

Conflict of interest

Once you are elected or nominated to a board, you have a responsibility to operate in the best interests of the association or organisation of which you are a director.

Conflicts of Interest can occur when your duty to act in the best interests of your association is or may be in conflict with the opportunity to get a potential benefit personally, or for another person or organisation.

Conflicts of Interest may be real or perceived and both should be addressed.

Conflicts of interest are common and do not have to be a serious problem. However, if they are not addressed appropriately, they have the potential to damage the reputation of the associations of which you are a director and call into doubt decisions that have been made.

Generally, a conflict of interest situation arises your duty to your association clashes with your duties, obligations or interests elsewhere – your business, other associations of which you are a member, workplace interests or even those of family or friends.

Some potential for a conflict of interest could exist if:

- Your contribution to a board discussion or decision may be influenced by your job, interest in another association or personal or family business interests.
- There is potential for personal or financial gain.
- A family member, friend or associate could gain or be impacted by a board decision.
- A board discussion or decision may impact on your employer, client or other interest.

This is not a comprehensive list and each board member must evaluate their potential for conflict of interest in the context of their duty to act in the best interests of the association of which they are a board member.

Good governance relies on open communication, acting according the rules and bylaws of the association and acting in its best interests. Therefore, where there is a potential (perceived or actual) conflict of interest, it is best to declare it so that discussion and decisions can proceed with all aware of this potential for conflict of interest.

What to do if there is a potential for conflict of interest.

Firstly, declare this potential either at the start of a board meeting or when any item arises that may cause such conflict.

If you are unsure, declare a potential for conflict of interest anyway so that all board members are aware of this in pursuing discussions and decisions.

If in doubt, consult with the chair of the meeting and seek their advice.

The Institute of Community Directors recommends the following steps to protect yourself and your board.

- As soon as you encounter a possible conflict of interest, notify the board immediately. Provide information about the interest and how it may conflict with your board role.
- Ask not to be posted any board or internal papers that discuss the matter.
- Avoid any informal discussions that might influence fellow board members on the matter.
- When the matter is raised formally during a meeting, declare your interest and leave the room. Don't wait to be asked. Ask to be called back when the item has been dealt with. Ensure the minute-taker notes why and when you left and when you re-joined the meeting.
- Seek legal advice if you are in doubt about how to handle a real or potential conflict of interest. If you feel it is impossible to resolve the conflict, consider resigning from the board.

Role of the Chairperson

For chairpersons it is important to have a conflict of interest declaration as part of your meeting agenda. If someone does declare a potential or actual conflict of interest, ensure it is noted in the minutes. Depending on the degree and impact of any potential conflict of interest you can

- Permit the board member to continue fully in any discussion and decision on the relevant matter if you believe that the conflict of interest does not significantly impact on the decision or influence other board members.
- Permit the board member to participate in the discussion but refrain from voting on the decision.
- If you believe that the potential conflict of interest could be perceived to impact on a decision, require the board member to not participate in the discussion and refrain from voting.
- In some instances, for both the protection of the board member and the board, require that the board withdraws from the meeting while the relevant matter is being considered.

As a Board member, what to do if you are concerned that someone has not declared their conflict of interest

Firstly, draw the matter to the attention of the chairperson; if this is not possible raise it with another member of the executive of the board.

If neither is possible make use of your association grievance procedures or seek confidential advice from Educators SA.

Most Rules (constitutions) contain processes for dealing with grievances or inappropriate actions by board members. Where a conflict of interest situation has arisen, the constitution should be followed precisely.

For more information the following links are useful:

<https://www.communitydirectors.com.au/icda/tools/?articleId=1346>

<https://www.acnc.gov.au/tools/guides/managing-conflicts-interest-guide>

For advice contact the executive director of Educators SA on 84635870 or director@ceasa.asn.au