



Management Support Unit (MSU)

Information Sheet 14: MANAGING CONFLICTS OF INTEREST

Introduction

Conflicts of interest are a serious issue that all organisations need to prepare for, proactively. By establishing strong policies and creating a culture of responsible disclosure for all, services can avoid the risk of compromising the organisation.

This information sheet will define what a conflict of interest is and provide a framework for managing the risks associated with real or perceived conflicts. Also included is a list of key resources and sample template for a conflict of interest policy and disclosure statement. The sample template and statement can be adopted or adapted to the needs of your organisation.

Definition

A conflict of interest occurs 'when a board member or staff person's duty of loyalty to the charitable organisation comes into conflict with a competing financial or personal interest that he or she (or a relative) may have in a proposed transaction.' (Panel on the Nonprofit Sector, October 2007)

The NSW *Associations Incorporation Act 2009* defines a conflict of interest as an 'interest [that] appears to raise a conflict with the proper performance of the committee member's duties in relation to the consideration of the matter.'

Examples of Potential Conflicts of Interest

It is important to recognise that a conflict of interest does not have to be 'real'. The perception of dishonest behaviour from the Committee or senior management can still damage the reputation of the organisation.

Examples of potential conflicts of interest for both Committee members and senior staff include:

- The granting of a commercial contract to an organisation or individual who is linked to a Committee member or senior staff member.
- Being a member of a Committee while also working for a government agency that provides funding to this organisation.

- A staff member providing consultancy services to a competitor without informing their primary employer.
- Appropriating the intellectual property of the organisation for your own benefit.
- Being on a job selection panel and one of the candidates is a personal friend.

Avoidance is the Best Policy

The above examples represent potential conflicts of interest. None of them need become real conflicts of interest if the organisation manages the concerns well. With the first example, the granting of a contract to a party with links to a Committee or staff member, there are several strategies to insulate the organisation from facing claims of a conflict of interest:

- Ensure that your organisation has a clear set of policies on how to deal with potential conflicts of interest
- Ensure the selection process for the contract is an open tender
- Have policies and processes to make sure potential conflicts of interest are disclosed (for template declaration of interest form see Appendix)
- Ensure that any potentially conflicted Committee member or employee is excluded from all discussion and decision making associated with the contract
- Formally write down all steps taken to ensure that the potential conflict of interest has been averted
- Provide a written response addressing the concerns of any party about the perceived conflict of interest.

A Comprehensive Approach to Avoiding Conflicts of Interest

Conflicts of interest, real or perceived, will damage the functioning and reputation of your organisation. To avoid this occurring your organisation needs to be clear and transparent, inviting scrutiny from all parties including the regulator.

Below is a set of strategies that will provide your organisation with security if and when concerns are raised about potential conflicts of interest:

1. Establish and enforce a Conflicts of Interest policy for the organisation. This policy must apply to all persons in the organisation who can influence decisions. Ensure disciplinary procedures are included.
2. Build a culture and practice of full disclosure from everyone in the organisation.
3. Create a Disclosure Declaration for the organisation which must be signed by all Committee members annually at the AGM, and by all employees upon recruitment.
4. Establish a permanent Board sub-committee to deal with conflict of interest issues. The sub-committee should consist of the Chair, an independent member and the CEO.
5. Record all actions taken to avoid a conflict of interest in a separate book. This book must be kept by the sub-committee and made available to concerned parties.
6. The Board sub-committee should provide written responses addressing the concerns raised by any party regarding potential conflicts of interest.

APPENDIX: [DECLARATION OF INTEREST TEMPLATE](#)

Useful References

Associations Incorporation Act 2009 (NSW)
<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+7+2009+cd+0+N>
(accessed 10/10/11)

Associations Incorporation Regulation 2010 (NSW)
<http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+238+2010+cd+0+N>
(accessed 10/10/11)

Our Community on Managing Conflicts of Interest
http://www.ourcommunity.com.au/boards/boards_article.jsp?articleId=1346
(accessed 10/10/11)

Community Door on Conflict of Interest Policy Template
<http://www.communitydoor.org.au/documents/quality/policy/11.4-conflict-of-interest-policy-guideline.pdf> (accessed 10/10/11)

Family and Community Services: Ageing, Disability and Home Care
Good Governance 'It's Your Business' Resource
http://www.adhc.nsw.gov.au/sp/training_and_development/good_governance
(accessed 10/10/11)

NCOSS Information Sheet 2: Board Code of Conduct
http://ncoss.org.au/projects/msu/downloads/resources/information%20sheets/02_codeconduct_MSU.pdf (accessed 10/10/11)

NCOSS Information Sheet 4: Executive Code of Conduct
http://ncoss.org.au/projects/msu/downloads/resources/information%20sheets/04_conductEO_MSU.pdf (accessed 10/10/11)

NCOSS Information Sheet 13: Ethical Decision Making
http://ncoss.org.au/projects/msu/downloads/resources/information%20sheets/13_ethicaldecision_making_MSU.pdf (accessed 10/10/11)