

## Landcare Association of South Australia

### Conflict of Interest Policy

**Established:** 10<sup>th</sup> May 2023

**Owner:** Landcare Association of South Australia

**Next Review:** May 2024

**Related Documents:** None

<b>INTRODUCTION</b>	<p>The Landcare Association of South Australia (LASA) is governed by a Management Committee consisting of representatives from grassroots Landcare groups (Organisational Members) and other South Australian Landcarers (Individual Members).</p> <p>Management Committee members are therefore inherently deeply involved in the Landcare community.</p>
<b>PURPOSE</b>	<p>The purpose of this policy is to assist members of the LASA Management Committee (hereafter the Committee) and staff to effectively identify, disclose and manage any actual, potential or perceived conflicts of interest in order to protect the integrity of LASA and manage risk.</p>
<b>OBJECTIVE</b>	<p>The objective of this policy is to ensure that Committee and LASA staff members are aware of their obligation to disclose any conflicts of interest that they may have, and to comply with this policy to ensure they effectively manage those conflicts of interest as representatives of LASA.</p>
<b>DEFINITION OF 'CONFLICT OF INTEREST'</b>	<ol style="list-style-type: none"> <li>a. A conflict of interest occurs when one's personal interests conflict with their responsibility to act in the best interests of the charity.</li> <li>b. Personal interests include direct interests, as well as those of their partner, family, friends, or other organisations they may be involved with or have an interest in (for example, as a shareholder).</li> </ol>

	<ul style="list-style-type: none"> <li>c. It also includes a conflict between a committee or staff member's duty to LASA and another duty that the committee or staff member has (for example, to another organisation or to a particular Landcare group). A conflict of interest may be actual, potential or perceived and may be financial or non-financial.</li> <li>d. 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. Therefore, these situations must be managed accordingly.</li> <li>e. If a person is unsure if they have a conflict of interest they must complete the checklist/s in Appendix A.</li> </ul>
<p><b>POLICY</b></p>	<ul style="list-style-type: none"> <li>a. This policy has been developed to address conflicts of interest affecting LASA.</li> <li>b. Conflicts of interest are common, and they do not need to present a problem to LASA as long as they are openly and effectively managed.</li> <li>c. It is the policy of LASA, as well as a responsibility of the Committee, that ethical, legal, financial or other conflicts of interest be avoided and that any such conflicts (where they do arise) do not conflict with the obligations to LASA.</li> <li>d. LASA will manage conflicts of interest by requiring Committee and staff members to:             <ul style="list-style-type: none"> <li>i. avoid conflicts of interest where possible,</li> <li>ii. identify and disclose any conflicts of interest,</li> <li>iii. carefully manage any conflicts of interest, and</li> <li>iv. follow this policy and respond to any breaches.</li> </ul> </li> </ul> <p><b>I. RESPONSIBILITY OF THE COMMITTEE</b></p> <ul style="list-style-type: none"> <li>a. The Committee and Executive Officer are responsible for:             <ul style="list-style-type: none"> <li>i. establishing a system for identifying, disclosing and managing conflicts of interest,</li> <li>ii. monitoring compliance with this policy, and</li> </ul> </li> </ul>

	<p>iii. reviewing this policy on an annual basis to ensure that the policy is operating effectively.</p> <p>b. LASA must ensure that its Committee and staff members are aware of the ACNC governance standards, particularly governance standard 5, and that they disclose any actual or perceived material conflicts of interests as required by governance standard 5.</p> <p><b>II. IDENTIFICATION AND DISCLOSURE OF CONFLICTS OF INTEREST</b></p> <p>a. Each LASA Committee and staff member must complete a Conflict of Interest Declaration form, detailing any actual, potential or perceived conflicts of interest (or lack thereof) (including the nature and extent of the conflict of interest and any steps taken to address it). All forms must be submitted to the LASA Secretary (or Executive Officer in their absence) and will be electronically stored.</p> <p>b. If new conflicts of interest arise over the course of the Committee or staff member's tenure, an amended Declaration form must be completed and submitted.</p> <p>c. Declared conflicts of interest must also be raised with the Committee at the beginning of the next Committee meeting and any Committee meetings thereafter where an agenda item concerning the conflict is listed.</p> <p>d. Actual, potential or perceived conflicts of interest of LASA Committee and staff members that arise during the course of a Committee meeting (or staff meeting) and have not been declared prior, must immediately be raised to the Committee and their Declaration form amended.</p> <p>e. Where all Committee and staff members share a conflict, the Committee should refer to ACNC Governance Standard 5 to ensure that proper disclosure occurs.</p> <p>f. These stipulations also apply for meetings of LASA sub-committees and staff.</p> <p><b>III. CONFIDENTIALITY OF DISCLOSURES</b></p>
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	<ul style="list-style-type: none"> <li>a. Conflict of interest declarations will be made available for viewing by the LASA Committee, unless confidentiality is specifically requested.</li> <li>b. To request that a conflict of interest be kept confidential, the Committee or staff member concerned must submit their Conflict of Interest Declaration form to the LASA Chairperson directly specifying their request.</li> <li>c. In the case that the Committee or staff member would not like the conflict to be disclosed to the LASA Chairperson, the form should instead be submitted to the LASA Secretary (or Executive Officer in their absence).</li> <li>d. Confidential Conflict of Interest Declaration forms will be stored separately to other forms and marked with the prefix 'Confidential'.</li> </ul>
<p><b>ACTION REQUIRED TO MANAGE CONFLICTS OF INTEREST</b></p>	<p><b>I. CONFLICTS OF INTEREST OF COMMITTEE MEMBERS</b></p> <ul style="list-style-type: none"> <li>a. Once the conflict of interest has been appropriately disclosed, the Committee (excluding any conflicted Committee members) must decide whether or not those conflicted Committee members should: <ul style="list-style-type: none"> <li>i. Abstain from voting on the matter (this is a minimum),</li> <li>ii. Refrain from participating in any debate on this matter, or</li> <li>iii. Temporarily exit the room (or online meeting) during the debate and voting.</li> </ul> </li> <li>b. In exceptional circumstances, such as where a conflict is very significant or likely to prevent a Committee member from regularly participating in discussions, it may be worth the Committee considering if it is appropriate for the person conflicted to resign from the Committee.</li> </ul> <p><b>II. CONFLICTS OF INTEREST OF STAFF MEMBERS</b></p> <ul style="list-style-type: none"> <li>a. Once the conflict of interest has been appropriately disclosed, the Committee must decide whether or not those conflicted staff members should:</li> </ul>

	<ul style="list-style-type: none"> <li>i. Refrain from participating in any debate on this matter, or</li> <li>ii. Temporarily exit the room (or online meeting) during the debate and Committee voting.</li> </ul> <p>b. In exceptional circumstances, such as where a conflict is very significant or likely to prevent a staff member from regularly participating in discussions or conducting their duties with integrity, it may be worth the Committee considering if it is appropriate for the person conflicted to resign from their position.</p> <p><b>III. WHAT SHOULD BE CONSIDERED WHEN DECIDING WHAT ACTION TO TAKE</b></p> <p>a. In deciding what approach to take, the Committee will consider:</p> <ul style="list-style-type: none"> <li>i. whether the conflict needs to be avoided or simply documented,</li> <li>ii. whether the conflict will realistically impair the disclosing person's capacity to impartially participate in decision-making,</li> <li>iii. alternative options to avoid the conflict,</li> <li>iv. LASA's objects and resources, and</li> <li>v. the possibility of creating an appearance of improper conduct that might impair confidence in, or the reputation of, LASA.</li> </ul> <p>b. The approval of any action requires the agreement of at least a majority of the Committee (excluding any conflicted Committee members) who are present and voting at the meeting.</p> <p>c. The action and result of the voting will be recorded in the minutes of the meeting and on the conflicted member/s Declaration form.</p>
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## COMPLIANCE WITH THIS POLICY

- a. If a person suspects that a committee or staff member has failed to disclose a conflict of interest or otherwise comply with this policy, they must notify the LASA Chairperson. In the case that the Chairperson is themselves, suspected of not complying with the policy, the matter will be raised with the 1) Deputy Chairperson, 2) Secretary or 3) Treasurer (in order of delegation).
- b. The person notified of a potential policy breach must first determine if the conflict was declared confidentially. If this is not the case, then that person will notify the Committee of the potential policy breach and the Committee will investigate the circumstances.
- c. If it is found that a committee or staff member has failed to disclose a conflict of interest, the Committee may take action against them.
- d. The Committee may issue a written warning for the first instance of a conflict not being disclosed at the appropriate time if it is voluntarily declared by the conflicted person before having serious consequences.
- e. The Committee may seek to terminate the employment or tenure of a committee or staff member if:
  - i. It is the second instance of that person failing to disclose a conflict at the appropriate time,
  - ii. Serious consequences have occurred or will occur because that person did not disclose their conflict at the appropriate time, or
  - iii. That person is found to have purposefully withheld a conflict of interest.
- f. Serious consequences may include:
  - i. Biased distribution of funds, support or benefits to (or away from) a particular group, business, organisation or person,
  - ii. Biased employment/endorsement or rejection of a particular candidate for the LASA staff or committee,
  - iii. Or as otherwise determined by the Committee.

## **Appendix A: Conflict of Interest Checklist**

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 LASA through a Conflict of Interest Declaration form.

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?		

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?		

*\* 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? \_\_\_\_\_

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

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## 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.



- iv. 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.
- v. 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?		
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?		

## 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.

☐ Actual conflict of interest

☐ Pecuniary interest

☐ Perceived conflict of interest

☐ Non-pecuniary interest

☐ 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?		