

Conflict of Interest Policy

Purpose: To ensure that Phillip Island Village School Limited (PIVS) effectively identifies, discloses and manages any actual, potential or perceived conflicts of interest in order to protect the integrity of the School and manage risk.

Scope: Responsible Persons (as defined in the *Education & Training Reform Regulations 2017*), including but not limited to Board Members and the Principal

Implemented by: Board Chairperson, Principal

Approved by: PIVS Board

Reviewed: Annually or as legislative changes arise or improvements are identified.

Communicated via: School website, Board Induction, Staff Handbook,, Policy Folder

Objective

The Board will ensure that all Responsible Persons are aware of their obligations to disclose any conflicts of interest that they may have, and to comply with this policy to ensure they effectively manage those conflicts of interest as representatives of the School.

Definition of a Responsible Person

Responsible person is defined in the Education and Training Reform Regulations 2017 as:

- if the proprietor is an individual, that person; or
- if the proprietor is a body, that body and any person who is concerned in, or takes part in, the management of the body; or
- each person with responsibility in the school governance structure for managing the school or its finances, including each member of the governing body of the school; or
- the principal of the school; or
- any other person who by the person's conduct assumes a position of authority over the governance or management of the school.

Definition of a conflict of interest

A conflict of interest occurs when a person's personal interests conflict with their responsibility to act in the best interests of the School and their duties as a Responsible Person. Personal interests include direct interests as well as those of family, friends, or other organisations a person may be involved with or have an interest in (for example, as a shareholder). Personal interests may be financial or non-financial and can be identified as follows:

1. **Pecuniary interests** exist where there is financial gain or loss involved, even if money does not specifically change hands.
2. **Non-pecuniary interests** exist when no financial component exists but an interest exists due to relationships, social or cultural ties or involvement in an outside organisation

It also includes a conflict between a Board Member's duty to the School and another duty that the Board Member has (for example, to another organisation).

A conflict of interest may be actual, potential or perceived and may be financial or non-financial as identified as follows:

1. **Actual conflict** – an individual is being influenced by a conflicting interest;;
2. **Potential conflict** – an individual could be influenced by a conflicting interest;
3. **Perceived conflict** – a third party could reasonably believe an individual has been influenced by a conflicting interest.

A conflict of interest can also be positive (e.g. motivated by financial/personal gain) or negative (e.g. motivated by harm or detriment to another person).

These situations present the risk that a person will make a decision based on, or affected by, these influences, rather than in the best interests of the School and must be managed accordingly. While an individual may believe there is no danger of making a decision based on their own personal interests, instead of the school's best interests, this does not mean the conflict of interest should be disregarded. It is important that the conflict is taken seriously.

Policy

This policy has been developed because conflicts of interest commonly arise, and do not need to present a problem to the School if they are openly and effectively managed. It is the policy of Phillip Island Village School Limited as well as a responsibility of the Board to ensure that ethical, legal, financial or other conflicts of interest are avoided and that any such conflicts (where they do arise) do not conflict with the obligations to the School.

The School will manage conflicts of interest by requiring Responsible Persons to:

- avoid conflicts of interest where possible
- identify and disclose any conflicts of interest
- carefully manage any conflicts of interest, and
- follow this policy and respond to any breaches.

Responsibility of the Board

The Board is responsible for:

- establishing a system for identifying, disclosing and managing conflicts of interest across the school;
- monitoring compliance with this policy; and
- reviewing this policy on an annual basis to ensure that the policy is operating effectively.

The School must ensure that its Responsible Persons are aware of their responsibilities under the *Education and Training Reform Regulations 2017 (Vic) (ETR Regulations)* and the ACNC governance standards, particularly governance standard 5, and ensure that they comply with their legal obligations, including any disclosure requirements.

Identification and disclosure of conflicts of interest

All Responsible Persons must disclose in writing any actual, perceived or potential conflicts of interest:

- at the time they are appointed to their role with the School whether or not they have material conflicts to disclose; and
- where their circumstances have changed since their last disclosure was submitted and the person has an actual, perceived or potential conflict of interest in undertaking their duties.
- Prior to a board meeting beginning based on the agenda items to be covered.

Once an actual, potential or perceived conflict of interest is identified, it must be entered into the school's Conflict of Interest Register, as well as being raised with the Board. The register of interests must record information related to a conflict of interest (including a summary of the conflict of interest and if a Conflict of Interest Management Plan is in place).

Information disclosed is subject to the school's Privacy Policy.

Action required for management of conflicts of interest

CONFLICTS OF INTEREST OF BOARD MEMBERS

Once the conflict of interest has been appropriately disclosed, the Board must discuss and determine if the conflicted Board Member should be present in the room during the debate and/or voting for that particular matter.

However, it is important for the Board to focus on managing conflicts of interest in substance rather than in form. Excluding a conflicted Board Member from a debate and voting may not necessarily be a cure for a systemic, unmanaged conflict of interest where the Board may nevertheless be accustomed to act in accordance with the wishes and expectations of the conflicted Board Member. It is also important to acknowledge that some conflicts may be inherent and permanent due to the unique nature of the structure and governance of the School and the relatedness of the Responsible Persons. In these

circumstances, the Board must consider strategies and mechanisms to ensure that it is acting independently and free of influence or conflict that may result in each Responsible Person not acting in the best interests and for the purposes of the School. In this context, whenever any form of conflict exists in relation to a proposed transaction or arrangement for the School, the Board must in each instance also consider the substance, purpose and rationale of such proposed transactions to ensure that the decision making that will be implemented in each and every concerned case can clearly evidence that the main driver in the decision making is the educational purposes and the best interest of the School and not those of any Responsible Person or other party.

In exceptional circumstances, such as where a conflict is very significant or likely to prevent a Board Member from regularly participating in discussions, it may be worth the Board considering whether it is appropriate for the person conflicted to resign from the Board.

WHAT SHOULD BE CONSIDERED WHEN DECIDING WHAT ACTION TO TAKE

In deciding what approach to take, the Board will consider:

- whether the conflict needs to be avoided or simply documented;
- whether the conflict will realistically impair the disclosing person's capacity to impartially participate in decision-making;
- alternative options to avoid the conflict;
- the school's objects and resources;
- the possibility of creating an appearance of improper conduct that might impair confidence in, or the reputation of, the school; and
- at all times making decisions that are solely for the purposes of the School and in the best interest of the School.

The approval of any action with a noted conflict requires the agreement of at least a majority of the Board (excluding any conflicted Board Member/s) who are present and voting at the meeting. The action and result of the voting will be recorded in the minutes of the meeting and in the register of interests.

CONFLICTS OF INTEREST OF RESPONSIBLE PERSONS – OTHER THAN BOARD MEMBERS

Identification of a conflict of interest for Responsible Persons (other than Board Members) may give rise to different consideration than for the Board. When considering whether they have conflicts of interest, Responsible Persons should consider the following questions:

- 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 a decision under my authority?

- 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 or entity, would any benefit or loss they receive be expected, under normal circumstances, to flow through to me?
- Will the matter have a direct or indirect financial or other material impact on a member of my family?

If in doubt, Responsible Persons should raise the potential conflict of interest with the Principal.

Once a Responsible Person (other than a Board Member) discloses a conflict of interest, the Principal will prepare and propose to the Board a Conflict of Interest Management Plan (**Conflict Management Plan**).

The Principal will consider any input the Responsible Person may have in relation to the proposed Conflict Management Plan, however the Responsible Person is obliged to follow the Conflict Management Plan approved by the Board.

In circumstances where a conflict of interest involves the Principal, the Principal will work with the Board (excluding Board Members that may also be conflicted in the same matter) to develop a Conflict Management Plan.

Conflict Management Plans will ensure conflicts are managed and resolved based on a strategies considering the following matters (as appropriate in the circumstances and in the best interests of the School):

- adequate disclosure and documenting of all information surrounding the conflict of interest;
- placing restrictions on the Responsible Person's involvement in the matter or access to information;
- monitoring the conflict by involving an independent/non-conflicted party in the process;
- removing the Responsible Person from the matter or the Responsible Person relinquishing the private interest that is creating the conflict.

Compliance with this policy

If the Board has a reason to believe that a person subject to the policy has failed to comply with it, it will investigate the circumstances. If it is found that this person has failed to disclose a conflict of interest, the Board may take action against them.

If a person suspects that a Board Member has failed to disclose a conflict of interest, they must notify the Board. Any final decision must be agreed to by a majority of the Board (excluding the conflicted Board Member(s) (if any)).



Related Documentation

- Responsible Persons Register
- Conflict of Interest Register
- Declaration of Interest Form
- Conflict of Interest Management Plan template