

# Conflict of Interest Policy

## Overview

**This document** This document is intended to help with the identification, documentation and management of employees’ conflicts of interest.

**Contents** This document contains the following topics

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## Introduction

**Purpose** The purpose of this document is to help identify, document and manage employees’ conflicts of interest so that the decisions made on QLDC’s behalf are fair and free of bias or perceived bias.

Note: Throughout this policy, the words “decision” and “decisions” should be taken to include:

- recommendations and advice that might significantly influence decisions that will be made by other people
- recommendations and advice on development of strategies and policies that will guide future decision making on service provision, purchasing, contracting or staff employment.

QLDC acknowledges that the professional and personal interests of employees mean that conflicts of interest sometimes cannot be avoided and can arise without anyone being at fault. With openness and forethought, conflicts need not cause problems and can be managed so that the best interests of QLDC and its ratepayers (or residents)/clients are served.

This document endeavours to:

- Define “conflict of interest”
- Raise staff awareness of the potential for conflicts of interest
- Help staff decide whether they have any conflicts of interest
- Give examples of situations where conflicts of interest arise
- Set out the procedures for reporting conflicts of interest when they arise
- Give options for dealing with conflicts of interest.

This document also gives guidance on:

- Acceptance of gifts, benefits or hospitality from suppliers
- Endorsement by QLDC employees of suppliers’ products or services.

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## Policy

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### Scope

This document applies to:

- all employees of QLDC
- any person seconded to QLDC
- all students training in QLDC premises
- any person engaged or contracted under a contract for services to do work for QLDC

For the sake of brevity the terms “employee” and “employees” when used in this document include students and persons contracted to QLDC.

- This document does not apply to elected members of QLDC.
  - For the avoidance of doubt any person employed by a company engaged by Council (e.g. Downers, Veolia) is not covered by this policy.
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### Associated documents

Other documents that are relevant to the contents of this document are:

Type	Title
QLDC Corporate	<ul style="list-style-type: none"><li>• Media (Communications)</li><li>• Additional Employment (Human Resources)</li><li>• Delegated Authority</li><li>• Discipline and Dismissal</li><li>• Fraud – Monitoring and Management</li></ul>
Legislation	<ul style="list-style-type: none"><li>• Employment Relations Act 2000</li><li>• Crown Entities Act 2004</li></ul> <p><i>Note: Any legislation referred to should be interpreted as meaning the Act and its amendments.</i></p>
Other	<ul style="list-style-type: none"><li>• Interests Register</li></ul>

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### Definition of Conflict of Interest

A *Conflict of Interest* exists when an employee could be affected or could be perceived as being affected by a *personal or private interest* in any *transaction* while carrying out their duties or responsibilities for QLDC.

A *personal or private interest* is an interest that can bring benefit to an employee as an individual, or to others associated with the employee or whom the employee may wish to benefit.

*Transaction* means:

- (a) the exercise or performance of a function, duty, or power of QLDC; or
- (b) an arrangement, agreement, or contract to which QLDC is a party; or
- (c) a proposal that QLDC enter into an arrangement, agreement, or contract; or
- (d) development of a strategy or policy that will guide future decision making on service provision, purchasing, contracting or staff employment.

A *Conflict of Interest* may exist where the employee:

- will derive benefit - financial, professional or personal - from the transaction
- has a financial interest in another party to a transaction
- is a director, officer or trustee of another party to the transaction, or is a person who will or may derive a financial benefit from the transaction
- is a shareholder of another party to the transaction
- has an interest in another party tendering for work which QLDC is contesting
- is the parent, child, spouse, sibling, partner or close friend of another party to the transaction, or a person who will or may derive a benefit from the transaction.

Appendix 1 lists questions that employees can ask themselves to help decide if a conflict of interest exists or could be perceived by any person to exist.

Appendix 2 lists situations where conflicts of interest may potentially occur and gives recommendations for dealing with the conflicts. Be aware that these are examples only and that the list is not exhaustive.

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## Policy, Continued

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### Actual, Potential and Perceived Conflicts of Interest

Conflicts of interest can be actual, potential or perceived.

An *actual* conflict of interest involves a direct conflict between an employee's current duties and responsibilities and existing private interests.

A *potential* conflict of interest arises where an employee has private interests that could conflict with official Council duties in the future.

For the purposes of this policy document, the term Conflict of Interest also includes a *perceived* conflict of interest.

A *perceived* conflict of interest exist where it is likely to be perceived by others within the Council, or by external parties, that an employee's private interests could improperly influence the performance of their duties, whether or not this is the case.

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### Policy statement

All employees are expected to perform their duties for QLDC in a fair and unbiased way and not to make decisions that are affected by private interests or the prospect of personal gain.

Where an employee has an interest in a transaction which conflicts, or potentially conflicts, or may be perceived as conflicting with their obligations to QLDC they must declare that interest to their Manager.

Employees must also ensure that any interest that gives rise or might give rise to a conflict of interest is included in the Council's Interests Register.

The employee's Manager is to decide whether any change to the employee's activities is required to eliminate or otherwise manage any conflict of interest.

Employees have an ongoing obligation to disclose actual, potential or perceived conflicts of interest. They should err on the side of caution; if they are unsure whether they have a conflict of interest in a particular situation, they should discuss the matter with their Manager.

Once identified, it will be for the employee's Manager, in consultation with the General Manager, Legal and Regulatory and if necessary the Chief Executive, to carefully consider what, if anything, needs to be done to adequately avoid or mitigate the effects of the conflict of interest in the best interest of QLDC.

Where an employee has a conflict of interest and knowingly withholds this information and acts to his or her advantage, the employee may be subject to disciplinary action including dismissal.

It is important for employees to understand that labelling a situation as a "conflict of interest" does not mean that corruption or some other abuse of public office has occurred. To say that a conflict of interest exists, and that it needs to be managed, is not an indication of a lack of trust or faith in the employee concerned. Usually, there is no suggestion that the employee has taken advantage of the situation for their personal benefit or been influenced by improper personal motives (nor that they are likely to do so).

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The employee and QLDC may sincerely believe that the employee will never behave improperly. But the reasonable perception of an outside observer of the possibility for improper conduct can be just as significant when considering how to manage the situation.

QLDC will need to consider whether there is a reasonable risk that the situation could undermine public trust and confidence in the employee or QLDC. Public perceptions are important. It is not enough that QLDC and its employees are honest and fair; they should also be clearly seen to be so.

Managing conflicts of interest well is not only good practice, but it also protects QLDC and the employee involved. A conflict of interest that is hidden, or that is poorly managed, creates a risk of allegations or perceptions of misconduct, or of other adverse consequences such as litigation.

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### Interests Register

An Interests Register will be maintained by the GM, Legal & Regulatory.

The Interests Register is to incorporate the following information:

- name of the person declaring the interest
- date of declaration
- organisation or individual involved
- brief description of matter
- action taken/comments.

Employees have an ongoing obligation to declare interests that may give rise to conflicts of interest, and have them recorded in the Interests Register.

An employee who has a conflict of interest must ensure that the interest is reported to the GM, Legal & Regulatory for recording in the Interests Register

An annual reminder of this obligation will be sent to all General Managers, Managers and other employees who are in a position to make or influence significant decisions on purchasing, contracting or staff employment.

When an employee has discussed a possible conflict of interest issue with his or her Manager and the Manager has decided there is definitely no conflict of interest, there is no need to record this matter in the Register unless the employee wishes to have it recorded.

If an employee or their Manager is uncertain whether a particular situation constitutes a conflict of interest, they should err on the side of caution and arrange for the interest to be declared and recorded in the Interests Register. If further advice is needed on whether a particular circumstance constitutes a conflict of interest, or how an issue should be dealt with, the matter can be referred to the GM, Legal & Regulatory for guidance.

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**Options for Dealing with a Conflict of Interest** Generally, if an interest is disclosed the individual with the interest should not be involved in consideration or discussion of the matter in which he or she has the interest and certainly should not vote on any question relating to the matter.

In some situations this may not be possible or desirable. For example, an employee with an interest may also have particular and unique expertise in the matter under discussion. If that expertise is not readily available from another source it may be to QLDC's benefit to allow the employee to contribute their expertise despite their interest in the matter. Such situations should be handled with caution. There should be documentation of the reasons for allowing the employee's participation and the steps taken to ensure the decision on the matter is unbiased.

A broad range of options exists for dealing with conflicts of interest. Choosing the right option to deal with the situation will depend on the circumstances and an objective assessment of it. Options include:

- take no action because the conflict is assessed as being minor in nature or is eliminated by disclosure or effective supervision
- allow limited involvement (e.g. participate in discussion, but not in decision making)
- prohibit any involvement
- request the individual concerned relinquish or divest the personal interest which creates the conflict
- appoint to the decision making group additional people who have no conflict of interest
- appoint an independent person or agency to manage or monitor the process and provide assurances of fairness and equity in the matter.

Any conflict of interest and the measures taken to deal with the situation must be recorded in the Interests Register.

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# Conflict of Interest

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## Appendix 1 - Deciding if a Conflict of Interest Exists

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The following questions relate to some of the situations where conflicts of interest exist, or may be perceived to exist.

Answering “Yes” to any of the following questions should be a signal to an employee to disclose their interest to their Manager:

- Would a fair and reasonable person perceive that I was influenced by personal interest in performing my public duty?
- Do I, a relative, friend or associate stand to gain financially or in any other way from QLDC’s decision or action on this matter?
- Am I in a position to influence decision making about a matter related to a potential personal financial interest?
- Have I made any promises or commitments in relation to this matter?
- Have I received a benefit or hospitality from someone who stands to gain from QLDC’s decision/action?
- Am I a member of an organisation or club, or do I have particular ties or affiliations with organisations, clubs or individuals, who stand to gain financially from QLDC’s consideration of the matter?
- Could there be benefits for me in the future that could cast doubt on my objectivity?
- Might I be perceived as favouring a particular person or firm because of a personal friendship or long-standing association?
- Am I in a position to influence development of a particular strategy or policy that will guide future decisions from which I may benefit personally?

Answering “No” to any of the following questions should be a signal to an employee to disclose their interest:

- If I participate in assessment or decision-making on this particular matter, would I be happy for my colleagues and the public to be aware of any personal interest, association or connection that I have in the matter?
  - When I am making a presentation or recommendation to the Council or to another decision making group, are they aware of my interests (including private practice commitments) which might be perceived as influencing the advice I am giving?
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## Appendix 2 - Conflict of Interest Examples and Recommended Actions

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Listed below, under various classifications, are situations where conflicts of interest may potentially occur and a recommended action to avoid or deal with the conflict.

### ***Gifts / Benefits or Hospitality from Suppliers***

Situation	Recommended Action
<p><b>Accepting gifts / benefits from suppliers of goods or services.</b> Acceptance of a gift or other benefit from a supplier can be perceived as encouraging or obliging the employee to favour that supplier.</p> <p>Gifts and benefits can take many forms e.g. presents; travel; discounts on goods or services; tickets to events; funding to attend educational conferences or meetings. The term “benefit” also includes a restaurant meal or hospitality at sports events or other entertainment.</p>	<p>An employee may accept a gift or benefit freely given by a supplier if:</p> <ul style="list-style-type: none"> <li>• The gift is an inexpensive Christmas gift or a token of appreciation or a minor industry give-away e.g. a diary, a calendar</li> </ul> <p><u>OR</u></p> <ul style="list-style-type: none"> <li>• the gift/benefit/hospitality is for the employee personally; and</li> <li>• the total value does not exceed \$50; and</li> <li>• the employee’s Manager agrees that it is appropriate to accept.</li> </ul> <p>It is acceptable for each staff member to keep one (1) gift to the value of \$50.00 p.a. All other gifts given to staff members by consultants, contractors, service providers or through any other means, will be handed in to the PA to the CEO.</p> <p>These gifts will be held for distribution amongst all staff at Christmas time or any other time as per the discretion of the CEO. Perishable items, which will be available to staff for morning or afternoon tea on the day.</p> <p>All hospitality must be registered on the Gifts &amp; Hospitality Register on the intranet</p>

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## ***Purchasing of Goods and Services or Letting of Contracts***

<p><b>Selection of Tenders / Appointment of contractors:</b> A conflict of interest arises where an employee has a family relationship or close friendship with a tenderer or prospective contractor and the employee is making recommendations or decisions on the appointment of the tenderer / contractor or a continuation of their contract.</p>	<p>Where there is a family relationship or close friendship with any tenderer or contractor, the employee must declare their conflict of interest and withdraw from the selection or appointment process.</p>
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## ***Presentations to the Board or other decision makers***

Situation	Recommended Action
<p><b>Making a written or oral presentation to the Council (or to another QLDC decision making body)</b> about equipment, facilities or services when the presenter has, or is contemplating, private sector involvement in a similar service.</p>	<p>At the start of the written or oral presentation the presenter is expected to explicitly declare their private practice involvement. The Council or other decision making body then has an opportunity to ask questions about this interest.</p> <p>When arrangements are being made for a staff member to make a presentation to the Board, the staff member will be reminded of the expectation to declare private commitments.</p>

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### Appendix 2 - Conflict of Interest Examples and Recommended Actions, Continued

#### *Recruitment*

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Situation	Recommended Action
<p><b>Sitting as a member on selection panels</b> where applicants for the position are known to the member personally, as family, friend or close associate, to an extent that could be considered to be a conflict of interest.</p>	<p>The preferred option is to declare the interest and withdraw from any part of the recruitment process.</p> <p>In situations where an applicant is well known to a person on the selection panel solely through a professional relationship or because they both work in the same field, it may be necessary to include the person with the “conflict” on the panel because they have expertise required to select the best applicant. In these cases care must be taken to ensure that the selection process remains unbiased e.g. by involving an additional independent person in the selection process.</p>
<p>Being in a position to <b>influence</b> the selection, or non-selection, of an applicant for a position where the applicant is known personally and involvement could be perceived to be a conflict of interest.</p>	<p>Declare the interest. Other actions as noted above.</p>

## **Staff Administration**

<b>Situation</b>	<b>Recommended Action</b>
Having a <b>close personal and/or family relationship</b> with another employee over whom control is exercised.	All employees are to be treated equally and fairly and any relationships that could be perceived to be of possible concern should be brought to the attention of the appropriate senior employee. If it appears that employees are being given preferential treatment, these concerns should be addressed through the disciplinary process.

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*This information is correct at date of issue. Always check in the relevant QLDC policy manual that this copy is the most recent version*

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## Appendix 2 - Conflict of Interest Examples and Recommended Actions, Continued

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**Improper actions**

- Promoting friends or relatives where other employees are more deserving.
- Preferentially rostering staff to the advantage of particular individuals due to personal association with those persons. This can have financial (penalty rates etc) advantage to the favoured individuals to the disadvantage of other employees.
- Allocation of overtime regularly to particular individuals to the disadvantage of other persons equally entitled and equally efficient.
- Assessment and/or inappropriate recommendation of particular individuals over others because of personal associations, for such things as:
  - training courses;
  - attending conferences;
  - job or advancement opportunities.
- Recommending incremental progression, or non-progression, of particular officers due to personal interests, or attitudes, that are not aligned to the work situation.
- Giving preference for the taking of leave by individuals to the detriment of others due to personal association.
- Not applying the same rules equally to all employees because of personal association e.g. failure to address issues of late attendance, non-performance, etc.

***Appointment or election to public office***

Situation	Recommended Action
Employees may offer themselves for appointment or election to any public office, but they should be aware that the duties of the office may conflict with the due and proper discharge of their duties with QLDC.	Employees should notify the Chief Executive immediately they offer themselves for appointment or election to public office (or, preferably, before they offer themselves). If in the opinion of the Chief Executive the conflict of interest cannot be accommodated, the employee may be called upon to resign from Queenstown Lakes District Council if elected to the public office.
An employee holds office or position within a professional group or association	

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## Appendix 2 - Conflict of Interest Examples and Recommended Actions, Continued

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### *Service on a professional body or employee organisation*

<b>Situation</b>	<b>Recommended Action</b>
Employees may offer themselves for appointment or election to governance or executive positions on their professional or employee organisations. There may be occasions when they are called upon to speak on behalf of their organisation.	Employees appointed or elected to professional bodies or employee organisations should advise the Human Resources Director of their appointment.  A member of staff who speaks publicly on behalf of a professional body or employee organisation must not associate QLDC with the views expressed.
An employee is, in a personal capacity, a member of (or about to become a member of) or have a family involvement in, a trust or community organisation which is funded by or otherwise linked to the Council	

### *Participation in political activities*

<b>Situation</b>	<b>Recommended Action</b>
Employees serving in executive positions within any political party or politically sensitive organisation are open to allegations of bias in favour of that organisation to the detriment of QLDC.	Employees should advise the Chief Executive in writing, with a copy to the Human Resources Director, upon being appointed to executive positions within any political party or politically sensitive organisation.

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## Appendix 2 - Conflict of Interest Examples and Recommended Actions, Continued

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### *Endorsement of products or services*

Situation	Recommended Action
<b>Publicly endorsing</b> a product or service and including the professional's position at the Council, is not to take place unless authorised by the employee's Manager.	QLDC employees must not allow their names and positions at QLDC to be used in product or service endorsements in material sent by suppliers to potential customers.  Employees may, subject to the approval of their Manager, agree to give advice about the adequacy of the product or service to another prospective purchaser e.g. another Council.

### *Acting as a technical advisor to a supplier*

Situation	Recommended Action
Appointment to a paid position as a <b>technical advisor to a supplier</b> (e.g. a planning company or building supplies company) is likely to create a conflict of interest.	The employee should discuss the offer of appointment with his or her General Manager before accepting.

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### Appendix 2 - Conflict of Interest Examples and Recommended Actions, Continued

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#### *Other activities that are likely to cause conflicts of interest*

<b>QLDC external auditors have drawn attention to the following activities:</b>	
<b>Activity</b>	<b>Recommended Action</b>
Having a significant financial interest in an organisation that receives funding from QLDC or is a supplier to QLDC	Such interests must be disclosed
Receiving gifts, loans or other special privileges from an organisation that receives funding from QLDC or is a supplier to QLDC	As a general rule such benefits should not be accepted. The offer of them should be disclosed. (See section on Gifts/Benefits and Hospitality above for limited exceptions and further guidance)
Payment or receipt, by individual employees, of rebates or bribes or other forms of compensation to induce funding or obtain favourable contract terms	Such activities are prohibited. (Rebates for QLDC itself may be negotiated in some instances as part of normal contractual arrangements)
Use of QLDC's funds to reimburse employees or others in ways that would violate QLDC's policies.	Such activities are prohibited.
Holding unrecorded cash funds.	This is prohibited. All funds due to QLDC must be paid into a QLDC bank account.
Holding outside employment.	Such activity must be disclosed and approved by QLDC
An employee witnesses inappropriate behaviour or misconduct by another staff member	Such activity must be disclosed to QLDC under the Whistleblower's Policy
The private interests of an employee could be seen to influence or compromise the performance of his/her duties	

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