

Do I have a Conflict of Interest?

a checklist for assessing if you have a conflict of interest

The *Associations Incorporation Act 1985* 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.

In assessing whether you have an actual, reasonably perceived or potential conflict of interest, it may be helpful to ask yourself the following questions. The test when assessing these situations is to ask yourself – “Could this conflict with my public duty to serve the public interest?”

If you answer ‘yes’ to any of the below statements, this indicates you may have a conflict of interest, which you will need to declare to your organisation through a Conflict of Interest Statement (Policy Template 006).

| What is the situation? | YES | NO |
|---|-----|----|
| Would I or anyone associated with me benefit from or be detrimentally affected by my proposed decision or action? | | |
| Could there be benefits for me in the future that could cast doubt on my objectivity? | | |
| Do I have a current or previous personal, professional or financial relationship or association of any significance with an interested party? | | |
| Would my reputation or that of a relative, friend or associate stand to be enhanced or damaged because of the proposed decision or action? | | |
| Do I or a relative, friend or associate of theirs stand to gain or lose financially in some covert or unexpected way? | | |
| Do I hold any personal or professional views or biases that may lead others to reasonably conclude that I am not an appropriate person to deal with the matter? | | |
| Have I contributed in a private capacity in any way to the matter the Landcare group is dealing with? | | |
| Have I made any promises or commitments in relation to the matter? | | |
| Have I received a benefit or hospitality from someone who stands to gain or lose from my proposed decision or action? | | |
| Am I a member of an association, club or professional organisation or do I have particular ties and affiliations with organisations or individuals who stand to gain or lose by my proposed decision or action? | | |
| Could this situation have an influence on any future employment opportunities outside my current official duties? | | |
| Could there be any other benefits or factors that could cast doubts on my objectivity? | | |
| Do I still have any doubts about my proposed decision or action? | | |



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| What perceptions could others have? | YES | NO |
|---|------------|-----------|
| Would I or anyone associated with me benefit from or be detrimentally affected by my proposed decision or action? | | |
| Could my involvement in this matter cast doubt on my integrity or on the organisation's integrity? | | |
| If I saw someone else doing this, would I suspect that they might have a conflict of interest? | | |
| If I did participate in this action or decision, would I be happy if my colleagues and the public became aware of my involvement and any association or connection? | | |
| Is the matter or issue one of great public interest or controversy where my proposed decision or action could attract greater scrutiny by others? | | |
| Should I seek help?* | YES | NO |
| Am I confident of my ability to act impartially and in the public interest? | | |
| Do I feel a need to seek advice or discuss the matter with an objective party? | | |
| Is all the relevant information available to ensure a proper assessment? | | |
| Do I know what our organisation's code of conduct requires in relation to conflicts of interest? | | |
| Do I need to discuss any issues regarding this matter with the Chair? | | |
| Am I confident of my ability to act impartially and in the public interest? | | |
| Do I understand the possible penalties that may apply if I proceed with an action or decision with an unresolved conflict of interest? | | |

* Remember – Seeking and following advice by suitably qualified persons is evidence of good faith but does not transfer the responsibility from the individual to decide whether or not they have a conflict of interest.

How would I feel if my actions were highlighted in the media? _____

What assessment would a fair-minded member of the public make of the circumstances? _____

What is a pecuniary interest?

You have a pecuniary interest (also known as a material personal interest) in a matter if 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.

- It is not necessary to be able to identify or quantify the benefit or loss that might either directly or indirectly be attributable to you as a consequence of the relationship.
- Money does not have to change hands – the benefit could be an increase in the value of property or other material interest. As soon as a pecuniary interest of an associate is recognised you must treat it as if it was your own pecuniary interest. Using the checklist below may be useful.

| Do I have a pecuniary interest? | YES | NO |
|---|------------|-----------|
| Does the matter fall within the legislated definition of a pecuniary interest (see above)? | | |
| Is there a realistic expectation that I will, directly or indirectly, gain a financial or other material benefit or suffer a financial or other material loss? | | |
| Will the matter affect my earning capacity or financial situation? | | |
| Will it have an impact on the value of any shares or property that I own? | | |
| Do I have a second job or private business that may be affected by the matter? | | |
| Do I have any debts owing to a person who will be affected by the matter? | | |
| Have I accepted hospitality, sponsored travel or other benefits from a person who will be affected by the matter? | | |
| Is there a realistic expectation that someone in a personal or business relationship with me will, directly or indirectly, gain a financial or other material benefit or suffer a financial or other material loss? | | |
| By nature of my relationship with this individual, would any benefit or loss they receive be expected, under normal circumstances, to flow through to me? | | |

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|--|-----|----|
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Have I recognised the type of interest?

An important step is to recognise whether or not the interest is a pecuniary interest (also known as a material personal interest). Because there can be legal consequences, public officials should not rely on their own opinion, but should seek independent legal advice if there is any doubt.

- | | |
|---|---|
| <input type="checkbox"/> Actual conflict of interest | <input type="checkbox"/> Pecuniary interest |
| <input type="checkbox"/> Perceived conflict of interest | <input type="checkbox"/> Non-pecuniary interest |
| <input type="checkbox"/> Potential conflict of interest | |

| Can I now participate in making a decision for the Landcare organisation? | YES | NO |
|--|-----|----|
| Have I assessed whether I need to obtain appropriate independent legal and other impartial advice? | | |
| Am I comfortable with my decision to seek (or not seek) advice, and with advice that I have been given? | | |
| If I disagree with any advice given, am I able to state a defensible case to those who made the assessment? | | |
| Can I choose the best option to ensure impartiality, fairness and protect the public interest? | | |
| Does this option ensure openness and transparency in my proposed decision or action? | | |
| Have I identified and documented the facts and circumstances governing my evaluation of, and decision on, how I should handle the situation? | | |
| Does my decision allow me to act and be seen to act in a fair, impartial and objective manner? | | |

DISCLAIMER: The information contained in this publication is based on knowledge and understanding at the time of March 2016. However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of LASA or the user's independent advisor.