

Conflicts of Interest

According to section 29 of the Law:

(1) Where there is a possible or perceived conflict of interest with respect to any matter that comes up for discussion, a person in public life shall—

- (a) disclose their interest and
- (b) leave the meeting as soon as the matter comes up on the agenda for deliberation;
- (c) not participate, directly or indirectly, in deliberations touching such matter and shall not return while the matter is under discussion until a decision has been taken by the body concerned; and
- (d) comply with such regulations as Cabinet may make with regard to conflict of interest.

(2) A record shall be made in the minutes of the meeting of a declaration of interest made under this section, and the absence of the member.

(3) Should a conflict of interest arise in a matter where the person in public life has power to take a decision on his own, that person shall recuse himself/herself at the earliest opportunity and shall not express any opinion on the matter.

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This guide is for informational purposes only and does not constitute legal advice. It should in no way be taken as a replacement for referring to the relevant Standards in Public Life legislation or supporting Regulations or for obtaining proper legal advice.

The Nolan Principles

Also known as the 7 Principles of Public Life, these principles are outlined in Schedule 2 of the Law which requires that persons in public life shall observe the following principles:

- ◆ Selflessness
- ◆ Integrity
- ◆ Objectivity
- ◆ Accountability
- ◆ Openness
- ◆ Honesty
- ◆ Leadership

Expanded definitions of each of these principles can be found in Schedule 2 of the Law.

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Relevant Sections of the Law

Declarations of Interest

According to section 12(5) of the Law, a person in public life who is:

- (a) a board member of a statutory authority, public authority, commission or government company; or
- (b) a member of a governing body of a statutory authority or of a government company; or
- (c) a member of a Commission created by or under the Constitution,

will also be required to complete a declaration annually.

However, such declarations may be NIL filings except where there is a possible or perceived conflict with the Member's functions on the entity for which they were appointed in relation to themselves and any member of their immediate family.



A Person in Public Life's Guide to Conflicts of Interest

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What is the Commission for Standards in Public Life?

Created by section 117 of the Cayman Islands Constitution Order 2009 ("the Constitution"), the Commission for Standards in Public Life ("the Commission") is an independent body with overarching powers contained in the Standards in Public Life Law, 2014 ("the Law"), and the Standards in Public Life (Amendment) Law, 2016.

The functions of the Commission include, amongst others, "to assist in the setting of the highest standards of integrity and competence in public life in order to ensure the prevention of corruption or conflicts of interest..." (section 117 (9)(a) of the Constitution).

The Commission has developed a series of guides to assist in promoting understanding of the expectations to which persons in public life will be held accountable. This particular guide deals with conflicts of interest and sets out the legal and ethical requirements to avoid conflicts of interests for persons in public life.

In accordance with the Law 'conflict of interest' means "a situation where a person has a private interest which may improperly influence or be seen to improperly influence his public duties and responsibilities, or that of a connected person, in circumstances suggesting that the person concerned knew or ought reasonably to have known of the connection or possible connection, direct or indirect, between his duties and responsibilities and his private interest," (section 2 of the Law).

What is the difference between an Apparent and a Potential Conflict of Interest?

- ◆ An apparent conflict of interest exists when an interest would not necessarily influence the person but could result in the person's objectivity being questioned by others.
- ◆ A potential conflict of interest exists with an interest that any reasonable person could be uncertain about whether or not it should be reported.

Tips to Prevent Conflicts of Interest

1. Ensure compliance with the Law regarding:
 - ◆ filing annual declarations for the Register of Interests (sections 11 and 12);
 - ◆ timely disclosure of conflicts of interest and observed procedures for dealing with them (section 29); and
 - ◆ compliance with the Nolan Principles (Schedule 2).
2. Create a policy on declaring gifts received;
3. Observance and compliance with policies and procedures for mitigating and managing conflicts of interest;
4. Implement sanctions for any breach of the Board's established policies and procedures;
5. Ensure board members are trained in all relevant policies, procedures, and legislation to ensure awareness of their accountabilities;

6. Include 'conflicts of interest' as a risk to be assessed in the Board's internal audit and on-going overall risk management processes;
7. Include information on processes for managing conflicts of interest in documents aimed at external stakeholders (such as a statement of business ethics or client service charter);
8. Remind members of the requirement to refrain from placing themselves under any financial or other obligation to outside individuals or organisations that might influence the performance of other official duties that might influence or might be perceived to influence the performance of their official duties; and
9. Ensure members, in the discharge of their duties are at all times:
 - ◆ compliant with laws;
 - ◆ objective/impartial;
 - ◆ fair/courteous;
 - ◆ accessible;
 - ◆ timely and consistent in their decision-making;
 - ◆ cognizant of costs to all parties;
 - ◆ collegiate; and
 - ◆ confidential.

