



## 5.22 CONFLICT OF INTEREST POLICY

Date Reviewed	Next Review	Officer Responsible
26 January 2021	26 January 2023	Manager, Organisation Development & Capability

As a public organisation, all of RLC’s business should be conducted with a spirit of:

- Integrity;
- Impartiality;
- Accountability;
- Trustworthiness; respect; and
- Responsiveness.

A **conflict of interest** is any situation where your duties or responsibilities as an employee or office holder of Rotorua Lakes Council (RLC), or subsidiary organisation, conflict or could be seen to conflict, with some interest you may have outside of work.

This policy seeks to give effect to the [good practice guide “Managing conflicts of interest: A guide for the public sector”](#), published by the office of the Controller and Auditor-General, 24 June 2020.

**Corrupt conduct** can arise when a conflict of interest is intentionally concealed, understated, mismanaged or abused. Instances of corrupt conduct will be treated as serious misconduct and could potentially result in dismissal, as per RLC’s employee [code of conduct](#).

### References:

- This policy seeks to give effect to “[Managing conflicts of interest: A guide for the public sector](#)”, published by the office of the Controller and Auditor-General, 24 June 2020. This good practice guide provides a comprehensive guidance on the management of conflicts of interest and can be found on their website along with a range of other resources including a [quick guide](#), animated videos, and an [online quiz](#).
- RLC [Sensitive Expenditure Policy](#)
- RLC [Employee Code of Conduct](#).

## What you need to know

Rotorua Lakes Council is a ratepayer funded public organisation serving our community, and has high levels of accountability and public scrutiny. This requires the exercise of sound judgment and high standards of transparency in decision-making, the use of Council resources and the management of conflicts of interest.

## Principles that guide us

- Declaring and managing conflicts of interest keeps ourselves and the organisation safe.
- We declare and manage all actual and perceived conflicts of interest.
- We declare all our personal relationships and interests that could be perceived as:
  - Creating a personal or family gain or benefit
  - Providing an advantage to any third party organisation (e.g. community group or business association) we are involved with or have an interest in.
- We manage our interests so that we are visibly impartial.
- We make transparent decisions on behalf of the Rotorua Lakes Council.
- We think about how a situation might seem to others, even though we know our intentions are good.
- If we are in doubt, we declare the interest and gain authorisation as to the management of the interest, in writing.

## Critical information

### What is a conflict of interest?

A **conflict of interest** is any situation where your duties or responsibilities as an employee or office holder of Rotorua Lakes Council (RLC), or subsidiary organisation, conflict or could be seen to conflict, with some interest you may have outside of work.

A conflict of interest arises whenever our decisions and responsibilities as public employees can be perceived as creating benefit for ourselves personally, for our family and friends, or for groups, including business associations, we are involved with. Such a potential benefit can be pecuniary or non-pecuniary in nature.

This could be anything from accessing information not available to the general public, to owning a family business that supplies to the Rotorua Lakes Council.

A conflict of interest can arise from:

- Financial interests – a situation where you stand to gain or lose financially
- Non-financial interests – where you are not affected financially but are affected in some other way
- Interests of relatives and friends – that may overlap with the duties of an employee or office holder
- Conflict of roles – where an employee may be decision-maker for two different organisations about the same matter
- Predetermination – where you are making a decision about something and there is a risk that people will think you made up your mind before you considered all of the evidence

## Is there a difference between managing actual and perceived conflicts of interest?

No. You need to protect yourself from both actual and perceived conflict situations, as they have the potential to impact on public trust and confidence in the organisation as well as your own reputation.

### Examples

#### 1. I coach my son's sports team. Do I need to declare an interest?

*That in itself does not create a conflict. However, if you were to put in an application for community grant funding from the Rotorua Lakes Council for the team that might create a conflict depending on your role.*

*In this case, you would need to declare the conflict by completing a Conflict of Interest Declaration Form, and stand aside from decision making about the grant application.*

#### 2. Can I, or a member of my family, apply for a Rotorua Lakes Council grant or funding on behalf of a community organisation?

*Rotorua Lakes Council grants and funding are open to everyone, but a conflict would arise if you had any involvement in deciding who gets the funding.*

*Ask your manager or the Organisational Development & Capability team for help in managing the perception that you might be gaining an advantage over applicants who do not work for the Rotorua Lakes Council.*

*To protect your reputation of impartiality and that of Rotorua Lakes Council, complete a Conflict of Interest Declaration Form.*

#### 3. I work for Rotorua Lakes Council but also undertake work as a consultant. How do I manage potential or perceived conflict of interest?

*Declare your business to your manager on a Conflict of Interest Declaration form. You may also need to get advice from the Procurement team or Organisational Development & Capability team on how to manage your dual role. You will need to receive authorisation to undertake consulting work in addition to your Council role.*

### How long does my conflict of interest declaration last for?

Revisit your interest declaration whenever your situation changes. This includes:

- When your role changes or you have new responsibilities
  - either with the Rotorua Lakes Council or your conflicting party
- Being no longer associated with the conflicting party
- Conclusion of any personal Rotorua Lakes Council involvement
  - e.g. a consent you've applied for has been issued

Review your interest disclosure annually to ensure, as a person who works for the Rotorua Lakes Council, you are protected from the risk of any actual or perceived conflict of interest.

It's also your obligation to make future managers aware of your interest disclosure and how it is being managed.

### **I am politically active and involved in social campaigns. What should I do to manage my political interests?**

- Declare your interest and participation on the Conflict of Interest Declaration Form.
- Discuss your involvement with your manager or the Organisational Development & Capability team. Always consider the perceptions others may have of your ability to be impartial.
- Ensure that any views you express on behalf of your group cannot be perceived as being the view of Rotorua Lakes Council.
- Ensure that when speaking to or on behalf of any such group you are not perceived as speaking on behalf of Rotorua Lakes Council.

### **Our bottom lines**

- If you have or have had, a domestic relationship or other relationship which could cause an actual, perceived or potential conflict of interest, we do not allow you to be involved in a decision to appoint or employ that person, or to be in a direct reporting situation with that person.
- People who work at Rotorua Lakes Council should not make decisions that lead to, or could be perceived as leading to, instances of pre-determination, personal or family gain, or favouring a particular group or organisation.
- Unless otherwise authorised in writing, Council staff are prohibited from:
  - Being involved in a decision to appoint or employ a relative
  - Conducting business on behalf of the Council with a relative's company or business
  - Owning shares in or working for any organisation that has dealings with Council
  - Being involved in a public consultation process on behalf of Council where the staff member is involved in the same process on behalf of themselves or another entity
  - Accepting gifts in connection with their official role beyond the value of \$50 (please refer to the [Sensitive Expenditure Policy](#) section 5.10.6 – Other Types of Expenditure)
  - Influencing or participating in a Council decision where the staff member is connected to the person/s or organisation/s making the submission, application, tender or is impacted by the decision

Given the nature of our organisation, there is no room for leniency for failure to manage conflicts of interest. Breaching our bottom line expectations would be considered and treated as misconduct leading to disciplinary processes, the outcome of which could include termination of employment.

### **Things to consider when making decisions**

#### **Dealing with the Rotorua Lakes Council in a personal capacity**

Applying for a building consent is an example of dealing with the Rotorua Lakes Council in a personal capacity.

In this and similar situations, do you have an advantage members of the public do not have? This could include accessing files or information, or preferential treatment.

Make sure you are receiving the same treatment as any other Rotorua resident.

## **Forwarding Rotorua Lakes council job openings to family**

Before passing on a Rotorua Lakes Council job opening to a family member, consider these points:

- Are you part of the recruitment panel?
- Is the role being offered to external applicants?

If the role is being offered to external applicants, pass the advertisement on to your family member. If they apply, remove yourself from the recruitment process.

## **Supplying to Rotorua Lakes Council**

If your partner or a family member owns a business that supplies good or services to Rotorua Lakes Council, do you have or could you be perceived as having influence over contracts or procurement at the Rotorua Lakes Council?

Ensure that you declare your relationship and remove yourself from any decision-making involving the business. Discuss the matter with your manager, the Procurement Manager, or the Organisational Development & Capability Team.

## **For Managers**

### **Your team member has a conflict of interest or secondary employment**

If a person working in your team is undertaking secondary activity or employment, consider these points:

- What impact might this additional activity or employment have on their current role?
- What impact might this additional activity or employment have on their Health & safety?
- Are there competing interests?

Advise your team member to complete a Conflict of Interest Declaration form. Discuss the matter with your manager.

### **I need help or more information**

Contact the Organisational Development & Capability team.

## **Conflict of Interest Case Examples**

The following case studies illustrate some situations where a conflict of interest could arise at the Rotorua Lakes Council. These include:

- Direct and indirect financial interests / conflicting duties
- Gifts and hospitality
- Access to information
- Personal friendships and relationships

## DIRECT and INDIRECT FINANCIAL INTERESTS / CONFLICTING DUTIES

Case 1: I work at the Council and I am also a director and shareholder of a small company that produces office equipment. Our company is seeking to supply this equipment to RLC.

Can I take part in the normal decision-making process for the selection of this office equipment at RLC?

Response:

This situation presents a clear conflict between your roles in each organisation as you have a direct financial interest in the outcome of this selection process. Where your duties to the Council could oblige you to select a competitive supplier, your personal interest and duty to the company of which you are a director may reasonably be interpreted as pushing you towards favouring that company, or potentially giving it an advantage over others.

Being completely open allows your manager to ensure that any decision about the equipment is unbiased and reduces the risk of any bias or perception of bias in the decision itself.

The first step to take is to disclose your interest to your manager.

You should then take no part in the discussion concerning that equipment. It may be that your knowledge about the equipment could be useful to the Council in making a decision, and in such case your manager may approve your being asked to provide input concerning this matter but only so that you can provide specific information. You should not be involved in making the decision.

Case 2: I am a member of a procurement committee at the Council.

My partner is a director of a company that is submitting a proposal to carry out public relations work for the Council. I understand that I will need to declare my interest to the chair but because I have a particular skill set I think that I should be involved in the assessment of the various applicants.

Does my interest prevent me from participating in any part of the procurement process?

Response:

In this case, you have an indirect financial interest in this matter, and, as you have already identified, you are clearly required to disclose this interest.

It would not be appropriate for you to be present during any deliberation with respect to the matter, unless the chair decides otherwise. This might happen if you have particular expertise that the chair believes would be of considerable assistance to the decision makers, but this would rarely be the case in these particular circumstances.

You certainly should not take part in any decision about the matter.

The most appropriate course of action would be for you to withdraw from all discussion and decision making in relation to this particular procurement process. You could provide input separately to the chair, but this would be appropriate only if the chair asked you to do so.

Case 3: I work as a librarian and my son has developed a really good software system for monitoring pedestrian traffic using CCTV. His system is now used across several councils around the world. I have no role or influence at all regarding the usage or purchase of software. My son has mentioned to me that he intends to approach RLC to see if it wants to purchase a licence to use his system. Do I need to take any action?

Response:

While you have no direct involvement in your son's commercial activities, the best way to proceed in this case would be to disclose the situation to your manager. Then everything is 'out in the open', right from the start. If any questions are asked down track then it will be easy to respond, especially if there are any allegations of impropriety. Therefore, simply disclosing your interest to your manager and having it recorded by him/her is likely to be sufficient in this case.

Case 4: I am a trustee of a Māori land trust that Council is dealing with over a major infrastructure project. A staff member has approached me to seek advice as to how to approach the Trust in relation to some sensitive aspects of the project, in order to achieve a favourable outcome for the Council. How should I respond to this staff person?

Response:

As a trustee you have a legal obligation to act in the best interests of the Trust. You should advise the staff member of this and that this places you in a position of potential conflict if you are to discuss this matter with them or provide advice. You should inform the staff member about the channels that exist for the Council to engage with the Trust and who they need to talk to. You should also advise your manager of this situation and the action you have taken.

Case 5: Kelly works in the Council property team. She is also a trustee for a Maori land block that has a water spring on it. The Council is negotiating a lease to use the spring for water supply to the township. Kelly is not directly involved in the negotiations but she has been asked by her manager to carry out some simple work on the lease (obtain a title search, proof reading, and checking cross-references). This is work that she finds very simple and easy to do. Should Kelly do this work?

Response

No. Kelly has a direct conflict of interest. As a trustee, she has a legal obligation to act in the best interests of the trust. Even though she finds the work simple, if she were to find a discrepancy in the documents, the best outcome for Council may not be the best outcome for the trust. As a result, it may be impossible for Kelly to faithfully give effect to her obligations to both Council and the trust. Kelly should not work on the lease documents for Council and should discuss this situation with her manager.

Case 6: Peter works in Council's infrastructure team. He is also a trustee for an iwi trust that has completed its Treaty settlement and represents his iwi in environmental issues. Council is building a new sports ground on land donated to Council by a local family (who are not from Peter's iwi). Maria (the Council's project manager) wants to ensure that she has iwi support for the project and so she has asked Peter for contact details for the iwi trust as well as for two local marae and two other iwi organisations. Peter knows that contacting these other groups will create internal debate and confusion amongst iwi members. Peter is concerned that Maria is unwittingly creating a political issue, and clearly his trust is recognised by both the iwi and the Crown as the iwi's mandated representative. Should he discuss this with the project manager?

Secondly, Maria has asked Peter if he could review and approve the project plans on behalf of his iwi trust. She does not mind if Peter discusses the plans with his fellow trustees. Can he do this?

## Response

It is tempting for Peter to share his insight with Maria and to give her guidance, especially because Peter has a clear view on what is the right thing for Maria to do. However, Peter has a conflict of interest - it is in his trust's interests to be seen as the only authorised representative, and to control the discussion. He should not give her advice on whether or not to consult with other groups.

Instead, Peter could ask Maria to seek advice from other Council staff (for example, Te Amorangi and the engagement team). This would ensure that Peter is not directly involved in advising Maria, but she still has good advice and support available to her.

Maria's request that Peter 'approve' the proposed project plans is also not appropriate. This is not his role within Council, so she is mixing up his Council and iwi roles. It would be better to send the plans directly to the iwi organisation instead. The iwi organisation can then choose who it wants to review and approve the plans (and because Peter is not working on this project at all through his Council role, the trust could involve him alongside his fellow trustees).

## GIFTS and HOSPITALITY

Case 7: As part of my role, I am involved in selecting contractors to carry out work for the Council and managing the relationship with those selected. The project manager of one of our current developments has offered to fly me to another city to look at a similar project that they have just completed. He has also kindly offered to get me tickets for a local rugby game, with hospitality at the company's corporate box. I am concerned that this could be seen to bias my judgement in their favour should they apply to undertake further contracts in the future.

### Response:

This is potentially a significant conflict situation. As a manager who influences decision-making in this area you cannot be seen to be either receiving gifts or hospitality, or socialising with any one party to the potential disadvantage of others.

You should report this matter to your manager who in turn should discuss the matter directly with the supply company.

Further explanation of this area can be found in the [Sensitive Expenditure Policy](#).

## ACCESS to INFORMATION

Case 8: I work in the Planning and Consenting Business Support team. Because of my role at the Council, I am privy to certain information in this area that is not in the public domain. I have been approached by a key player within the property industry to take on a directorship with a company involved in this sector. However, I am concerned that they will then expect access through me to information that is currently not available to them by other means. What should I do?

### Response:

In the first instance, you should talk directly with your manager. If you accept the offer of a director's role, you will need to discuss your concerns with the company, and get assurances from the outset that they will not put you in a position that conflicts with your role at the Council. You will also need to complete a



conflict of interest declaration form (see below) describing how any potential conflict will be managed, with this being signed off by the Chief Executive or a member of the executive management team.

It may end up that you will have to decide which role you will keep, and which you will drop.

#### PERSONAL FRIENDSHIPS AND RELATIONSHIPS

Case 9: I have recently found out that a colleague of mine who works in procurement has a friendship with a senior manager of a supply company that bids for and delivers major contracts at the Council. As far as I am aware, the relationship has never been disclosed. It seems to me that their undisclosed relationship compromises their impartiality significantly. What should I do?

Response:

In the first instance, it would seem appropriate to speak to your colleague about your concerns and about their personal responsibility both to disclose the matter to their manager and to follow whatever steps are agreed to avoid or manage appropriately any potential conflict of interest that could arise.

If this is not a suitable option in the circumstances, then you should speak to your own manager about your concerns. Your manager will then talk directly to your colleague's manager, who should deal with the matter in accordance with the relevant provisions of the Conflict of Interest Policy and the Conflicts of Interest Procedures.

Case 10: I have been appointed by Council to a project committee that is appointing an architect to design a wharewaka for the Lakefront. As a landscape designer by training, this is an area in which I have a great deal of specialist knowledge. However, I see from the next agenda that a choice between three companies will be discussed and agreed.

A very old personal friend of mine is the owner of one of the three companies and I feel that my impartiality in this instance might be called into question.

Response:

You need to disclose your position to the project sponsor / chair of the committee as soon as the matter comes to light. It would be best to do that before the meeting, however, if that is not possible then you should disclose your relationship with one of the companies at the beginning of the meeting. The chair can then decide whether, given your specialist knowledge, you may contribute at all to the discussions and decision-making process. It would be best for you and the Council for you to have no involvement in the discussion and have no part in the decision-making process.

The chair may, for example, ask you to disclose your relationship to other members of the committee and participate in the discussion, but withdraw or remain silent for the decision. Alternatively, the chair may decide that in this particular case you should absent yourself during that part of the meeting.

Case 11: I have a vacant position for a junior member of staff. My manager has approached me to interview his nephew for the position. I feel very compromised, as I would not wish to embarrass my manager if the young man were not to be selected.

Response:

The best way to proceed would be to point out (politely) to your manager that his nephew would need to participate in the Council's usual open recruitment process, making him aware that this will be arranged. You could also point out that both you and he will be conflicted and therefore neither of you should

participate in the recruitment process, at least not in the parts where his nephew is involved. You could also (or alternatively) raise the matter directly with OD & Capability.

Case 12: My previous spouse has applied for a position in my department. I no longer have any contact with him and we do not have the same name. Do I need to declare the relationship to anyone?

Response:

It is important that you make this information known to the department head or manager and that you refrain from being involved in decision making about the appointment. Previous close relationships can be seen as biasing one either for or against a candidate and in the interests of fairness in the process, are to be declared as a possible conflict of interest. The basis of your conflict need not be divulged to anyone other than the responsible manager if you do not wish it to be.

### **Where can I find further good examples of dealing with complex situations?**

The [Office of the New Zealand Controller and Auditor-General](#) provides further illustrative case studies which describe some complex potential conflict of interest situations, and provide helpful guidance on their resolution:

### **Forms:**

- Conflict of Interest Declaration Form
- Gift Declaration form

### **Other relevant documents:**

- Sensitive Expenditure Policy
- Procurement Policy
- Employee Code of Conduct
- Conflict of Interest Case Examples (see above)

## Conflict of Interest Declaration

### SECTION 1: CONFLICT OF INTEREST DECLARATION

Potential Conflicting Party or Activity:  
*(Describe the situation that gives rise to the potential conflict of interest)*

(✓) I declare that, to the best of my knowledge, there is no actual, perceived or potential current conflict of interest that will or may arise as a result of my involvement in the above mentioned parties' activities.

or

(✓) I declare that I do have an actual, perceived or potential current conflict of interest.

The following conflict(s) exist:

The following are ways the conflict(s) or risk(s) associated with it can be managed:

(✓) Should I become aware of an actual, perceived or potential conflict during the period in which I am involved in the above mentioned activities, I will inform my manager and Rotorua lakes Council and make a further declaration.

SIGNED:

Name	Position	Signature	Date

IF A CONFLICT OF INTEREST IS DECLARED SECTION 2 MUST BE COMPLETED BY YOUR MANAGER

SECTION 2: ASSESSMENT AND MANAGEMENT OF ANY CONFLICT OF INTERESTS DECLARED  
*Consider whether the declared conflict is remote, significant, manageable or unmanageable.*

*Refer to the Rotorua Lakes Council Conflict of Interest Guide or ask your manager or the Organisational Development & Capability team for help.*

The following steps have been agreed to avoid/mitigate the conflict(s):

SECTION 3: APPROVAL OF CONFLICT OF INTERESTS DECLARED

*This section must be completed by the Rotorua Lakes Council Chief Executive or a representative from the Executive Management team*

APPROVED ON BEHALF OF ROTORUA LAKES COUNCIL BY:

Name	Position	Signature	Date

The completed form must be returned to the Organisational Development and Capability team.

A copy of this completed form will be saved to the employee's personal file and the information entered into the Conflict of Interest Register.

Conflict of Interest Register

Name	Position and Role	Date Advised of Interest / Record Number	Interest Disclosed	Nature of Potential Conflict	Action Taken / Recommendations	Date Implemented	Review / Comments