



Pacific Assist

Inspiring Self-reliance

Conflict of Interest (Non-Directors) Policy 2020

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Policy Statement

In line with our commitment to personal responsibility, integrity, and community, Pacific Assist is committed to avoiding, identifying, and managing conflicts of interest.

There may be times when a personal interest can come into conflict with a person's responsibility and obligation to the organisation they are representing and acting for and in behalf of. This is known as a conflict of interest. It is likely that conflicts of interest will occur on a regular basis. The issue is not that they occur, but that they are appropriately disclosed and reported.

Purpose and Scope

The purpose of this policy is to promote a culture of disclosure and to provide all Pacific Assist personnel, volunteers, partners, and contractors (hereafter referred to collectively as personnel) with a guide for how to respond appropriately to conflicts of interest.

Conflicts of Interest

There are three types of conflicts of interest:

- Actual - You are being influenced by a conflicting interest
- Potential - You could be influenced by a conflicting interest
- Perceived - You could appear to be influenced by a conflicting interest

Conflict of interests can occur in a variety of situations. They can occur when there is:

- Direct financial interest
- Indirect financial interest
- Non-financial or personal conflicts
- Conflict of loyalties

Policy

Conflicts of interest can lead to a poor reputation, bad governance, and breaking the law. All Pacific Assist personnel are, and should be conscious of being, responsible to behave in an ethical fashion. Any person representing and/or acting for an in behalf of Pacific Assist who thinks that they may have a conflict, or who believes that another person in the organization

may be in a situation of possible conflict of interest, has an ethical responsibility to bring the matter forward.

To avoid conflicts of interest becoming a problem, it is important to promote a culture of disclosure. To do this Pacific Assist personnel are required to:

- **Encourage** fellow personnel to be open with their conflicts of interest and to actively participate in discussions on how they influence/impact their Pacific Assist role
- **Facilitate** the disclosure of any real, potential, or perceived conflicts though having processes in place that all personnel know and understand
- **Record** any conflicts of interest in a register of interests, and ensure that it is kept up-to-date and made available to all personnel

It is the policy of Pacific Assist, as well as a responsibility of all personnel, that ethical, legal, financial or other conflicts of interest be avoided and that any such conflicts (where they do arise) do not conflict with obligations to Pacific Assist.

Pacific Assist will manage conflicts of interest by requiring personnel to:

- Avoid conflicts of interest where possible
- Identify and disclose any conflicts of interest
- Carefully manage any conflicts of interest
- Follow this policy and report any breaches

Responsibility of the Board

The board is responsible for:

- Establishing a system for identifying, disclosing, and managing conflicts of interest across the charity
- Monitoring compliance with this policy
- Reviewing this policy on an annual basis to ensure that the policy is operating effectively

See Pacific Assist's Conflict of Interest (Directors) Policy for more information on how directors are to report or manage their conflicts of interest.

Responsibility of Personnel

Personnel are responsible for disclosing any actual or perceived material conflicts of interests to their project coordinator or the projects manager.

Procedures

Prevent Conflicts of Interest

Where possible, Pacific Assist personnel should take practical measures to prevent conflicts of interest from occurring. Measure that should be taken include:

- Providing meeting agendas in advance to enable participants to foresee possible conflicts
- Ensuring that people are clearly told when information must be protected from improper use or disclosure
- Providing education about what to do when gifts and hospitality are offered

Gifts, Benefits, and Offers of Hospitality

It is important to distinguish gifts, benefits, and offers of hospitality that represent goodwill and friendship from those that are designed to create an indebtedness on the part of the recipient. There is a risk of an actual or perceived conflict of interest if:

- The giving of a gift could, or could be seen to, affect a decision about funding of a project or program
- Gifts are larger than what would usually be offered as a token in a given situation

In such situations, personnel should act with integrity, transparency, and respect. Personnel should explain that they are bound by Pacific Assist's conflict of interest policy and that either they cannot accept a personal gift but can accept it on behalf of Pacific Assist, or respectfully decline the gift. In such situations, the person who has been offered the gift and accepted or declined the gift should notify the projects coordinator of the situation. The projects coordinator will table the information at the next project committee meeting so that it will be recorded in the minutes of the meeting.

Identify Conflicts of Interest

Personnel must consider three essential things to decide if they have a conflict of interest:

- Pacific Assist's charitable purpose

- Their personal interests
- Their obligations to Pacific Assist (one of the obligations of Pacific Assist personnel is to disclose actual or perceived conflicts of interest)

As a general rule, personnel should be aware of:

- Current and previous paid or volunteer work with organisations other than Pacific Assist
- Whether they own a business or a share in a business
- Membership of other organisations they hold
- Any similar interests of their family or friends
- Offers of gifts/benefits from individuals and organisations served, or seeking to be served, by Pacific Assist

Activities that would be in breach of Pacific Assist's conflict of interest policy include:

- Use of Pacific Assist information or resources for personal profit, or assisting an outside organisation by giving it unreasonably exclusive access to such information
- Accepting gifts of value and/or favours from persons who would be seen to benefit from the making of these gifts
- Personnel involved in the recruitment or supervision of another person with whom they have, or have had, a close personal or financial relationship
- Personnel taking part in any selection, promotion, reclassification, evaluation or grievance process with prospective or current personnel with whom they have, or have had, a close personal or financial relationship
- Personnel using Pacific Assist assets or confidential information for their personal gain, or for the benefit of family or friends
- Personnel taking part in the assessment of a contract for services where they have, or have had, a close personal or financial relationship with a person or organisation being considered as a service provider

When determining whether a situation may create a conflict of interest, a good question to ask is, "Would a reasonable person (properly informed about the nature of your personal interests) believe that you might be influenced by your personal interests when making decisions or taking actions on behalf of the charity?"

Another useful way to identify conflicts of interest is to use the 'impartial observer test'. The test is as follows:

- You fill a role in, represent, and/or act on behalf of Pacific Assist
- You have some personal interests
- Would an impartial observer think that you are likely to, or may be likely to, be improperly affected by these personal interests?

If you answer yes to the final question, then it is likely that you have a conflict of interest. If personnel are in any doubt as to whether a conflict of interest may exist, they should seek advice from their project coordinator or the projects manager. The projects manager should seek advice from a director.

Once an actual, potential or perceived conflict of interest is identified:

- All personnel with a conflict must ensure transparency by self-declaration
- It must immediately be entered into Pacific Assist's register of interests
- It must be raised with either the project coordinator, the projects manager, or a director and the discussion recorded in the register of interests

Pacific Assist's project manager maintains the register of interests. The register must record information related to a conflict of interest (including the nature and extent of the conflict of interest and any steps taken to address it). Pacific Assist's personnel register of interests is located at file path: "P:\Pacific Assist\Company Management\Governance & Compliance\Policies & Procedures\Project Tools & Templates\Pacific Assist Register of Interest (Personnel).docx"

Confidentiality of disclosures

Information recorded on the register of interests is confidential, and only Pacific Assist directors and the projects manager are to have access to it. In some cases, where the disclosure is of a sensitive nature, the person disclosing may choose to report the conflict only to the projects manager. In this case, the projects manager will record the conflict of interest on a separate register that is only to viewed by those persons nominated by the disclosing person. Such confidential disclosures do not override any legal obligations the Projects Manager has to report certain behaviour, or to report to the directors any circumstances that could have a serious detrimental effect to Pacific Assist.

Manage Conflicts of Interest

Once the conflict of interest has been appropriately disclosed, the project coordinator, projects manager, or directors must determine how to manage it. In deciding what approach to take, the following should be considered:

- Whether the conflict needs to be avoided or simply documented
- Whether the conflict will realistically impair the disclosing person's capacity to impartially fulfil their duties and obligations
- Alternative options to avoid the conflict
- Pacific Assist's objects and resources
- The possibility of creating an appearance of improper conduct that might impair confidence in, the reputation of, or the legal standing of Pacific Assist and/or the board

Measures to mitigate or eliminate a conflict of interest will depend on what is appropriate to the severity of the situation. Options include:

- Restrict the involvement of the individual
- Recruit a third party to assist
- Remove the individual from affected duties

In exceptional circumstances, such as where a conflict is very significant or likely to impact on the person's ability to appropriately act in their role, the person may consider relinquishing the personal interest. Alternatively, it may be worth considering if it is appropriate for the person conflicted to resign from their position or cease their contract of service. Such exceptional circumstances are to be reported to and handled by the board of directors.

All decisions relating to what action to take must be recorded in the register of interests and reported to the directors. In cases being considered by directors, the approval of any action requires the agreement of at least a majority of the board (excluding any conflicted board member/s). In this case, the action and result of the voting will be recorded in the minutes of the meeting and in the register of interests. See the Governance policy for how directors are to report or manage their conflicts of interest.

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. This may include seeking to terminate their relationship with Pacific Assist. Other possible sanctions that are proportionate to the seriousness of a breach could include:

- Suspension from duties for a period of time
- Clarifying expectations of appropriate conduct
- Clarifying role, policies and procedures
- Providing training or retraining as necessary
- Transferring to other duties
- Providing suitable personal or performance-based counselling as needed
- Receiving a written undertaking that failure to disclose will cease
- Setting up additional support and/or supervision
- Issuing a caution in relation to the consequences of failure to disclose, and keeping a copy in the person's personnel file
- Implementing a period of monitoring
- Providing a mentor

If a someone suspects that a person has failed to disclose a conflict of interest, they must either:

- Discuss with the person in question
- Notify the chair of the board
- Notify the projects manager, who is responsible for maintaining the register of interests

For questions about this policy, contact the board or the projects manager by email.

Further information on conflicts of interest can be found:

- In the ACNC's [Managing Conflicts of Interest Guide](#) . The guide is also located at file path: "P:\Pacific Assist\Company Management\Governance & Compliance\Policies & Procedures\Policy & Procedure Development Tools\Governance\ACNC (2015) Managing Conflicts of Interest - A Guide for Charity Board Members.pdf"

- CCIC (2008) Managing Conflict of Interest Situations located at file path: CCIC (2008) Managing Conflict of Interest Situations