

**AGENDA of the
Portfolio Committee : Management Services
6 April 2023
(Also the agenda for the Mayoral Committee Meeting : 24 April 2023)**

**6.
REVISED DECLARATION OF INTEREST AND PRIVATE WORK POLICY**

**L Bucchianeri
15 March 2023**

Senior Manager : Human Resources

(028) 313 8120

1. Executive Summary

The purpose of this report is to recommend to Council the Revised Declaration of Interest and Private Work Policy for approval.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate : Management Services
Department : Human Resources

3. Compliance with Strategic Priorities

Provision of democratic, accountable, and ethical governance
Provision and maintenance of municipal services
Creation and maintenance of a safe and healthy environment

4. Delegated Authority

None

5. Legal Requirements

- Local Government Municipal Systems Act 2000 (Act 32 of 2000)

6. Background/Discussion/Evaluation/Conclusion

To avoid and prevent conflicts of interest, the Municipality is dedicated to executing control over staff members' requests for private work outside the municipality and declarations of interest. This revised policy replaces the existing policy on work outside the Municipality's service. The revised policy's goal is to continuously regulate applications for private work outside the Municipality and declarations of interests.

This policy will replace the current Policy on Work Outside the Municipality's Services.

7. Financial Implications

None

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8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

This item served before the LLF on 15 March 2023 for review.

10. Annexures

Annexure A: Revised Declaration of Interest and Private Work Policy

RECOMMENDATION TO THE COUNCIL:

that the Revised Declaration of Interest and Private Work Policy **be approved.**

RESPONSIBLE OFFICIAL:

L BUCCHIANERI

TARGET DATE FOR IMPLEMENTATION:

12 MAY 2023



OVERSTRAND MUNICIPALITY

DECLARATION OF INTERESTS AND PRIVATE WORK POLICY

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DECLARATION OF INTERESTS AND PRIVATE WORK POLICY

1. PREAMBLE

In order to avoid and prevent conflicts of interest, the Municipality is dedicated to execute control over staff members' requests for private work outside the municipality and declarations of interest.

2. OBJECTIVE

This policy's goal is to continuously regulate applications for private work outside the Municipality and declarations of interests.

3. APPLICATION SCOPE

All municipal employees are subjected to this policy.

4. LEGISLATION

The Code of Conduct for Municipal Staff Members, Sub-item 4(2)(c) of Schedule 2 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), provides as follows:

“4(2) Except with the prior consent of the council of a municipality a staff member of the municipality may not—

(c) be engaged in any business, trade or profession other than the work of the municipality.”

It is the Municipality's sole prerogative to determine conditions on which special permission will be granted for purposes of the above. This implies that it is not a matter-of-course approval but that it must be specially granted.

Furthermore, employees shall be responsible for the proper and efficient discharge of the work assigned to them by the Municipality. This implies that the Municipality as employer may legitimately expect the employee to be in a mental and physical condition to properly perform the duties, he/she should be doing.

5. POLICY DISCLOSURES

5.1 Private Work [See Annexure A]

5.1.1 No employee shall be permitted to engage in private work outside of normal business hours that is in direct contradiction with his or her position of authority and/or profession. For illustration:

(a) An electrician who, while working as one in his or her professional capacity, performs electrical work in a personal capacity.

(b) A building control officer creating building plans after business hours and officially approving those same construction plans, etc.

5.1.2 Any request for private work must be made in writing and supported by convincing justifications that meet the following standards:

(a) The employee's skill set.

(b) the character of the staff member's Municipality-related responsibilities.

(c) the type and scope of the proposed paid work outside the Municipality, the anticipated amount of time (in hours), and any potential conflicts with the employee's regular job responsibilities.

5.1.3 The following conditions, if appropriate, shall be taken into account when evaluating an application and shall be applicable as conditions for approval, should such an application be granted:

(a) The planned paid employment must not conflict with the staff member's regular responsibilities or produce any other kind of conflict of interest.

(b) The proposed paid job must entirely occur outside of the staff member's scheduled working hours.

(c) The proposed paid job must not be of a character that harms the employee's relationship with the Municipality or that would put them in violation of the Code of Conduct.

(d) Under no circumstances may municipal resources be used to carry out the planned compensated work.

(e) The permission to perform the anticipated paid work is only valid for a period of one (1) year; however, if the staff member wishes to continue performing the outside work after the first year has ended, he or she must submit a new application at least thirty (30) days before the first year's expiration. As long as the affected employee desires to continue doing work outside employment, the aforementioned process is performed each and every year after that.

5.1.4 A staff member who violates the rules will face disciplinary action:

(a) who works for pay outside of his or her responsibilities at the Municipality without express written consent;
or

(b) Who, in the Municipality's opinion, violates or fails to comply with any requirement or condition outlined in this policy after receiving permission to do private work.

5.1.5 The Municipality reserves the right to revoke any authorisation granted to a staff member in accordance with the conditions of this policy at any time, provided that the justifications offered are valid and reasonable.

5.1.6 Once a staff member has begun their private work, no permission may be given to them to conduct paid work outside of their responsibilities at the Municipality.

5.1.7 Employees who work for pay outside of their regular duties at the Municipality are required to be listed in the Human Resources Department's register. The registration must include the following details:

- (a) Name
- (b) staff member number
- (c) position
- (d) department
- (e) directorate
- (f) application for remunerated work approved / denied
- (g) period and hours for which permission was granted
- (h) name of the employer, type of work, nature of work and contact details; and
- (i) starting date.

5.2 Interest Declaration/s (See Annexure B)

5.2.1 If a staff member owns a business stake in any number of different business entities, they must disclose it in accordance with legislation.

5.2.2 In addition, a staff member who has received or stands to receive any direct advantage from a contract they have with the Municipality—or whose spouse, partner, business associate, or immediate family member has—must disclose such benefit in writing to the Municipality.

5.2.3 A staff person must disclose any interests that could conflict with their connection to the Municipality.

Examples include:

- (a) shares and securities in any company; (b) membership of any close corporation; (c) interest in any trust.
- (d) directorships
- (e) partnerships
- (f) consultancies and retainerships
- (g) other financial interests in any business undertaking
- (h) other employment and remuneration
- (i) interest in property
- (j) pension; and
- (k) subsidies, grants, and sponsorships by any organisation.

5.3 Requesting permission to perform personal services or registering a business interest

5.3.1 The MAYCO/EXCO of the Municipal Council will decide whether to authorize the Municipal Manager's request to engage in private employment or have a business interest.

5.3.2 The Director responsible for Human Resources must give his or her approval before any other staff member can apply to work privately or have a business interest.

5.3.3 Written requests for consideration for private work (Annexure A) or disclosing a business interest (Annexure B) must be made using the template provided.

5.3.4 A copy of the application together with the competent authority's decision must be filed in the employee's personnel file. The administrative infrastructure and procedures to protect the pertinent documents and files shall be under the care of the Human Resources Department.

6. Monitoring and evaluation of policy

6.1 This policy will be effective once approved by the Council.

6.2 Failure to abide by the requirements of this policy will be taken as a breach of the Code of Conduct and will be dealt with in accordance with the SALGBC: Disciplinary Procedure and Code Collective Agreement.

6.3 Human Resources Department is responsible for monitoring and assessing how the policy is being applied.

POLICY SECTION :	HUMAN RESOURCES
CURRENT UPDATE :	26 April 2023
PREVIOUS REVIEW :	N/A
APPROVAL BY COUNCIL :	26 November 2008



ANNEXURE A: APPLICATION TO UNDERTAKE PRIVATE WORK FORM

APPLICATION TO UNDERTAKE PRIVATE WORK FORM

TO: Municipal Manager

Full Name		Employee Pay number	
Position		Contact number	
Department		Directorate	

1. I hereby wish to apply for permission to do private work, as set out below.

Nature and extent of work / activity:

2. I declare that I am acquainted with the provisions of the Private Work and Declaration of Interests Policy and undertake to comply with requirements as set out in the said Policy.

3. I indemnify the Municipality against any claim of whatever nature that may arise from doing private work or having other business interests.

Your favourable consideration of my application will be appreciated.

Signature of Applicant / Staff member			Date		
RECOMMENDATION BY MANAGER <i>(Mark appropriate box with an X)</i>					
Recommended	<input type="checkbox"/>	Not Recommended	<input type="checkbox"/>	Recommended with amendments	<input type="checkbox"/>
Remarks <i>(state reason if Not Recommended, OR amendments if any)</i>					
----- ----- -----					
DIRECTOR'S Signature:				Date:	
APPROVAL BY DIRECTOR: MANAGEMENT SERVICES <i>(Mark appropriate box with an X)</i>					
Approved	<input type="checkbox"/>	Not Approved	<input type="checkbox"/>	Approved with amendments	<input type="checkbox"/>
Remarks <i>(provide motivation if not approved, or approved with amendments)</i>					
----- ----- -----					
Director: Management Service's Signature:				Date:	



ANNEXURE B: DECLARATION OF INTEREST FORM

DECLARATION OF INTEREST FORM

TO: Municipal Manager

STAFF MEMBER DETAILS			
Name		Employee Pay number	
Position		Contact number	
Directorate		Department	
SPOUSE'S / PARTNER'S DETAILS			
Surname			
Names			
Identity Number			
DECLARATION			
(Please ensure that every question is answered by placing a tick on the "yes" or "no" box, even if the details have remained unchanged from previous financial interest form submissions. Attach also additional details if there is insufficient space to fill in an answer, with the appropriate referencing.)			
1. FINANCIAL INTEREST			
		YES	NO
Do you or your partner own shares or securities in any company? <i>(this includes listed shares and other financial instruments on the Stock Exchange)</i> If yes, please provide details by completing "Schedule A"			
Are you a member of a close corporation? If yes, please provide details in "Schedule B"			
Do you have an interest in any trust? If yes, please provide details in "Schedule C"			
Are you a director/ member of any company or its committee? <i>(This includes executive and non-executive directorship of companies, SOC/Es, NGOs, Section 21 companies, etc.)</i> If yes, please provide details in "Schedule D"			
Do you have financial interest in any partnerships? If yes, please provide details in "Schedule E"			
Do you have financial interest in any business undertaking? <i>(e.g., trader, consultancy)</i> If yes, please provide name in "Schedule F"			
Are you currently in paid employment over and above that of being a Municipality staff member? If yes, please provide details in "Schedule G"			
Are you receiving any financial interests from businesses other than what was defined in questions above? If yes, please provide details in "Schedule H"			
Do you have a financial interest in any property? If yes, please provide details in "Schedule I"			
Are you receiving a pension of any kind? If yes, please provide details in "Schedule J"			
Are you the beneficiary of any subsidies, grants or sponsorships by any organisation? If yes, please provide details in "Schedule K"			
Are you or your partner a vendor of Municipality or deliver any services, goods, etc. to the Municipality? If yes, please provide details in "Schedule L"			

2. REWARDS, GIFTS & FAVOURS		
	YES	NO
Did you receive any gifts / benefits exceeding R350 or hospitality as a gift for the past financial year? If yes, please provide details in "Schedule M"		
Did you declare gifts exceeding R350? If yes, was authority obtained to enjoy the gift?		
Did you or your partner receive any rewards (financial and or other) from:		
Municipality		
Vendors		
Contractors		
Did you or your partner receive any favours (financial and other) from:		
Municipality		
Vendors		
Contractors		
Did you travel abroad during the last financial year? (Foreign travel for which the staff member / Council member / Municipality did not pay) If yes, please provide details in "Schedule N"		
3. OTHER		
	YES	NO
Have you or your partner made use of Municipality's assets -		
<ul style="list-style-type: none"> • without authority; and/or • while not performing Municipality duties? 		
Is there any member of your family or relative employed by the Municipality? If yes, please provide details in "Schedule O"		
I declare that the information furnished in this declaration is to the best of my knowledge a true and correct reflection of my compliance to the Private Work and Declaration of Interests as at the date of my signature and I indemnify the Municipality against any claim of whatever nature that may arise from my having other business interests		
Signature of Applicant / Staff member	Date	
NOTING BY SUPERVISOR/ MANAGER (Mark appropriate box with an X)		
Declaration		Declaration noted with remarks
Remarks		
Supervisor/ Manager's Signature:	Date:	
NOTING BY DIRECTOR: MANAGEMENT SERVICES (Mark appropriate box with an X)		
Declaration		Declaration noted with remarks
Remarks		
Director: Management Service's Signature:	Date:	

				SCHEDULE A
Company(s) where shares/securities are kept	Nature of shares (e.g. ordinary, preference, etc)	Number of shares	Nominal value of shares	Total value of shares

				SCHEDULE B	
Name of Close Corporation	Reg. number	Details of ownership (i.e. sole member of 50% share etc.)	Remuneration received from membership (per annum)	Does the CC do business with Municipality?	
				YES	NO

		SCHEDULE C
Name of Trust	Nature of Interest	

					SCHEDULE D	
Name of company/ institution/ organisation	Type of business activity	Reg. Number (Not applicable for non-owners)	Details of ownership (% of shareholding) or membership	Remuneration received from directorship/ membership (per annum)	Does the Institution do business with Municipality?	
					YES	NO

				SCHEDULE E	
Name of partnership	Reg. Number	Details of ownership (% of partnership)	Remuneration received from partnership (per annum)	Does the partnership do business with Municipality?	
				YES	NO

SCHEDULE F							
Name of business undertaking	Type of business	Remuneration received from undertaking (per annum)	Does the undertaking do business with Municipality?		Does the undertaking do business with Municipality Vendors?		Who is primary client?
			YES	NO	YES	NO	

SCHEDULE G					
Name of business	Type of business activity	Designation	Remuneration received for such employment	Does the organisation do business with Municipality?	
				YES	NO

SCHEDULE H						
Name of organisation	Type of business	Nature of benefit	Reason for benefit	Does the organisation do business with Municipality?		Expected life span of benefit?
				YES	NO	

SCHEDULE I					
Type/description of property (i.e. residential, flat, vacant land, industrial, commercial, etc.)	Area / Location	Physical address or Erf Number	Nature of interest (owner, landlord, lessor, etc.)	Is Municipality making use of property?	
				YES	NO
Other properties outside of South Africa (description)			Where is the property situated – Country		

SCHEDULE J

Source of the pension (Pension Fund)	Value of the pension

SCHEDULE K

Source of subsidy(s), grant(s) or sponsorship(s)	Description of subsidy(s), grant(s) or sponsorship(s)	Is assistance from a non-party source?		Value of subsidy(s), grant(s) or sponsorship(s) (per annum)
		YES	NO	

SCHEDULE L

Service Provider (Name of Organisation)	Description of service	Value of Service	Department in which Service was rendered

SCHEDULE M

Description of gift	Source of gift	Value of gift(s) per source per annum.

SCHEDULE N

Where	Reason	Sponsor (incl. Self)	Authority obtained (if paid by another person other than self)	
			YES	NO

SCHEDULE O

Name of employee	Employee Pay number	Designation (level)	Department	Years of Service

