- d) The disclosure will not unnecessarily prejudice a sensitive commercial or legal situation.

4.6.4. Disclosures of interest made at meetings and subsequent actions will be recorded in the minutes of that Council.

#### 4.7. Responsibility for Making a Disclosure

4.7.1. If an Elected Member is unsure as to whether or not they have a conflict of interest, they should give full written details to the CEO or seek independent legal advice. The objective of notification is to protect both Elected Members and Council.

4.7.2. The CEO does not have a responsibility to provide a determination on whether or not an elected member has a conflict of interest in a matter.

4.7.3. The responsibility for determining whether an Elected Member has a conflict of interest rests with the individual Elected Member. In many cases, only the Elected Member will be aware of the potential for a conflict of interest. Elected Members are encouraged to err on the side of caution by declaring their interest and by not participating in discussion or in decision making if there is any doubt as to their interest in the matter.

### **5. Associated Documents**

Nil.

### **6. References and Legislation**

Northern Territory *Local Government Act 2019*

EM02 Code of Conduct for Elected Members

### **7. Review History**

Conflict of Interest **POLICY EM06**

Date Reviewed	Description of changes (Inc Decision No. if applicable)
19/11/2015	Decision 15/0181/02 superseded LC25
15/11/2017	Reviewed and adopted by Council with no changes (1718/099)
21/06/2022	Reviewed in accordance with policy review schedule, Changes included minor administrative amendments and streamlining, and minor amendments required in accordance with the <i>Local Government Act 2019</i> .