

# Councillor Conduct Tribunal decision

14 August 2019

## Key issue - Conflict of Interest

### Threshold for disclosing a personal interest and the responsibility of the non-conflicted councillors

The Office of the Independent Assessor argued that Councillor T had not made sufficient disclosure of his personal interests in relation to a matter to allow the non-conflicted councillors to form a view on whether Councillor T had a conflict of interest.

The transcript of the relevant part of the Council Meeting read as follows:

**Councillor T:** *Right, I spoke with the CEO, and I don't perceive any conflict of interest that H... Lawyers act for me from time to time, so I'm not declaring anything. If someone wants to push me on that they're welcome to. Right, so we'll move on. Right on this matter, have we got anything to move the motion.*

**Councillor O:** *Sorry [Councillor T] did you declare an interest there or not?*

**Councillor T:** *No, I just said that H... Lawyers act for me from time to time I don't feel there's any conflict not declaring anything.*

The Councillor Conduct Tribunal considered the requirements of Section 175E(2) of the Act:

*The councillor must inform the meeting about the councillor's personal interests in the matter, including the following particulars about the interests—*

- a) the nature of the interests;*
- b) if the councillor's personal interests arise because of the councillor's relationship with, or receipt of a gift from, another person—*
  - i. the name of the other person; and*
  - ii. the nature of the relationship or value and date of receipt of the gift; and*
  - iii. the nature of the other person's interests in the matter.*

While the Tribunal members were divided on whether Councillor T's interest was such that he had to satisfy the requirements of Sections 175E(2)(a) or Sections 175E(2)(b)(i)-(iii), all agreed that although the disclosure occurred in the context of obtuse discussion, there was sufficient declaration of the interest by Councillor T to satisfy Section 175E(2) of the Act.

The Tribunal also rejected the OIA's argument that Councillor T's response had denied the non-conflicted councillors the opportunity to decide whether Councillor T had a conflict of interest or not noting:

*"While it may have been in contention or unclear if Councillor T had or had not 'informed the meeting about the councillor's personal interests in the matter', there is no evidence that he prevented the other councillors from taking action under Section 175E(4) and seeking a vote by council on whether Councillor T did, or did not, have a real or perceived conflict of interest... in fact he invites that test."*



The Tribunal concluded that the Act places the responsibility on the other councillors to test the issue, observing that it was not a requirement that the councillor, who appears not to have made a declaration, to initiate the vote in Section 175E(4).

