

Responsible persons' conflict of interest

Responsible persons must avoid situations where their personal interests, or the interests of a relative or close associate, may conflict directly or indirectly with decisions made by the governing body of the school. Such conflicts may be actual, perceived or potential. They include but are not limited to related party transactions.

What is a conflict of interest?

A conflict of interest occurs when a personal interest conflicts, or may conflict, with a person's role as a responsible person for a school.

How can a conflict of interest influence decision making?

1. ACTUAL	2. POTENTIAL	3. PERCEIVED
<p>Decisions ARE influenced by a conflicting interest</p> <p>Example:</p> <p><i>The school employs staff members who are relatives of responsible persons</i></p> <p>Decisions affected may include:</p> <ul style="list-style-type: none"> • Remuneration of staff • Conditions of employment 	<p>Decisions COULD BE influenced by a conflicting interest</p> <p>Example:</p> <p><i>Responsible persons have enrolled their children at the school</i></p> <p>Decisions affected may include:</p> <ul style="list-style-type: none"> • School fees • School response to complaints and grievances 	<p>Decisions COULD APPEAR to be influenced by a conflicting interest</p> <p>Example:</p> <p><i>A school's Board is considering quotes for capital works. One of the quotes received is from a company owned by the brother of a responsible person</i></p> <p>Decisions affected may include:</p> <ul style="list-style-type: none"> • Terms and conditions of contract • Future capital works or ongoing maintenance

Why do conflicts of interest need to be managed?

Conflicts of interest can undermine the duties and responsibilities a responsible person has to the governance of a school. A conflict of interest presents a risk that responsible persons will make decisions based on, or influenced by, personal interests rather than what is in the best interest of the school.

What are the benefits of managing conflicts of interest?

When a school has effective processes for managing conflicts of interest the benefits include:

- better governance
- greater accountability and transparency
- responsible persons fulfil their duty to the school
- harmonious body of responsible persons
- strengthening the school's reputation.

Determining if a conflict of interest exists

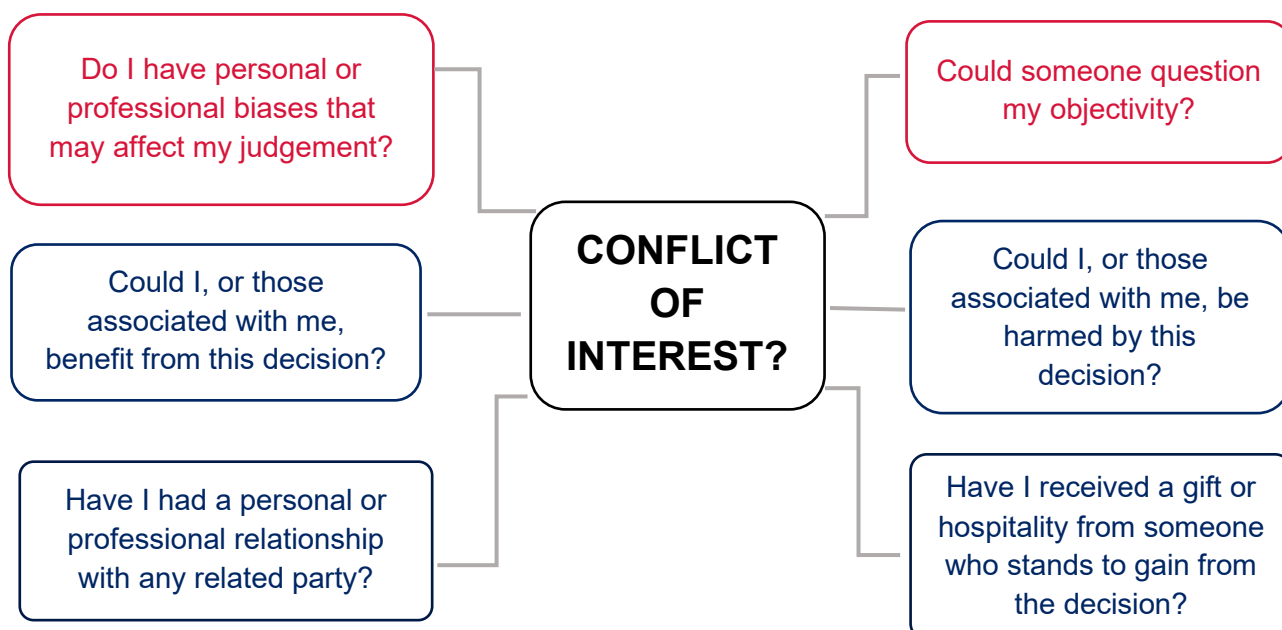
*Would a stakeholder of a school, such as a parent, believe that a school's responsible persons **might** be influenced by their personal interests when making decisions on behalf of the school?*

- 1 You are a **responsible person** who makes decisions for the school
- 2 You have some **personal interests** including family, friends, and associated organisations or businesses
- 3 Would someone outside the school's Board think that your decisions as a responsible person are, or may be, **improperly influenced** by your personal interests?

If the answer is possibly or yes, then it is highly likely that you have a conflict of interest.

How does a responsible person recognise a conflict of interest?

Consider the following:



How does a school prevent or reduce the risk of conflicts of interest?

Some conflicts of interest are inevitable and if not managed may become a problem for the school. Effective management of conflicts of interest includes implementing policies and procedures that **identify**, **prevent**, and **manage** any potential risks created by personal interest.

1

Implement robust policy and procedures* for how:

- responsible persons can identify conflicts of interest
- to disclose to the governing body if a conflict of interest exists
- the school's governing body will manage the conflict.

*refer to [developing policies and procedures](#) information on NESA's website

2

Maintain a register* that records the disclosure of all responsible persons' conflicts of interest and actions taken to address the conflict.

*refer to the [sample register](#) at the end of this fact sheet

3

Establish a culture that promotes the disclosure of any conflict of interest by responsible persons.

Provide policies and procedures to new responsible persons; discuss conflicts at meetings; provide training for responsible persons to identify potential conflicts; have a standing item on the Board agenda; annual declarations.

4

Follow the **procedures for managing conflicts of interest** appropriately.

The following are some mitigating actions that may be appropriate to protect the school and maintain effective governance.

If a conflict of interest for a responsible person exists, they might:

Participate in a discussion

OR

Refrain from participating in a discussion

Be present during discussions

OR

Remove themselves from the room

Vote on the matter

OR

Abstain from voting on the matter

Records

The school needs to have processes for each responsible person to make an annual declaration and to maintain the records of each declaration for 7 years.

At governance meetings there should be a standing item on the agenda to allow responsible persons to declare any actual, perceived, or potential conflict of interest for items on the meeting agenda. It is critical that the minutes of the meeting record any conflicts raised and the actions taken in response.

Sample records of responsible persons conflicts of interest

A school's governing body may record conflicts of interest in the following way or another method of their choice. This sample register is informed by responsible persons declaring any actual, perceived or potential conflicts. 2 of the entries below (Gale and Foster) intersect with NESA's [sample Related Party Transaction register](#).

Name of responsible person	Outline of the conflict of interest	Has the school Board been informed of the interest? How?	Date of disclosure	Remedial action taken by the Board
<i>Stuart Gale</i>	<i>Mr Gale is the owner of the school's cleaning company</i>	<i>Yes, declaration at the Board meeting</i>	<i>5 May 2020 4 May 2021 3 May 2022</i>	<i>Removed Mr Gale from the process of sourcing quotes for cleaning services, governance discussion and voting to decide a cleaning service provider. Noted action in minutes for 5 May 2020, 4 May 2021 and 3 May 2022 Board meetings.</i>
<i>John Smith</i>	<i>Mr Smith's nephew applied for a 2023 Year 7 academic scholarship</i>	<i>Yes, annual declaration and at Board meeting</i>	<i>15 February 2022 9 August 2022</i>	<i>Removed Mr Smith from discussions and voting on applications. Noted action in minutes for 9 August 2022 Board meeting.</i>
<i>Lisa Foster</i>	<i>Ms Foster was a previous employee at Cross Constructions. The school is currently renting premises from Cross Constructions.</i>	<i>Yes, declaration to the Secretary and Directors out of session; then at the Board meeting</i>	<i>20 July 2022</i>	<i>Removed Ms Foster from reviewing school sites, governance discussion and voting decisions. Noted action in minutes for 9 August 2022 Board meeting.</i>