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| <b>GOV03</b>                       | <b>Conflict of Interest (Elected Member, Local Authority and Council Committee) Policy</b> |
| <b>Approval Date:</b>              | 17/03/2022   |
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| <b>Policy Custodian:</b>           | Chief People and Strategy Officer  |
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### Purpose

This policy sets out West Daly Regional Council’s approach to the identification, disclosure, and management of conflicts of interest by our Elected Members, Local Authority and Council Committee Members.

### Scope

This policy applies to Elected Members, Local Authority Members, Council Committee Members, and Council staff with responsibility for implementing this policy.

### Policy Statement

#### 1. Policy Principles

- 1.1. Council is committed to supporting Elected Members, Local Authority Members and Council Committee Members (Members) to perform their duties in a fair and unbiased way.
- 1.2. The public is entitled to have confidence in the integrity of their public officials, and to know that a Member’s personal interests do not conflict with their public duties.
- 1.3. Council is committed to ensuring that appropriate procedures and processes are in place to assist Members to act impartially and in accordance with the public interest at all times.
- 1.4. Council aims to cultivate a workplace culture that encourages and supports identification and disclosure of conflicts of interest.
- 1.5. Council will continue to work with Members and Executive Staff to identify the types of conflicts of interest that may occur, and to devise processes and procedures to minimise the occurrence of conflicts and manage those conflicts that do occur.

#### 2. Responsibility of Elected Members, Local Authority Members and Council Committee Members

- 2.1. All Members have a responsibility to place the public interest above their personal or private interests when carrying out their official duties.



2.2. Members can achieve this by:

- a) Always abiding by the *Code of Conduct (Elected Member, Local Authority and Council Committee)* when undertaking their official duties.
- b) Always avoiding situations that may give rise to a conflict of interest (whether actual or perceived) when undertaking their official duties.
- c) Proactively identifying and declaring any conflicts of interest, including any actual, potential, or perceived conflicts of interest, when required to do so.

2.3. It is the Member's responsibility to identify and disclose any conflict of interest, including actual, perceived, or potential conflicts of interest, when required to do so.

### **3. Support and Training for Elected Members**

- 3.1. Council will work collaboratively with our Elected Members and Executive Staff to develop and implement tools, resources and training to help identify conflicts of interest. These resources should identify areas of risk and the kinds of conflicts that are likely to occur for our Elected Members.
- 3.2. Elected Members will also receive training regarding their responsibilities to identify, disclose and manage conflicts of interest, including as part of their induction training.
- 3.3. Elected Members are encouraged to speak up and seek advice if they have questions or any doubt as to whether they have a conflict of interest. Elected Members can discuss their concerns with their peers (e.g. the Mayor or another Elected Member), or with the Chief Executive Officer (CEO). In some circumstances, Elected Members may also choose to obtain their own independent legal advice (at their own cost).
- 3.4. Regardless of any advice the Elected Member may receive, ultimately the Elected Member is accountable for deciding whether they have a conflict of interest, and where relevant, for making a disclosure of that interest.

### **4. Annual Return of Interest**

- 4.1. As part of good governance practice and in accordance with Section 110 of the Act, a process will be in place to enable the requirement for Elected Members to complete and lodge with the CEO, an annual return disclosing their interests and containing the details prescribed by regulation.
- 4.2. The CEO will keep an *Annual return of Interest (Elected Member)*.
- 4.3. A copy of the register will be published on Council's website.

### **5. Disclosure of Conflict of Interest by a Member**

- 5.1. In accordance with the legislative requirements and good governance practice, as soon as practicable after a Member becomes aware of a conflict of interest in a matter that has arisen or is about to arise before a Council, a Council Committee or Local Authority, the Member must disclose the interest that gives rise to the conflict:
  - a) At the relevant meeting of the Audit Committee, Council, Council Committee or Local Authority; and
  - b) To the CEO.



5.2. The CEO must record the disclosure in the *Register of Declared Conflicts (Elected Member, Local Authority and Council Committee)*.

5.3. Information on how Council will manage the mechanics of a disclosure within a Council, Council Committee or Local Authority meeting, is contained within the *Guideline and Procedure for Identifying, Disclosing and Managing a Conflict of Interest (Elected Member, Local Authority and Council Committee)*.

## 6. Failure to Disclose

6.1. A failure to disclose a real or perceived conflict of interest may be deemed a breach of the *Code of Conduct (Elected Member, Local Authority and Council Committee)*.

6.2. The failure of an Elected Member to make a disclosure is in breach of their statutory obligations under the *Local Government Act 2019*. If an Elected Member is found to have committed an offence in relation to not disclosing an interest, they may be liable for penalty as per the penalties outlined in Section 115 of the Act.

## 7. Registering Declared Conflicts

7.1. The CEO will keep a *Register of Declared Conflicts (Elected Member, Local Authority and Council Committee)*.

7.2. The Register will set out the declared conflicts disclosed by Elected Members, in accordance with Section 116 of the Act.

7.3. A copy of the registered conflicts of interest declared by Elected Members will be published on Council's website.

7.4. Each entry of a disclosure listed on the register is to be kept for a period of three years after the conclusion of the next general election.

## 8. Responsibilities

8.1. All Members are responsible for identifying and disclosing any conflict of interest, including any actual, perceived, or potential conflict of interest, when required to do so.

8.2. All Elected Members must complete an *Annual Return of Interest* form within 60 days of their election, and by no later than 30 September each year for the duration of their membership.

8.3. The CEO is responsible for ensuring that appropriate training, resources and tools are available to Members to help them identify, disclose and manage conflicts of interest.

8.4. The Governance and Quality Assurance Officer is responsible for facilitating Elected Members completion of their *Annual Return of Interest* form.

8.5. The Executive Assistant to the CEO and Mayor will assist Elected Members where required.

## References

*Local Government Act 2019* (NT) s.110 - s.111; s.114 - s.117

*Local Government (General) Regulations 2021* (NT) r.54 (h); r.56 - r.58



## Definitions

In the context of this policy the following definitions apply:

**The Act** means the Local Government Act.

**Breach** means an act of breaking or failing to observe a law, agreement, or code of conduct.

A **Conflict of Interest** means a potential, perceived or actual conflict between a Member's official duties and responsibilities in serving the public interest, and their own private interests. A conflict of interest can arise from avoiding personal losses, as well as gaining a personal advantage – whether financial or otherwise. This includes advantages to relatives, friends, and business associates.

Conflicts of interest can be pecuniary or non-pecuniary:

- A *pecuniary interest* involves an actual or potential financial gain or loss. It may result from the Member or related party owning property, holding shares or a position in a company bidding for government work, accepting gifts or hospitality, or receiving an income from a second job. Money does not have to change hands for an interest to be pecuniary.
- A *non-pecuniary interest* does not have a financial component but may arise from personal or family relationships or involvement in sporting, social, community or cultural activities. They include any tendency toward favour or prejudice resulting from friendship, animosity or other personal involvement that could bias a Member's judgment or decisions.

A conflict of interest may be actual, perceived, or potential:

- An *actual* conflict of interest exists where the actions of a Member, at the present time, could be influenced by the Member's private interests.
- A *perceived* conflict of interest arises where it appears that decisions that a Member makes in the course of undertaking their official duties may be influenced by the Member's private interests, whether or not this is in fact the case.
- If a Member is in a situation where their future decision making may be influenced by their private interests, the Member has a *potential* conflict of interest.

**Council** refers to the West Daly Regional Council, a regional council that delivers essential local government services to remote communities and supports development opportunities in the region.

**Disclosure** is the act of releasing all relevant information to the Council that may influence a member's decision making.

**Good governance** is about the processes for making good decisions. Good governance is enabled by strategic planning, participation, transparency, rule of law, responsiveness, and fairness.

**Interest** means anything that can have an impact on an individual or group. It includes anything that can bring a benefit or disadvantage to a member, or others an individual may wish to benefit or disadvantage.

**Member** means an Elected Member of Council, Local Authority or Committee Member.



**Private interests** are those personal, professional, or business interests that can benefit or disadvantage us as individuals. They also include the personal, professional, or business interests of individuals or groups we associate with, for example family members, friends, contractors, etc.

**Public interest** means the collective interest of the entire community, not the sum of individual interests nor the interest of a particular group.

**Transparency** means to be open or that one has nothing to hide regarding the operations and management of the Council, a Council committee, and a local authority.

### Related Documents

Code of Conduct (Elected Member, Local Authority and Council Committee)

Code of Conduct (Elected Member, Local Authority and Council Committee) Policy

Gifts, Benefits and Hospitality (Elected Member) Policy

Induction and Training (Elected member, Local Authority and Council Committee) Policy

Annual Return of Interests (Elected Member)

Register of Declared Conflicts (Elected, Local Authority and Council Committee Members)

Guideline and Procedure for Identifying, Disclosing and Managing a Conflict of Interest (Elected Member, Local Authority and Council Committee)

Annual Return of Interests form

For more information, contact the Policy Custodian.

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| <b>Signature of Endorsement:</b> |  |
| <b>Position:</b>                 | Chief Executive Officer   |