

**CODE OF CONDUCT AND ETHICS FOR BOARD MEMBERS**

**by**

**Place Services**

**Sydney Harbour Foreshore Authority**

Document Control

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| **Approved by:** | Board |
| **Date of Approval:** | February 2015 |
| **Review Cycle:** | Biennial |
| **Review Date:** | February 2017 |
| **Division Originating**: | Place Services |
| **Officer Responsible:** | Legal Services Manager |

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# General

## Purpose Of The Code

The Code of Conduct and Ethics for Board Members details the minimum standards of conduct and ethical behaviour required of all Board Members of Sydney Harbour Foreshore Authority in carrying out their duties and responsibilities and when dealing with stakeholders, the broader community and each other.

These minimum standards must be demonstrated and maintained at all times, whenever and wherever it is relevant to the work and responsibilities of the Board.

This Code is not intended to be read as a set of rules; as it is not possible to address every ethical and conduct challenge the Board may face in carrying out their work and responsibilities. Rather this Code exists to encourage and foster a positive Board culture where everyone operates in a professional and ethical manner.

## Who Has To Comply With The Code?

This code applies to each member of the Board and any sub-committee of the Board.

The Chairperson is responsible for the implementation of the Code and for monitoring compliance with the Code.

Where questions of interpretation of this Code arise, Board Members should consult with the Chairperson or the Authority’s Legal Services Manager. Where issues arise that are not specifically addressed in this Code, members should exercise sound judgement and behaviour consistent with the provisions of this Code.

## Annual Statements of Commitment

To give effect to the Code each Board Member should annually agree to, complete, sign and submit the following statements:

* **Annual Statement of Commitment** outlining the conduct, behaviours and expectations of an Authority Board Member. This statement is a contract between the Board Member and the Authority (refer to Appendix A for a copy of the Annual Statement of Commitment Template)
* **Annual Disclosure of Pecuniary and Material Personal Interests** whereby a Board Member is asked to list any personal affiliations, professional affiliations, business dealings with other Boards etc that may lead to any real or perceived conflicts of interest with the Authority (refer to Appendix B for a copy of the Annual Disclosure of Pecuniary and Material Personal Interest Form).

## How Should Breaches Or Possible Breaches Of The Code Be Reported?

Board Members must report any breach or concern about a possible breach of this Code to the Board Chairperson.

Allegations will be investigated by the Chairperson or by a suitably qualified person or persons designated by the full Board.

If however, the breach (or possible breach) involves/may involve suspected corrupt conduct, maladministration or serious and substantial waste of public resources, then the Board Member should make a public interest disclosure in accordance with the *Public Interest Disclosures Act 1994,* as the Act provides certain protections against reprisals for Board Members who voluntarily report such matters.

Where a Board Member is uncertain as to whether a matter involves corrupt conduct, maladministration or serious and substantial waste, they should still report the matter to the nominated person, or investigative agency cited above.

# General Obligations Under The Code

## Fulfilling The Functions And Duties Of A Board Member

The Board of Sydney Harbour Foreshore Authority is responsible for:

* setting the strategic direction for the organisation
* monitoring organisational performance against strategic objectives
* monitoring the Authority’s compliance with statutory compliance
* major project proposal assessment and decision making
* managing organisational risks.

In undertaking this role Board Members are to:

* promote and actively support the application of the NSW public sector values of integrity, trust, service and accountability
* implement the policies and decisions of the government of the day in an impartial manner
* perform their functions with integrity, impartiality, honesty, conscientiousness and loyalty to the public interest
* act in the interests of the Authority in all their deliberations and not serve the interests of any constituency
* maintain a duty to use due care and diligence in fulfilling the functions of office and exercising the powers attached to that office
* be independent in their judgement and actions and to take all reasonable steps to be satisfied as to the soundness of all decisions taken by the Board
* not engage in conduct likely to bring discredit upon the Authority or take improper advantage of their position.

The Board acts as “one” in performing its functions and no individual member is permitted to act singularly unless delegated by the Board to do so.

## Compliance With The Law And Applicable Authority Policy

Board Members are subject to diverse legal responsibilities and should be familiar and comply with all relevant laws and regulations applicable to them. Accordingly, Board Members must not take any action, or fail to take any action, that may breach the law or applicable Authority policies, procedures or practices.

Board Members must complete all induction and education programs required of them by the Board to build and maintain their awareness and understanding of relevant laws, policies, procedures and practices.

# Specific Obligations Under The Code

## Respect For People

Board Members are expected to treat all people with whom they deal through their work at the Authority with dignity and respect.

## Demonstrate Leadership And Stewardship

Board Members must serve the government of the day and the people of New South Wales by:

* being accountable for official expenditure
* looking for ways to continuously improve organisation performance and promote high standards of administration
* using publicly-funded resources diligently and efficiently and for Board related purposes only. These include office facilities and equipment, vehicles, cab charge vouchers, corporate credit cards
* not using time or resources for party political work or for personal gain, financial or otherwise
* complying with policies and guidelines in the use of computing and communication facilities, and using these resources in a responsible and practical manner
* being careful to ensure that any travel for official purposes is only done so when absolutely necessary.

## Ethical Decision Making

Board members are to use Board (or where relevant sub-committee) meetings as the appropriate forum for discussion of all relevant issues.

Board members will act with diligence and care in their decision making by ensuring that decisions made are:

* honest, reasonable, fair, impartial, timely and appropriate to the circumstances
* based on consideration of the relevant facts and supported by adequate documentation.

## Communication And Use Of Official Information

Confidential information received by a Board Member in the course of the exercise of their duties remains the property of the Authority and it is improper to disclose it, or allow it to be disclosed, unless that disclosure has been authorised by the Board or it is required by law.

Board Members will refrain from public comment on the Board, its deliberations or the operations and business of the Authority unless authorised by the Board to do so.

Board Members must adhere to legal requirements, policies and all other lawful directives regarding communication with Parliament, ministers, ministerial staff, lobbyists, members of the media and members of the public generally.

Board Members must also respect the confidentiality and privacy of all information as it pertains to individuals.

## Gifts And Benefits

Board Members may be offered gifts, benefits, travel, accommodation, entertainment, hospitality or other inducements during the course of their work. It is often not a question of whether a gift or benefit is or was an attempt to influence, but what an impartial observer would think.

Board Members must always be impartial in the conduct of their work and ensure the appearance of impartiality is respected and maintained. For this reason Board Members must not request, encourage, solicit or accept gifts, benefits, travel, accommodation, entertainment, hospitality or other inducements in connection with their duties from any person or party (whether internal or external to the Authority), which would make a reasonable person believe that the Board Member would be unduly influenced in the way they perform their duties and functions. Gifts, benefits or other inducements offered to a Board Member’s family members must also be declined.

Offers of monetary gifts such as cash, direct deposits, cheques, shares or loans must never be accepted. To do so may constitute bribery. Board Members must report any offer or suggestion of a bribe to the Chairperson immediately.

There are some circumstances when to refuse a gift would be perceived as rude or offensive. Board Members must exercise sound judgement when deciding whether or not to accept a gift or other benefit.

Items exchanged formally with another government agency or delegation, flowers, chocolates or other token gifts (i.e. $20 or less) offered to a Board Member in a public forum or the provision of refreshments/meals at meetings or functions attended as a representative of the Authority are excluded from this definition.

Board Members are required to disclose to the Chairperson any gift or benefit offered or suggested to them whilst carrying out their duties. A Gifts and Benefits Declaration Form is to be completed and submitted to the Legal Services Manager even if the gift or benefit was declined.

All gifts or benefits must also be recorded in the Authority’s Gifts and Benefits Register which is maintained by the Legal Services Manager.

## Identifying And Managing Conflicts Of Interest

A conflict of interest is a situation arising from conflict between the performance of public duty and private or personal interests.

Conflicts of interest may be actual, or be perceived to exist, or potentially exist at some time in the future. Perception of a conflict of interest is just as important as a real conflict as it may still impact the public’s confidence in the integrity of the Authority.

Board Members must avoid placing themselves in a position where there is a real possibility of conflict between their own personal or business interests, the interests of any associated person, or their duties to any other organisation, on the one hand, and the interests of the Authority or their duties to the Authority, on the other hand.

This Code does not attempt to describe all possible conflicts of interest which could develop. Some of the more common conflicts from which Board Members must refrain, however, are set out below:

* having a personal interest (including a pecuniary or material personal interest) that could possibly lead them to be directly or indirectly influenced in the way they carry out their duties or make decisions
* trying to influence the awarding of contracts or the ordering of goods or services from a person or organisation in which the Board Member (or a family member, relative, friend, associate or anybody else close to the Board Member) has a financial interest
* holding personal beliefs or attitudes that influence the impartiality of advice given or the decision made
* disclosing sensitive or confidential information gained through their position to another person or organisation
* undertaking party political activities that conflict or can be reasonably perceived to conflict with their duties, or makes adverse political comments that relate to the Authority.

The Board aspires to the highest standards of corporate governance, and applies rigorous procedures to deal with actual, potential or perceived conflict situations. These rely on the total acceptance by Board Members of the obligation to declare any interests, and to isolate themselves from any activity in which they may have a conflict.

Although the Chairperson has a key role in ensuring conflict of interest situations are managed appropriately, identifying a conflict of interest is the responsibility of all Board Members.

A Board Member who has an actual or potential conflict of interest in a matter relating to the affairs of the Authority or any other interest which the Board Member believes is appropriate to disclose in order to avoid an actual or perceived conflict of interest:

* must advise the Board as soon as practicable as to the extent of their interest
* may not be present during any Board consideration of the matter for the purpose of making a determination/decision or take part in any determination or decision making.

The Chairperson must ensure that where such disclosures are made, the Board Member (who has made the disclosure) is not provided with any information by way of relevant Board minutes, agendas or other material pertaining to the matter or project in which they have an interest.

Where a Board Member is uncertain as to whether an interest needs to be disclosed in accordance with this section of the Code he or she is encouraged to:

* use the Checklist for Identifying Conflicts of Interest contained in Appendix C; or
* consult the Chairperson or the Authority’s Legal Services Manager.

Where the full Board determines that the Board Member’s conflict of interest cannot be acceptably managed within these guidelines the following actions may be required:

* divestment of the interest/issue that is creating the conflict, for example, the sale of shares or property
* severing the connection that is creating the conflict, for example, resignation from a position in another organisation
* resignation by the Board Member from the Authority’s Board.

## Declaring And Disclosure Pecuniary And Material Personal Interests

A pecuniary or material personal interest is a specific type of conflict of interest. Board Members are deemed to have a pecuniary or material personal interest in a matter if they have, or should reasonably have, a realistic expectation that they (or an associated individual) stand directly or indirectly to gain a benefit or suffer a loss. It is not necessary to be able to identify or quantify the benefit or loss that might (either directly or indirectly) be attributable to the Board Member as a consequence of the relationship. Nor does money have to change hands, as the benefit or loss could be an increase or decrease in the value of property or other material interest.

Board Members must:

* complete a Disclosure of Pecuniary and Material Personal Interest Form located at Appendix B on an annual basis - this disclosure is also to be updated as circumstances change
* comply fully with the conflict of interests provisions outlined in Section 2.8 of this Code.

The Chairperson is to ensure:

* the particulars of any pecuniary or material personal interests disclosure made in the annual disclosure which relate to the affairs of the Authority are recorded in the Disclosure of Interest Register, and that the register must be accessible during reasonable hours for inspection by any person on payment of a fee determined by the Board
* such disclosures are tabled at the relevant Board Meeting and recorded in the Board Minutes
* the Board Member (who has made the disclosure) is not provided with any information by way of relevant Board minutes, agendas or other material pertaining to the matter or project in which they have a pecuniary or material personal interest.

A Board Member who has a pecuniary and/or material personal interest in a matter relating to the affairs of the Authority must comply with the conflict of interest disclosure and management obligations listed in Section 2.8.

Board Members considering taking on a pecuniary or material personal interest that might present, or might be perceived as presenting, a risk of conflict with their role as a Board Member, should consult the Chairperson before committing themselves.

Where a Board Member is uncertain as to whether an interest needs to be disclosed in accordance with this section of the Code they are encouraged to use the Checklist for Identifying Pecuniary or Material Personal Interests located at Appendix D or to consult the Chairperson or the Authority’s Legal Services Manager.

# Document History

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| **Date** | **Author** | **Modifications** |
| April 2014 | Legal Services Manager | Review and update of document |
| May 2008 | Corporate Secretary | Review and updating of document |
| Nov 2006 reviewed  Apr 2007 approved | Technical Writer | Inserted original document into template. Minor adjustments to language standards and formatting. |
| Feb 2005 | Manager Corporate Governance | Created original document. |

# Contacts/References

## Contacts

* Department of Premier and Cabinet (02) 9228 5555
* The Independent Commission Against Corruption (02) 8281 5999
* Office of the NSW Ombudsman (02) 9286 1000.

## References

### Enabling Legislation and Reference Sources

The primary source of information on the role and functions of the Board is the Board’s enabling legislation (as well as the enabling legislation of CCDC and LPRT) and includes:

* The Sydney Harbour Foreshore Authority Act (1998)
* The Public Sector Employment and Management Act (2002)
* Luna Park Site Act (1990)
* Corporations Act (2001).

A suggested reference source regarding the legal obligations of Board members is the Australian Institute of Company Directors (AICD), Code of Conduct and other AICD publications.

### Relevant Legislation

Other relevant legislation providing information and guidelines to Board Members include (but are not limited to):

* Anti Discrimination Act (1977)
* Crown Lands Act (1989)
* Government Information (Public Access) Act 2009
* Independent Commission Against Corruption Act (1988)
* Work Health and Safety Act (2011)
* Ombudsman Act (1974)
* Public Interest Disclosures Act (1994)
* Public Finance and Audit Act (1983)
* Public Sector Employment and Management Act (2002)
* Public Sector Employment and Management Regulation (2009).

For information about these Acts, regulations and other legislation, see [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au/).

### Policy and Guidelines References

* NSW Department of Premier and Cabinet memorandum – M1997-10 Model Code of Conduct for NSW Public Agencies
* NSW Department of Premier and Cabinet memorandum – M2012-18 Classification and Remuneration Framework for NSW Government Boards and Committees
* NSW Department of Premier and Cabinet – Guidelines for NSW Board and Committee Members: Appointments and Remuneration
* Treasury publication TPP09-2 - Commercial Policy Framework: Guidelines for Boards of Government Businesses
* ICAC’s Managing Conflicts of Interest in the Public Sector.

# Appendices

Appendix A: Annual Statement of Commitment

Appendix B: Annual Disclosure of Pecuniary and Personal Material Interests

Appendix C: Checklist for Identifying Conflicts of Interest

Appendix D: Checklist for Identifying a Pecuniary Interest

## Appendix A: Annual Statement of Commitment

**Annual Statement of Commitment**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (insert full name) as a member of the Sydney Harbour Foreshore Authority Board, will:

* abide by the NSW public sector values of integrity, trust, service and accountability
* observe all meeting rules as described in the Board Charter or as determined by the Board, including sending apologies when I am unable to attend
* familiarise myself with the Board’s charter and the Code of Conduct and Ethics for Board Members
* make reasonable inquiries to ensure that the Authority is operating efficiently, effectively and legally towards achieving its goals
* declare any conflict of interest, (either my own or others) and participate in Board discussions determining whether a conflict of interest exists
* serve on Board sub-committees as required
* attend annual planning events and other Board activities as required
* represent the Authority in a positive way
* only speak publicly on behalf of the Authority when prior Board approval has been given, ensuring that when an Authority staff member is present at the same public forum, I am publicly clear about who I am representing
* take a balanced approach when considering stakeholders’ views
* maintain networks and clearly put the positions of stakeholders forward
* keep Board documents in a confidential and safe place.

In addition, I will:

* discharge my duties as a Board Member in good faith and honesty in the best interests of the Authority with skill and care
* not make improper use of information gained through my position as a Board Member
* not act on Authority matters without the consent of the Board, including not interfering in the day-to-day operations of the Authority
* treat any employee of the Authority or member of the Board with dignity and respect at all times.

I will also abide by the following conflict of interest procedures:

* make a full written disclosure of interests, relationships and holdings that could potentially result in a conflict of interest
* when ad hoc matters arise, fully disclose any potential or real conflicts, as soon as reasonably practical to the Chairperson or Board, as appropriate
* declare any conflicts or potential conflicts arising from agenda items at the commencement of all meetings
* absent myself from any discussion or decision making related to the matter about which there is a conflict of interest.

I have read the above and agree to abide by the outlined Board Member’s role, the Code of Conduct and Ethics and to utilise the conflict of interest procedure when necessary.

Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Appendix B: Annual Disclosure of Pecuniary And Personal Material Interests

**Annual Disclosure of Pecuniary and Personal Material Interests**

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| **STATUTORY DECLARATION**  I, DO SOLEMNLY AND SINCERELY DECLARE that, to the best of my knowledge and belief, the attached Statement of Pecuniary and Personal Material Interests contains a complete and accurate statement of my interests and those of the persons associated with me;  AND I MAKE THIS SOLEMN DECLARATION conscientiously believing the same to be true and under and in accordance with the provisions of the Commonwealth Statutory Declarations Act 1959. |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  (*Insert BOARD MEMBER’S NAME)* *(Insert DATE/MONTH/YEAR)*  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature *(Board Member)* Signature *(Chairperson)*  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**STATEMENT OF PRIVATE INTERESTS AND ASSOCIATIONS**

| 1. **Real Estate**   I, and/or the persons associated with me, own interests in the following real estate: | | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Owner** | **Location** | **Nature of Interest** | **Purpose for which held** | **Years held** | **Initial cost** | **Current Value (optional)** |
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**STATEMENT OF PRIVATE INTERESTS AND ASSOCIATIONS**

| 1. **Shareholdings**   I, and/or the persons associated with me, own the following shareholdings, other than nominal shareholdings by way of qualification for membership of a credit union, building society or other co-operative society.  (Include equitable as well as legal interests, whether held directly or indirectly, which enable the exercise of control over the right to vote or dispose of the shares including interests held on behalf of you and/or the persons associated with you by a nominee or nominee company). | | | | |
| --- | --- | --- | --- | --- |
| **Owner** | **Company** | **Nature of shares held** | **Initial Cost** | **Approximate current value** |
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**STATEMENT OF PRIVATE INTERESTS AND ASSOCIATIONS**

| 1. **Trust / Nominee Companies**   (a) I, and/or the persons associated with me, hold a beneficial interest in the following family or business trusts or nominee companies:  (b) I, and/or the persons associated with me, are trustees of the following family or business trusts: | | | | |
| --- | --- | --- | --- | --- |
| **Beneficiary** | **Trust or nominee company value** | **Nature of interest** | **Nature of operations of trust company** | **Approximate current value** |
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**STATEMENT OF PRIVATE INTERESTS AND ASSOCIATIONS**

| 1. **Directorships in Companies** (whether Public or Private)   I, and/or the persons associated with me, hold the following directorships, whether remunerated or not: | | | | |
| --- | --- | --- | --- | --- |
| **Director** | **Company** | **Public or private** | **Activities of company** | **Year incorporated** |
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**STATEMENT OF PRIVATE INTERESTS AND ASSOCIATIONS**

| 1. **Partnerships etc**   I, and/or the persons associated with me, are members of the following partnership(s): | | | | | |
| --- | --- | --- | --- | --- | --- |
| **Person holding interest** | **Partnership nature/purpose of operations** | **Year business formed** | **Nature of interest** | **Value of interest** | **Approximate current value** |
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**STATEMENT OF PRIVATE INTERESTS AND ASSOCIATIONS**

| 1. **Investments**   I, and/or the persons associated with me, have the following investments in bonds, debentures, savings or investment accounts with banks or other financial institutions:  **(To be completed only if the nature of the investment may be seen to give rise to a conflict with your public duty. Any such investment must be disclosed).** | | | |
| --- | --- | --- | --- |
| **Person holding investment** | **Type of investment** | **Body in which investment is held** | **Approximate current value** |
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**STATEMENT OF PRIVATE INTERESTS AND ASSOCIATIONS**

| 1. **Other assets**   I, and/or the persons associated with me, have assets (other than those mentioned in items 1–6) as follows:  **(List each other asset only if they may be seen to give rise to a conflict with your public duty. Any such asset must be disclosed. Please note that household, personal effects or motor vehicles for private use need not be mentioned).** | | | | |
| --- | --- | --- | --- | --- |
| **Owner** | **Nature of assets** | **Initial cost** | **Year acquired** | **Approximate current value** |
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**STATEMENT OF PRIVATE INTERESTS AND ASSOCIATIONS**

| 1. **Sources of income**   I, and/or the persons associated with me, have the following sources of income:  **(List each other source of income only if the sources of income may be seen to give rise to a conflict with your public duty. Any such source of income must be disclosed. Please note: Salary from contract of employment with the agency, family allowance payments and income from investments not required to be disclosed under item 6 need not be mentioned).** | | | |
| --- | --- | --- | --- |
| **Recipient** | **Nature of income** | **Actual gross income for last financial year** | **Estimated gross income for current financial year** |
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**STATEMENT OF PRIVATE INTERESTS AND ASSOCIATIONS**

| 1. **Gifts, sponsored travel or hospitality**   I, and/or the persons associated with me, have received the following gifts and other financial benefits during the last 3 years:  **(Gifts and other financial benefits received in a purely personal capacity, such as from family and friends, need not be mentioned unless of such a nature that they may be seen to give rise to a conflict of interest with your public duty. Any such gifts must be disclosed).** | | | | |
| --- | --- | --- | --- | --- |
| **Recipient** | **Nature of gift** | **Year received** | **Approximate current value** | **Value when received** |
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**STATEMENT OF PRIVATE INTERESTS AND ASSOCIATIONS**

| 1. **Control over other assets etc**   I, and/or the persons associated with me, have effective control over the following assets (other than those referred to elsewhere in this statement): | | | | |
| --- | --- | --- | --- | --- |
| **Person having control** | **Nature of assets** | **Year acquired** | **Approximate value when acquired** | **Approximate current value** |
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**STATEMENT OF PRIVATE INTERESTS AND ASSOCIATIONS**

| 1. **Liabilities**   I, and/or the persons associated with me, have the following liabilities:  **(Only list liabilities if they may be seen to give rise to a conflict with your public duty. Any such liabilities must be disclosed. Please note that ordinary short-term credit arrangements, such as credit cards or accounts, need not be mentioned).** | | | | |
| --- | --- | --- | --- | --- |
| **Person concerned** | **Nature of current liability** | **Creditor** | **Year of incurring liability** | **Current liability** |
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**STATEMENT OF PRIVATE INTERESTS AND ASSOCIATIONS**

1. **Any other private interest**

I, and/or the persons associated with me, have the following interests, financial (not referred to elsewhere in this statement) or otherwise, the nature of which gives rise to, or may be seen to give rise to, a conflict of interest with my public duty:

(Reference is to be made to all indirect and contingent interests).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Appendix C: Checklist For Identifying Conflicts Of Interest

**Checklist for Identifying Conflicts of Interest**

Step 1: Describe the matter or issue being considered and the situation in which you are involved.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Step 2: What is your public duty in serving the public interest?

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Step 3: Making an assessment:

In assessing whether you have an actual, reasonably perceived or potential conflict of interest, it may be helpful to ask yourself the following questions. The test when assessing these situations is to ask yourself – “Could this conflict with my public duty to serve the public interest?”

| **What is the situation?** | **Yes/No** |
| --- | --- |
| Would I or anyone associated with me benefit from or be detrimentally affected by my proposed decision or action? |  |
| Could there be benefits for me in the future that could cast doubt on my objectivity? |  |
| Do I have a current or previous personal, professional or financial relationship or association of any significance with an interested party? |  |
| Would my reputation or that of a relative, friend or associate stand to be enhanced or damaged because of the proposed decision or action? |  |
| Do I or a relative, friend or associate of theirs stand to gain or lose financially in some covert or unexpected way? |  |
| Do I hold any personal or professional views or biases that may lead others to reasonably conclude that I am not an appropriate person to deal with the matter? |  |
| Have I contributed in a private capacity in any way to the matter my agency is dealing with? |  |
| Have I made any promises or commitments in relation to the matter? |  |
| Have I received a benefit or hospitality from someone who stands to gain or lose from my proposed decision or action? |  |
| Am I a member of an association, club or professional organisation or do I have particular ties and affiliations with organisations or individuals who stand to gain or lose by my proposed decision or action? |  |
| Could this situation have an influence on any future employment opportunities outside my current official duties? |  |
| Could there be any other benefits or factors that could cast doubts on my objectivity? |  |
| Do I still have any doubts about my proposed decision or action? |  |

| **What perceptions could others have?** | **Yes/No** |
| --- | --- |
| Would I or anyone associated with me benefit from or be detrimentally affected by my proposed decision or action? |  |
| Could my involvement in this matter cast doubt on my integrity or on my agency’s integrity? |  |
| If I saw someone else doing this, would I suspect that they might have a conflict of interest? |  |
| If I did participate in this action or decision, would I be happy if my colleagues and the public became aware of my involvement and any association or connection? |  |
| Is the matter or issue one of great public interest or controversy where my proposed decision or action could attract greater scrutiny by others? |  |

How would I feel if my actions were highlighted in the media? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

What assessment would a fair-minded member of the public make of the circumstances? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

| **Should I seek help?** | **Yes/No** |
| --- | --- |
| Am I confident of my ability to act impartially and in the public interest? |  |
| Do I feel a need to seek advice or discuss the matter with an objective party? |  |
| Does this person know more about these things than I do? |  |
| Is all the relevant information available to ensure a proper assessment? |  |
| Do I know what my agency’s code of conduct requires in relation to conflicts of interest? |  |
| Do I need to discuss any issues regarding this matter with the Chairperson? |  |
| Am I confident of my ability to act impartially and in the public interest? |  |
| Do I understand the possible penalties that may apply if I proceed with an action or decision with an unresolved conflict of interest? |  |

**Have I recognised the type of interest?**

An important step is to recognise whether or not the interest is a pecuniary interest (also known as a material personal interest). Because there can be legal consequences, public officials should not rely on their own opinion, but should seek independent legal advice if there is any doubt.

Actual conflict of interest ❑ Pecuniary interest ❑

Perceived conflict of interest ❑ Non-pecuniary interest ❑

Potential conflict of interest ❑

| **Can I now make a decision?** | **Yes/No** |
| --- | --- |
| Have I assessed whether I need to obtain appropriate independent legal and other impartial advice? |  |
| Am I comfortable with my decision to seek (or not seek) advice, and with advice that I have been given? |  |
| If I disagree with any advice given, am I able to state a defensible case to those who made the assessment? |  |
| Can I determine: What is the best option to ensure impartiality, fairness and protect the public interest? |  |
| Does this option ensure openness and transparency in my proposed decision or action? |  |
| Have I identified and documented the facts and circumstances governing my evaluation of, and decision on, how I should handle the situation? |  |
| Does my decision allow me to act and be seen to act in a fair, impartial and objective manner? |  |

## Appendix D: Checklist for Identifying A Pecuniary Interest

**Checklist for Identifying A Pecuniary Interest**

**What is a pecuniary interest?**

You have a pecuniary interest (also known as a material personal interest) in a matter if you have or should reasonably have a realistic expectation that you or an associated individual stand to gain a benefit or suffer a loss, whether directly or indirectly.

It is not necessary to be able to identify or quantify the benefit or loss that might either directly or indirectly be attributable to you as a consequence of the relationship.

Money does not have to change hands – the benefit could be an increase in the value of property or other material interest.

As soon as a pecuniary interest of an associate is recognised you must treat it as if it was your own pecuniary interest. Using the checklist below may be useful.

| **Can I now make a decision?** | **Yes/No** |
| --- | --- |
| Does the matter fall within the legislated definition of a pecuniary interest? |  |
| Is there a realistic expectation that I will, directly or indirectly, gain a financial or other material benefit or suffer a financial or other material loss? |  |
| Will the matter affect my earning capacity or financial situation? |  |
| Will it have an impact on the value of any shares or property that I own? |  |
| Do I have a second job or private business that may be affected by the matter? |  |
| Do I have any debts owing to a person who will be affected by the matter? |  |
| Have I accepted hospitality, sponsored travel or other benefits from a person who will be affected by the matter? |  |
| Is there a realistic expectation that someone in a personal or business relationship with me will, directly or indirectly, gain a financial or other material benefit or suffer a financial or other material loss? |  |
| By nature of my relationship with this individual, would any benefit or loss they receive be expected, under normal circumstances, to flow through to me? |  |