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| Chapter 5 – Standards of conduct |
| This chapter looks at standards of conduct for committee members. |

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# 5.1 Introduction

It is essential that the Victorian community has confidence in the integrity and decision making of your committee. Committee members must comply with:

* certain standards of conduct, such as honesty and integrity, and
* certain procedures, for example, ensuring that conflicts of interest are properly declared and managed.

# 5.2 Committee policies

Your committee must have suitable policies so that all members are clear on the requirements for good management. This includes policies on:

* code of conduct
* gifts, benefits and hospitality
* conflict of interest
* meetings and decisions (see previous chapter)
* dispute resolution.

DELWP has developed a policy pack for local committees that manage local reserves. Your committee can choose to insert its name into a DELWP model policy and adopt it at a committee meeting. The policy pack is available from the [committees of management](http://www.delwp.vic.gov.au/committees) page on the DELWP website or contact your local DELWP [regional office](https://www2.delwp.vic.gov.au/communities-and-regions/regions-and-locations).

Major committees that manage reserves of regional or statewide significance have additional obligations and should use the model policies and guidance notes for major agencies. See DELWP’s governance website, [On Board](http://www.delwp.vic.gov.au/onboard).

# 5.3 Code of conduct

## Committee members

Your committee must comply with the [**Code of Conduct for Directors of Victorian Public Entities**](https://vpsc.vic.gov.au/resources/code-of-conduct-for-directors/)(the Code). The Code is issued by the Victorian Public Sector Commission. It is binding on almost all committees. Remaining committees are bound by similar integrity principles, for example, under corporations law.

The Code reflects the values, principles and integrity requirements in the *Public Administration Act 2004*. It includes elements that are essential to good public sector governance, such as:

* acting with honesty, integrity, and other standards of conduct
* limits on accepting or offering gifts in your role as a committee member (see ‘Gifts, benefits and hospitality’, later in this chapter)
* declaring conflicts of interest so that the committee can determine how to manage them in the public interest (see 5.4 ‘Conflict of interest)
* maintaining confidentiality and the proper use of information (see ‘Confidentiality and proper use of information’, in this chapter)
* following your committee’s policies.

## Committee employees

Similarly, employees of committees are bound by the [**Code of Conduct for Victorian Public Sector Employees**](https://vpsc.vic.gov.au/resources/code-of-conduct-for-employees/). In a few cases they are bound by similar principles in a different regulatory regime, for example, corporations law.

# 5.4 Conflict of interest

Your committee should have a *Conflict of interest* policy that:

* meets good public sector governance practice
* sets out the requirements to declare and manage conflicts of interest
* provides guidance on strategies to manage conflicts of interest.

## What is a conflict of interest?

Conflicts of interest are situations where a conflict arises between your public duty on a committee and your private interests. A conflict of interest may be:

* **Actual** (existing), **perceived** (it could look like a conflict to someone else) or **potential** (it could arise in the future).
* **direct** involving you, or **indirect**, for example, arising through a sporting club, family member, associate or friend with whom you are associated
* **financial**, for example, relating to money or shares, or **non-financial**, for example, relating to personal relationships, memberships or affiliations with clubs or other organisations, duty to an employer, and other personal interests.

Examples

Depending on the decision to be taken by a committee at a meeting, some other examples could be:

* being an annual camper on the reserve
* being a member of a recreational club that holds a lease over part of the reserve
* being the coach of a sporting club with a lease up for renewal at the meeting.

## **Red flags**

Unmanaged conflicts most commonly affect committees through high-risk activities including:

* **procurement** – purchasing goods or services from a mate rather going through a proper competitive process
* **recruitment** – favouring friends and family over other applicants for employment
* **financial management** – using committee resources for personal benefit, for example, not paying fees for storing a caravan on committee property or personal use of committee power tools or trailers
* **complaint management** – ignoring complaints about other committee members or employees.

## Managing a conflict of interest

When a conflict is identified, it must be:

* declared
* managed by the committee in the best interests of managing the reserve on behalf of the Victorian community, rather than in the interests of a committee member or any other organisation to which a member owes a duty
* recorded in the minutes of the committee meeting, together with how it will be managed.

Conflicts must be declared so they can be appropriately managed by the committee. It is up to the committee, not the member with the conflict, to determine how to deal with a conflict of interest.

## Declaring a conflict at the start of the meeting

At the start of each committee meeting, the chair must ask the members present to declare any interest they have in any item on the agenda, **even if it is already recorded in the register**. Conflicts may also be raised during a meeting when they become apparent.

If a member thinks someone else may have an undeclared interest, they should raise it with the committee chair.

The chair or the local DELWP [regional office](https://www2.delwp.vic.gov.au/communities-and-regions/regions-and-locations) should be notified about other concerns regarding conflicts of interest.

## Standard procedure for dealing with a conflict of interest

The committee’s **standard procedure** for managing a material (serious) conflict of interest is to ‘remove’ the member with the conflict from all discussion and decision making on the matter. The member:

* leaves the room at the start of the relevant agenda item and does not return until the start of the next agenda item
* does not discuss the matter at all with any other member, either in the meeting or elsewhere, and
* does not participate in any committee decision on the matter.

The standard procedure is followed unless the committee determines and records in the minutes clear reasons why it is not in the public interest.

### Lesser options

A **lesser option** will not usually be in the public interest for managing a material (serious) conflict of interest. Examples of where a lesser option may be in the public interest are:

Example: Discussion

If the member with the conflict was appointed because of their knowledge of the matter, then it may be in the public interest for them to be present for part of the committee’s discussions.

Example: Decision

If the standard procedure of removing conflicted members from all discussion and decision making on the issue would mean there is no quorum for the decision **even if all committee members are present**, then a lesser option will be in the public interest. However, if ‘unconflicted’ member/s are absent, it will usually be in the public interest for the decision to be held over to the next committee meeting.

Contact the local DELWP [regional office](https://www2.delwp.vic.gov.au/communities-and-regions/regions-and-locations) for advice if your committee is unsure about how to handle a conflict of interest. Also contact the department if the committee often has trouble meeting a quorum due to conflicts of interest.

## Recording conflicts

Record in the minutes of the meeting any conflicts with agenda items and how the committee dealt with them. Good record keeping is crucial to ensuring transparency and good conflict of interest management.

## Register of private interests

Your committee should have a *Register of private interests.* This is where the committee records the interests of all members that may give rise to a conflict of interest. You are responsible for ensuring that your interests as recorded in the register are correct and complete. The chair is responsible for ensuring that the register is stored in a manner that maintains the confidentiality of committee members.

At the start of each meeting, committee members should confirm or update their private interests as recorded in the register. This agenda item should be noted in the meeting minutes and the register updated if required.

# 5.5 Gifts, benefits and hospitality

Committee members should avoid accepting and making offers of gifts, benefits and hospitality in their role as a committee member.

## What is a gift?

A gift is a free or heavily discounted **item** or **service**, for example, an offer to paint your fence at a reduced rate.

A gift also includes **benefits** or **hospitality** that exceed common courtesy. For example, a cup of coffee is a common courtesy, but an offer of a $100 bottle of wine is a **gift** offer.

## Minimum requirements

Minimum requirements are that committee members:

* Never solicit gifts.
* Always refuse any bribery attempt and report the incident to the committee chair or the regional DELWP office.
* Keep community expectations in mind and never accept offers that could create a perception of bias.
* Never accept:
  + - money or other items easily converted into money
    - gifts, including volunteer labour or discounted materials, from a person who is likely to be affected by a committee decision, now or in the future, for example, from a person likely to apply for a contract or tender with the committee
    - inducements offered indirectly through family.

## Best practice

Best practice is to decline all but **token** gift offers. This helps to eliminate the possibility of perceptions of bias. It includes returning goods, benefits and hospitality that has been delivered.

A **token** offer is one that aligns with community expectations of common courtesy.

The Victorian Public Sector Commission rates any gift valued at $50 or more as **non-token**.

## Recording offers of gifts, benefits and hospitality

All offers of goods, benefits and hospitality valued at $50 or more (non-token) should be recorded in the *Gifts, benefits and hospitality register*, **regardless of whether the offer is accepted or declined**.

Good record keeping should transparently document accepted and declined offers. This can help to identify if a person is being targeted, or if a business or person is making repeated offers in an attempt to influence committee decisions.

## Restrictions on gift giving

The committee should never purchase a gift with committee funds unless it can *clearly* be justified in the public interest, which is rare. This applies to gifts to committee members and to non-committee members. Any such expense should be recorded in the committee’s records, as required by section 15(8) of the *Crown Land (Reserves) Act 1978*. Contact your local DELWP [regional office](https://www2.delwp.vic.gov.au/communities-and-regions/regions-and-locations) for further information.

# 5.6 Confidentiality and proper use of information

Any information you receive in your role as a committee member:

* must only be used for proper purposes. It must not be used to gain advantage for you, or any other person, or to cause detriment to the management of the reserve.
* must be kept confidential.

These are legal requirements. They continue to apply even after you are no longer a committee member.

Contact your local DELWP [regional office](https://www2.delwp.vic.gov.au/communities-and-regions/regions-and-locations) for further information.

# 5.7 Dispute resolution

It is a normal part of the discussion and decision-making process to experience differences of opinion about decisions your committee needs to make. For guidance on meeting practice, refer to your *Meetings and decisions* policy (see previous chapter).

However, sometimes a ‘**dispute**’ arises between committee members. This is when two or more committee members have difficulty working together, for example, due to a personality conflict or ideological differences, and it is adversely affecting the committee’s performance.

At times, a dispute can result from or lead to serious integrity concerns, bullying or harassment. The chair needs to manage these situations, supported by all members of the committee.

Resolving a dispute can sometimes be assisted by contacting the local DELWP [regional office](https://www2.delwp.vic.gov.au/communities-and-regions/regions-and-locations). The department can help to clarify matters about the committee’s roles and responsibilities that may be contributing to the dispute, for example, clarify technical or policy issues.

However, if the dispute is an interpersonal conflict, the department will usually recommend that your committee contact the local office of the Dispute Resolution Centre of Victoria (DRCV). The DRCV is a free service of the Victorian Government. It may be able to help the parties resolve their personal differences in a way that enables them to continue to work together.

For further information see the [DRCV website](https://www.disputes.vic.gov.au/), including the [contact details](https://www.disputes.vic.gov.au/about-us/contact-us) for metropolitan and regional DRCVs.

It is good practice for your committee to have a *Dispute resolution* policy. DELWP offers a model policy to assist. It is available from the [committees of management](http://www.delwp.vic.gov.au/committees) page on the DELWP website.

# 5.8 Further information

Further information on the topics in this chapter is available from guidance notes in the ‘induction pack’ on the [committees of management](http://www.delwp.vic.gov.au/committees) page on the DELWP website or contact your local DELWP [regional office](https://www2.delwp.vic.gov.au/communities-and-regions/regions-and-locations).

# 5.9 Electronic copy

An electronic copy of this document is available from the DELWP website ([www.delwp.vic.gov.au/committees](http://www.delwp.vic.gov.au/committees))

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