



Keep Australia Beautiful Council Western Australia

Conflict of Interest Policy

August 2019

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Document History

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Introduction

Purpose

The Conflict of Interest Policy for the Keep Australia Beautiful Council (KABC) has been prepared to assist Council Members to identify, declare and manage conflicts of interest. This Policy sets out how the KABC will comply with the State Government's requirement for public bodies to identify and manage conflicts of interest.

Principle

KABC has a system to identify, monitor and manage conflicts of interest in order to maintain the integrity of KABC and to support public confidence in government.

Application

Members of the KABC must comply with this policy.

Relevant legislation

- (i) *Litter Act 1979* (Litter Act) provides for disclosure of interests in the First Schedule, clause 8.
- (ii) *Public Sector Management Act 1994* (PSM Act) requires all WA public bodies to comply with public sector standards, the Code of Ethics and applicable code of conduct.
- (iii) *Corruption and Crime Commission Act 2003* (CCC Act) requires that all public sector bodies notify the CCC of suspected misconduct.
- (iv) *Public Interest Disclosure Act 2003* (PID Act) provides protection for members of public sector bodies reporting corrupt behaviour and substantial unauthorised use or mismanagement of public resources.

Related policies

The following KABC policies should be read in conjunction with this policy:

- The Charter
- Code of Conduct

Date effective

This policy is effective as at August 2019 and will be reviewed as required.

Responsible Officer

The Chairman is responsible for managing conflicts of interest for KABC and will be assisted in this role by the Manager KABC Services. Further information on responsibilities is contained in Section 4 of this document.

Definitions

Conflict of Interest¹

A conflict of interest is a situation arising from conflict between the performance of public duty and private or personal interests.

Conflicts of interest may be actual, perceived to exist, or potentially exist at some time in the future. Perceptions of conflict of interest are important to consider because it is vital that the community has confidence in the integrity of WA public bodies.

Types of Interest

Almost every type of function performed in the public arena can be vulnerable to conflicts of interest. Types of interests include, but are not limited to, the following:²

- **Actual Conflict of Interest**
A public official is in a position to be influenced by their private interests.
- **Competing Interests**
When two or more interests are in conflict with one another. This situation may occur between an individual's official duties and their private interests or duties. It may also occur when the individual has two or more official roles that come into conflict through the different duties expected from each role.
- **Favouritism**
Preferential treatment given by a public official to another individual or group over the interests of others with equal claim to the same treatment. Often referred to as cronyism when political patronage occurs and as nepotism when patronage based on a family relationship occurs.
- **Material benefit**
A personal advantage received by a public official, which may be a financial gain or have a quantifiable value or expectation of value. Material benefits include lucrative job offers, hospitality, gifts, increased land value, money and direct profit.
- **Material personal interest**
This term generally refers to the realistic expectation that a public official or an associate directly or indirectly stands to gain a benefit or suffer a loss, depending on the outcome of an issue.
- **Material loss**
A personal disadvantage to a public official. It may be a financial loss or have a quantifiable cost or expectation of expense or deficit. A material loss can include a decrease in land value or a direct financial loss.
- **Non pecuniary interest**
Non-pecuniary interests do not have a financial component but may arise from personal or family relationships or involvement in sporting, social or cultural activities. They include any tendency toward favour or prejudice resulting from friendship, animosity or other personal involvement that could bias judgement or decisions.

¹ Office of the Public Sector Standards Commissioner, Integrity Coordinating Group – [Conflict of Interest Guidelines](#)

² Independent Commission Against Corruption and Crime and Misconduct Commission Queensland's [Managing Conflicts of Interest in the Public Sector Toolkit](#) – Glossary

- **Pecuniary interest**

Pecuniary interests involve an actual or potential financial gain or loss. They may result from a public official or related party owning property, holding shares or a position in a company bidding for government work, accepting gifts or hospitality or receiving an income from another job. Money does not need to actually change hands for an interest to be pecuniary.

- **Perceived Conflict of Interest**

A public official is in a position to appear to be influenced by their private interests when doing their job.

- **Potential Conflict of Interest**

A public official is in a position where they may be influenced in the future by their private interests when doing their job.

Where a private interest has *in fact* compromised the proper performance of a public official's duties, that specific situation is better regarded as an instance of misconduct, abuse of office or as an instance of corruption rather than as a 'conflict of interest'.

Conflict of interest 'hot spots' include:³

- financial and economic interests
- family or private businesses
- other employment
- affiliations with for-profit and non-profit organisations and associations
- affiliations with political, trade union or professional organisations
- obligations to professional, community, ethnic, family or religious groups in a personal or professional capacity
- enmity or competition with another individual or group
- significant family or other relationships with clients, contractors or other staff working in the same or related organisation
- future employment prospects or plans.

³ Office of the Public Sector Standards Commissioner – *Managing Interest: a checklist*

Principles

Four Core Principles

The Organisation for Economic Cooperation and Development (OECD) guidelines for managing conflict of interest in the public arena promote four core principles.⁴ They are universal and reflect the values that exist in most public sector codes of ethics and conduct. They establish a platform for public bodies to effectively manage the risks surrounding conflicts of interest.⁵ They are as follows:

1. Serving the public interest
2. Supporting transparency and scrutiny
3. Promoting individual responsibility and personal example
4. Engendering an organisational culture which is intolerant of conflicts of interest.

Making Accountable and Ethical Decisions in the Public Sector⁶

The Public Sector Commission has developed *First Steps*, a tool for promoting self awareness in relation to ethical and accountable decision making. The questions contained within *First Steps* have been chosen primarily because they are fundamental questions that individuals need to ask themselves when faced with choices that have ethical and accountability dimensions.

First Steps Questions

Am I doing the right thing?

Am I breaking a rule? Is this consistent with the relevant legislation, policies and procedures which apply to my organisation—for example, when deciding whether to disclose my friendship with a contractor during a tender process?

How would others judge my actions?

How would my colleagues and others whose opinions I respect view my actions? How would I feel if this became public knowledge—for example, if this became front page news?

How could my actions impact on others?

What impacts could this have on my organisation, position, reputation? Could this impact on my colleagues, family and friends?

Should I discuss this with someone else?

Should I speak to a trusted and respected colleague or peer, a legal adviser or someone from a relevant accountability agency?

⁴ OECD – [Guidelines for Managing Conflict of Interest in the Public Service](#)

⁵ Integrity Coordinating Group – Core principles for organisations

⁶ Public Sector Commission WA – [Appropriate decision-making frameworks](#)

Six Ps for identifying conflicts of interest⁷

The Integrity Coordinating Group recommends six considerations that public officials should address to identify the existence of a conflict of interest:

Public duty versus private interest

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

Potentiality

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

Perception

How will my involvement in the decision/action be viewed by others? Are there risks associated for me/my public body?

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?

Principles the KABC will apply in dealing with conflicts of interest

- All conflicts of interest within KABC will be managed transparently.
- Effective management of conflicts of interest depends on open communication between the Chairman, KABC Members and the Manager KABC Services.
- The KABC will maintain a Conflict of Interest Register (see 5 Procedure for declaring interests, p 8) and a Register of Gifts (see 7 Procedures for specific situations, p12).
- Information regarding declared interests contained within the Conflict of Interest Register will be held securely and access will be restricted to the Chairman, Deputy Chairman, Minister, Director General and the Manager KABC Services, excepting in a particular circumstance where for reasons of transparency it is agreed by the KABC Member and the Chairman that an interest should be publically declared. It will then be noted in the minutes of KABC meetings.

⁷ Public Sector Commission WA – [Good governance guide - Conflicts of interest](#)

Responsibilities

The Chairman is responsible for managing conflicts of interest for KABC and will be assisted in this role by the Manager KABC Services. The Chairman will be responsible for:

- Reminding Members of their responsibility to declare conflicts of interest when they become aware of them.
- Ensuring the Conflict of Interest Policy remains current.
- Providing a point of contact for Members wanting information or advice about the Policy's meaning or application.
- Providing a point of contact for anyone wanting assistance in identifying a conflict of interest.
- Ensuring that the agenda for KABC meetings always contains a Disclosure of Interests section and that it is dealt with as a matter of priority at meetings.
- Ensuring the Manager KABC Services maintains a Conflict of Interest Register and a Gifts Register.
- Receiving complaints and grievances of possible breaches of the Conflict of Interest Policy, investigating these and enforcing policy compliance.

KABC Members are directly responsible for identifying and declaring their own conflicts of interest.

Members should be aware of their responsibility to comply with the Conflict of Interest Policy and that breaches may be subject to disciplinary procedures under Litter Act, as expressed in the KABC Code of Conduct.

Procedure for declaring interests

Compliance procedures for KABC Members are detailed below:

1. Members must comply with the First Schedule of the Litter Act dealing with disclosure of interests.
2. Upon receipt of the agenda and agenda papers for a meeting, Members should formally declare pecuniary and non pecuniary conflicts of interest in relation to proposals before the KABC. Examples of such interest include, but are not limited to, real estate, share holdings, family or other trusts, nominee companies, company directorships, partnerships and membership of other groups that may conflict with the member's public duty.
3. Submit a 'Disclosure of Interests' form prior to the commencement of each meeting to the Chairman where a member is of the view he/she has a potential conflict of interest in relation to an agenda item to be discussed at that meeting (i.e. direct share holding or shareholding through a self managed superannuation fund).
4. The agenda for KABC meetings will include an item at the start of the meeting for declarations of conflicts of interest. This agenda item will be used to discuss any conflicts relating to the matters on the agenda or any other matters relating to conflicts of interest.
5. Exclude themselves from the meeting and abstain from any discussions/decisions in relation to an agenda item where an actual conflict of interest has been determined by the KABC Chairman.
6. Participate in discussions in relation to an agenda item but abstain from any decision in relation to an agenda item where a potential or perceived conflict of interest has been determined by the KABC Chairman (an example being, but not limited to, a share holding in a company in a member's self managed superannuation fund or shares in the company held by an immediate member of the family where a proposal is before the KABC for decision).
7. If a situation arises where, because of a conflict of interest matter, the KABC finds itself in a position of not having a quorum and cannot make a decision about a proposal, the KABC will need to consider whether the public interest out-weighs the conflict of interest matter and, if it does, make the relevant decision. In such instances the KABC may seek legal advice, must inform the Minister for Environment of the decision made and must retain documentation of the decision for the public record.
8. The Chairman will ensure the declared interests are recorded in the Conflict of Interest Register.

When a written declaration is not immediately practical

There may be times when a Member is in a situation that does not allow disclosure of a conflict of interest in writing before a meeting. For example, a matter may be introduced without prior warning. In such instances Members should observe the following steps:

1. Verbally disclose the interest.
2. Ensure that disclosure is recorded in the minutes of the meeting.
3. Record this disclosure in personal meeting notes.
4. If the Chairman deems it to be appropriate, the Member should absent them self from the meeting while the matter is discussed or discussion is deferred on the matter until the conflict is resolved.
5. Register details of the conflict of interest with the Chairman or Manager KABC Services after the meeting using the Disclosing Conflicts of Interest form at Appendix 2.

Managing and monitoring a conflict of interest

Six Rs for managing conflicts of interest⁸

The Integrity Coordinating Group has developed six Rs for managing conflicts of interest:

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 ongoing conflict of interest is likely, you may need to consider other options.

Recruit

If it is not practical for you 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 relinquishing 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.

⁸ Integrity Coordinating Group – [Conflicts of Interest](#)

Procedure for managing conflicts of interest

Once a conflict of interest has been identified it needs to be managed and monitored. The process is:

1. The Chairman will review the declared Disclosure of Interest forms submitted by a Member.
2. The Chairman may seek advice from other sources with respect to managing and monitoring the conflict of interest—for example the Manager KABC Services, the Minister or the Public Sector Commissioner.
3. The Chairman will determine a course of action to manage the interest, seeking input from the Member to do this, using the Six Rs process described on page 10. The Chairman will detail the proposed action in the Statement of conflict of interest management or resolution section of the form. In the instance where the Member disclosing the interest is the Chairman, the Manager KABC Services will manage the process and determine a course of action to manage the interest.
4. If a Member is not satisfied with the process for managing and monitoring the particular conflict of interest, they should in the first instance discuss this with the Chairman. If the situation is not resolved to their satisfaction they may discuss the matter with the Manager KABC Services for a resolution.

KABC Members are required under the First Schedule, clause 8 of the *Litter Act 1979* to disclose interests.

Pursuant to the First Schedule, clause 1(c) of the *Litter Act 1979* Members can be removed from office on the grounds of neglect of duty or misbehaviour or incompetence.

Procedures for specific situations

Gifts and gratuities

KABC Members should not accept gifts or benefits likely to place them under an actual or perceived financial or moral obligation to other organisations or individuals in the fulfilment of their official duties.

KABC Members will:

- Not demand or accept in connection with their official duties any fee, favour, reward, gratuity or remuneration of any kind, outside the scope of their entitlements as a KABC Member.
- Not accept any gift which includes items of commercial value, property (real or otherwise), transfers of money, loans of money or property, free air travel, accommodation and general purchases at valuations significantly below usual retail prices.
- Disclose any gifts and record their receipt and disposal in the 'Register of Gifts' maintained by the Manager KABC Services.
- Seek advice from the Chairman if in any doubt about the correct action to take.

Invitations to special events

Members should use their judgement with regard to attending special events or meetings organised by professional groups (e.g. associations, non-government organisations, special interest groups) with which they are affiliated.

Should a Member have a conversation with a proponent or potential partner who has current business before the KABC, they should document the conversation including the date, time, nature of the discussion and other persons present. At all times Members should maintain confidentiality of KABC business. The Chairman should be informed at your earliest convenience and a log of the conversation be recorded.

Personal contacts with interests

Members who meet with personal contacts who have current business before the KABC, whether arranged or by coincidence for business, family or friendship reasons, should document the conversation including the date, time, nature of the discussion and other persons present. At all times, the Member should maintain confidentiality of KABC business. The Chairman should be informed upon earliest convenience and a log of the conversation be recorded.

Appendix 1

Frequently Asked Questions⁹

What is a conflict of interest?

A conflict of interest is a situation where you are in a position to be influenced by private or personal interests when doing your job. In the public sector context, a conflict of interest involves a conflict between duty as a public officer and personal or private interests.

Is it wrong to have a conflict of interest?

Conflicts of interest are not necessarily wrong or unethical; it is how they are identified and managed that is important. Public officials will have personal interests that may come into conflict with public duty from time to time. The timely disclosure of an actual, perceived or potential interest is the first step to ensuring the conflict can be managed effectively.

Is it wrong for public officials to have associations with persons in the private sector?

No. Public officials are also individuals with their own private interests. What is important is to recognise the potential for a conflict of interest in performing your public duty, arising from any personal association. If a conflict exists, you should declare it as a first step. It is always better to disclose and discuss a conflict of interest than conceal it.

Why should I worry about conflicts of interest?

As a public official you have a duty to serve in the best interests of the public. The public must have confidence in the impartiality of decision makers and the transparency of the services provided. The perception that a conflict of interest exists can undermine public confidence in an agency.

Can I commit a conflict of interest?

No. A conflict of interest is a situation that can stem from your financial and non-financial interests, while performing your public duty. A conflict of interest in itself is not wrong; it's how you deal with it that's important.

How do I know if I have a conflict of interest?

There are a number of factors to consider when making a decision about whether your public duty and your private interests conflict. See the six Ps for tips on how to identify a conflict of interest.

Are all conflicts of interest to be avoided?

It is not always possible to avoid having a conflict of interest, particularly in small communities or specialist industries. What is important is the timely identification of the conflict and the strategies used to manage the situation.

What should I do if I think I have a conflict of interest?

As a first step, you should disclose the interest and, if necessary, discuss with the Chairman options for avoiding the conflict or reducing your involvement.

Is an actual conflict of interest considered misconduct?

Conflicts of interest are not in themselves misconduct; however, a high proportion of the matters referred to the Corruption and Crime Commission arise from actual, perceived or potential conflicts of interest that have not been managed appropriately.

⁹ Integrity Coordinating Group – [Conflicts of Interest Guidelines for the WA Public Sector](#)

Can a conflict of interest lead to corruption?

Problems can occur if conflicts of interest are not dealt with openly and effectively. The catalyst for many cases of serious corruption and misconduct is an undisclosed or unmanaged conflict of interest.

Are there laws relating to conflict of interest for public officials?

There are a number of legislative and policy issues relevant to public officials, which establish the obligations incumbent on them to serve in the public interest.

Why is the issue of conflict of interest of such importance to the public sector?

The existence of policies and procedures to help identify and manage conflicts of interest is vital to ensuring a public sector that is open and accountable, and for building and maintaining public confidence in public institutions.

As a public official, should I relinquish all my shareholdings?

No. However, you need to always be mindful of the potential for your financial interests to influence your role as a public official. There are obligations to declare all financial interests.

Why should my family's or friends' interests be of concern to my work?

Conflicts of interest can arise from personal relationships such as friendships, relatives, membership of clubs and associations, that may influence, or be viewed as potentially influencing, your role as a public official.

Who decides if there is a conflict of interest?

It is your responsibility to determine if an actual, perceived or potential conflict of interest exists.

Appendix 2

Disclosure of Interest Form

To be completed by the Chairman and the Authority Member prior to the discussion of a particular matter that the Authority is dealing with—for example, an agenda item for an Authority meeting—including the process for managing and/or resolving the declared interest.

Disclosure of Interest¹⁰

Surname:			
Other names:			
Position:			
Matter under consideration:			
Expected involvement by the Council Member in this matter:			
Private interests identified which have the potential to impact on the Council Member's ability to carry out, or be seen to carry out, their official duties impartially and in the public interest:			
The Conflict of Interest has been identified as an (please check the appropriate boxes):			
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	<input type="checkbox"/>		<input type="checkbox"/>
<p>I hereby declare that the above details are correct to the best of my knowledge and I make this conflict of interest declaration in good faith.</p>			
<p>_____ <i>Signature (Council Member)</i></p>		<p>_____ <i>Signature (Chairman)</i></p>	
<p>Date _____</p>		<p>Date _____</p>	

¹⁰ This form should be used to declare a conflict of interest in relation to a particular matter that the Council is dealing with—for example, a matter that is on the Council meeting agenda.

Statement of conflict of interest management or resolution

Proposed action to manage or resolve conflicts of interest:

I hereby declare that the above details are correct to the best of my knowledge and I make this conflict of interest declaration in good faith.

Signature (Council Member)

Signature (Chairman)

Date _____

Date _____

Statement of adjustment to conflict of interest resolution management

Adjustment to action taken to resolve or manage conflicts of interest:

The above action adjustment has been agreed on to resolve the conflict of interest declared by

.....
on

Signature (Council Member)

Signature (Chairman)

Date _____

Date _____

Statement of finalisation of conflict of interest

The conflict of interest declared by on has now been resolved and no further action is required.

Signature (Council Member)

Signature (Chairman)

Date _____

Date _____