

Case studies for managing Conflicts of Interest

This document provides case studies to guide and assist Industry Reference Committees (IRCs) in identifying and managing actual, perceived, or potential conflicts of interest.

Conflict of interest

Definitions under the IRC Operating Framework

A conflict of interest occurs when there is an actual, potential, or perceived conflict between any matter, circumstance, activity or interest of an IRC member and their ability to provide advice diligently, independently and without bias. Matters, circumstances or interests may be financial or non-financial and may relate to the individual and/or organisations the IRC member has close ties to.

A conflict of interest will be deemed 'material' if it:

- a) is considered of significant, substantial or real value to the deliberations or arrangements proposed by the IRC; and
- b) has a considerable possibility of influencing the decision of the IRC member.

Examples of conflicts of interest for IRCs

The following scenarios *are* examples of conflicts of interest that should be disclosed. If in doubt, it is always better to openly discuss the matter and determine whether it needs to be disclosed.

Conflict of interest relates to a tension between the IRC member's personal or organisational interest and the public interest

Scenario: An IRC member has conflicting responsibilities to the IRC and another organisation.

Example: Michael is a member of the Telecommunications IRC. He is also a board member of the College of Telecommunications Training (CTT), a Registered Training Organisation (RTO) that delivers internet technology courses. At an IRC meeting, the members discuss potentially deleting several qualifications in the Internet Technologies Training Package. He is concerned that, if the IRC endorses these changes, CTT will lose funding due to the fewer number of total qualifications and student enrolments.

In this situation, as Michael has a conflict of interest as he is a board member of an RTO that delivers the courses, that in turn may financially impacted as a result of IRC deliberations.

Conflict of interest can be real or perceived

Scenario: A poorly managed ‘perceived’ conflict of interest can be just as damaging as a ‘real’ conflict of interest.

Example: Rebecca is a member of the Emergency Health Services IRC. The IRC is considering changes to training package content that would increase the number of units required to complete two emergency management courses. Rebecca’s sister is a board member of the Association of Health Workers, which has publicly criticised the proposed changes. Rebecca believes she can make an impartial decision about whether to support the proposed changes and does not disclose a conflict of interest. After deliberation, the IRC decides not to change the unit requirements in the two courses.

In this situation, Rebecca has a perceived conflict of interest because she is involved in an IRC decision that could impact the interests of the organisation her sister sits on as a board member. The fact that Rebecca did not declare, or manage the perceived conflict of interest could cause industry and other stakeholders to be concerned about the credibility and appropriateness of the IRC’s decision.

Conflict of interest can affect or involve the IRC member directly or indirectly

Scenario: An IRC member uses their position to represent the interests of a family member.

Example: Amelia is a member of the Metalwork IRC. The IRC is considering changes to training package content that would increase the duration and assessment requirements of the Certificate III in Metal Fabrication. Amelia’s sister owns the Institute of Fabrication Trades (IFT), a private RTO that delivers the course. Amelia’s sister is concerned that the proposed changes could result in decreased student enrolments at IFT.

In this situation, a conflict of interest exists because Amelia’s sister has a direct financial interest in the matter.

Conflict of interest can be a material conflict

Scenario: An IRC member has a material conflict of interest that has a considerable likelihood of influencing the IRC member’s decision-making.

Example: Jack is a member of the Fabric Products IRC. The IRC is considering changes to training package content that would require RTOs to purchase expensive new machinery to teach an updated textile production course. Jack also sits on the board of a company that sells the same kind of machinery that RTOs would need to acquire to deliver the updated course. If the IRC endorses these changes, Jack’s company stands to benefit financially from the business’ increased sales.

In this situation, the company that Jack is a board member of might stand to directly benefit from the IRC’s decision, and it would be reasonable to believe that this could influence Jack in his role as an IRC member.

While every situation will be examined in its context, the following examples are **not likely** to be potential conflict of interest situations for IRCs.

- A member makes a decision about a training package that involves the industry they work in.

Managing conflicts of interest

Conflicts of interest need to be handled with care and professionalism but should never be ignored. There may be circumstances where an IRC member learns of an undisclosed conflict of interest from another IRC member.

Undisclosed conflicts of interest

Scenario: An IRC member does not declare a conflict of interest.

Example: Sergio is a member of the Deep Sea Exploration IRC. The IRC is considering changes that would increase the number of units required to complete several qualifications in the Ocean Operations Training Package. Sergio was previously employed by Ocean Floor Research (OFR), a deep-sea exploration company, and is still a close friend of its manager, Jill. Sergio knows that Jill is personally opposed to the proposed changes. During IRC deliberations, he speaks against the proposed changes and does not take any action to disclose a possible conflict of interest. Charlie, another member of the IRC, learns about Sergio's relationship with Jill after the IRC votes on the changes.

In this situation, Charlie should not ignore the fact that Sergio was previously an employee of OFR and has a close relationship with Jill. As soon as Charlie is made aware of this fact, he should report the matter to the IRC Chair or discuss it with Sergio, urging that he updates the interest register. This helps to foster a culture of transparency and open disclosure for conflicts of interest.

IRC Chairs have a key and active role to play in the identification, disclosure and management of conflicts of interest.

IRC Chair's role in actively managing conflicts of interest

Scenario: An IRC Chair is made aware of an undisclosed conflict of interest.

Example: Charlie has informed Sarah, the Chair of the Deep Sea Exploration IRC, that Sergio has a conflict of interest through his previous employer and his continued relationship with his former manager.

Sarah should not assume there is no conflict of interest simply because Sergio has since resigned from Ocean Floor Research and has not raised the issue himself. Sarah should raise this issue with Sergio at the next meeting and discuss and document expectations (in the minutes and register) in relation to the disclosure of information.

Where the Chair becomes concerned during discussions about a member's position, the Chair could ask all IRC members to reconsider if there is a potential conflict of interest they need to declare.

To determine if a conflict of interest exists, the 'reasonable person test' should always be used, for example, how an average person, with ordinary judgement, would act in those circumstances. In this case, Sergio should have asked himself whether a reasonable person would think he had a conflict of interest, or at least a perceived conflict of interest.

The Chair should always proactively check with IRC members if they have any actual or perceived conflict of interest at the start of every meeting or with regards to each agenda item and record it in the minutes and register.

The public good

The 'public good or public interest' is central to all publicly funded activities. Broadly defined, it is "the welfare or well-being of the general public".

Under the IRC Operating Framework, IRC members are required to act in accordance with the public good and the best interests of the constituents of the industry sector that the IRC represent. Below is some guidance on things IRCs should consider when thinking about acting in the public good or the public interest and managing any actual, perceived, or potential conflict of interest.

- The broad representative role of IRCs including outlining the difference in roles and responsibilities from operating within the private sector and serving the general public.
- Clear expectations that IRC members should undertake consultations in their industry or sector, and that consultation across all stakeholders with different viewpoints should inform evidence-based decision-making. A culture of constructively challenging different viewpoints should be fostered.
- Where possible, a consensus-based approach to decision-making that balances the interests of all stakeholders should be used. This will help the IRC act in the public interest.
- Regular IRC self-evaluation which will also support the IRC to understand how they are performing against expectations. This process provides an opportunity to talk through potential issues and confirm robust conflict of interest management strategies are in place.

More information

See the IRC Operating Framework, IRC induction training modules and supporting guidance material on the [Australian Industry and Skills Committee website](#).