

Local Government Act 1989

Principles of Natural Justice

Some of what Councillors need to know

Recent Changes – LGA

- Principles of Councillor Conduct
- Misuse of Position
- Improper Direction & Improper Influence
- Councillor Conduct Panels
- Conflicts of Interest

Qualifications & Disqualifications

- Retain entitlement to enrolment
- Not capable of becoming or continuing to be a councillor if;
 - Undischarged bankrupt
 - Unsound mind
 - Member of Council staff
 - Oath/ Affirmation
 - Gross misconduct finding
 - Offence which is punishable upon first conviction for a term of 5 years or more

Primary conduct principle

- act with integrity
- impartially exercise responsibilities in the interests of the local community
- avoid improperly advantaging or disadvantaging any person

General conduct principles

- Avoid conflicts
- Act honestly
- Treat all persons with respect
- Exercise care & diligence
- Careful use of public resources
- Act lawfully
- Promote the principles by leadership & example

Disqualification

- For seven years after conviction:
 - Misuse of position (s76D)
 - Breach of the conflict of interest provisions (s79 & 80A)
 - Electoral offences

Misuse of position

- Gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person
- Cause, or attempt to cause, detriment to the Council or another person

Misuse of position

Includes;

- improper use of information
- unauthorised exercise of power
- improper use of public funds or resources
- disclosing confidential information
- improper direction and improper influence

Improper Direction and Improper Influence

must not;

- improperly direct or influence a Council officer in the exercise of any power or in the performance of any duty or function
- direct a Council officer exercising
 - delegated / authorised officer powers
 - statutory powers

Confidential Information

- Resolution specifying the ground the information is confidential
- Considered in a closed Council or Special Committee meeting
- Designated by the CEO as confidential (50 day limit)

Direct & Indirect Interests

A conflict of interest exists where a person has a direct or indirect interest in the matter.

Direct Interest

A person has a direct interest in a matter if it is reasonably likely that the benefits, obligations, opportunities or circumstances of the person would be directly altered if a matter is decided in a particular way.

Indirect Interest

Close association

Indirect financial interest

Conflicting duty

Receipt of an 'applicable gift'

Interested party

Close association

Family member has a direct or indirect interest in a matter

Relative or a household member has a direct interest in a matter

Indirect Financial Interest

Likely to receive a benefit or incur a loss, measurable in financial terms, as a consequence of a benefit received or loss incurred by another person who has a direct or indirect interest in the matter.

Indirect Interest – Conflicting Duties

Exists where there is a duty to another person or body, arising from a position or role, that may be impacted by a decision

Indirect Interest – Conflicting Duties

Exemptions:

Government or statutory authority employee who has no current or expected responsibilities in relation to the matter

Appointed or nominated by council to a position in a NFP organisation and receives no remuneration

Holds a position in the MAV or another body representing the interests of Councils

Receipt of an applicable gift

Receipt of one or more gifts, directly or indirectly, to the value of \$200 or more in the 5 years preceding the decision.

Interested party

Initiates civil proceedings or becomes a party to civil proceedings in relation to a matter.

Personal Interest

If a councillor has no conflict of interest but considers that he/she has a personal interest that conflicts with his/her public duty that councillor may apply, giving reasons, immediately before consideration of the matter to Council to be exempted from voting.

Exemptions

No conflict of interest where interest is:

- remote or insignificant
- in common with other residents, ratepayers or voters and does not exceed the interests held by other residents, ratepayers or voters

Exemptions

Decisions relating to Council business
s223 Submissions
Ministerial Exemption

Disclosure

Disclose – attending the meeting

Disclose – absent from the meeting

Classify type of interest and describe nature of interest

Notify departure

Stay out of view and hearing until after the vote

Assemblies

Assembly definition

Disclose existence of conflict of interest

Leave

Defences

Did not know;

- they had a conflict of interest
- that a matter in respect of which they had a conflict was considered or discussed at the relevant meeting

Natural Justice

- Applies to administrative decisions
- Apprehension of bias – objective test

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