

Step One: Member identifies and discloses another position they hold that might give rise to a duty on duty conflict

Questions for the member to consider:

- Is there a matter before the board or body of which you are a member?
- Do you have a 'personal interest' arising from another position you hold, that may be associated with that matter – such as a position on a Board where you owe fiduciary and general law duties?
- Is the other position significant and/ or ongoing– such as an office holder position?

If so, declare your other role to the Chair and/or the rest of the board or body, or in line with any relevant legislation. In doing so, you must provide **enough information** to enable the non-conflicted members to make an **informed decision** about whether a duty-on-duty conflict exists, and if so, how it should be managed.

Step Two: Non-conflicted members decide whether the personal interest gives rise to a duty on duty conflict

Questions for the board or body to consider:

- What is the interest?
- Does the board or body require more information from the member, or are there any other relevant factors – such as:
 - the position is with an entity that is in financial difficulty
 - the public could suffer as a result of the decision of the board or body
 - the member is the one who put the proposal to the board or body or is the one driving the transaction
 - the member is in a position of power over the board or body, for example, the Chair
 - the matter is something new or with which the body or board is unfamiliar
 - the member has a degree of knowledge/experience in the matter which exceeds non-conflicted members
 - the member has engaged in questionable conduct towards the board or body in relation to the other position or the matter, or
 - the member stands to gain personally from the matter.
- Does the member owe duties that may compete with the duties owed to the board or body, i.e. a duty to company to make decisions in its best interests?

Taking the answers to these questions into account, the board or body should consider: If there was a reasonable and fair-minded observer in the room – would they think that the member has a conflict because of their competing duties? If yes, a duty-on-duty conflict exists.

Step Three: Non-conflicted members decide how to appropriately manage the duty on duty conflict

Questions for the board or body to consider:

- What process is recorded in the relevant legislation to manage conflicts?
- Does the member have unique or particular skills, knowledge or expertise that would help the board or body make the best decision in the public interest if they were to remain in the room?
- How would including the member in the deliberations or decision affect public trust (would it be in the public interest)?
- How does this compare to similar decisions of the board or body – are like matters being decided consistently?
- Are there any other local factors that may be relevant to the inclusion or exclusion of the member?
- Has the board or body come to a prior understanding with the member regarding the management of the conflict?

Remember: In the interests of transparency, the board or body should document the reasons for its decisions about conflicts of duty in line with relevant legislation. This will also assist in ensuring consistency in future decisions.

Ask us: If you are unsure, you can seek advice from the QIC by emailing: integrity.commissioner@integrity.qld.gov.au

Note: This resource is intended only as general guidance and is not intended as advice any person's particular circumstances. A member of a decision-making body will need to consider seeking their own advice about any specific circumstances or concerns that may arise.