

Conflicts of Interest

Public Sector (Honesty and Accountability) Act 1995

For the transition period up until 1 July 2019, Local Health Network (LHN) Transition Board members fall within the provisions of the *Public Sector (Honesty and Accountability) Act 1995*, as 'advisory body members'.

Advisory body members are defined in this Act '*an incorporated body comprised of members appointed by the Governor or a Minister (whether or not under an Act) with a function of providing advice to a public sector agency*'.

Under this Act, you will breach your duties as an advisory body member if you act dishonestly and/or fail to disclose and/or improperly manage a conflict of interest.

When do you need to disclose a conflict?

A conflict of interest will arise when you have a personal or pecuniary interest in a matter being considered or decided by the Board and you are acting in your capacity as Board member.

You may have a number of personal or pecuniary interests that could give rise to a conflict of interest, however a conflict will only exist when the Board is considering or making a decision relating to that matter.

When does a conflict arise?

A conflict arises when a reasonable person would consider that there is a real and sensible possibility that you have a perceived, potential or actual pecuniary or personal interest in a matter being considered by the board.

What is your duty?

Under section 12 of the *Public Sector (Honesty and Accountability) Act 1995*, an advisory body member who has a direct or indirect personal or pecuniary interest in a matter decided or under consideration by the body:

- **must as soon as reasonably practicable, disclose in writing to the Minister, full and accurate details of the interest; and**
- **must not take part in any discussion by the body relating to the matter; and**
- **must not vote in relation to that matter; and**
- **must be absent from the meeting room when any such discussion or voting is taking place.**

Under the Act, an advisory body member will also be taken to have an interest in a matter if an associate of that member has an interest in the matter. An 'associate' may include a relative or domestic partner; or a company or trust for which the member has a relevant interest.

Neither the Board, nor its Chair, can absolve the member of their duty with respect to conflict of interest. The onus is on the member to ensure they comply.

Failure to comply can attract a fine of \$15,000, and can result in any contracts in regards to which a Board member had a conflict of interest being voided.

The member cannot be fined if they were not aware of the interest at the time, but the burden of proof will lie on the Board Member.

Further information

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