



# **Conflict of Interest Policy**

**Effective: 23<sup>rd</sup> June 2014**

**Endorsed by ESA Board**

## **Purpose**

The purpose of this policy is to protect the integrity of the Equestrian SA decision-making process, to enable our stakeholders to have confidence in our integrity, and to protect the integrity and reputation of volunteers, staff and committee members.

All staff, volunteers, management and discipline committee members of Equestrian SA will strive to avoid any conflict of interest between the interests of the Organization on the one hand, and personal, professional, and business interests on the other. This includes avoiding actual conflicts of interest as well as the perception of conflicts of interest.

## **Objectives**

To establish a set of guidelines to govern the declaration of conflicts of interest for all members of Discipline Committees.

## **Definitions**

What is a Conflict of Interest?

### **1. Generally**

Generally, a conflict of interest arises when an individual might benefit, or has the appearance of benefiting, personally from official actions. The concept includes conflicts that are actual, possible or perceived.

### **2. Conflicts Specific to Discipline Committees**

Specific to the Discipline Committees, the term refers to situations in which financial or other personal considerations may compromise, or have the appearance of compromising, a Discipline Committee member's judgment in carrying out the functions of the Committee.

The appearance of a conflict may be as serious and potentially damaging as an actual conflict, as the appearance of a conflict may undermine member's confidence in the Discipline Committee.

### **3. Declaration of Conflict**

Given the expectation that Discipline Committee members will place the interests of the Committee in carrying out its functions under the Act above other interests, members are expected to disclose interests in matters which conflict, or may be reasonably thought to conflict, with their Committee duty.

\* The remaining members of the Discipline Committee will determine if the declaration constitutes a conflict of interest.

## Examples of Conflict of Interest

The following examples of potential conflicts of interest are provided to assist Committee members to determine whether they have a conflict:

1. A member's private interests are likely to interfere with an official duty.
  - The member stands to gain personally from the Committee decision.
  - The member stands to gain financially from the Committee decision.
  - The member is \*closely associated (via membership, contract or employment etc) with another organisation that is likely to be affected by the Committee decision.
  - The member is \*closely associated with another person, and that person is likely to be affected by the Committee decision.
  
2. A member's private interests have the appearance of, or potential to, interfere with an official duty.
  - Examples
    - The member will be affected by the Committee decision.
    - The member is associated (via membership, contract or employment etc) with another organisation which may be affected by the Committee's decision, giving the appearance that the member may be biased in their judgment (whether or not this is the case).
    - The member is associated with another person who may be affected by the Committee's decision, giving the appearance that the member may be biased in their judgment (whether or not this is the case).

In determining whether a member's private interests have the appearance of, or potential to, interfere with their official duty, it is useful to adopt the test used by the High Court of Australia in *Ebner –v- Official Trustee*, the test being "whether a fair minded lay observer might reasonably apprehend a Committee member might not bring an impartial mind to the decision making process".

3. A member's indirect association with a person or group is likely to interfere with the member's official duty.
  - Examples
    - The member's employer, friend, relative or acquaintance (etc.) stands to gain personally from a Committee decision.
    - The member's employer, friend, relative or acquaintance (etc.) stands to gain financially from a Committee decision.

- A member's spouse, children or close relatives are associated with an organisation likely to benefit from a Committee decision.

## Operational Issues

Given this policy affects all Discipline Committee members, the following paragraphs provide practical guidelines for compliance.

### Guidelines for declaring a Conflict of Interest

- (1) If a member has or acquires an interest (whether pecuniary or otherwise) that would conflict with the proper performance of the member's functions in relation to a matter being considered or about to be considered by the Committee, the member must disclose the nature of the interest at a meeting of the Committee.
- (2) A disclosure under sub clause (1) must be recorded in the minutes and, unless the Committee (exclusive of the member) determines otherwise, the member must not:
  - a) be present during any deliberations of the Committee in relation to the matter; or
  - b) take part in any decision of the Committee in relation to the matter.

The following protocol has been developed to assist the Discipline Committees:

1. Each meeting agenda will contain an item titled "Conflicts of Interest". The item will form a separate agenda item, and will be a standard feature of the agenda for meetings.
2. At the beginning of each Committee meeting, members will be invited to declare any conflicts of interest in relation to any of the agenda items. If unsure, members are invited to seek the assistance of the Committee to determine whether a conflict exists.
3. Any conflicts of interest declared by members will be recorded in the minutes.
4. Members may declare a standing conflict of interest, which is to be recorded in the minutes.
5. When recording declarations of conflict of interest in the minutes, the entry should follow this example:

- (a) X declared an interest in relation to Y.
  - (b) X was/was not present during any deliberations of the Committee in relation to the matter.
  - (c) Mr/Ms X did/did not take part in any decision of the Committee in relation to the matter.
6. Unless the Committee (exclusive of member (the member) associated with the conflict of interest) determines otherwise, the member will physically remove him/herself from the room during deliberations,\* this includes discussion associated with the matter.
7. Unless the Committee (exclusive of the member) determines otherwise, the member will not take part in the discussion related to the matter or the Committee decision on the matter.

The above protocol will enable the Discipline Committees to keep accurate records of all declarations of conflicts of interests, in addition to how the conflict was dealt with by the relevant Committee.

## **Breach of Policy**

In the event a member breaches this policy, the Committee will need to address the breach. Members should bear in mind:

1. The Committee needs to concern itself with conflicts of interest because the members of requestrian SA expects the Committee to serve them diligently. If the Committee fails in this duty, the trust of the member will be undermined.
2. Because the appearance of a conflict may undermine the member's confidence in the Committee, the appearance of a conflict of interest can be as serious and potentially damaging as an actual conflict. The member's confidence may not be adequately restored, even when the mitigating facts of a situation are brought to light.
3. Omitting to declare a conflict of interest may constitute a breach of fiduciary responsibility, and as such the member would not be afforded the protection provided.

It is therefore recommended that when a Committee that includes a member who had a conflict of interest makes a decision, the Board should revisit the decision when the conflict becomes apparent. Having said that, the original decision will not be invalid.