

Statutory Office Holders – mandatory requirement to disclose all conflicts of interest under section 40F of the *Integrity Act 2009*

Statutory Office Holders have a mandatory obligation under section 40F of the *Integrity Act 2009* to disclose all conflicts of interest - whether actual, perceived, or potential - directly to their Minister.

This obligation applies regardless of whether the conflict of interest has already been disclosed under a board or agency policy or under a different Act. It applies to all types of conflicts, and regardless of whether the conflict is significant or not. No action can be taken in relation to a matter affected by the conflict of interest until the Minister has approved a management strategy.

Disclosing a conflict of interest should not be confused with the requirement to provide a statement of interests within the first month of appointment. In a statement of interests, the position-holder is required to list all interests across each category of the form (e.g. assets, liabilities, directorships, etc.), regardless of whether they give rise to a conflict of interest. It is important to note that any disclosures made during the application or appointment process for a statutory office holder position, do not satisfy the obligation to submit a statement of interests or disclose all conflicts of interest within the first month of commencing the role.

Are you a Statutory Office Holder?

A Statutory Office Holder is a person appointed by the Governor in Council or a Minister to a position established under an Act of Parliament. For example, you will be a Statutory Office Holder if you have been appointed as a member of a Hospital and Health Board, to the Board of a Government Owned Corporation, or as the head of a statutory body (for example, see list [here](#)).

What is a personal interest?

Personal interests can vary widely and may include both financial and non-financial matters. Financial interests might involve assets like shares, managed funds, Exchange Traded Funds (ETFs), real estate, or self-managed superannuation funds (SMSFs) that hold shares or property.

Non-financial interests could include relationships, associations, or roles such as being an officeholder in a company, involvement in a family business or trust, other employment, or serving on a board or committee. Additionally, the interests of your partner or dependents may also be relevant.

What is a conflict of interest?

A conflict of interest is where there is a conflict or possible conflict between your personal interests and your official responsibilities. Conflicts of interest generally fall into one (or more) main categories:

- **Actual conflict of interest:** your personal interests directly conflict with your ability to perform an aspect of your official duties fairly and without bias.
- **A potential conflict of interest:** there is a possibility that your personal interests could interfere with your ability to perform your official duties fairly in the future.
- **A perceived conflict of interest:** a reasonable person informed of the relevant facts might perceive that you might not bring an impartial mind to a matter because of your personal interests. Importantly, determining whether there is a perceived conflict does not consider your actual intentions or state of mind - it focuses solely on how the situation might reasonably appear to others.

Not all personal interests result in a conflict of interest. A conflict arises only if there is a clear and logical connection between a personal interest and your official functions and powers.

What you need to do

A Statutory Office Holder should take the following steps to comply with section 40F of the *Integrity Act 2009*:

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| Step 1 | Consider if any of your interests could compromise (or be seen to compromise) your ability to properly and impartially discharge your official duties, either now or foreseeably in the future. |
| Step 2 | If you have any conflicting interests, write to your Minister to disclose those interests and advise how you plan to manage them. The Minister will need to approve your proposed management actions, or alternatively the Minister may issue you with a direction to resolve your conflict by some other means. |
| Step 3 | While awaiting the Minister's response, do not take any action regarding a matter affected by a conflict of interest. For example, recuse yourself from any discussions, deliberations or decisions relating to your interest. If you consider the conflict to be actual or significant, adopt a strategy that quarantines you from receiving any information or papers relating to the matter until you receive the Minister's response. |
| Step 4 | Follow the directions of your Minister. The Minister may direct you to resolve the actual, perceived or potential conflicts of interest. |

Note: specific legislation may provide board members with a process to declare and manage conflicts of interest. For example, an Act may permit a board member to attend meetings where they have a conflict of interest, with the consent of their board. However, a board cannot permit you to participate in decision making where you have a conflict of interest and the Minister has not authorised that action.

How can I seek assistance?

Statutory Office Holders can seek the advice of the Queensland Integrity Commissioner about an ethics or integrity issue which includes a conflict of interest issue. Email your request to integrity.commissioner@integrity.qld.gov.au.