

Conflict of interest

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Background

Committee/board members are expected to carry out their roles impartially to contribute to the successful achievement of the organisation's goals. Under the Association Incorporations Act 2009 strong new measures were introduced to encourage improved governance of incorporated associations. These measures include financial penalties and/or imprisonment for undisclosed conflicts of interest.

Definition

The NSW Associations Incorporation Act 2009 defines a conflict of interest as an interest that "appears to raise a conflict with the proper performance of the committee member's duties in relation to the consideration of the matter".

A conflict of interest is any situation in which decision making is influenced by personal, family, financial, business or other concerns.

Examples of conflicts of interest

A conflict of interest can be actual, potential or perceived. A "perceived" conflict of interest, where there is the idea (whether true or not) of

dishonest behaviour from a committee member, can be just as damaging to the organisation as an actual conflict.

Examples of potential conflicts of interest include:

- purchasing products from a business in which a committee member has a financial interest,
- being a member of the committee while also working for a government agency that provides funding to the service
- a committee member sitting on a recruitment selection panel when one of the applicants is a family member or close friend,
- a committee member using information gained in the course of their role as a committee member for their own personal gain.

A potential or perceived conflict of interest needs to be properly managed to ensure that it does not become an actual conflict.

Registering known conflicts of interest

The Associations Incorporation Act 2009 requires the committee to keep a book that is specifically for the purpose of recording disclosed conflicts of interest. This should include potential or real conflicts of interest that exist when a committee member joins the committee (to be requested at the time of joining), as well as conflicts of interest that may arise after they have joined. A register includes:

- the name of the individual
- the nature of the interest they hold
- the date of the record, and
- if an incident arises as a result of the conflict of interest, the date of the incident and details of how it was managed.

Managing conflicts of interest

The existence of a conflict of interest does not necessarily exclude a person from committee membership, however the conflict of interest must be declared so that the situation can be effectively managed. The conflict of interest needs to be dealt with transparently, and in a way that protects the best interest of the service.

When a conflict of interest is declared or identified, you need a process for ensuring this is managed. As soon as a committee member identifies that they have a direct or indirect interest in a matter being considered at a committee meeting, they must disclose and register the nature of the interest. Once the conflict has been identified, the committee member should not

- be present during any deliberation of the committee with respect to the matter, or
- take part in any decision of the committee with respect to the matter.

In some cases, for example if a committee member is directly related to a member of staff, it can be unworkable for that committee member to be an executive committee member, as they would need to absent themselves from all staffing and pay related discussions and decisions.

Conflict of interest policy

Your service should have a Conflict of Interest Policy that provides a definition and examples of what a conflict of interest is, and outlines how conflicts of interest within the service will be registered and managed. You can use the information in this document as a basis for your policy.

Further information

Refer to the [Associations Incorporation Act 2009](#) (particularly Sections 31, 32, 33 and 91) and the [NSW Fair Trading](#) website, or call the CCSA infoline for more information.