

DO I CONFLICT OF INTEREST?

The Associations Incorporation Act 2009 places legal obligations on Landcare committee members including the duty to disclose any conflict of interest between their own affairs and the affairs of the association or organisation they represent.

WHAT IS A CONFLICT OF INTEREST

A conflict of interest occurs when a person's personal interests conflict with their responsibility to act in the best interests of the organisation.

Personal interests include direct interests, as well as those of family, friends, or other organisations a person may be involved with or have an interest in (for example, as a shareholder).

It also includes a conflict between a board member's duty to the organisation and another duty that the board or committee member has (for example, to another charity). A conflict of interest may be actual, potential or perceived and may be financial or non-financial.

If your personal interest in a matter is one in which you have or should reasonably have a realistic expectation that you or an associated individual stand to gain a benefit or suffer a loss, whether directly or indirectly, then this is called a pecuniary interest.

These situations present the risk that a person will make a decision based on, or affected by, these influences, rather than in the best interests of the charity and they therefore must be managed accordingly.

IDENTIFYING A CONFLICT OF INTEREST

You must consider three essential things and how these things relate to each other to decide if you have a conflict of interest:

1. Your organisation's purpose or mission look at the purposes set out in your organisation's constitution and the activities through which those purposes are achieved.
2. Your personal interests – know what all of your personal and business interests are and the interests of any other people connected with you, and how these interests could influence you.
3. Your duties as a board or committee member – know what your duties and responsibilities are in order to comply

with the core minimum governance standards expected of incorporated organisations, see [here](#)

A useful way to identify conflicts of interest is to use the following 'impartial observer test':

1. You are a member of an organisation's board.
2. You have some personal interests.
3. Would an impartial observer think that you are likely to, or may be likely to, be improperly affected by these personal interests?

If you answer yes to the final question, then it is likely that you have a conflict of interest.

MANAGING A CONFLICT OF INTEREST

Conflicts of interest are not uncommon and, if managed properly, do not have to be serious. Organisations should put the following practises in place to ensure that any conflicts of interest are identified and dealt with:

- Check your organisation's rules and any legislation that applies to your organisation to understand your legal duty about handling or avoiding any conflicts of interest;
- Prepare a conflict of interest policy and register of interests for all committee members and staff and ensure that all new members and staff understand the policy and disclose any conflicts of interest;
- Put conflicts of interest as a regular agenda item at committee meetings and take careful minutes, recording any conflicts disclosed, who is present for discussion, who didn't vote on which items and ensure that the register of interests is updated.

The Australian Charities and Not-for-profits Commission (ACNC) has a wealth of information and resources on managing conflicts of interest, including factsheets, guides and templates for the development of a policy and register of interests [here](#)

A checklist to help assess whether you have a conflict of interest can be found in Landcare NSW's guidelines, "[RUN G6.6 Checklist for Identifying Conflicts of Interest](#)". For guidance on how to declare a conflict of interest, please view Landcare NSW's policy template "[RUN PT6 Conflict of Interest Statement](#)".



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