

Identifying, Disclosing, and Managing Potential Conflicts of Interests involving Close Personal Relationships: A Guide for Ministers and Assistant Ministers

Background

The Queensland Integrity Commissioner (IC) has developed this Guide to assist Ministers and Assistant Ministers identify, assess, and manage conflicts of interest involving close personal relationships consistent with specific requirements and best practice standards.

Close personal relationships can exist between a Minister or an Assistant Minister and an intimate partner ('intimate party'), or a close friend or relative ('close party').

Relevant standards

The requirements for managing potential conflicts of interest are dealt with in:

- *The Queensland Ministerial Handbook*, dated October 2019 (Ministerial Handbook)
- Ministerial Handbook Appendix 1: *Ministerial Code of Conduct* (Code of Conduct)
- *Standing Rules and Orders of the Legislative Assembly* (Standing Rules and Orders)
- Legislative Assembly of Queensland's *Code of Ethical Standards* together with *The Guide to the Code of Ethical Standards and Rules Relating to the Conduct of Members* (Code of Ethical Standards), and
- *Integrity Act 2009* (Qld) (the Act).

The Primacy of the Public Interest

The primary purpose of having processes to assess and manage interest issues is so that the public will not suffer simply because they are not part of a decision-making process that affects them.¹

Ministers and Assistant Ministers must make, and be seen to make, decisions that promote the public interest and not their own.

Ministers and Assistant Ministers should also ensure that their suite of personal interests do not inhibit the performance of their public duties or create undue burden on the public purse.

Further, it is well established that individuals are not best placed to assess and manage issues that arise because of their own interests. Ministers and Assistant Minister must therefore seek advice from the IC to 'map-out' disclosure requirements and to develop a Management Plan for relevant interest issues.

¹ J. Griffiths, 'Apprehended Bias in Australian Administrative Law' (2010) *Federal Law Review* 38, 353-69, 356.

Interest Issues and the Code of Conduct

Ministers and Assistant Ministers are bound by the Code of Conduct² which requires that they uphold the highest ethical standards whilst ensuring the public interest takes precedence.³

Under the Code of Conduct, Ministers and Assistant Ministers should ensure procedural fairness and natural justice to the greatest extent possible.⁴ This includes that Ministers and Assistant Ministers must make decisions with the objective of advancing the public interest,⁵ and perform their duties in a fair and unbiased way to ensure that decisions made in the course of their duties are not affected by their personal interests.

The Code of Conduct anticipates that interest issues might arise in relation to relevant matters from time to time, and the Code of Conduct includes the processes to follow.

A summary of the processes to follow are included at **Appendix 1**.

Personal Interests and Conflicts of Interest

Section 10(1) of the *Integrity Act 2009* defines a conflict of interest issue as:

*A **conflict of interest issue**, involving a person, is an issue about a conflict or possible conflict between a personal interest of the person and the person's official responsibilities.*

'Personal interests' are wide-ranging. They include tangible and pecuniary interests. They also include intangible interests such as relationships, associations, roles and responsibilities, and even reputational concerns.⁶

Interest issues arise when decision-makers have official responsibilities and obligations that are associated with a particular personal interest, and which might cause the decision-maker to act in a way that distorts their actions or decisions.⁷

² Ministerial Handbook, clause 3.2

³ Ministerial Handbook Appendix 1: *Ministerial Code of Conduct*, Extracts from 'Code of Ethics Standards' and *Public Sector Ethics Act 1994*.

⁴ Ministerial Handbook Appendix 1: *Ministerial Code of Conduct*, 'Fairness' (October 2019).

⁵ Ministerial Handbook Appendix 1: *Ministerial Code of Conduct*, 'Integrity' (October 2019).

⁶ *Pinochet (No 2)* [2000] 1 AC 119; *Ebner v Official Trustee in Bankruptcy* [2000] HCA 63, [28]. The case of 'Isbester' introduced another type of interest beyond the traditional categories, and this was an 'interest' arising from vindication of an earlier view leading to an 'incompatibility bias' - see *Isbester v Know City Council* (2015) 255 CLR 135; 146 [34].

⁷ David-Barrett, E, 'Regulating conflicts of interest in public office' in Graycar, A (Ed) *Handbook on corruption, ethics and integrity in public administration* (Edward Elgar Publishing Limited, 1st edition, 2020) pp 406-420.

It is well established that individuals are not best placed to assess and manage issues that arise because of their own interests, and it is appropriate that the Code of Conduct obliges Ministers and Assistant Ministers to seek advice as to how to manage any interest issues they may have.⁸

However, not all personal interests will give rise to a 'conflict'. Generally, for an interest to give rise to a conflict, there needs to be a logical connection between an interest of the decision-maker and a 'feared deviation'⁹ from deciding a relevant matter on its merits. Further, there needs to be a relevant, official matter before the decision-maker that can affect the 'value' of the interest.¹⁰

In relation to matters involving a Minister or Assistant Minister, the frame of mind for considering any scenario is that of a fair-minded member of the community. The question to be asked is whether, having regard to the decision-maker's political role, responsibility and accountability, the community member would reasonably apprehend that the decision might be biased.¹¹

Ministers and Assistant Ministers, like all Members of the Legislative Assembly, must comply with the requirements of the Standing Rules and Orders in relation to the *Register of Members' Interests*, and the *Register of Members' Related Persons' Interests*, held by the Clerk of the Parliament (the Registers).

The Registers capture most, but not all, personal interests that may need to be managed by a Minister or Assistant Minister.

An example of such a matter that might not be captured by the Registers, but which would need to be disclosed and managed according to the Code of Conduct would include:

- where a 'close personal relationship' exists between a person and a Minister or Assistant Minister such as occurs with an intimate relationship partner ('intimate party'), or a close friend or close relative ('close party')
- where the nature of the relationship is such that it does not meet the requirement as being necessary to be declared on the Registers, and
- where there is a connection between an official responsibility of the Minister or Assistant Minister and the intimate party or close party, for example, an employment or commercial interest associated or connected with an intimate party and a Minister's portfolio responsibilities or a decision before Cabinet or a Cabinet committee.

⁸ *Dimes v Proprietors of the Grand Junction Canal* (1852) 3 HCL 759, [793] per Lord Campbell [10 ER 301], [315] '*...[n]o man is to be a judge in his own cause*', applied in *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337, [86], [87], and viewed as a '*fundamental requirement of impartiality and the appearance of impartiality*'.

⁹ *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337, 345 [8].

¹⁰ *Alexander v Yass Valley Council* [2011] NSWLEC 148, [72], *Sidney Harrison Pty Ltd v City of Tea Tree Gully* [2001] SASC 27; (2001) 112 LGERA 320.

¹¹ Referred to as the 'Ebner Test', *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337; *Minister for Immigration and Multi-cultural Affairs v Jia Legeng* (2001) 205 CLR 507; [2001] HCA 17.

Identifying close personal relationships that might give rise to a conflict of interest

As said earlier, not every personal interest will give rise to a conflict of interest.¹²

Generally, for an interest to give rise to a conflict, there needs to be a logical connection between the interest and the potential for a decision-maker to deviate from deciding a relevant matter on its merits (i.e., deciding a matter based on the public interest).

There also needs to be a relevant, official matter that can affect the value of the interest.

In the case of intangible, non-pecuniary personal interests such as personal relationships, usually assessment will require a ‘weighing up’ of the **facts of the relationship**.¹³

Expectedly, the more significant and personal the relationship between a Minister and an intimate party or close party, the more likely a fair-minded member of the community might have an apprehension of bias.

Facts of the relationship- ‘close party’

When providing advice to a Minister and Assistant Ministers as to whether a third party might be a ‘close party’ such as a friend, the IC generally reflects on the **facts of the relationship**, including the proximity of the relationship, its duration, nature, and its significance or intensity.¹⁴

When assessing the **facts of a close personal relationship**, such as a friendship, the IC finds the following list of non-exhaustive factors and displays useful as they are likely to indicate, if present to a sufficient degree, that the proximity, duration, nature and significance of the relationship between the Minister or Assistant Minister and a close party is close and personal enough that it might give rise to an apprehension of bias:

- the extent and degree of any public aspects of the relationships such as reputation, social interaction and/ or contact with each other’s social groups including family and friends
- whether the parties spend private time together, for example attending social events, travelling and holidaying together
- whether the relationship is not of a short term
- whether there are any binding ties such as shared business or other legal arrangements, for example, Power of Attorney arrangements, registering business entities or trusts, whether the parties have appointed one another as an office bearer and/or beneficiary on a company or trust, or whether a party is named as a beneficiary to an insurance policy, superannuation account, or a Will.

¹² *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337, 345 [8].

¹³ *Murlan Consulting Pty Ltd v Ku-ring-gai Council* (No 4) [2010] NSWLEC 95 (‘Murlan’); *S & M Motor Repairs Pty Ltd v Caltex Oil* (1988) [372]-[373].

¹⁴ *Murlan Consulting Pty Ltd v Ku-ring-gai Council* (No 4) [2010] NSWLEC 95 (‘Murlan’); *S & M Motor Repairs Pty Ltd v Caltex Oil* (1988) [372]-[373].

Whilst not an exhaustive list, when assessing the facts of the relationships, the extent and prevalence of these factors and displays would likely be highly influential if a reasonable member of the community were seeking to determine whether a person might be a 'close party' of a Minister or Assistant Minister, such as a friend, and therefore, how likely it would be that a concern of bias in a decision-maker might arise.

Facts of the relationship- 'intimate party'

The nature of modern relationships is such that, in similarity with other members of the community, it is not uncommon for elected officials to not be married, and instead to be single, separated, divorced, dating, or in a defacto or registered relationship.

Further, and again in similarity with other members of the community, it is also not uncommon for the personal relationship status of an elected official to change over time.

When providing advice to a Minister and Assistant Minister as to whether a person might be an 'intimate party' of the Minister and Assistant Minister, such as occurs in a new personal relationship, the IC generally reflects on the **facts of the relationship**, including the proximity of the relationship, its duration, nature, and its significance or intensity.¹⁵

When assessing the **facts of an intimate personal relationship**, the IC finds it useful to reflect on the following list of non-exhaustive factors and displays, which are well-established principles as indicia of a domestic partnership, in family, succession, and other areas of law. This is because if the factors are present to a sufficient degree, they are likely to indicate, to a reasonable member of the community, that the Minister or Assistant Minister and the close party **might** have a relationship that is close and personal enough that it **might**¹⁶ give rise to an apprehension of bias:¹⁷

- the extent and degree of any public aspects of the relationships such as reputation, social interaction and/ or contact with each other's social group including family and friends
- whether there is, or would likely be, a presumption of intimacy (physical and/ or psychological)
- whether the parties have expressed a shared commitment to a future together, and to what degree
- whether the relationship is one where the parties are mutually exclusive
- whether the relationship is not of a short term

¹⁵ *Murlan Consulting Pty Ltd v Ku-ring-gai Council* (No 4) [2010] NSWLEC 95 ('Murlan'); *S & M Motor Repairs Pty Ltd v Caltex Oil* (1988) [372]-[373].

¹⁶ Applying the Ebner, 'two-mights' test.

¹⁷ These factors and displays are well-established at law as indicia of a domestic partnership. See for example, to determine whether persons are in a defacto relationship. See for example, 4AA of the *Family Law Act 1975* (Cth), a 'couple living together on a genuine domestic basis'; *Acts Interpretation Act 1954* (Qld) s 32DA(2); *Administration and Probate Act 1958* (Vic) s 3(3); *Property Law Act 1958* (Vic) s 275(2); *Legislation Act 2001* (ACT) s 169(2); *De Facto Relationships Act 1991* (NT) s 3A; *Relationships Act 2003* (Tas) s 4; *Interpretation Act 1984* (WA) s 13A(2); *Property (Relationships) Act 1976* (NZ) s 2D(2); and *Property (Relationships) Act 1984* (NSW) s 4(2). However, whilst the factors and displays are useful, the test for apprehended bias is a lower threshold than say, the threshold to show a domestic partnership exists for the purpose of dividing assets.

- whether the parties have been co-habiting, or spending significant amounts of private time together, for a period of time
- whether the parties have signalled a formal intention to enter into an enduring relationship such as an engagement, marriage, or the registration of a relationship
- whether there is any financial dependence or inter-dependence such as:
 - shared financial arrangements or obligations such as loans, debts, tenancies, joint bank accounts, credit cards or similar, or a financial stake in a business
 - formal or informal arrangement including ones that might favour one party over the other such as loan guarantor, rent assistance, or secondary credit card or lines of credit
 - whether the parties have purchased or acquired assets together such as property, pets, jewellery, furniture, shareholdings, etc.
- whether the parties have ongoing family obligations, for example, the presence of biological, fostered, or adopted children, together
- whether the parties have entered into legal agreements, for example, Binding Financial Agreements, Power of Attorney arrangements, registering business entities or trusts, and/ or
- whether the parties have appointed one another as an office bearer and/or beneficiary on a company or trust, or whether a party is named as a beneficiary to an insurance policy, superannuation account, or a Will.

Facts of the relationship- past close relationships

The nature of past relationships is such that emotion can impede objectivity for some time, and there are few discernible rules about when that impact ceases, for example, when an intimate relationship ends, or when family or friends become distant or estranged. However, it can generally be said that, in most cases, any lingering potential that a past close relationship might influence a decision-maker, disperses with the passing of time.

In the absence of clear standards and precedents, the IC finds it useful to reflect on the **facts of the relationship**, including the depth of the relationship before it ceases.

The presence or absence of some of the facts will have a bearing on the length of time such emotions may be perceived as persisting after the relationship ends. Naturally, it follows that the more significant and prevalent the facts of the relationship that indicate previous closeness, the greater the length of the period of time before a formerly conflicted individual can be re-involved in any relevant matters.

Regarding appropriate time periods that ought to lapse prior to the re-involvement of the public officer, on matters where a conflict arose previously, again there is no clear guidance regarding the dissolution of relationships of public office holders, and appropriate time periods that ought to lapse prior to the re-involvement of the public officer, on matters where a conflict arose previously. Nevertheless, various standards and codes provide some guidance such as:

- Post-ministerial employment standards specify a period of **two years** in which former Ministers must maintain vigilance to ensure that contacts they were privy to are not used by them for personal benefit on leaving office.¹⁸
- The *Parliament of Queensland Act 2001* places restrictions on Members of Parliament and their related parties transacting business with the State. However, there is no contravention of the restriction if the interest that gives rise to the conflict is either disposed of within **six months** of the election, or the related party who gave rise to the conflict has been deceased for **one year**.¹⁹
- Under the *Family Law Act 1975 (Cth)*, a period of **twelve months** must lapse before a separated married couple can apply for a divorce.

In providing advice, and noting the absence of precedents and guidance, the IC is mindful of the imperative to consider the public good.

Whilst management usually demands putting distance between a decision-maker and a decision where a conflict of interest exists regarding past relationships, a balance must be struck that is in the public interest. The length of time of recusing an official from fully discharging their duties cannot be so constraining for past relationships that it renders a public official unable to discharge their duties. This is not in the public interest.

Taking into account public interest and external factors (below), and the need to strike a balance which is perceived as fair and reasonable, where none or very few of the facts of an intimate or close relationship exist, the IC opines that the potential for a past close personal relationship to continue to exert an influence on a decision-maker to such an extent that objectivity is completely hindered and clouded, is likely to be reasonably limited. Therefore, as a general proposition, the IC is of the view that, at a minimum, this ought to reasonably involve a period of 12 months of all ties being irrevocably severed (i.e., any binding financial and legal ties).

Relevant factors external to a current or past close relationship

Generally, a weighing of facts of a close relationship ought to include external facts of the situation in determining what management strategies are adequate. Whilst not an exhaustive list, the IC finds the following factors useful to reflect on:

- the extent to which the involvement of the Minister or Assistant Minister could reasonably influence a decision to the detriment of the public
- the extent to which the Minister or Assistant Minister remains involved in, or could be affected by, any business dealings of the intimate party or close party

¹⁸ Ministerial Code of Conduct, 'Post Ministerial Employment'.

¹⁹ *Parliament of Queensland Act 2001(Qld)*, s.71(4)-(5).

- if the matter relates to a former intimate or close party, whether the public would be satisfied that a reasonable period of time had elapsed since the dissolution of the relationship
- the extent to which the Minister or Assistant Minister's personal interests may be affected by the decision (including indirect pecuniary interest such as future debt if the Minister or Assistant Minister and intimate party have committed to a future together)
- the extent to which the inclusion of the Minister or Assistant Minister will provide for a more robust discussion due to their personal insight, knowledge, and experience, and
- whether, on balance, the involvement of the Minister or Assistant Minister would result in a net benefit to the community in terms of having a broader representation of elected officials and a more fulsome discussion.

Disclosure and weighing up the facts

As a first step, at a minimum, if there is a close personal relationship that may be associated with an official duty that the Minister or Assistant Minister may have, the Minister or Assistant Minister should inform the Premier, and seek advice from the IC²⁰ (subject to their discretion) as to whether the facts of the relationship might give rise to an apprehension of bias.

In so doing, enough information should be provided to enable an informed decision to be made about whether a conflict of interest exists and, if so, how it should be managed.

The IC can then consider the scenario from the perspective of a fair-minded member of the community, and whether, having regard to the decision-maker's political role, responsibility and accountability, the community member would reasonably apprehend that the decision might be biased.²¹

If the nature of the conflict is ongoing, or if it might arise again in future, this may impact on the appropriate management strategy. Accordingly, relevant details surrounding these circumstances should also be disclosed.

Further, the following circumstances may also give rise to requirements beyond the basic disclosure of the nature of the personal interest:

- where a matter that might affect the intimate or close party is one where the public might suffer a loss as a result of a decision
- where the matter is one where the Minister has put, or is jointly putting, a proposal to Cabinet or a Cabinet committee
- where the matter is one where Cabinet or a Cabinet committee will be engaging in something new or with which it is unfamiliar
- where the Minister or Assistant Minister has a higher degree of knowledge and/or experience in relation to a relevant decision than other Ministers, or

²⁰ *Integrity Act 2009*, sections 15(3), 22(2).

²¹ *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337; *Minister for Immigration and Multi-cultural Affairs v Jia Legeng* (2001) 205 CLR 507; [2001] HCA 17.

- where the Minister or Assistant Minister stands to gain personally.

Following disclosure, how best to manage each interest depends on the circumstances, and a weighing up of all the facts of the situation.

However, when considering the inherent relationships factors and the external factors, there is a need for flexibility due to the variety of functions and roles that Ministers, and Assistant Ministers, have. This is because general law and best-practice standards draw a distinction between the management of a personal interest that might give rise to a 'conflict of interest', and a personal interest that does not because it is too widely shared, or any potential benefit or detriment to the Minister or the intimate or close party is too minor, too remote, or non-existent.²² Moreover, automatically excluding a seemingly 'conflicted' person on an unnecessarily extensive and broad basis can lead to poorer decisions being made, as the particular skills and expertise they might ordinarily bring to a discussion and decision, are absent. In addition, an overly restrictive approach may inhibit the ability of a democratically elected decision-maker to carry out the important obligations the public have entrusted them to do on their behalf. This is not in the public interest.

In that regard, examples of matters **not** likely to give rise to a conflict of interest that relates to an intimate or close party would reasonably include:

- if the required nexus between the intimate party or close party, and an outcome of a decision that could affect them is absent, too distant, or merely theoretical or speculative, or if there is no realistic prospect of a material benefit or detriment to the Minister or Assistant Minister, or the intimate or close party²³
- if the matter to be determined concerns a matter of general public policy
- if the matter to be determined concerns a wide class of persons or groups, of which the close party is one, or
- where the Minister²⁴ has no greater interest in a matter than that of other members of the community or within Cabinet generally.

It follows then that where there is a nexus between an official duty of a Minister or and Assistant Minister, and an intimate or close party, and there is the realistic ability for the official duty to affect either the Minister or Assistant Minister in a way that is more than trivial and not widely shared, a conflict of interest will be said to have arisen.

Managing a conflict of interest

It is not that a conflict of interest arises that is problematic, it is how the issue is managed.

²² *Boulting v Association of Cinematograph, Television and Allied Technicians* [1963] 2 QB 606 at 637-638.

²³ *Boulting v Association of Cinematograph, Television and Allied Technicians* [1963] 2 QB 606 at 637-638.

²⁴ Noting that Assistant Ministers are not part of Cabinet or a committee of Cabinet.

The Code of Conduct anticipates that interest issues might arise in relation to relevant matters from time to time, and information about the processes to follow are included in the Ministerial Code of Conduct. A summary is also provided in Appendix 1, page 11.

Examples of scenarios relating to potential close personal relationships have also been provided. Please see Appendix 2, page 13.

As interest issues can be complex, if you have any concerns, please contact the Integrity Commissioner for advice. It is also open to you to seek advice from the Cabinet Secretary or other advisor.

Appendix 1

The Code of Conduct anticipates that interest issues might arise in relation to relevant matters from time to time, and the Code of Conduct includes the processes to follow as below:

- Within one month of being sworn in,
 - The Minister or Assistant Minister must provide the Premier with a Conflict of Interest Management Plan (Management Plan) detailing any personal interest that may conflict with the proper performance of their duty.
 - In developing a Management Plan, the Code of Conduct obliges Ministers and Assistant Ministers to seek advice from the Integrity Commissioner.
 - Further, where required the Minister or Assistant Minister may need to settle the actions required to respond to the conflict in consultation with the Integrity Commissioner.
 - Ministers and Assistant Ministers must then disclose the conflict of interest to the Premier and Minister for Trade, along with the Management Plan, with the information to be entered into the Ministerial Register held by the Department of the Premier and Cabinet.

- In the event that a Minister or Assistant Minister becomes aware of a previously undisclosed potential interest issue,
 - The Minister or Assistant Minister must provide the Premier with a Conflict of Interest Management Plan (Management Plan) detailing any personal interest that may conflict with the proper performance of a Minister's duty.
 - In developing a Management Plan, the Code of Conduct obliges Ministers and Assistant Ministers to seek advice from the Integrity Commissioner.
 - Further, where required the Minister or Assistant Minister may need to settle the actions required to respond to the conflict in consultation with the Integrity Commissioner.
 - Ministers and Assistant Ministers must then disclose the conflict of interest to the Premier and Minister for Trade, along with the Management Plan, with the information to be entered into the Ministerial Register held by the Department of the Premier and Cabinet.

- In the event that a Minister becomes aware of a potential interest issue in relation to an impending meeting of Cabinet or a Cabinet committee,
 - If time permits, i.e., before a meeting of Cabinet, the Minister should submit a Management Plan or seek advice from the Integrity Commissioner.
 - If time does not permit such actions, the Minister must **at least** declare the issue to the Premier verbally prior to the meeting, and declare a conflict of interest at the meeting, and, if appropriate, formally withdraw from the meeting for consideration of the matter.

Ministers and Assistant Minister are also encouraged, by the Code of Conduct, to consider any guides developed by the Integrity Commissioner.

Appendix 2

Example 1: Value and significance of the interest

The relationship between the Minister and close party is a friendship, that is reasonably newly formed but the bond over shared sporting interests is very strong and the Minister and close party spend weekends together attending sporting events.

The close party of a Minister is employed as the Chief Executive Officer (CEO) of a non-for-profit organisation (NFP).

The NFP is heavily dependent on Government funds. It follows then that the close party, as CEO, has a strong vested pecuniary and reputational interest in the success of the NFP to secure Government fund. Expectedly, the success of the NFP at securing Government funds is a Key Performance Indicator that the Board of the NFP considers when it reviews the performance of the CEO.

A matter comes before the Minister that involves the Minister approving a decision about awarding funds to the NFP.

Such an approval will result in the NFP receiving enough money to continue with its work for a further 12 months. However, it will bring about a detriment to a different NFP who will be placed in a precarious financial position should they close party's NFP be successful in securing the funds.

Example 2: Remoteness and realisability

A Minister receives the agenda for the next Cabinet meeting and realises that one of the items involves a person with whom they dated over 10 years ago.

The relationship was one that was short-lived. In the past 10 years there has been limited contact only due to their continued involvement in the politics and this has also been of a professional nature.

In line with the guide, the Minister discloses the personal interest to the Integrity Commissioner for the purposes of seeking advice.

The Commissioner asks the Minister about the nature, duration, proximity and intensity of the relationship, and taking these facts into account opines that it is not an association that is sufficient to give rise to a concern in a reasonable member of the community. Therefore, it is better conceived as not being a conflict of interest.

Example 3: Family Interests

A matter for approval involves a decision in relation to closure of an aged care centre. The Minister's mother resides at the centre and alternative accommodation will be substantially further from the family home and the relatives who visit her most often. This will affect all family members and lessen the mother's quality and enjoyment of life.

While there are other residents similarly or potentially affected, the personal interests of the Minister's family are substantially and directly affected by the decision.

The Minister has a strong personal interest in the aged care centre, such that it might reasonably be perceived that it could influence their decision making in the public interest. The Minister should declare the personal interest and leave the meeting.

Example 4: Intimate party- non-pecuniary interest

A Minister is involved in a very newly formed intimate relationship ('other party') and it is too soon yet for either party to have made any commitment to the other, or even to have met each other's family and friends.

A matter is before Cabinet that involves a proposed significant upgrade to a river crossing in the electorate in which the close party has an investment property.

Whilst the crossing is used by approximately 10,000 vehicles per day, any impact on property values is uncertain and marginal at most.

The Commissioner asks the Minister about the nature, duration, proximity and intensity of the relationship, and taking these facts into account opines that it is not an association that is sufficient to give rise to a concern in a reasonable member of the community. Therefore, it is better conceived as not being a conflict of interest.

Further, any benefit or detriment to the other party's interest, and the Minister's interest in it, is merely speculative and too tenuous to give rise to a concern of apprehended bias.

Example 5: Intimate relationship

A Minister is involved in an intimate relationship. Whilst the parties have not yet met each other's family and friends, the relationship has been occurring for some time and the parties have expressed deep feelings toward one another.

A matter is before the Minister that will affect the employment of the close party.

Although the Minister does not yet wish to make the relationship publicly known, the Minister is committed to undertaking their obligations with integrity and actively seeks advice to from the Integrity Commissioner to put an effective Conflict of Interest Management Plan in place.

This is because the Minister recognises that it would be entirely natural for a reasonable member of the public to have an apprehension of bias in matters that might affect an intimate partner where the relationship has continued for some time.

Notice

This resource is intended only as general guidance and is not intended as, and should not be taken as, advice on any person's particular circumstances. A Minister or Assistant Minister will need to consider seeking their own advice about any specific circumstances or concerns that may arise.

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