

Case studies: State government / Statutory Office Holders

The following case studies deal with common issues and provide examples of appropriate resolutions.

These case studies are general and hypothetical in nature and do not represent any actual requests for advice the Integrity Commissioner may have received.

Case study 1 – Conflict of interest – relationships:

The Department proposes to engage a consultant to undertake a project. The Deputy Director-General realises that her close personal friend is a high-ranking employee of one of the tendering companies.

The Deputy Director-General informs the Director-General that she may have a perceived conflict of interest due to her close friendship with one of the employees. In order to appropriately manage any perceived conflict of interest in the public interest, it is agreed that she will not be further involved in the selection process to decide which company will undertake the project.

If her friend's company is appointed, she will further propose strategies to manage the potential conflict of interest for the Director-General's approval, which could include quarantining herself from some elements of the project and delegating any decision-making powers.

Case study 2 – Conflict of interest – dual roles:

The newly appointed Minister of a Department is also Chair of a Board for a company which frequently deals with issues that fall within her portfolio responsibilities.

The Minister realises that her dual roles may lead to potential conflicts of interest in future matters involving the company which are likely to come before her as Minister. She decides to resign from her position on the Board in order to minimise conflict in the future and the possibility of creating an undue administrative burden on the public.

The Minister also monitors whether any matters involving the Board come before her for the next 24 months, to avoid any perceived conflicts of interest. If a matter involving the Board does come before her, she decides to seek advice from the Integrity Commissioner on how to deal with the matter.

Case study 3: Conflict of interest – value and significance:

A member of a government Board is also a Director and shareholder of a private company incorporated under the *Corporations Act 2001* (Cth).

A decision comes before the Board to decide a matter which may result in the company obtaining a government contract.

The member discloses the nature of his personal interest to the Board. The non-conflicted Board members decide that, as the member may stand to gain a financial benefit from the decision, a reasonable fair-minded member of the public may perceive that the member would be unable to bring an objective mind to the decision and/or the consideration of competing tenderers.

In line with its relevant legislation, the Board decides that the member has a conflict of interest, and that they should leave the room when the matter is discussed and voted on.

The Board also decides that any papers relevant to the tender will not be shared with the member in the lead up to the decision, so that there is no perception the member may have had an advantage in the process.

Case study 4: Conflict of interest – remoteness and realisability

X is a member of a Board which makes decisions about tourism matters. When the member receives the agenda for the next board meeting, he realises that one of the items involves a colleague who he worked with at a Tourism company over 10 years ago.

In line with the Board's relevant legislation, the member discloses a personal interest at the Board meeting, due to his former professional relationship with this colleague.

The Board asks the member about the nature, duration, proximity and intensity of the relationship.

The Board takes into account that the association between the member and the former colleague was one of a professional nature, not a personal nature and they only worked together for a short time, over 10 years ago.

The Board also considers that although the member has had limited contact with the former colleague during this period, due to their continued involvement in the Tourism industry, this has also been of a professional nature.

The Board decides the relationship is too remote and a conflict of interest has not arisen.

Under the Board's legislation, it can allow the member to stay and participate in the decision and therefore, it does so.