

**Municipal Association of Victoria**

**Conflicts of Interest Policy**

**for employees, contractors and consultants**

**Approved 3 September 2021**

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**DOCUMENT HISTORY**

|  |  |
| --- | --- |
| Policy oversight & implementation | Chief Executive Officer  Manager, Governance |
| First approved | 3 July 2015 |
| Last Approved | 3 Sept 2021 |
| Approved by | MAV Board |
| Review history | Aug 2021  Oct 2019  Dec 2018  Apr 2017 |
| Next review date | Within 6 months of 2023 MAV Elections (by Sept 2023) |
| Predecessor document | n/a |

# PURPOSE

The purpose of this Conflict of Interest Policy (*the Policy*) for employees, consultants and contractors is to:

* Provide framework within the MAV that supports impartial and objective decision-making uninfluenced by private interests
* Define conflicts of interest in the MAV context and assist employees, contractors and consultants to be able to identify and declare them
* Establish arrangements for declaring conflicts of interest
* Establish procedures for declaring and managing conflicts of interest
* Prevent corrupt conduct and reinforce the MAV’s values and ethical culture
* Protect the integrity and reputation of the MAV

# SCOPE

This policy applies to individuals (employees, contractors and/or consultants) involved in making decisions or recommendations to guide the MAV, and/or performing work in conjunction with or on behalf of the MAV, including representatives appointed to external and internal bodies such as those which operate under the auspices of the MAV.

Note: There is a separate conflict of interest policy for members of the MAV Management Board (the *Board)*, Insurance and WorkCare Boards and Audit and Risk Committee.

Where this policy refers to “staff or staff member’ this shall have the same meaning as ‘employees, consultants and contractors’ of the MAV.

# LEGISLATIVE CONTEXT

The MAV is a membership association and public body established by the Municipal Association Act 1907.

Note: Although the MAV is not subject to the provisions of the Public Administration Act 2004, the MAV has adopted a conflicts of interest policy in the interests of sound governance practice.

# DEFINING CONFLICT OF INTEREST

## 4.1 Conflicts of interest

Conflicts of interest are conflicts between a staff member’s public duties and private interests. These conflicts can be actual, potential or perceived.

An actual conflict of interest occurs where there is a real conflict between a person’s performance of their duties and responsibilities and their private interests.

A potential conflict of interest arises where a person has private interests that could conflict with their MAV duties and responsibilities.

A perceived conflict of interest can exist where a third party could reasonably form the view that a person’s private interest(s) could improperly influence the performance of their MAV duties and responsibilities, now or in the future.

A conflict of interest can arise in relation to avoiding personal losses as well as gaining personal advantage – whether financial and or non-financial.

## 4.2 Private interests

This means anything that can have an impact on an individual or group. Private interests not only include a person’s own personal, professional and business interests but also the personal, professional or business interests of individuals or groups with whom they are closely associated. This includes relatives and friends.

Private interests are essentially of two types – pecuniary and non-pecuniary. Pecuniary interests involve an actual, potential or perceived financial gain or loss. Money does not need to change hands for an interest to be pecuniary. A person may have a pecuniary interest if they (or a relative) own property, shares, have a position in a company or receive benefits or concessions, discounts, gifts or hospitality from a particular source.

Non-pecuniary interests do not have a financial component. They may arise from personal or family relationships, or involvement in sporting, social or cultural activities. They include any tendency toward favour or prejudice resulting from friendship, animosity or other personal interests.

# 5 PRINCIPLES

The following principles form the basis of this Conflict of Interest Policy.

1. Decision making involving MAV staff will be impartial and objective, uninfluenced by private interests.
2. Persons involved in preparing reports and recommendations for consideration by decision-makers will declare any actual, potential or perceived conflict of interest as soon as they become aware of it.
3. Conflicts of interest will be recorded in a conflict of interest register and managed in accordance with this Policy.
4. Decision-makers will not be involved in making decisions on matters where they have an actual, potential or perceived conflict of interest.
5. The MAV will manage conflicts of interest using the appropriate management strategy options for the particular circumstance. Management strategies are built around the concepts of “register”, “restrict”, “recruit”, “remove”, “relinquish” and “resign”.
6. Employees, contractors and consultants will be made aware of their obligations and responsibilities to identify and declare actual, potential and perceived conflicts of interest
7. Where breaches of this policy occur, action will be taken proportionate to the seriousness of the breach.

# POLICY

## 6.1 Obligations and responsibilities

The **Board** will review the policy no less than every two years and within 6 months of Board elections.

**Chief Executive Officer (CEO)** is responsible for:

* Implementing policy and procedure for identifying and managing conflicts of interest.
* Building an organisational culture that supports compliance with policy and procedure through appropriate education, training and enforcement activities.
* Ensuring that compliance is monitored, and the effectiveness of this policy is reviewed on a regular basis.
* Oversight and investigation of complaints regarding breaches of this policy.
* For dealing with any personal conflicts of interest in accordance with this policy.
* Initially disclosing and then maintaining the currency of the CEO’s interests in the Interests schedule (list of standing interests) that appears in each agenda of the Board, Insurance and Workcare Boards and Audit and Risk Committee. The CEO is to include commentary on the status and management of any conflict of interest in the Interest Schedule.
* Complying with a management plan relating to any personal disclosure of a conflict of interest.

**Manager Governance** *(also referred to as the Responsible Officer for the purposes of this Policy)* is responsible for:

* Complying with this policy with respect to their own conflicts of interest.
* Being the contact for anyone wanting assistance in identifying or managing a conflict of interest.
* Maintaining records of disclosed conflicts of interest and periodically reviewing the register of declared interests for compliance and oversight purposes.
* Making determinations on the management of disclosures in conjunction with the relevant manager (with the exception of disclosures made by the Chief Executive Officer and themself).
* Maintaining the currency the Interests schedules included in the Board, Insurance and WorkCare Boards, and Audit and Risk Committee agendas, and to include commentary on the status on the management of any applicable conflict of interests.
* Receiving complaints about possible breaches of this policy and investigating and enforcing policy compliance.
* Ensuring the delivery of regular staff conflict of interest education and training activities.

**Managers** are responsible for:

* Complying with this policy with respect to their own conflicts of interest in the same way as all staff (refer below).
* Completing an Interest Declaration form (see Appendix 2) on initial appointment and annually thereafter.
* Ensuring that contractors and consultants are aware of their obligations under this policy and that any conflicts are managed appropriately.
* Facilitating compliance by those that they supervise by
  + Being aware of the risks of conflicts inherent in the duties of the employees they manage;
  + Making staff aware of relevant policies and procedures;
  + Advising staff about appropriate ways to manage conflicts of interest;
  + Ensuring the recording of conflicts of interest that have been reported to them;
  + Assisting with the preparation of management strategies for employees who disclose conflicts of interest;
  + Overseeing the management strategies;
  + Monitoring the work of their staff and the risks to which they are exposed.
* Disclosing their conflict of interest up front in their report where, after having disclosed a conflict of interest, they are permitted to author or have input into a report (refer to section on “managing conflicts of interest”).
* Where a person who reports to them is permitted to author or input into a report after having disclosed a conflict of interest, signing-off that they have reviewed the report and that they do not believe that the person’s conflict of interest has compromised the integrity, objectivity or impartiality of the report (refer to section on “managing conflicts of interest”).

**Staff (include all Employees, Consultants and Contractors)** are responsible for:

* Being aware of their obligations to avoid conflicts of interest where possible, and for managing those conflicts of interest. that cannot be avoided.
* Assessing whether their private and personal interests' conflict, or have the potential to conflict with their MAV duties.
* Taking reasonable steps to restrict the extent to which a private interest could compromise, or be seen to compromise their impartiality when carrying out their duties.
* Disclosing any conflicts of interest, they may have in accordance with this policy
* Abstaining from involvement in decisions and actions that could reasonably be seen to be compromised by their private interests and affiliations
* Complying with a management plan relating to a disclosure of conflict of interest that they have made.
* Avoiding private action in which they could be seen to have an improper advantage from inside information gained by their position at MAV.
* Not using their position or MAV resources for private gain.
* Ensuring that there can be no reasonable perception that they have received an improper benefit that may influence the performance of their duties.
* Disclosing their conflict of interest up front in their report where, after having disclosed a conflict of interest, they are permitted to author or have input into a report (refer to section on “managing conflicts of interest”).
* Notifying the CEO where they have reasonable grounds to believe that another employee, contractor or consultant has a conflict of interest in a matter and that conflict of interest has not been disclosed.
* Complying with the requirements of this policy and related policies.

## 6.2 Identifying conflicts of interest

The onus is on managers and all staff to remain alert to the existence of actual, potential and perceived conflicts involving their public duties and private interests. Staff should be mindful that the following private interests may give rise to conflicts of interest:

* Financial and economic interests (such as significant liabilities or debts, assets including shares, real estate holdings or investments)
* Family or private business interests
* Secondary employment
* A role on a Board/Committee (public or private)
* Affiliations with organisations, sporting bodies, clubs and associations
* Affiliations with political, trade union or professional organisations
* The private interests of family members, close friends or business associates
* Relationships with contractors and consultants
* Future employment prospects
* Associations from previous employment

A risk assessment based on the activities of the MAV has identified the following functions as the areas of primary risk expose for conflicts of interest:

* Procurement and tendering
* Recruitment
* Engagement of contractors and consultants
* Sponsorship
* Secondary employment
* Appointments and nominations to internal and external bodies

In addition to this policy, the following MAV documents refer to aspects of the MAV’s approach to conflicts of interest:

* Procurement Policy – this policy sets out disclosure requirements in relation to MAV staff involved in procurement activities including tender processes and requirements on assessment panel members
* Staff Code of Conduct – refers to the general expectations on employees in relation to conflict of interest and references this policy
* Gifts, Benefits and Hospitality Policy – this policy provides direction on the circumstances for accepting and declining gifts, benefits and hospitality. Acceptance of gifts, benefits and hospitality may create an actual, potential or perceived conflict of interest.
* Recruitment Policy – this policy provides guidance on what to do if a person is involved in recruitment activities where a relative or friend is an applicant for the position.

# PROCEDURES

## 7.1 Disclosure of conflicts of interest

The CEO, Managers and other staff as determined by the CEO are to:

* Complete an Interest Declaration Form upon initial appointment;
* Complete an Interest Declaration Form annually. The form is to be submitted on

1 July each year or within 30 days thereof; and

* Progressively update their last Interest Declaration Form as their circumstances change.

The Interest Declaration Form provides for the disclosure of the following interests:

1. Interests in matters on which MAV has been involved in discussions with the State Government or the Federal Government on behalf of local government
2. Interests in contracts entered into by MAV
3. Other interests which may be relevant to their position at MAV

The declarations made by the CEO are set out in an interests table that appears in the agenda and minutes for each meeting of the Board, Insurance Board and Audit and Risk Committee.

The Procurement Policy provides that staff and third parties involved in the administration of tender assessments or on tender assessment panels must provide a written undertaking at the commencement of the process that they do not have a conflict of interest in the matter. If during the evaluation, they identify a conflict of interest, this must be disclosed immediately and they are take no further part in the process until a plan for managing the conflict of interest is documented and actioned.

Employees, contractors and consultants are to make a declaration that they do not have a conflict of interest where they are:

* Members on a recruitment panel
* Undertaking performance appraisals
* Submitting an “Approval to purchase form”
* Involved in recommending or approving contract extensions

A person (employee, contractor or consultant) who identifies an actual, potential or perceived conflict of interest with their MAV duties (or is unsure and wants formal assessment) must complete a Disclosure of Conflict of Interest form immediately and have no further involvement in the matter unless:

* Formal assessment determines that the person does not have an actual, potential or perceived conflict of interest; or
* Such involvement is subsequently sanctioned by a management plan.

The Disclosure of Conflict of Interest form is attached as Appendix 1.

Once completed, a Disclosure of Conflict of Interest form must be submitted to the Responsible Officer.

## 7.2 Managing conflicts of interest

A person (employee, contractor or consultant) who identifies an actual, potential or perceived conflict of interest with their MAV duties (or is unsure and wants formal clarification) must complete a Disclosure of Conflict of Interest form immediately. In completing the form, a person must ensure that all relevant matters are fully disclosed. Upon receipt of the form, the Responsible Officer will:

* record the declaration in the Conflicts of Interest Register
* assess the details of the disclosure as to whether or not it constitutes an actual, potential or perceived conflict of interest. This assessment may involve discussion with the person making the disclosure where further information is required to assist in the assessment and may require external advice.

Management plans for a conflict of interest declared by the CEO are to be reviewed, approved and monitored by the Board.

Where a Conflict of Interest form is submitted by the CEO to the Responsible Officer, the Responsible Officer will record the declaration in the “Conflicts of interest Register”. The Responsible Officer will list the matter for consideration of the Board at the next available meeting. The Board will determine how the matter is to be managed. The CEO must comply with and implement the decision of the Board. The Responsible Officer will record the Board’s decision in the Register. The Responsible Officer is to include commentary on the status and management of any conflict of interest in the Interest Schedule for the duration of the conflict.

Where a Conflict of Interest form is submitted by the Responsible Officer it is to be referred to the CEO. The CEO will, in consideration of the management options set out in this policy, determine the conflict of interest management plan to be put in place and record their decision in the Register. The CEO will report the matter to the next meeting of the Board and where applicable include commentary on the status and management of any conflict of interest declared by the Responsible Officer in the Interest Schedule for the duration of the conflict.

Except in relation to the CEO where the Responsible Officer comes to the view that there is no conflict of interest based on the information provided, this is to be recorded on the form and in the register. The person who disclosed the conflict of interest is to be given a copy of the form for their own records indicating that the assessment has concluded that the facts do not constitute a conflict of interest.

Where the Responsible Officer comes to the view that there is a conflict of interest based on the information provided, the person making the disclosure is to be notified accordingly.

In the case of staff, consultants or contractors, the relevant manager is to be notified so as to ensure that the person making the disclosure has no further involvement in the matter until a conflict of interest management plan has been developed and activated.

The conflict of interest management plan is to be developed and recorded on the Disclosure of Conflict of Interest form by the manager. The management plan must be reviewed and approved by the Responsible Officer before being implemented.

Depending on the nature and circumstances of the disclosure, management plans may involve one or more of the following approaches/actions:

* Remove
* Restrict
* Recruit
* Relinquish
* Resign

**Remove**: This involves removing the person with a conflict from any decision-making or further involvement in the matter. Where practical this is the preferred option.

**Restrict**: Where removing the person is not feasible or practical, it may be sufficient to implement clear guidelines that place restrictions on the person’s involvement in the matter. The restrictions would need to ensure that the person does not or is not seen to improperly influence the outcome of the matter. Where the restrictions still enable a person to author a report, the person needs to disclose their conflict of interest up front in the report. The person’s manager needs to sign-off that they have reviewed the report and that they do not believe that the person’s conflict of interest has compromised the integrity, objectivity or impartiality of the report.

**Recruit**: A person may be recruited to undertake the activity where a person has been removed from the process and there is no one else in the organisation with the time, capacity or expertise to undertake the task. A person may also be recruited to oversee a matter where restrictions have been placed on the person making the disclosure. This may be appropriate where the manager does not have the time or expertise to oversee the matter.

**Relinquish**: Where an interest is ongoing, unacceptable or likely to damage the MAV’s reputation, it may be necessary for the person to relinquish the interest. This may involve selling shares, resigning directorships or severing business connections. Implementation of this management option would include a timeframe.

**Resign**: Again where an interest is ongoing, unacceptable or likely to damage the MAV’s reputation and there is no solution (such as relinquishing the interest or changes to the person’s role or duties), or the person is not prepared to implement the solution, the only option may be for the person to resign. In the case of a contractor or consultant, this may involve the termination of the arrangement in place.

The person making the disclosure must comply with the approved conflict of interest management plan. The person must sign the Disclosure of Conflict of Interest form to confirm their acceptance of and agreement to comply with the management plan. Where a person operating under a management plan experiences difficulty in complying with the plan, they should immediately notify their manager. The manager may need to review the management plan to ensure compliance with this policy. Any amendment to the management plan must be documented and must be approved by the Responsible Officer. Where the circumstances that gave rise to a conflict of interest change, the person is to immediately document the change in writing to the manager. Depending on the situation, the person may be advised to complete a fresh Disclosure of Conflict of Interest form.

The relevant manager is responsible for monitoring the person’s compliance with the management plan.

# RECORDS KEEPING

Properly documented records and the retention of those records are imperative to demonstrating compliance with this policy.

Where a person submits a conflict of interest form to the Responsible Officer, this form is to be saved in the MAV Records Management System (MAVIS). Various versions (updates) of the form including the outcome of the assessment and any management plan are also to be saved in MAVIS.

The register recording the receipt and treatment of conflict of interest disclosures is to be maintained in MAVIS.

# BREACH OF THIS POLICY

Breaches of this policy may range from inadvertent through to intentional and corrupt conduct. Breaches could include the submission of a Disclosure of Conflict of Interest form with the omission of key facts, non-disclosure of a conflict or non-compliance with an approved management plan.

All employees are expected to be mindful and vigilant when it comes to conflicts of interest. They are expected to notify the CEO where they have reasonable grounds to believe that another employee, contractor or consultant has a conflict of interest in a matter and that conflict of interest has not been disclosed. The Chief Executive Officer will take whatever steps he considers appropriate in the circumstances.

The appropriate course of action will depend on the nature and circumstances of any breach. Breaches may result in:

* Education and/or counselling
* Disciplinary action including the possibility of immediate dismissal or termination of the person’s arrangements with MAV
* The involvement of the Victoria Police or IBAC in the case of corrupt or criminal activity

MAV reserves the right to take any other action it considers appropriate to address a breach of this policy.

# PRIVACY

The disclosure of actual, potential or perceived conflicts of interests may involve the person disclosing personal information. Personal information will be handled in accordance with the MAV’s Privacy Policy and the Victorian *Privacy and Data Protection Act 2014*.

# POLICY REVIEW

This policy will be reviewed by the Board at intervals of no less than every two years and within six months of Board elections.

# RELATED POLICIES AND DOCUMENTS

* Staff Code of Conduct
* Fraud & Corruption Control Policy
* Gifts, Benefits and Hospitality Policy
* Protected Disclosure Procedures
* Sponsorship Policy
* Procurement Policy
* Recruitment and Selection Policy
* Interest Declaration Form
* Disclosure of Conflict of Interest

# APPENDICES

* Appendix 1 - Disclosure of Conflict of Interest form
* Appendix 2 - Interest Declaration form for Staff

# Appendix 1 – Disclosure of Conflict of Interest Form

**DISCLOSURE OF CONFLICT OF INTEREST**

*This form is to be used if you believe you have a conflict of interest or if you are unsure and want formal clarification. Please read the* [*MAV Conflict of Interest Policy for employees, contractors and consultants*](http://mavis/sites/Corporate/Policies%20Procedures%20and%20Forms/Conflict%20of%20Interest%20Policy%20for%20Employees,%20Contractors%20and%20Consultants.docx) *before completing this form.*

**Section 1: Staff member/consultant/contractor details**

Name:

Position:

Company name (if applicable)

Phone:

Email:

**Section 2: Disclosure**

*Please set out all of the relevant facts relating to the conflict of interest. Attach any supporting documentation (if applicable).*

The conflict of interest relates to (mark appropriate box(es):

¨ Relationship – family and friends ¨ Outside work activities (paid/unpaid)

¨ Relationship with another staff member ¨ Financial interest

¨ Relationship with external parties ¨ Other

¨ Conflict of duty (membership of another organisation)

This conflict is: ¨ One-off ¨ Ongoing

**Section 3: Declaration**

To the best of my knowledge, any actual, perceived or potential conflicts between my duties at MAV and my private and/or business interests have been fully disclosed in this form in accordance with the Conflict of Interest Policy.

Signature: --------------------------------------------------------- Date: -------------------------------

Date handed to Manager Governance: …………………………….

Date handed to relevant manager: …………………………..

**Section 4: Assessment and determination by Manager Governance**

In my opinion the details provided (mark appropriate box):

¨ Do not constitute a conflict of interest and I authorise the person making this disclosure to continue with the activity (any change in circumstances to be reported to me immediately)

¨ Give rise to an actual, potential or perceived conflict of interest and will be subject to a management plan.

Signature: ------------------------------------------------------ Date: -----------------------

(Copy provided to discloser and manager on (date) ---------------------------------

**Section 5: Management Plan**

*This section is to be completed by the relevant manager if the Manager Governance determines that the facts constitute a conflict of interest.*

*In developing a management plan the relevant manager is to consider the relevance and practicality of one or a combination of the following:*

* *Completely removing the person from their involvement in the matter*
* *Changing the person’s duties relating to this activity*
* *Restricting access to certain information*
* *Continued involvement without decision-making power and with full disclosure of the conflict to the decision-makers*
* *Close monitoring of the person’s activities in relation to the conflict to ensure any recommendations are reviewed and unbiased*
* *Reallocating the activity to another person (existing employee or independent contractor)*
* *The person relinquishing the interest causing the conflict (including a specific timeframe)*
* *The person being asked to resign from their position*

I have reviewed the details and circumstances of the matter and require the person making the disclosure to take the following action(s):

I will ensure this management plan is monitored and reviewed.

Manager’s name: --------------------------------------------------------------

Manager’s signature: ------------------------------------------- Date: ----------------------------

Review date: -------------------

Management plan approved by the Manager Governance:

Signature: --------------------------------------------------------- Date: --------------------------------

**Section 6: Discloser’s compliance statement**

I have been provided with a copy of the management plan in relation to my conflict of interest. I agree to comply with the plan.

Signature: ------------------------------------------ Date: -----------------------------------------

**Section 7: Review**

I have monitored and reviewed the management plan and am satisfied that the plan has eliminated/managed the conflict.

I have monitored and reviewed the management plan and wish to make the following adjustments to the plan.

Manager’s signature: ------------------------------------------Date: ------------------------------

Discloser’s signature ---------------------------------------- Date: -------------------------------

Note 1: Originals to be held by Manager HR and Corporate Services

Note 2: This document is to be scanned at appropriate intervals and saved on MAVIS

Note 3: The Manager Governance will document the reasons for her determination in MAVIS

**Section 8: Conflicts of Interest Register**

Conflicts of Interest Register updated by Manager, HR and Corporate Services:

Signature: --------------------------------------------------------- Date: --------------------------------

# Appendix 2 – Interest Declaration Form

**INTEREST DECLARATION – MAV STAFF**

TO:

As a staff member of the Municipal Association of Victoria ("MAV"), I disclose the following information:

1. **Personal Details**

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Usual residential address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**2. Disclosure of Interests**

**(a) Interests in matters on which MAV has been involved in discussions with the State Government or the Federal Government on behalf of local government**

I have the following private interests in matters on which MAV has been involved in discussions with the State Government or the Federal Government on behalf of local government:

**(b) Interests in contracts entered into by MAV**

I have the following financial interests in contracts or proposed contracts with MAV

**(c) Other interests which may be relevant to my position as a Manager at MAV**

I have the following interests which may be relevant to my position as a Manager of MAV either now or in the future:

**3.** I undertake to advise MAV of any changes in the above particulars as soon as is practicable.

Signature**:**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_