Crime and Corruption Commission
QUEENSLAND

Managing and responding to conflicts of interest involving council employees

Summary audit report

Acknowledgments

The CCC acknowledges the cooperation and assistance of participating councils during this audit.

Crime and Corruption Commission

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Contents

Summary

Councils make a significant contribution to the Queensland economy. They control $100 billion worth of assets, spend around $13 billion annually and employ over 38,000 people.[1] Councils have a high level of interaction with the general public and engage in a wide variety of commercial activities in order to deliver services within their boundaries. These include, for example, undertaking procurement activities, entering into contracts, inviting tenders, and making a range of property development decisions.

Larger councils, particularly in metropolitan areas, are more likely to have employees with connections to procurement and tendering parties i.e. previous employers and future employment contacts, industry representative contacts, and financial interests. Consequently, there will be times when their private interests will be in conflict with their public duty.

Smaller councils, and particularly those in remote areas, are more likely to have employees with either family or personal connections to local suppliers. This reflects the council area's population size and the limited number of local businesses. These relationships can give rise to issues regarding conflicts of interest. For example, if Council enters into a fuel supply contract with a service station owned by the sister of its chief executive officer, this business contract, viewed in isolation, might suggest that a conflict of interest exists.

Between 1 July 2015 and 30 June 2017 the Crime and Corruption Commission (CCC) received 547 complaints against local governments alleging the misuse of authority.[2] Misuse of authority encompasses allegations of failing to appropriately declare and manage conflicts of interest.[3]

In 2016–17, the CCC conducted an audit examining how allegations involving conflicts of interest by council employees are dealt with by councils and the robustness of councils' system of internal controls.[4]

Having a conflict of interest is not necessarily a problem, it is how it is managed that is important. The perception that conflicts of interest are not being managed appropriately can erode a council's ethical health, reputation and services.

Of the 13 councils selected to participate in the audit, we recommended 10 (or 77%) needed to put into place an overarching conflicts of interest framework (policy and procedures) and associated tools (forms and registers) to allow the council to apply a coordinated approach in identifying, managing and monitoring conflicts. This is a high-risk issue which the CCC recommends must be rectified within the next six months to enhance governance, risk management and internal controls across the relevant councils.

The audit identified that nine of the councils need to develop a procedure, and associated tools, for managing gifts and benefits, noting that such benefits may create a conflict of interest between an employee's official duty and their personal interests.

The CCC was pleased to identify that three of the councils selected for audit had already independently audited their conflicts of interest processes, strengthening their overall conflicts of interest control framework. The CCC recommended the remaining 10 councils periodically audit their conflicts of interest process to ensure it continues to be adequately designed, and operating effectively, and promotes accountability and transparency in council business decisions.

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1   Figures cited are from a joint CCC-Local Government Association of Queensland press conference statement, 8 February 2016.

2   Misuse of authority allegations can involve misusing authority to act, or omit to act, to further one's own interests or to favour a family member, friend, associate or benefactor (favouritism), as well as to threaten or cause a detriment (including harassment and bullying) or as a reprisal for making a complaint or public interest disclosure. These allegations do not include matters involving a financial or material inducement for preferential treatment or assault or threat of physical violence.

3   The figure is obtained from the CCC's Corruption allegations data dashboard for the period 1 July 2015 to 30 June 2017.

4   The audit did not include councillors and testing of the key elements of the policies and processes relating to conflicts of interest, to determine whether they are being followed effectively.

The CCC audit showed considerable variation in the adequacy of procedures for handling corrupt conduct complaints across the councils. In this respect we identified that while five of the councils have in place comprehensive procedures to guide staff in handling complaints, four councils do not have an appropriately documented process. The four remaining councils utilise existing procedures relating to administrative actions rather than having in place a specific procedure for dealing with complaints of corrupt conduct. Overall, we concluded that the majority of councils would benefit from developing and implementing complaints handling procedures specific to corrupt conduct matters.

In assessing how effectively the councils dealt with actual complaints, the audit identified a number of areas for improvement including recordkeeping or storage of complaint documentation; conducting inquiries and investigations; and the appropriateness of outcomes to maintain public confidence in the councils' administration.

A conflicts of interest framework, if adequately designed and implemented, should operate in an accountable and transparent manner promoting public confidence in councils' decision-making capabilities.

Introduction

The *Crime and Corruption Act 2001* (CC Act) recognises the responsibility of an agency's public official[5] to set and maintain proper standards of conduct for their staff and, by so doing, maintain public confidence in their agency. The CCC has a lead role in helping agencies to deal effectively and appropriately with corruption.

Each financial year the CCC conducts a program of audits to examine how agencies have responded to particular types of complaints and how robust their complaints management and corruption prevention frameworks are. The CCC also undertake audits aimed at controlling the risks of corruption within the public sector.

In 2016–17, the CCC conducted an audit examining how allegations involving conflicts of interest by council employees are dealt with by councils, and the robustness of councils' controls.

What is a conflict of interest?

A conflict of interest will arise when an officer's private interests conflict with their duty to serve the public interest. It can occur when an officer:

- has a friend or family member who will potentially benefit from a purchase or contract either through employment or as an owner or shareholder of the business
- has feelings of ill-will towards, or prejudice against, a particular product or service which could unfairly bias the selection process
- has a second job with a supplier who is about to do, or is already doing, business with the council
- owns property that will be positively or negatively affected by the activities of the council
- has an interest in a sporting or cultural organisation, which could influence their decision-making.

Actual, potential or perceived conflicts of interest can damage an individual and the council's reputation and performance. It is therefore vital that they be identified, declared, managed and monitored transparently and effectively to avoid abuse of office, or the perception of abuse.

Managing conflicts of interest

Knowing how to identify, manage and monitor conflicts of interest is an effective way to prevent corrupt conduct or dishonest behaviour in the council.[6]

It is important for employees to understand that having a conflict of interest does not automatically result in corrupt or improper conduct—such issues will only arise if the conflict is not dealt with appropriately. Conflicts of interest can usually be effectively managed and resolved in the public interest when councils have in place appropriate systems for managing them.

The CCC promotes a three-step process – encompassing policy, people and process – for implementing mechanisms that will assist a council in preventing corrupt conduct arising from a conflict of interest as illustrated below.

Policy

Develop an overarching conflict of interest framework, including policy, procedures and guidelines.
Develop individual procedures for conflicts of interest for high-risk business processes such as procurement and recruitment and selection processes.
Review the policy and procedures regularly.

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5   A public official is defined in Schedule 2 of the CC Act.
6   The meaning of "corrupt conduct" can be found in section 15 of the CC Act.

People

Proactively establish a workplace culture and environment that will not tolerate dishonest or corrupt behaviour – lead by example.

Provide ongoing training and awareness about the key areas of the Council's integrity framework.

Enforce the policy and procedures.

Process

Implement conflicts of interest policies and procedures.

Identify, record, manage and monitor conflicts of interest.

Identify conflicts of interest risks via fraud and corruption assessment processes.

Regularly audit conflicts of interest processes for effectiveness and adequacy.

The above is not an exhaustive list. Further details concerning the three-step process can be found on pages 23-26 of this report.

Reasons for doing this audit

As illustrated below, councils are significant contributors to the Queensland economy[7]:

Control assets worth	Employ	Spend $13 billion annually
$100 billion	**38,000 people**	**Constitutes one-third of the Queensland economy**

Councils have a high level of interaction with the general public and engage in a wide variety of commercial activities in order to deliver services within their boundaries. These include, for example, undertaking procurement activities, entering into contracts, inviting tenders, and making a range of property development decisions.

Larger councils, particularly in metropolitan areas, are more likely to have employees with connections to procurement and tendering parties. For example, previous employers and future employment contacts, industry representative contacts, and financial interests. Consequently, there will be times when their private interests will be in conflict with their public duty.

Smaller councils, and particularly those in remote areas, are more likely to have employees with either family or personal connections to local suppliers. This reflects the council area's population size and the limited number of local businesses. These relationships can give rise to issues regarding conflicts of interest. For example, if Council enters into a fuel supply contract with a service station owned by the sister of its chief executive officer, this business contract, viewed in isolation, might suggest that a conflict of interest exists.

Councils are the subject of a disproportionately high rate of allegations involving misuse of authority, when compared to complaints made against other public sector agencies – 37 per cent of total allegations received against the local government sector involve allegations of misuse of authority. In contrast complaints of this nature constitute 28 per cent of complaints made against government departments and 11 per cent of Queensland Police Service complaints.[8] Misuse of authority allegations can involve misusing authority to act, or omit to act, to further one's own interests or to favour a family member, friend, associate or benefactor (favouritism).

Corrupt behaviour – whether actual or perceived – has the potential to erode public confidence in a council and damage a council's culture and reputation.

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7   Figures cited are from a joint CCC-Local Government Association of Queensland press conference statement, 8 February 2016.

8   Figures analysed from the CCC's Corruption allegations data dashboard for 1 July 2015 to 30 June 2017.

Audit focus

The audit involved the following steps:

1. Risk assessment – determine whether conflicts of interest are identified as a key risk factor in each council's fraud and corruption risk assessment.

2. Control environment/activities –

   a. evaluate whether conflicts of interest are addressed in each council's Code of Conduct, with specific references in policies and processes for areas where conflicts of interest can arise.

   b. determine whether each council has a policy regarding acceptance of gifts and benefits.

   c. assess whether each council has designed and implemented adequate controls to aid in the prevention, or early detection, of potential conflicts of interest.

3. Complaints process –

   a. determine whether each council's procedures or manual for handling complaints of corrupt conduct is well designed and complies with the CCC's *Corruption in focus* guide.[9]

   b. assess how effectively and appropriately each council has responded to complaints involving conflicts of interest.

4. Audit – determine whether conflicts of interest are periodically audited within council to ensure that the identification process is adequately designed and operating effectively based on council's specific risk factors.

Scope of the audit

This audit focused on the way in which the sample of councils dealt with allegations involving conflicts of interest against council employees during the period July 2015 to December 2016. It also focused on the adequacy of councils' conflicts of interest systems. The audit was conducted in three stages.

Selection of councils

The first stage involved selecting which of the 77 councils would be included in the audit. We identified a sample of 13 councils by examining factors including:

- information held by the CCC concerning complaints involving conflicts of interest made or notified to the CCC during the relevant period
- selecting a representative sample of councils based on the size, locality, and the number of allegations of suspected corrupt conduct relating to a conflict of interest.

The councils selected for participation are listed in the table below.

Local Government Sector		
• Brisbane City Council	• Gympie Regional Council	• Redland City Council
• Burdekin Shire Council	• Ipswich City Council	• Rockhampton Regional Council
• Charters Towers Regional Council	• Kowanyama Aboriginal Shire Council	• Toowoomba Regional Council
• Douglas Shire Council	• Logan City Council	• Townsville City Council
• Gold Coast City Council		

Reviewing policy, people and process initiatives

The second stage involved reviewing each council's policies, procedures, guidelines and practices for managing conflicts of interest, gifts and benefits, and complaints handling, to ensure they are reasonable and linked to relevant legislation and official guidelines.

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9   The CCC's *Corruption in focus: a guide to dealing with corrupt conduct in the Queensland public sector* is used extensively by public sector agencies.

Policy, people and process related to managing conflicts of interest

Each of the 13 councils completed the CCC's questionnaire, which sought information on the controls and processes in place at these councils for maintaining an ethical culture and managing conflicts of interest for employees. We used the results from the questionnaire to form a preliminary view about whether there was a sound system of internal controls present within the council.

The audit also reviewed what communications occurred within the council to maintain a good ethical culture and we obtained materials and information concerning the following:

Prevention documents obtained	
• Code of Conduct • Ethical decision-making tree or process • Policies, procedures and guidelines relating to conflicts of interest • Training and awareness initiatives related to conflicts of interest	• Gifts and benefits policy and procedures • Risk register including actions taken in relation to conflict of interest risks • Whether there has been an audit on managing conflicts of interest by an internal auditor or an independent auditor in the last two years

We reviewed all of the above to help us in determining what procedural or control measures could be recommended to improve council's investigation of complaints included in this audit.

Complaints handling procedures

The audit reviewed the systems in place to deal with complaints of corrupt conduct in each of the 13 councils. We did this by reviewing each council's procedures for dealing with corrupt conduct matters to ensure it achieved its stated outcomes including reducing the incidence of corruption. The CCC's *Corruption in focus* guide was used to assess the sufficiency of councils' complaints handling procedures.

We rated the maturity of a council's procedures using the following measures.

Generally achieved
○○●
• Process is documented. It is thorough and sufficient to ensure consistency across the council.

Partly achieved
○●○
• Process is documented. It is unlikely to be thorough, but may help to ensure that processes are followed.

No evidence of achievement
●○○
• Process is non-existent or undocumented, and tending to be driven in an ad hoc, uncontrolled and reactive manner by case officers or decision events.

Reviewing how council systems were applied in practice

This final stage was a detailed review of a sample of 43 complaint files (from 49 files in total) to assess how well each complaint had been dealt with by the respective council, with the objectives of:
a) maintaining public confidence in the council; and b) enhancing a deterrent effect organisationally.

We considered matters which fell into the following three categories:

Types of matters		
Referred with No Further Advice (RNFA) outcome matters	**Non-reportable matters (less serious)**	**Not reported (not corrupt conduct)**
Matters referred to the CCC, assessed as corrupt conduct and determined appropriate to return to the council to deal with on a "no further advice" basis – that is, the council was not required to update the CCC on how the matter was dealt with or any associated outcomes.	*Complaints of corrupt conduct that under section 40 of the CC Act may be dealt with by the council without having to report them to the CCC.*	*Complaints assessed by the council as not raising a reasonable suspicion[10] of corrupt conduct, under section 38 of the CC Act. This type of complaint is not reported to the CCC.*

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10 For a suspicion to be "reasonable", there must be some evidence sufficient for a reasonable person to suspect corrupt conduct (section 38 of the CC Act).

The audit also examined factors that might have given rise to incidents of corrupt conduct related to conflicts of interest as well as systemic issues related to dealing with complaints of this nature and reducing corruption risks.

Exclusions

This audit did not include:

- Councillors, as stipulated under sections 172 and 173 of the *Local Government Act 2009*, and sections 174 and 175 of *City of Brisbane Act 2010*.[11]

- Testing key elements of the policies and processes relating to conflicts of interest, to determine whether they are being followed effectively.

Findings from the audit

Statistics from this audit

This audit reviewed 43 complaint files across 13 councils that involve allegations of conflicts of interest.

The figure below shows how councils have dealt with these matters and the resulting outcomes. In summary:

- Councils took no action in relation to 11 complaints that were assessed as being either frivolous, vexatious, lacking in substance or credibility, or where it considered that dealing with the complaint would be an unjustifiable use of resources

- 27 complaints were investigated, with a range of outcomes (further shaded boxes in diagram below)

- 5 matters were unable to be assessed by the CCC due to insufficient or missing records.
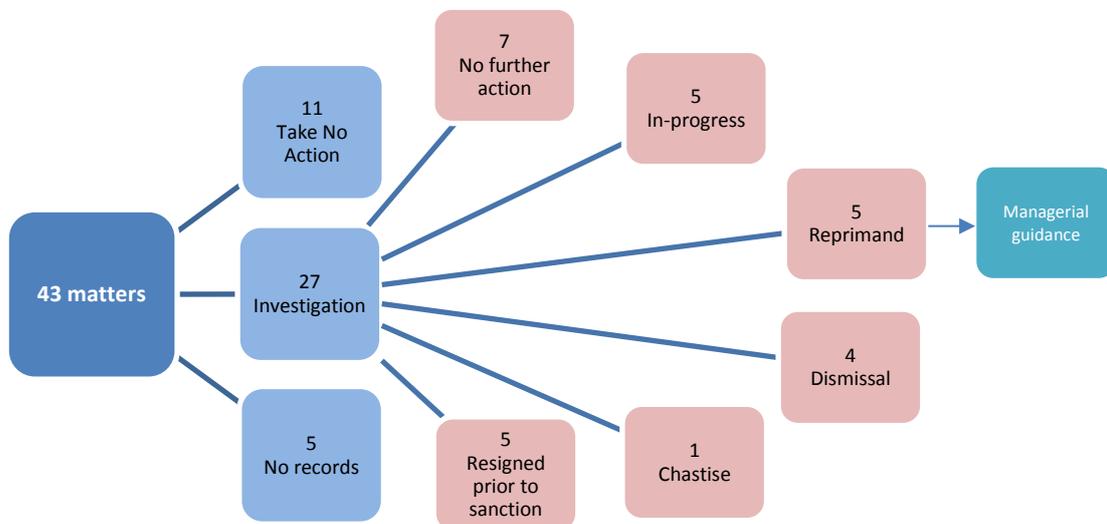
Source: Crime and Corruption Commission 2017

The following diagrams and figures graphically indicate the position/level of the subject officers (diagram 1), how the subject officer failed to comply with the conflict of interest process (diagram 2), the activity where the alleged conduct occurred (figure 3), and who benefited from the conduct (figure 4).

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11 The Brisbane City Council has its own legislation, the *City of Brisbane Act 2010*. Compared to other local governments in Queensland, the Brisbane City Council is unique in its nature and the extent of its responsibilities and powers for a number of reasons – Brisbane is the capital of Queensland and is the largest provider of local government services.

In summary:

- Allegations of corrupt conduct concerning a conflict of interest were most commonly made against other employees (62%), followed by directors or managers (32%) and senior executives (6%) (diagram 1).
- Complaints most commonly related to a failure to avoid a conflict (38%), followed by the failure to manage involvement (32%) and the failure to register a conflict (22%) (diagram 2).
- Procurement-related activities were by far the most common area where conflicts occurred (33%), followed by recruitment and selection activities (28%) (figure 3).
- The alleged conflicts usually related to family or close personal relationships (43%), family or private business (17%), and self-benefit (17%) (figure 4).

Diagram 1 – position of subject officer

Senior Executive, 6%
Director, 32%
Other employee, 62%

Diagram 2 – cause of failure

Other, 8%
Avoid a conflict, 38%
Declare, 22%
Manage involvement, 32%

Figure 3 – alleged area impacted	
Contracting, tendering and procurement	**33%**
Recruitment and selection activities	**28%**
Planning and development applications	**8%**
Dealing with individuals	**6%**
Issuing certificates or licenses	**6%**
Other (once off areas)	**19%**

Figure 4 – alleged type of private interest	
Family or close personal relationship	**43%**
Family or private business	**17%**
Self-benefit	**17%**
Secondary employment	**6%**
Other	**6%**
Unknown (not evident in files)	**11%**

Source: Crime and Corruption Commission 2017

Strengths

The following strengths on the part of the councils were identified from the audit:

- All councils have in place a Code of Conduct emphasising the standard of behaviour expected of their employees.
- The majority of complaints were appropriately dealt with.
- Three councils have completed an internal audit of their conflict of interest processes.

Areas for improvement

Designing and implementing an effective internal control structure for managing conflicts of interest and handling corrupt conduct complaints can be challenging, and applying its provisions effectively and appropriately can also be demanding. However, design and operating effectiveness are crucial to reducing risk in the way a complaint is dealt with, supporting sound decision-making capabilities, and achieving optimal outcomes.

The audit identified 14 areas for improvement for application within the various councils. These areas for improvement are grouped to the four main objectives of this audit.

1 Identifying the potential risk of a conflict of interest

The audit identified that seven of the 13 councils do not currently undertake risk assessments for fraud and corruption, specifically conflicts of interest. Some councils indicated this was because of limited resourcing or in some cases councils advised that they are still developing procedures and tools to assist in this risk assessment process.

Councils should conduct fraud and corruption risk assessments on a regular basis, and those assessments should identify factors that could indicate a higher potential for conflicts of interest to exist.

The CCC has recently published an audit into the "Effectiveness of Queensland public sector corruption risk assessments" (September 2017). This report will provide further assistance to councils in this area.

> ### *Area for improvement 1 – Include conflict of interest risk in fraud and corruption risk assessment*
>
> Councils should conduct fraud and corruption risk assessments on a regular basis, in alignment with the AS/NZS ISO 31000:2009: *Risk management – principles and guidelines*. In particular councils should:
>
> a) Collaborate with key stakeholders across the many areas of council's operations, or single business processes and locations, to identify factors that could indicate a higher potential for conflicts of interest to exist, regardless of likelihood or whether internal controls are already in place.
>
>   Such factors should include regulatory considerations and the geographical location of operations, analysis of key vendors, customers, and third-party relationships, and evaluation of duties that are more likely to be exposed to potential conflicts of interest.
>
>   The risk assessment also should include any known employee relationships that could give rise to a conflict of interest. Additionally, the risk assessment should consider elements such as employees in a position of influence who were previously employed by, or associated with, key vendors or customers of the council, that could lead to various conflicts if not disclosed.
>
> b) Identify and record the current controls, and assess whether the current level of risk should be mitigated in the context of those controls, or whether those controls should be strengthened – in the context of both reducing corrupt conduct risk to a tolerable level and improving overall processes within the council.
>
> c) Determine and implement mitigating actions where the current risk level is deemed unacceptable.
>
> ***Note**. Councils acknowledged the findings and recommendations.*

2 Maintaining effective systems for conflicts of interest

Public confidence in the integrity of council employees and the way in which councils deal with conflicts of interest is important. Councils must ensure they promote that confidence, and that conflicts are seen to be appropriately and transparently managed.

Conflicts of interest framework

The audit identified a number of issues/gaps in ten of the 13 councils' existing policies and processes, which undermine the effectiveness of their conflicts of interest systems. These gaps create a risk that councils are unable to apply a coordinated approach in identifying, managing and monitoring conflicts.

While all councils address conflicts of interest in their Code of Conduct, 10 of the councils audited would benefit considerably from the creation and maintenance of a conflicts of interest framework that outlines the overarching policy regarding all conflict of interest matters, establishes roles and responsibilities and outlines the mandatory steps to follow when dealing with a conflict.

The minimum requirements of such a policy are set out below.

> **Minimum requirements to be covered in an overarching conflict of interest policy and procedure**
> - Ensure that all employees are aware of the duty to make decisions free of conflicts and carry out their public duties to a high ethical standard.
> - Direct employees to avoid a conflict of interest and resolve conflicts appropriately and in the public interest, clarifying which type of management approach may be the most appropriate in the circumstances.
> - Clearly define the types of activities that are considered to be conflicts of interest, including identifying business processes prone to a high risk of conflicts of interest.
> - Require the maintenance of appropriate records of declared conflicts of interest i.e. forms and a centralised register.
> - Clearly define the processes for the identification, management and monitoring of conflicts.
> - Identify the position responsible for the oversight of the conflict of interest process, including reviewing conflict of interest registers for accuracy and completeness, and the ongoing monitoring of current conflicts on the register.
> - Require a regular training program educating employees about probity and corruption prevention and promoting the need to manage conflicts of interest.
> - Clearly define the processes for senior executives to disclose private interests.
> - Comply with the Code of Conduct.
> - Comply with the Local Government Act or the City of Brisbane Act (as applicable).
> - Ensure that public confidence in council is maintained.

> ### *Area for improvement 2 – Create and maintain a conflicts of interest framework*
> Establish a conflicts of interest framework that reflects the commitment of senior executives to maintain an effective and transparent system for managing conflicts of interest.
>
> As a starting point, councils should develop and implement an overarching framework that outlines the policy regarding all conflict of interest matters and the mandatory steps to follow when dealing with or managing a conflict. The policy should also cross-reference all relevant documentation, specifically the tools and procedures for high-risk areas which are prone to conflict of interest issues.
>
> *Note*. Councils responding to this audit welcomed the findings. All councils have agreed to create a conflicts of interest framework to ensure conflicts of interest are dealt with effectively and transparently.

Tools for managing conflicts of interest

Our review of council responses to the CCC's questionnaire, and of the materials provided for audit purposes, identified that some councils need to implement tools for managing conflicts of interest. We have divided the tools into two main areas: a) annual disclosure of private interests; and b) declaration of a conflict of interest.

Annual disclosure of private interests

The audit noted that four of the 13 councils do not have an annual disclosure of private interests form, and two of those councils do not have a central register of interests.

Section 290(1) of the Local Government Regulation 2012 and section 268(1) of the City of Brisbane Regulation 2012 require the chief executive officer of a council to maintain a register of the interests of senior executive employees and any person who is related to a senior executive employee. Both Regulations also require the Mayor to maintain a register of interests of the chief executive officer.

To ensure information is accurately recorded in the register of interests, a form should be developed which collects relevant information identifying the conflicts and explaining how these will be managed, as agreed by the decision-maker. The information can then be transferred into the register.

(Note that the Department of Infrastructure, Local Government and Planning has a form readily available for this purpose.)

Declaration of actual, perceived or potential conflicts of interest

All other council employees, who are not senior executives, must also declare any actual, perceived or potential conflicts of interest prior to making business decisions, especially where they are involved in high-risk business processes such as procurement, approvals or recruitment and selection activities.

The audit identified that nine of the 13 councils have varying gaps in their conflicts of interest form and register processes relating to regular employees.

For these purposes a conflict of interest form (COI form) should be developed and implemented to record:

- information about the conflict
- the agreed strategy for managing the conflict
- arrangements to be put into place to manage the conflict.

The above tools will enable the council to demonstrate in a transparent and accountable manner that a specific conflict of interest has been appropriately identified, managed and monitored.

> ***Area for improvement 3 – Develop, maintain and monitor declaration forms and registers***
>
> a) Develop a COI form that records the conflict, and how the conflict will be managed and monitored.
>
> b) Develop and maintain a central COI register of all declared conflicts of interest, to be centrally managed by council. The register should be reviewed quarterly to ensure it is up-to-date and accurate.
>
> c) Update procedures to outline requirements for disclosing, monitoring and managing registered actual, perceived or potential conflicts. The procedures are to be linked to the overarching policy and should highlight the steps and responsibilities of all officers involved, in particular:
>
> - Supervisors/managers to monitor compliance with the agreed management strategy for managing the conflicts.
> - A central responsible officer to update the COI register, follow up on required COI forms, and attend to quarterly reporting of conflicts to the senior executive group.
>
> d) Update procedures to outline requirements for managing a register of interests i.e. s290, which are to be linked to the overarching policy.
>
> ***Note***. Councils have advised they will review and/or enhance declaration forms, associated registers and processes.

Training and awareness programs

The CCC's audit identified that two of the 13 councils do not have an ethics training awareness program in place. While a further eight councils do have an ethics training awareness program, it does not include specific training about conflict of interest processes.

We also identified that seven councils do not have information promoting an awareness of conflicts of interest displayed in their workplace (that is, posters or screensavers about identifying, managing and monitoring a conflict).

Section 21 of the *Public Sector Ethics Act 1994* requires a chief executive officer to ensure that employees are given access to appropriate education and training about public sector ethics.

Area for improvement 4 – Enhance training awareness program

Develop or enhance existing ethics training awareness programs which include:

a) Education and training on council's conflict of interest mechanisms (that is, identifying, managing and monitoring) for all managers and staff.

b) Conflict of interest scenarios/case studies as applicable to the council to provide staff with a better understanding of the issues.

c) Display of information promoting an awareness about the importance of identifying, managing and monitoring conflicts of interest throughout the workplace, to enhance an ethical culture.

Note. Councils acknowledged the recommendation and agreed that training awareness programs will be enhanced once the conflicts of interest framework is established.

Gifts and benefits

The audit identified that the Code of Conduct in place at 11 of the 13 councils includes a policy about the giving and receiving of gifts and benefits. It does not, however, describe in detail the steps that must be followed, by whom and when, in declaring, managing and monitoring gifts and benefits.

Detailed below are the CCC's minimum requirements that need to be addressed in any procedure for managing gifts and benefits.

Requirements to include in gifts and benefits procedure

- a definition of the types of gifts and benefits that are customary in nature e.g. token or memento
- retail value thresholds for
  - token or memento
  - nominal value (reportable) (where the gift or benefit can be kept by the employee with appropriate approval of an authorised officer)
  - significant value (reportable) (where the gift or benefit will remain the property of the council)
- reporting of gifts and benefits
  - a Gift and Benefit Declaration Form must be completed for
    - o any gift or benefit accepted, other than a token or memento
    - o any reportable gift or benefit that is offered but not accepted
    - o any gift of cultural or historical significance
    - o if the cumulative value of multiple gifts or benefits (incl. token or memento) received from a single donor, or related donor, is more than the reportable value threshold in a financial year
  - the form is forwarded to a central monitoring officer within a stated number of days, but no more than seven days, of receiving the gift or benefit, or being offered the gift or benefit
- registering and maintaining a centralised gifts and benefits register
  - the register is reviewed quarterly by the central monitoring officer
  - quarterly reporting of gifts and benefits to the senior executive group
- roles and responsibilities of key positions in the managing and monitoring mechanisms.

The absence of clear procedures and tools diminishes the value of declaring, authorising, managing and monitoring gifts and benefits. Accepting a gift, no matter how small, may result in a perception that an employee is taking a bribe or secret commission, or exercising undue influence. For this reason all gifts and benefits, other than those classified as token or memento, must be reported.

Area for improvement 5 – Enhance gifts and benefits mechanisms

Develop a procedure and associated tools for managing gifts and benefits. The procedure should address the minimum requirements stipulated above.

The CCC has a prevention advisory on gifts and benefits on its website.

Note. Councils have indicated that they will work towards developing and implementing a procedure to improve the management of gifts and benefits.

3 Dealing with actual complaints

Complaints handling procedures

Our assessment of the 13 councils' systems for dealing with corrupt conduct complaints identified that five councils had in place sound and comprehensive complaints handling procedures to guide staff in effectively and appropriately responding to corrupt conduct incidents.

The remaining eight councils showed considerable variation in the adequacy of procedures for complaints handling – from gaps in the processes in place (four councils) to a lack of documented processes (four councils), as further described below.

The audit identified that four councils had three or more gaps in their complaints handling procedures when measured against the requirements of the CCC's *Corruption in Focus* guide. For this reason they were assessed as having partially sound complaints handling procedures. While these councils should be commended for having processes documented, we consider it essential that the missing processes (key controls) are included in councils' existing procedures, as this will increase consistency and decrease risk in handling complaints of corrupt conduct.

We were unable to assess the remaining four councils' procedures either because they are non-existent, or the procedures they supposedly rely on do not relate to complaints involving corrupt conduct. This is a significant deficit given that a fair, transparent and timely complaints process is fundamental to promoting public confidence in a council. We understand, however, that these councils are working towards developing the necessary procedures.

Based on the above findings, the CCC assessed the maturity of councils' procedures for dealing with corrupt conduct complaints, as follows:

Council	Result	Council	Result	Council	Result
UPA 1	●○○	UPA 6	○○●	UPA 10	○○●
UPA 2	●○○	UPA 7	○●○	UPA 11	○●○
UPA 3	●○○	UPA 8	○○●	UPA 12	○●○
UPA 4	●○○	UPA 9	○●○	UPA 13	○○●
UPA 5	○○●				

Legend:

○○● *Generally achieved* – process is documented, thorough and sufficient to ensure consistency across the council.

○●○ *Partly achieved* – process is documented. It is unlikely to be thorough, but may help to ensure that processes are followed.

●○○ *No evidence of achievement* – process is non-existent or undocumented, and tending to be driven in an ad hoc, uncontrolled and reactive manner by case officers or decision events.

> ### *Area for improvement 6 – Develop or improve procedures for dealing with corrupt conduct complaints*
>
> Develop or enhance procedures to assist responsible officers in dealing with complaints involving corrupt conduct effectively and appropriately to achieve optimal outcomes. (Refer to the CCC's *Corruption in Focus* guide.)
>
> **Note**. Councils have acknowledged the need to improve their complaints-handling procedures specifically in relation to corrupt conduct. Some of the councils have already started revising their procedures through consultation with the CCC.

Complaints management recordkeeping

As part of this audit the CCC reviewed 43 complaint files which had been dealt with by the various councils.

The CCC was unable to complete an audit of four of these complaint files, or make an assessment as to whether they were appropriately dealt with by the two councils involved, due to absence or insufficiency of records.

> **Case study – Complaint file could not be located by the council**
>
> The CCC sought to review one council's treatment of a complaint concerning its decision to award a contract to upgrade drainage infrastructure to a company which provided an "alternative tender" to the mandatory requirements set by the Council. The complainant in this matter alleged that council officers had been bribed by the successful tenderer with helicopter rides and boxes of prawns and alcohol. The documentation provided to the CCC by council, supposedly in relation to this matter, in fact concerned a completely different matter.
>
> It is the CCC's understanding that the council is continuing to make efforts to locate the complaint file, however, we note that:
>
> - The Matters Assessed Report was sent on 11 January 2017 to the Council's CEO, who according to our records was the nominated liaison officer for the purposes of the CCC.
> - The engagement notification for this audit was sent to the same person on 28 March 2017. Upon receiving no response by the allocated time we conducted inquiries and identified a different person who is now the CEO.
>
> There is a possibility that the complaint was sent to the nominated liaison officer, who no longer had responsibility to deal with the complaint.

The failure to notify the CCC of changes to the Council's CEO position, or the Council's nominated CCC liaison officer, can result in complaints not being dealt with and inadequacies in existing controls not being discovered.

> ### Area for improvement 7a – Maintain records of investigation
>
> Councils should implement a system to adequately capture, manage, respond to and report complaints at all stages of the complaint-handling process. Recordkeeping requirements must be communicated to staff. In the event the Council is unable to find the complaint file, the complaint will need to be dealt with.
>
> The Council's CEO should be reminded that any changes to the Council's CEO position, or the Council's nominated CCC liaison officer, must be communicated to the CCC as soon as possible, to avoid issues such as that outlined above.
>
> *Note*. The Council was given an opportunity to respond to this finding and recommendation, however no response has been received to date. Responsibility for the implementation of the recommendation rests with the Council's CEO. The CCC will follow up on progress.

In another matter, the council had no investigative records to provide in relation to a non-reportable complaint. The council has not yet provided an explanation for this absence of documentation. Without any relevant material to consider the CCC has been unable to assess the appropriateness of council's dealing with this complaint.

In the remaining three matters, full records of the investigations were not maintained. For example, for one matter the only documentation provided by council was a record of a conversation between the case manager and relevant officers. There was no information about the nature of the complaint, the conflict involved or the outcome of the matter.

> ### Area for improvement 7b – Maintain records of investigation
>
> Councils should maintain full records of inquiries and evidence gathered, including documenting the reason why certain investigation documents or outcomes are not maintained. In particular:
>
> - Design and implement a "running sheet" that can be easily monitored or audited to identify who did what and when.
> - Include an outcome report for each matter detailing the findings, conclusions and recommendations of any investigation or other process.

- Design and implement a "file closure sheet".

Note. Councils have advised they are reviewing the recommendation to determine whether it can be applied to their current complaints management system.

Disciplinary outcomes

The CCC audit identified one matter (see the case study below) in which there was a disconnect between the sanction imposed on the subject officer (the council employee) and on the business which was alleged to have benefited from the subject officer's actions. While the subject officer was reprimanded, the business in question suffered the more significant consequence of being excluded from a tender process.

> **Case study – Inappropriate access to and use of confidential information by a council employee for gain**
>
> Business A, which was owned by a family member of a council employee (the subject officer) was competing to win a council tender. The employee inappropriately accessed information relating to a rival tender submission by Contractor B. Council staff became suspicious when they received a second, significantly lower, quote from Business A which was $10 lower than the price offered by Contractor B, the only other business to tender.
>
> The council's decision-maker determined to reprimand the subject officer, taking into account their long service history, the fact that the evidence was circumstantial and that the subject officer was "embarrassed" by their conduct.
>
> The Council rejected the tender by Business A even though the tender price was lower than that of the other competitor.
>
> The CCC considers that the consequences for Business A, who was a party to the corrupt conduct, were appropriate. However, it seems inequitable that, for their involvement in the same situation, the subject officer was given the benefit of the doubt and only reprimanded.

To maintain public confidence in their operation, the council must ensure that the outcome of a complaint process be appropriate to the seriousness of the allegation and consistent in terms of the actions taken in relation to the parties involved.

> *Area for improvement 8 – Ensure disciplinary outcomes are appropriate to the seriousness of the allegation*
>
> a) Note the purpose and relevance of effective deterrence measures and impose sanctions commensurate to the seriousness of the conduct. Council to document the range of sanctions that may be imposed for any breach of the Code of Conduct and in making a decision take account of the level of the subject officer's position and seriousness of the conduct. Senior executives are committed to leading and maintaining a good ethical culture within their agency.
>
> b) Prevent unauthorised access to confidential information – access and privilege level controls should be considered and implemented, and all employees regularly reminded of their obligations when accessing and using confidential information.
>
> c) Be reminded that when a complaint is received, a relevant assessment officer may conduct preliminary inquiries to determine if the complaint raises a reasonable suspicion of corrupt conduct. Once a reasonable suspicion is held, all inquiries must cease and the matter must then be referred to the CCC for assessment. The Council should then wait for further advice from the CCC before proceeding (via Matters Assessed Report).
>
> *Note*. In responding to this audit, the Council acknowledged the recommendation and also will review access requirements/restrictions with respect to its internal document management systems where information breached may be stored.

Choosing an investigator or case officer

Our review of two matters across two councils found that the investigations were not dealt with impartially, as shown in the following case studies.

Case study – Investigator interviewed themselves and another panel member

One matter involved allegations against a member of a recruitment and selection panel. The matter was investigated by a council officer who was the Chair of the same recruitment panel. In effect the investigator interviewed themselves and another panel member. The CCC has not received any interview notes in relation to the other panel member, and documentation gathered in the investigation, to determine the factual accuracy of the investigation report, however noted the statutory declaration from the Chair. The CCC considers the investigator in this matter had a clear conflict of interest.

Case study – Investigator investigated an allegation involving themselves

In another matter, the employee who investigated an allegation about a subject officer hiring a friend into the temporary position was also the subject officer of the complaint. Based on their preliminary inquiries, the investigator/subject officer concluded that the allegation lacked substance and for that reason further investigation was not justified.

There can be no confidence in the outcome of an investigation where the process is tainted by an actual or perceived conflict of interest.

> ### *Area for improvement 9 – Deal with allegations impartially*
> CCC Liaison Officers to have regard to any conflict of interest or perception of bias on the part of the investigator / case officer, prior to appointing them to deal with the matter.
>
> ***Note***. One of the Councils advised the CCC that they will implement the recommendation and work towards improving the way matters are managed in the council.
>
> The other Council planned to implement the recommendation.

Investigative practices

The audit identified numerous issues in the way some councils conduct preliminary inquiries where councils failed to consider relevant factors including:

- the subject officer's complaint history
- whether a subject officer had undertaken any training in relation to ethics and conflicts of interest.

Prior complaints of a similar nature to the current allegations may be indicative of repeated or ongoing conduct, which in turn may further inform the initial assessment outcome. Previous complaints also provide important intelligence about possible patterns of behaviour, or systemic issues, even when those complaints were unable to be substantiated.

The CCC considers that the failure to consider these factors excludes critical information relevant to complaint assessment, investigation and outcomes. It demonstrates an inclination to treat complaints in isolation, ignoring possible patterns in an individual's behaviour, and missing opportunities for performance improvement or disciplinary action.

> ### *Area for improvement 10 – Check complaints history and training records*
> Review and document for every individual complaint:
> a) Whether the subject officer has a relevant complaint history.
> b) Whether the subject officer has attended relevant ethics and conflicts of interest training.
>
> ***Note***. Councils have acknowledged the recommendation and indicate that it would assist in effective complaints handling. However, one of the councils thought that only when an allegation is recommended as substantiated, an officer's complaint history and training history may be relevant to any decision for disciplinary action. Thus, the Council disagreed with the CCC's statement that "previous complaints provide important intelligence…even when that complaint was unable to be substantiated".

The CCC has responded to the Council that the pre-investigation process must include checks of relevant complaint histories (also noted in the CCC's *Corruption in Focus* guide). This helps the designated CCC Liaison Officer determine how the allegations should be dealt with – for example, whether by investigation or management action – and how much effort to expend. By highlighting patterns of behaviour, a complaints history may help the investigator develop appropriate remedial strategies or recommendations for the decision-maker.

We also identified 11 matters involving seven councils who did not prepare an investigation plan. Further, the audit identified four complaints where four councils did not prepare an outcome report. While these failures did not have an effect on the appropriateness of the outcomes in these instances, failure to prepare and follow an investigation plan presents a risk that an investigation could be side-tracked, or result in a less than optimal outcome.

Area for improvement 11 – Enhance investigation planning and reporting

Prepare an investigation plan and outcome report to detail the investigation and its findings, conclusions and recommendations. The scale of the plan should be appropriate to the risk, complexity, nature and timing of the investigation.

Note. Councils have acknowledged the recommendation.

Finalise the complaint

The CCC audit identified a matter that is still ongoing more than 12 months after the complaint was first raised with the council. We considered this matter to be unusual as it involved wrongdoing by a former council employee who is now a Councillor. This limits the actions available to a decision-maker in dealing with the conduct.

Case study – Allegation against a former council employee

The subject officer was in the Planning and Development area of Council where their responsibilities included, but were not limited to, assessing building development applications for the construction of new buildings and the demolition of old buildings.

The day before the local government elections were held in March 2016, the subject officer received a building demolition application from a member of the public. The purpose of the application was to gain approval to demolish a heritage-listed belltower.

Just prior to being sworn in as councillor, and after resigning as a council officer, the subject officer advised the applicant that they had submitted a private personal objection to the belltower demolition application.

There was evidence that the subject officer only knew to lodge an objection based on the information acquired in his previous role as a council employee.

There was sufficient evidence to substantiate the complaint.

In April 2017, the council sent their investigation report to the Department of Infrastructure, Local Government and Planning. However, their purpose for doing this is unclear as council did not seek advice in their correspondence. The council has indicated to the CCC that as at July 2017 they are still waiting to hear from the Department.

In circumstances where the subject officer is no longer an employee of council, the council has no remedies against the subject officer other than criminal proceedings which may not be considered in the public interest. The CCC considers on this occasion the best action available to the council would be management action. For example, the council's training program on conflicts of interest could be updated to include this matter as a case study, reinforcing a message to all employees about their responsibilities as a public officer when dealing with information.

> *Area for improvement 12 – Finalise the matter in a timely way*
>
> Deal with the matter in a timely way, in particular:
>
> a) Seek independent legal advice and/or finalise the matter as soon as possible.
>
> b) Communicate it as a case study by email or intranet broadcast to raise awareness, improve workplace culture and accountability, and emphasise the importance of confidential information and avoiding a conflict of interest.
>
> c) Provide the complainant with outcome advice, explaining why the action taken is appropriate in the circumstances – including a decision to take no further action – and any results of the action known at the time the complainant is responded to, pursuant to section 44(5) of the CC Act.
>
> *Note*. The Council has responded to the CCC with a commitment to enhancing procedural controls to mitigate untimely risk in complaints handling to optimal outcome.

No Further Action outcomes

The CCC audit identified that insufficient preliminary inquiries were undertaken in two matters investigated by the same council. In both matters the decision-maker determined to "take no action" in relation to a complaint. The CCC considers that the basis on which this decision was made is unclear for both matters, and that in relation to one file it is clear that inquiries that should have been pursued were not.

> *Area for improvement 13 – Enhance inquiries to reach No Further Action outcomes*
>
> Make sufficient preliminary inquiries and document both those inquiries as to why a certain resolution process was determined to be appropriate at the time that decision was made.
>
> *Note*. The Council advised the CCC that they will implement the procedural recommendation.

4 Periodically audit system for conflicts of interest

The audit found that 10 of the 13 councils have not conducted an internal audit of their conflict of interest processes during the last two years. Some of the councils advised the CCC that while their internal audits do not focus on the conflict of interest processes, the audits, by their nature (for example, procurement audits), in part deal with that topic.

Auditing conflict of interest processes can determine whether the process is meeting the council's objectives, as well as reducing its operational, financial and reputational risks. Similarly, it may also help reduce the prevalence of allegations of corrupt conduct relating to conflicts of interest which in turn can enhance public confidence in the administration of the council.

> *Area for improvement 14 – Conduct periodic audits of the conflict of interest process*
>
> Periodically assess the design and operating effectiveness of key controls in place for identifying, managing and monitoring conflicts of interest. This audit should be conducted by an internal auditor or an independent external auditor.
>
> *Note*. Councils will include conflicts of interest identification, management and monitoring in their Internal Audit Program for review and testing once the necessary framework has been established and implemented.

Other observations

During the audit we also identified opportunities to raise standards of integrity in councils. Given the CCC's role in building the capacity of councils to deal with corruption, it is useful to draw attention to those areas with a view to helping councils make improvements.

Improve the complaint assessment and categorisation process

A total of 23 non-reportable corrupt conduct matters were communicated to the CCC. We identified two areas where councils could improve their complaint assessment and categorisation processes.

First, the audit identified four matters, involving two councils, in which it was difficult to conduct a preliminary assessment of the allegation(s) based on the précis of information provided to the CCC. This information is critical to us, and to key stakeholders, as it enables a risk-based preliminary assessment and decisions on the CCC's monitoring role. These councils have been asked to provide more specific information of the allegation in their complaints management system.

Second, the CCC identified three matters involving two councils that were incorrectly assessed as being non-reportable corrupt conduct (less serious). Based on the information available to us, the CCC assessed these complaints as constituting Level 1 complaints (serious and/or systemic), which must be reported to the CCC without undue delay. Our assessment decision was made on the basis that the alleged conduct in these matters would involve, at its highest, an offence relating to corruption or abuse of office in Chapter 13 of the *Criminal Code*. The CCC acknowledges there are some learnings for councils and we have communicated to them those learnings for educational purpose.

It is important to notify the CCC of a particular conduct type, at a particular time, to ensure the integrity of a future investigation, and assess other considerations such as the use of CCC powers and the preservation of evidence.

Conclusion

The CCC's audit identified further work needed by 10 of the 13 councils to design and implement a conflicts of interest framework that would ensure that actual, perceived or potential conflicts of interest are managed in a transparent, accountable manner. These areas for improvement require immediate attention and action by senior executives.

While the CCC's audit also identified areas for improvement in how councils dealt with complaints involving conflicts of interest, there is a need for councils to put into place a specific procedure for corrupt conduct complaints and to ensure complaints are dealt to optimal outcomes. Overall, complaints were dealt with satisfactorily.

Following the completion of our audit the relevant councils have had an opportunity to comment on the findings. Their views have been considered in reaching our final report. This report represented the overall responses from the councils. Councils are in the process of implementing the relevant recommendations in consultation with the CCC.

The CCC was unable to obtain a response, or assurance to implement relevant recommendations, from one council, which was disappointing. It demonstrates a lack of commitment from a senior executive that could potentially diminish the ethical climate of the council by opening up an opportunity for staff to engage in corrupt conduct. Council has a shared obligation, with the CCC, to prevent corrupt conduct in the public sector.

It is essential that senior executives and employees understand what constitutes a conflict of interest and what they need to do if they may have one. If staff do not know how to identify a conflict of interest and how to resolve it in the public interest, the likelihood of corrupt conduct increases dramatically. It is considered best practice to implement systems for policy, people and process to help ensure that conflicts of interest are identified, managed and monitored appropriately and transparently.

Summary guide for councils (including other public sector agencies)

The CCC promotes a three-step process for implementing mechanisms that will assist a council in preventing and reducing corrupt conduct. (Note that the following is not exhaustive and should be considered as a summary guide only.)

Policy + People + Process

1 Policy

A council should maintain strong, effective and efficient policies, procedures and guidelines which are clearly based on and linked to relevant legislation, official guidelines, and examples of best practice advice. A policy or procedure must also assign responsibilities for completing key components (e.g. identify, manage and monitor) and assign particular roles to those who are authorised and responsible for carrying out the management and monitoring activities.

Conflicts of interest policy

An agency's Code of Conduct contains a series of statements setting out the standards of conduct expected of employees, consistent with the ethics principles outlined in the *Public Sector Ethics Act 1994* (PSEA). It does not, however, outline the processes, roles and responsibilities, and monitoring activities.

An overarching policy should be developed that outlines the obligations of management and employees in relation to a range of matters, including the requirement to manage conflicts of interest in a transparent and accountable manner. That policy also ties together the various procedures, guidelines and templates related to conflicts of interest.

Register of interests
In addition to a council's Code of Conduct, section 290(1) of the Local Government Regulation 2012 and section 268(1) of the City of Brisbane Regulation 2012 require a council's chief executive officer to maintain a register of interests for senior executive employees and any person related to a senior executive employee. Both Regulations also require the Mayor to maintain the register of interests of the chief executive officer.

Conflicts of interest procedure/guideline

An overarching procedure, or a procedure embedded within the policy, provides a practical reference tool to assist employees and managers when dealing with conflicts of interest. A procedure or policy should address issues including how to identify, disclose, manage and monitor conflicts of interest, and set out the mandatory processes (steps) to be complied with.

Business processes prone to conflicts of interest
Individual procedures for conflicts of interest should also be developed for high-risk business processes, such as recruitment and selection, procurement, grants management, rates management, and development applications.

Gifts and benefits
A specific procedure should also be established outlining the processes around the giving and receiving of gifts and benefits in relation to an officer's employment, relevant approvals and reporting mechanisms.

2 People

The second step involves "People" – council must have zero tolerance for corrupt conduct. To give effect to this position, and to meet its legislative obligations (that is, perform public duties fairly and transparently), councils must proactively establish a culture and workplace environment that will not tolerate corrupt conduct or dishonest behaviour. The perception that conflicts of interest are not being managed properly can undermine confidence in the integrity of senior executives, employees and the council itself.

Managing conflicts of interest effectively will require that managers:

- educate council employees about the policy and procedures
- lead the council through example
- communicate the policy and procedures to internal and external stakeholders
- enforce the policy and procedures.

The educating initiative must reflect the ethics principles set out in the PSEA and reflected in the Code of Conduct, as well as an employee's obligations pursuant to the relevant *Local Government Act 2009* and the *City of Brisbane Act 2010*. It must also provide staff and managers with relevant and effective strategies to manage conflicts of interest appropriately.

3 Process

Once the policy and people steps have been addressed, the next logical step involves designing and implementing internal controls for identifying, managing and monitoring conflicts of interest (discussed below). These processes must:

- reflect the council's organisational structure including oversight functions and accountabilities
- be a product of a robust risk management process
- be subject to regular testing and monitoring activities
- be understood by those participating in business decisions.

Identify

Identifying conflicts of interest is an important first step in managing them appropriately and having the conflicts declared in writing, as illustrated below.

The declaration of the conflict of interest should be communicated to the employee's supervisor or manager, and in turn reported to the relevant decision-maker for consideration and decision-making. Having a form implemented to record the conflict of interest provides a number of benefits (that is, getting the right information, consistency, accuracy and record keeping).

Conflicts of interest should also be formally disclosed for business processes that are susceptible to conflicts of interest, for example, procurement, recruitment and selection, and planning and development applications.

The following case study shows why it is essential to avoid a conflict of interest if possible and, if not, declare it and resolve it in the public interest.

> **Case study – Failure to avoid and disclose a conflict of interest**
>
> The subject officer's role involved investigating and providing recommendations to Council about insurance claims against it. A significant part of the job involved assessing claims made by residents (claimants) about damage to their driveways caused by trees on Council land.
>
> Council looked up the contact details of a concreting contractor who had been engaged to perform repair work to a claimant's damaged driveway, a matter handled by the subject officer. It turned out that the contractor was a family member of the subject officer. Council noted that the contractor had provided quotes on at least five of the subject officer's matters. The contractor was paid $37,950 (GST inclusive) for work undertaken on three separate jobs. Council also noted that the subject officer sourced some of the quotes directly from the contractor and engaged them to perform the work for Council, rather than have the claimant source quotes and engage a contractor independently.
>
> In hindsight, the subject officer had failed to *avoid* a conflict of interest by engaging a family member (the contractor) to: a) provide quotes to Council or claimants for repair work; and b) perform the work either directly for Council or for claimants (which is ultimately reimbursed by Council). The subject officer had also failed to *disclose* to Council the conflict of interest when engaging the contractor to provide quotes for repair work and/or perform work.
>
> Conflict of interest was not the only issue in this case, as the subject officer also failed to comply with Council's policies on procurement and management of insurance claims. The subject officer resigned during the show cause proceedings.
>
> Employees must perform their duties honestly and impartially and avoid situations which may compromise their integrity or lead to a perceived or actual conflict of interest (as per the Code of Conduct and the Local Government Act).

Manage

The relevant decision-maker should review the written declaration of a conflict and, together with the employee who has the conflict, work out a strategy for managing the conflict, as illustrated below.
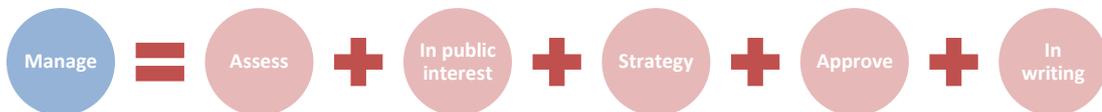
While conflicts of interest can be resolved or managed in a variety of ways, the choice of strategy will depend on an assessment of the:

- nature of the conflict
- complexity of the situation
- subtleties and severity of the case.[12]

In essence, the council should have guidelines to assist decision-maker to assess what actions are appropriate in different situations to adequately manage the conflict.

Whichever strategy is chosen, transparent decision-making and detailed record keeping are essential. The management strategy document should, at a minimum, include:

- disclosure of the conflict of interest
- directions given about managing the conflict of interest
- decisions and arrangements made for resolving the conflict of interest
- steps taken in implementing the chosen management strategy
- certification (that is, sign-off) by the employee, manager and decision-maker.

---

12 There are six possible options for managing conflicts of interest: Register – Restrict – Recruit – Remove – Relinquish – Resign. See https://www.icac.nsw.gov.au/docman/preventing-corruption/tip-sheets/3325-identifying-and-managing-conflicts-of-interest-in-the-public-sector-2012/file

These records will enable the decision-maker and council to demonstrate in an accountable manner, if necessary, that a specific conflict of interest has been appropriately identified and managed. The agreed management strategy should be signed by the decision-maker, manager and employee. It also assists the supervisor/manager to monitor the employee's compliance with the agreed strategy.

A copy of the declared conflict and the agreed management strategy for it should be provided to a central area (e.g. with a governance or compliance function) to ensure that all declared conflicts are entered in the register. The register is used for reporting to the Senior Executive Group and can be used to perform a council-wide risk assessment for mitigating risks associated with conflicts of interest.

Monitor

It is important to monitor any strategy adopted to manage conflicts of interest. Ongoing monitoring and regular reviews allow changes to be made to the strategy and the way in which it is implemented before problems arise, as illustrated below.

The employee's supervisor/manager should monitor how closely the employee is complying with the agreed management plan. Failure to adhere to the management strategy may constitute corrupt conduct and must be reported to the decision-maker for appropriate action.

In conclusion, identify the areas of risk and describe the kinds of conflicts of interest that are likely to occur – clearly identifying at-risk functions and the positions or business areas that perform them. Then, develop an appropriate management strategy and monitoring arrangements for that conflict.

Getting advice about potential risk areas

The CCC has a range of resources that can assist public sector agencies manage their conflicts of interests effectively and transparently. These include corruption prevention advisories on high-risks areas such as:

- Conflicting commitments – managing other employment and volunteering
- Procurement and contract management
- Sponsorship management
- Gifts and benefits.

More information about corruption prevention advisories can be found on the CCC website.[13]

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13   http://www.ccc.qld.gov.au/corruption-prevention/corruption-prevention-advisories

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