



Conflicts of Interest

Scenario 4

Getting on Board - representative members on Boards and Committees

“Members of Government boards appointed to represent a particular stakeholder group, can be confused about whom they are serving – the Government, the board or committee, or the constituency they represent”

“It isn’t wrong or unethical to have a conflict of interest, what is important is that it is identified and appropriately managed”

The Integrity Coordinating Group

The Integrity Coordinating Group (ICG) was formed to promote and strengthen integrity in Western Australian public authorities. ICG members support integrity through their independent roles under their own legislation, and also work collaboratively across the public sector.

Integrity in decision making

Decision makers need to demonstrate integrity by:

- serving the public interest
- using powers responsibly
- acting with honesty and transparency
- addressing improper conduct.

The Integrity in Decision Making guidelines

ICG supports building the capacity of public authorities, and their employees, to demonstrate integrity when making decisions.

These guidelines provide public authorities with information and practical tools about integrity in decision making, which can be used to strengthen and sustain their decision making processes.

Introduction

Almost all functions performed in the public sector can potentially lead to conflict of interest situations. A conflict of interest in itself is not necessarily wrong or unethical, however, identifying and managing the situation is important. Managing conflicts of interest is all about risk management. Identifying at-risk functions in the organisation is the first step to managing the risks conflicts of interest present.

Members of Government boards appointed to represent a particular stakeholder group, can be confused about whom they are serving – the Government, the board or committee, or the constituency they represent¹. Tensions can exist between their roles on and off the board, as they feel torn between a duty to represent their stakeholder group and their duties to make decisions in the interests of the organisation as a whole.

Board members generally need to be mindful of acting in the interests for which the board exists. Board members are expected to place public interest above personal interests and not to use their position for personal gain. It is recommended that Boards document a code of conduct and a clear statement of roles, responsibilities, and accountabilities, including mechanisms for managing conflicts of interest or role.

The following scenario illustrates one example of how conflicts of interest may be identified and what strategies may be employed to manage them. The choice of strategies may vary across the sector, and will be dependent on the operating environment, legislative requirements and practical solutions.

Scenario

Kate is an elected member of the Berkley Shire Council. She is a ballet teacher in the Shire and has also been appointed to the Performing Arts Board, as a representative of the Berkley Shire. The Performing Arts Board is a State Government statutory authority, responsible to the Minister for the Arts.

The Berkley Council is seeking funding from State Government to build a performing arts centre for the Shire. Kate knows how important the proposal for a performing arts centre is to the Berkley community. It would also provide an excellent venue for her ballet classes.

The Performing Arts Board makes recommendations to the Minister on priorities for capital works projects. The Board is due to discuss several funding submissions, including the one from Berkley Council. The proposals cover a range of worthwhile projects across the community.

How to identify conflicts of interest

In this scenario, Kate needs to consider the potential for conflict between her personal interests (ballet teaching) and her public duty as a voting member of the Performing Arts Board. She needs to be mindful that Board members are expected to place public interest above personal interests and not to use their position for personal gain.

She also needs to consider the potential for competing interests between her role as an elected member of the Berkley Council and as a Board member.

How to manage conflicts of interest

As a representative of the Berkley Council, Kate can represent the views of that Council in any discussions by the Board. However, in voting on issues, her obligation is to the Board no matter which body she is representing.

All Board members should openly declare matters of private interest that may conflict or be perceived to conflict with the member's public duty. Kate should declare her interest as a ballet teacher, and may need to restrict or remove herself from discussions and decisions where a conflict of interest could be perceived to exist.

Relevant legislation

- *Public Sector Management Act 1994*
- Codes of Ethics and Conduct
- The Public Sector Commission Western Australian Public Sector Code of Ethics (reprinted December 2010)
- The Public Sector Commission Code of Conduct Guide for Government Boards and Committees (December 2010)
- Agency Codes of Conduct

The 6 Ps

Public duty versus private interests

Do I have personal or private interests that may conflict, or be perceived to conflict with my public duty?

Potentialities

Could there be benefits for me now, or in the future, that could cast doubt on my objectivity?

Perception

Remember, perception is important. How will my involvement in the decision/action be viewed by others?

Proportionality

Does my involvement in the decision appear fair and reasonable in all the circumstances?

Presence of mind

What are the consequences if I ignore a conflict of interest?
What if my involvement was questioned publicly?

Promises

Have I made any promises or commitments in relation to the matter? Do I stand to gain or lose from the proposed action/decision?

The 6 Rs

Record/Register

Recording the disclosure of a conflict of interest in a register is an important first step, however this does not necessarily resolve the conflict. It may be necessary to assess the situation and determine whether one or more of the following strategies is also required:

Restrict

It may be appropriate to restrict your involvement in the matter, for example, refrain from taking part in debate about a specific issue, abstain from voting on decisions, and/or restrict access to information relating to the conflict of interest. If this situation occurs frequently, and an ongoing conflict of interest is likely, other options may need to be considered.

Recruit

If it is not practical to restrict your involvement, an independent third party may need to be engaged to participate in, oversee, or review the integrity of the decision-making process.

Remove

Removal from involvement in the matter altogether is the best option when ad hoc or recruitment strategies are not feasible, or appropriate.

Relinquish

Relinquishing the personal or private interests may be a valid strategy for ensuring there is no conflict with your public duty. This may be the relinquishment of shares, or membership of a club or association.

Resign

Resignation may be an option if the conflict of interest cannot be resolved in any other way, particularly where conflicting private interests cannot be relinquished.

Policies and Guidelines

- Australian National Audit Office (2003) Conflicts of interest and conflicts of role (Better Practice Guide: Guidance Paper No. 6)
- Department of the Premier and Cabinet (2001) Getting on board
- Ministry of the Premier and Cabinet (1999) Better management: corporate governance guidelines for Western Australian public sector board members
- Ministry of the Premier and Cabinet (1999) Better management: corporate governance guidelines for Western Australian public sector CEOs
- Office of the Auditor General (1998) Report on public sector boards (Report No.9)

Where can I get more information?

More information is available from ICG website at www.publicsector.wa.gov.au/icg

Where can I seek further advice?

It is important to first discuss the situation with a supervisor or senior colleague. You may also contact:

The Public Sector Commission
 Governor Stirling Tower
 197 St George's Terrace
 PERTH WA 6000
 Telephone: (08) 9219 6600
 Facsimile: (08) 9219 6001
 Email: admin@psc.wa.gov.au
 Web: www.publicsector.wa.gov.au

Some other titles in this series

Available at www.publicsector.wa.gov.au/icg:

- Managing procurement processes, tenders and contracts
- Sponsorship from the private sector
- Wearing two hats—dual roles as a public officer
- Allocation of grants for community-based services
- Gifts, benefits and hospitality
- Recruitment, selection and appointment
- Secondary employment

References

¹Australian National Audit Office (2003) Conflicts of interest and conflicts of role (Better Practice Guide, Guidance Paper No.6)

Acknowledgements

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Disclaimer

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