

Conflicts of Interest

Practice Guide



A conflict of interest exists when a board member has, or appears to have, interests that are in conflict with their board duties, obligations or interests. Board members have a duty to manage real or potential conflicts of interest appropriately and act with honesty and due care when dealing with such situations.

Making unbiased, independent decisions on behalf of an organisation can be difficult for people who work within small communities, or are involved in a number of organisations and/or businesses within that community. The more connected you are, the more likely you will experience situations where there will be a conflict of interest. Therefore, consciously being aware of these situations and being honest and open about how your organisation manages conflicts of interest, will help you stay accountable and legally compliant.

For a conflict of interest to exist, you have to be involved in the process of making a decision on a matter.

If you are a member of a board, you have a legal duty to act with integrity, informed judgement and in the best interests of the organisation you govern. You should never make decisions that advance a personal agenda at your organisation's expense or take personal advantage of an opportunity that should belong to your organisation.

The most serious conflicts of interest are illegal. They can result in serious penalties, including fines and imprisonment. However, most conflicts of interest are not serious, but they can be unethical and create problems within an organisation or cause someone's reputation to be harmed. To ensure individuals and organisations are protected from these potential consequences, board members and staff have a responsibility to develop and enforce a Conflict of Interest Policy.

Because there are many situations that may involve a conflict of interest, a Conflict of Interest Policy

should not be overly prescriptive or restrict certain activities, but rather provide guidance in recognising conflicts and determining appropriate disclosure. It should also address those circumstances where someone forgets or omits to declare an existing or potential conflict of interest.

A conflict of interest can result if:



- A board member makes a decision motivated by considerations other than the best interests of the nonprofit organisation.
- A board member or close family member personally contracts for the organisation.
- A board member learns of an opportunity for profit that may be valuable to him/her personally or to another organisation of which he/she is a member.
- A board member assists a third party in their dealings with the organisation, where such assistance could result in favourable or preferential treatment being granted to the third party by the nonprofit organisation.
- A board member receives gifts or loans from the organisation.

Board Matters

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Potential, real or perceived conflicts of interest can occur at any time, and are a common issue for organisations. Therefore, it is important that everyone on your board always has the opportunity to talk about and discuss conflicts of interest. Being open and honest with each other will help your board be responsible, transparent and accountable. By establishing a clear policy and creating a culture that values integrity, organisations can avoid the risk of compromising the organisation.

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Governing Your Organisation

- 1 Create a culture of integrity within the board and organisation.
- 2 Make all decisions fairly and transparently and in the best interests of the organisation.
- 3 Train members of the board to know how to avoid, identify and manage conflicts of interest.
- 4 Develop a written Conflict of Interest Policy.
- 5 Ask new board members to sign a duty of disclosure statement when they join the board.
- 6 Have an annual disclosure statement so board members can declare any new conflict of interest at the beginning of the year.
- 7 Ensure the selection process for contracts is an open tender process.
- 8 Encourage board members to disclose potential or real conflicts of interest however small or insignificant they might seem at the time.
- 9 Record conflicts of interest and how they are managed in meeting minutes.
- 10 Give careful attention to issues that are potential, real or perceived conflicts of interest.
- 11 Ask board members not to vote on issues where they have a conflict of interest.
- 12 Maintain written records of activities that may lead to conflicts.
- 13 If required, appoint an independent third party to oversee the integrity of a decision making process.
- 14 Seek legal advice if you think a conflict of interest could be a breach of compliance.
- 15 If you are involved in a conflict of interest and feel it is impossible to resolve the conflict, consider resigning from the board.

The transformational leader can move those influenced to transcend their own self-interest for the good of the group, organisation, or country.
Bernard Bass



REFLECT

Do we have a clear and relevant Conflict of Interest Policy?

Do all our board members know when to declare a conflict of interest?

What can we do to strengthen our board's culture of transparency and accountability?

Further reading

Kurtz, D.L & Paul, S.E (2006) *Managing Conflicts of Interest: A Primer for Nonprofit Boards*. Washington: BoardSource