

5.4 CONFLICTS OF INTEREST FOR ADVISORY COMMITTEES POLICY (NA)

Responsible Officer: Jarrod Doake, Chief Operating Officer

RECOMMENDATION

That Council:

- 1. Adopts the revised "Conflicts of Interest For Advisory Committees Policy".*
- 2. Directs officers to forward the policy to all Council's advisory committees that have non-councillor members.*

INTRODUCTION

This report addresses the matter of the review of the policy for the disclosure of interests for non-councillor members of Council's Advisory Committees,

The policy was adopted by Council in 2017 and reviewed in 2020.

It is time again to review the policy.

BACKGROUND/DISCUSSION

The Council has 15 advisory committees, 11 of which have non-councillor representation on them.

Advisory committees are not able to make decisions, authorise the expenditure of monies, etc. However, in her 2016 report on transparency in the sector, the Ombudsman referred to "concerns about the role and influence advisory committees have on the transparency of council decision making."

While Councillors who are members of advisory committees must disclose conflicts of interest and avoid matters in which they have conflicts, no such requirements applied to non-councillor advisory committee members.

The policy originally adopted in 2017 represented a new standard of behaviour in advisory committees.

It was provided to all advisory committees, following its adoption by Council, and again, following its review in 2020.

The policy is now required to be reviewed, again, given the changes to local government legislation.

The main changes proposed are not to the policy itself but rather to the conflict disclosure form which forms the addendum to the policy.

Given the changes made to the conflict of interest regime in the Local Government Act 2020, with the change in terminology and definitions, concerning conflicts of interest, it is necessary that the disclosure form reflects those changes.

The proposed changes are identified in blue text, in the Appendix A to the policy.

No other changes are proposed to the policy, as it stands.

FINANCIAL CONSIDERATIONS

There are no financial implications regarding this recommendation.

RECOMMENDATION

It is proposed that the attached revised policy be approved and forwarded to those advisory committees with non-councillor members.

The policy will also be made available on Council's website.



CONFLICT OF INTEREST FOR ADVISORY COMMITTEES POLICY

1. PURPOSE

This Conflict of Interest for Advisory Committees Policy (**Policy**) sets out the obligations of non-Councillor members of Council's Advisory Committees (**Committee Members**) with respect to the identification and disclosure of conflicts of interests.

Council acknowledges that conflicts of interest will arise for Committee Members and that they cannot always be avoided.

They must, however, be identified and appropriately disclosed to ensure integrity and public trust in the recommendations made to Council by its Advisory Committees.

2. APPLICATION

This policy applies to all non-Councillor Committee Members.

3. PRINCIPLES

Council is committed to and will uphold the following principles in applying this Policy:

3.1 Public interest

All Committee Members have a duty to place the public interest above their private interests when fulfilling their roles as Committee Members.

3.2 Transparency

All Committee Members will contribute to the transparency of Council's decision-making by avoiding (wherever possible), or identifying and disclosing, any conflict of interest that arises in accordance with this Policy.

3.3 Accountability

Each Committee Member is personally responsible and accountable for avoiding (wherever possible), or identifying and disclosing, any conflict of interest that arises in accordance with this Policy.

4. INTERESTS

A conflict of interest arises where there is a conflict between the public duties and private interests of a Committee Member, where those private interests could

improperly influence, or be seen to improperly influence, the performance of their public duties.

A private interest is any interest that might influence a Committee Member in the fulfilment of their role. Private interests include:

- 4.1 direct interests, such as a Committee Member's own personal, family, professional or business interests; and
- 4.2 indirect interests, such as the personal, family, professional or business interests of individuals or groups with whom the Committee Member is, or was recently, closely associated, eg a sports club, employer, friends, etc.

Private interests may be:

- 4.3 pecuniary (ie financial), which includes any actual, potential or perceived financial gain or loss; and
- 4.4 non-pecuniary, which includes any tendency toward favour or prejudice resulting from personal or family relationships, such as friendships or sporting, cultural or social activities.

5. OBLIGATIONS AND PROCESS

Committee Members must, wherever possible, avoid conflicts of interest.

If a Committee Member is unable to avoid a conflict of interest, they must identify and disclose the conflict of interest in accordance with this Policy.

5.1 Identify the conflict of interest

Committee Members should regularly consider the relationship between their private interests and their public duties in order to identify any conflict of interest that might arise.

Committee Members should review all items that will be considered at an Advisory Committee meeting in advance of the meeting so that potential conflicts of interest are identified at the appropriate time.

If a Committee Member is unsure about whether a conflict of interest arises, they may seek assistance through the Chairperson of the Advisory Committee.

5.2 Disclose the conflict of interest

If a Committee Member identifies a conflict of interest in advance of an Advisory Committee meeting, it must be disclosed by the Committee Member by:

completing the “Disclosure of Interest By A Non-Councillor Member of An Advisory Committee” (**Disclosure Form**) (see Appendix A);

- 5.2.1 providing a copy of the completed Disclosure Form to the Chairperson of the Advisory Committee no later than the commencement of the Advisory Committee meeting at which the conflict of interest arises; and
- 5.2.2 describing the nature of the conflict of interest to the Advisory Committee meeting immediately before it considers the item in respect of which the conflict of interest arises.

If a Committee Member identifies a conflict of interest during the course of discussion at an Advisory Committee meeting, it must be disclosed by:

- 5.2.3 immediately advising the Chairperson of the Advisory Committee that they have a conflict of interest;
- 5.2.4 then, describing the nature of the conflict of interest to the Advisory Committee;
- 5.2.5 completing a Disclosure Form after the Advisory Committee meeting ends; and
- 5.2.6 providing a copy of the completed Disclosure Form to the Chairperson of the Advisory Committee not more than two business days after the Advisory Committee meeting at which the conflict of interest arose.

A Committee Member must leave the Advisory Committee meeting while an item in respect of which they have disclosed a conflict of interest is considered and decided upon.

The Chairperson of an Advisory Committee must provide all completed Disclosure Forms which he or she receives to Council’s Coordinator Civic & Governance not more than four business days after an Advisory Committee meeting at which a conflict of interest arose.

Disclosure Forms submitted by Committee Members will be kept in Council’s Advisory Committee Conflict of Interest Register.

6. **EXEMPTIONS**

There are 3 types of general exemptions to a conflict of interest:

Remoteness

The interest in a matter is so remote or insignificant that a reasonable person would not consider it capable of influencing the committee member’s decision.

Example: A friend of the Committee Member is a past social member of a large sport club that may be able to offer Council a range of sports-related services.

Example: The Committee has been asked to provide input into a VicRoads proposal to change the traffic conditions of the road on which the Committee member lives. The proposal is in its very early stages and contains a number of options. The Committee has no decision-making functions, and a number of decisions are required by VicRoads before any changes will be made. While the proposal could, in certain forms, impact on your residential amenity and on the value of your property, these matters are entirely speculative and a great many decisions are required before any impact will occur, if at all. In these circumstances, the Committee member's interest would be remote.

Interests in Common

The interest is held in common with other residents, ratepayers, voters or any other large class of persons and the Committee Member's interest doesn't exceed the interest generally held by those other people.

Example: Recommending to Council that it changes the standard size of its waste bins.

No Knowledge

The Committee Member does not know the circumstances that create the conflict of interest and a reasonable person would not expect them to know those circumstances.

Example: A member of the Committee Member's family has purchased shares in a company that could potentially tender for a contract if the Council accepts the committee's advice to introduce a new service.

Advice on exemptions should be sought from the Chairperson of the Advisory Committee.

7. NON-COMPLIANCE

A Committee Member who fails to comply with the obligations of this policy may be removed by Council from the relevant Advisory Committee, either for a specified period or indefinitely.

8. ON-GOING/IRRECONCILABLE CONFLICTS

Where a Committee Member's conflict of interest is significant, ongoing and irreconcilable and if it impedes the individual's ability to carry out the duties of their position, the Council may determine to remove that member from the Committee.

9. FURTHER ASSISTANCE

A Committee Member requiring assistance with the interpretation of this Policy or the identification and disclosure of a conflict of interest should, in the first instance, contact the Chairperson of the Advisory Committee for advice.

The Chairperson of the Advisory Committee may refer the matter to the Council's Chief Operating Officer.

10. POLICY APPROVAL DATE

11. Policy approved by Council on:

1. 28.11.2017

2. 28.1.2020

APPENDIX A



DISCLOSURE OF INTEREST BY A NON-COUNCILLOR MEMBER OF AN ADVISORY COMMITTEE

NAME OF PERSON MAKING DISCLOSURE:

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NAME OF COMMITTEE:

.....

DATE OF MEETING:

ITEM NO. ON MEETING AGENDA (IF APPLICABLE)/SUBJECT:

.....

TYPE OF INTEREST (please tick the appropriate box)

GENERAL A relevant person has a **general conflict of interest** in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

(2) For the purposes of subsection (1)—

private interests means any direct or indirect interest of a relevant person that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief;

public duty means the responsibilities and obligations that a relevant person has to members of the public in their role as a relevant person.

MATERIAL A relevant person has a **material conflict of interest** in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

(2) The benefit may arise or the loss incurred—

(a) directly or indirectly; or

(b) in a pecuniary or non-pecuniary form.

DESCRIPTION OF THE NATURE OF THE INTEREST

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SIGNATURE OF PERSON MAKING DISCLOSURE:

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DATE:

DISCLOSURE RECEIVED BY:

NAME:

SIGNATURE:

DATE:.....