

MANAGING CONFLICTS OF INTEREST



Key points

- Conflicts of interest can be viewed as when someone's 'everyday' life intersects with their 'charity' life. The ACNC defines a conflict of interest as when someone's personal interests conflict with their ability to act in the best interests of the charity they are a part of.
- Small charities, or charities operating in small towns, can be more likely to encounter conflicts of interest.
- Conflicts of interest can be divided into three categories – actual, potential and perceived.
- Conflicts of interest are not an issue if they are appropriately managed. Good planning, solid policies and an attitude of transparency and disclosure are important tools in achieving this.

What is a conflict of interest?

A conflict of interest is a situation where someone's personal interests conflict with their ability to act in the best interests of the charity they are part of.

'Personal interests' do not need to be an individual's own interests either. They can also be the interests of someone's family, friends or other organisations. It can also include a conflict between someone's duty their charity and another duty they have – for example, to another charity.

Another way of looking at the issue is to view the intersection of someone's everyday life and their charity life as the place where possible conflicts of interest can occur.

Small charities and conflicts of interest

Small charities, particularly those operating in smaller towns or in rural and regional areas, can be especially susceptible to conflicts of interest.

In small towns, or rural and regional areas, individuals might be part of a number of groups, organisations or businesses. This can mean a greater potential for cross-overs and conflicts between their many responsibilities.



Another situation where conflicts of interest can arise is in specialist interest areas or fields where there are a small number of 'involved' or 'engaged' people.

Properly addressing conflicts of interest is something charities of all sizes must do. Just because you are a small charity, it doesn't mean that you can ignore or overlook the issue.

Actual, potential and perceived conflicts of interest

Conflicts of interest can be divided into three categories:

- **Actual** – When someone is actually being influenced by a conflict of interest.
 - For example, your charity is considering whether to give a grant to a kindergarten that your child attends. In this situation, you cannot impartially take part in the decision-making process.
- **Potential** – You could be influenced by a conflicting interest.
 - For example, you apply for a grant as an employee of one charity and a board member of another.
- **Perceived** – It could appear that you are influenced by a conflicting interest.
 - For example, you are in the position to make a decision on quotes to provide a service to your charity, and one of the potential service providers is a company run by a close relative. While you believe you can remain impartial, from the outside it might look like a decision is in your own interest.

Not properly dealing with conflicts of interest can create a serious reputational risk for a charity, as well as numerous threats to good governance.

Identifying conflicts of interest

A conflicts of interest policy and register (refer to the section below) will often outline what a charity defines as a conflict of interest. The ACNC definition is also a great basis to identify conflicts.

But there are also a couple of other basic ways small charities and their people can size up whether something may constitute a conflict of interest.

- **The 'reasonable person test':** Ask whether a reasonable person believe that you might be influenced by your personal interests when making decisions on behalf of the charity.
- **Step outside your organisation:** If you feel there is no conflict of interest, but an outsider might see it as an issue, the situation needs to be managed. Put your 'charity hat' on rather than your 'personal hat'.



Addressing conflicts of interest

As part of their responsibilities under ACNC Governance Standard 5, all charities, including smaller ones, must disclose conflicts of interest – be they actual, potential or perceived.

Addressing conflicts of interest begins with disclosure. This can be achieved through the development and implementation of a conflict of interest policy and register – two things any small charity can easily establish.

The policy should clearly address conflicts of interest, including declarations and disclosures. The ACNC has a conflict of interest policy template which your charity can adapt for its own use.

The register is the place where all conflicts are formally noted and placed on the record.

Anything that someone in your charity with decision making ability or responsibility has an interest in, can be recorded or noted in that register of interests for everyone to see.

Once it is on the register, the interest is declared, out in the open and can be addressed or avoided.

Your small charity's culture and attitude plays a key role too.

Ensure your charity encourages and welcomes disclosure. Ensure it welcomes and promotes transparency and openness. And have an attitude that acknowledges that conflicts of interest are a common occurrence, but only become a problem when they improperly influence behaviour, or are not declared and addressed.

These attitudes should extend to your charity's regular board or committee meetings:

- allow ample opportunity on the agenda for Responsible Persons to declare any conflicts of interest in items to be discussed
- follow the charity's rules for dealing with a conflict
- take careful minutes at meetings.

The ACNC's has a sample meeting agenda and sample minutes template available for your small charity to download and adapt. And our 2018 webinar on conflicts of interest offers further guidance - refer to [acnc.gov.au/webinars](https://www.acnc.gov.au/webinars).

More information

13 ACNC (13 22 62)
[acnc.gov.au/smallcharities](https://www.acnc.gov.au/smallcharities)