

CONFLICT OF INTEREST POLICY

PURPOSE

This policy aims to ensure that the Melbourne Central Basketball Association Board (MCBA) can avoid actual, potential and perceived conflicts of interest wherever possible, by actively identifying, declaring and managing conflicts of interest.

As a Board member, you have a duty to place the MCBA interest above your own interests. The Board acknowledges that members may at some point encounter a conflict of interest and that conflict will not always be avoidable. The conflict must however be identified and appropriately managed in the MCBA interest.

This ensures the highest levels of MCBA trust in the integrity of the Melbourne Central Basketball Association.

APPLICATION

This policy applies to the following persons:

- the Chairperson, Deputy Chairperson, Secretary, Treasurer, Board Directors and all members of MCBA
- all persons sitting as members of any committee, advisory committee or working group established by MCBA Board
- all persons employed by MCBA
- all volunteers appointed by MCBA to undertake activities in MCBA and Melbourne Tiger's name.

RESPONSIBLE OFFICER

The MCBA Board Secretary is the responsible officer for overseeing conflicts of interest and will:

- maintain the register of interests declared
- ensure the conflict of interest policy is kept current
- act as a point of contact for anyone wanting assistance in identifying or managing a conflict of interest • maintain records of disclosed conflicts
- receiving complaints and grievances of possible breaches of the conflict of interest policy • investigating and enforcing policy compliance
- ensuring that the conflict of interest communication strategy is implemented and reviewed to assess effectiveness.

DEFINITIONS

Conflict of interest or duties

Conflicts of interest or duties in the MCBA sector are conflicts between MCBA duties and private interests.

These conflicts can be actual, potential or perceived, for example:

- An actual conflict of interest/duties is one where there is a real current conflict between a person's MCBA duties and responsibilities and their private interests.
- A potential conflict of duty (also known as a conflict of role) can arise even where a person does not have private interests at stake. In this instance a person's MCBA duty to the best interests of their organisation conflicts with their duty to another MCBA sector or private organisation.
- A perceived conflict of interest/duties can exist where a third party could form the view that a person's private interest could improperly influence the performance of their duties, now or in the future.
- A conflict of interest can arise from avoiding personal losses, as well as gaining personal advantage—whether financial or otherwise.

As a Board member, your first loyalty is to the organisation that appointed you. You have a duty to help fulfil its functions. You have this duty even if a member organisation or another organisation appointed you first.

Private interests

An interest in this context means anything that can have an impact on an individual or group. The term private interests include not only a person's own personal, family, professional or business interests (direct interest), but also the personal, family, professional or business interests of individuals or groups with whom they are closely associated (indirect interests). This can include relatives, friends or even rivals and enemies. Private interests can be divided into two types: pecuniary and non-pecuniary.

- Pecuniary interests involve an actual, potential or perceived financial gain or loss. Money does not need to change hands for an interest to be pecuniary. People have a pecuniary interest if they (or a relative or a close associate) own property, shares, have a position in a company or receive benefits or concessions, discounts, gifts or hospitality from a particular source.
- Non-pecuniary interests do not have a financial component. They may arise from personal or family relationships, or involvement in sporting, social or cultural activities. They include any tendency toward favour or prejudice resulting from friendship, animosity or other personal interests. Consensual personal relationships with people who could be affected by your role can create a conflict of interest. This conflict exists if you have a relationship with someone who could influence or be seen to influence, your decisions or actions as a Board member.

PRINCIPLES

This policy is based on the four principles outlined below.

Protect the MCBA interest through upholding the MCBA values

To meet their MCBA duty obligations, persons subject to this policy must not only act within the law but must also apply the broader MCBA values as determined by the MCBA Board and/or its members from time to time, which are reinforced by codes of conduct, and act in accordance with good governance practices. All the values reinforce the need to avoid conflicts of interest. For example, the value of 'impartiality' includes providing advice without bias, favouritism, or self-interest, while 'respect' includes treating others fairly and objectively.

Support transparency and accountability

Conflicts of interest must be seen to be managed fairly and effectively. To achieve this, the processes for identifying, disclosing and managing conflicts of interest must be transparent—that is, open to scrutiny, and supporting accountability.

Disclosure of private interests or affiliations that could compromise or be seen to compromise the unbiased performance of a person's duty is the first step in effectively managing the conflict. As managing a conflict will not necessarily entail the complete withdrawal of a person from a matter, it is important that the steps taken to manage the issue are transparent.

Members of the MCBA, stakeholders and partner groups will be made aware of MCBA Board's policies and procedures for managing conflicts of interest.

Promote individual responsibility for integrity and impartiality

Resolving or managing conflicts of interest in favour of the MCBA interest demonstrates the integrity and professionalism of individuals and organisations.

Persons subject to this policy are individually responsible for arranging their private affairs, as far as is reasonably possible, to prevent conflicts of interest arising and to protect their impartiality. Persons subject to this policy are supported to raise their own conflicts of interest and speak up if they believe that another person subject to this policy may have an undeclared conflict.

Build a supportive organisational culture through good governance practices

The purpose of systems to manage conflicts of interest is to maintain the integrity of official policy and administrative decisions and support MCBA confidence in the basketball community.

MCBA Board will provide, implement and promote management policies, processes and good governance practices, while acting in accordance with its obligations that create and sustain a culture of integrity.

GENERAL POLICY RESPONSIBILITIES

Responsibilities of the organisation

- Taking a risk-based, proactive approach to assessing and managing conflict of interest risks.
- Establishing a system for identifying and managing conflicts of interest in the form of detailed policies and procedures.
- Building a culture that supports implementation of all relevant policies through appropriate education, training and enforcement activities.
- Receiving and investigating complaints regarding breaches of conflict of interest policies.
- Monitoring compliance with conflict of interest policies, including responses to alleged breaches.

Responsibilities of persons subject to this policy

- Being aware of their obligations and being accountable to avoid conflicts of interest where possible, and identify, declare and manage those conflicts of interest that cannot be avoided.
- Assessing whether their private and personal interest conflicts or have the potential to conflict with their official duties.
- Taking reasonable steps to restrict the extent to which a private interest could compromise or be seen to compromise their impartiality when carrying out their official duties.
- Disclosing conflicts of interest, they may have in accordance with specified procedures. Abstaining from involvement in official decisions and actions that could reasonably be seen to be compromised by their private interests and affiliations.
- Avoiding private action in which they could be seen to have an improper advantage from inside information they have access to because of their official duties.
- Not using their official position or MCBA resources for private gain.
- Ensuring that there can be no perception that they have received an improper benefit that may influence the performance of their official duties.
- Not taking improper advantage of their official position or privileged information gained in that position when seeking employment outside the MCBA sector.
- Placing the MCBA interest above their private interests when carrying out official functions by complying with the requirements of this policy and any other MCBA policies and procedures.

In assessing any conflict of interest, below is a list of relevant questions for persons subject to this policy to consider:

1. What assessment would a fair-minded member of the MCBA make of the circumstances?
2. Could my involvement in this matter cast doubt on my or the MCBA Board's integrity?
3. If I saw someone else doing this, would I suspect that they might have a conflict of interest?
4. If I did participate in this action or decision, would I be happy if my colleagues and the MCBA became aware of my involvement and any association or connection?
5. How would I feel if my actions were covered by the media? Would they embarrass myself, MCBA Board or the MCBA basketball community?
6. Is the matter or issue one of great MCBA interest or controversy where my proposed decision or action could attract greater scrutiny by others?

PROCEDURES

Declaration of private interests

All members are required to complete a declaration of private interest form on appointment to MCBA Board, a MCBA committee, employment with MCBA or appointment to a key volunteer role, as determined by MCBA Board or management.

The declaration is remade annually or when there is a significant change in the member's circumstances.

Member declarations are held securely in a register of interests and direct and indirect interests are reported to each meeting of MCBA Board, and MCBA Board committees. Members will also be asked at the beginning of each meeting to confirm or correct the details of the register. These details will be captured in the minutes for entry into the register.

Identifying conflicts of interest

Persons subject to this policy should regularly consider the relationship between their private interests and MCBA duties in order to identify any conflict of interest (for example, before major decisions or policy development).

Whilst conflict of interest may occur in any part of MCBA related work, some functions and activities are higher risk than others and may require increased risk mitigation measures.

The following functions are high risk within MCBA (not exhaustive):

- Appointments
 - recruitment and selection of employees
 - appointment of coaches
 - appointment of key volunteer positions
- Performance appraisal & assessment
- Determination of remuneration of employees
- Complaints and/or grievances
- Child safety investigations
- Commercial arrangements with partner organisations
- internal committee governance
- Selection of players
- Stakeholder management.

Any identified conflicts of interests will be considered material in nature as they may have the potential to unduly influence members in making unbiased determinations regarding MCBA Board and Melbourne Tiger's matters.

DISCLOSURE OF INTERESTS

Members will declare any private interests or conflicts of interests at the start of each meeting as they relate to any item on the agenda. Members will also declare interests during a meeting as they become aware of them. Any member who suspects an undeclared interest of another member may raise it as a query, to enable the other member to declare the interest, if it exists.

Members must disclose private interests and conflicts of interest (including potential or perceived conflicts of interest) as soon as they arise.

All interests should be formally disclosed using the forms as prescribed by the Board Secretary and forwarded to the Board Secretary on an annual basis. This form will also detail the conflict of interest management strategy plan agreed to by the member and chairperson or the Secretary of the MCBA Board or the Board in the case of the Chair.

Managing conflicts of interest

A management strategy plan will be prepared by the chairperson or Board Secretary for each declared conflict of interest and recorded on the prescribed form. It will record the management strategy to be followed and will be signed by the relevant parties. Each conflict of interest management strategy plan will be reviewed according to the timeline agreed to in the form.

The forms will be held and managed by the Board Secretary.

Members' conflict of interest management plans will ensure conflicts are managed and resolved in favour of the MCBA interest rather than that of the member and will be based on the following mitigation strategies:

Restrict	Restrictions are placed on the member's involvement in the matter to the extent that matches the MCBA interest. Monitoring will occur to check whether this remains the appropriate option.
Recruit	A disinterested third party is used to oversee part or all, of the process that deals with the matter.
Remove	The member removes themselves, or is removed, from the matter.
Relinquish or Resign	The member relinquishes the private interest that is creating the conflict. Where relinquishing the interest is not possible (e.g. relationship with family) and the conflict cannot be managed in the MCBA interest using one of the other options above, the member may consider resigning.
Record	Details of the conflict are recorded in the minutes. Monitoring will occur to check whether this remains the appropriate option.

Restrict or recruit—lesser options for managing conflicts of interest

In certain circumstances, factors such as the expertise of the 'conflicted' member and/or the composition of MCBA Board or the committee may sufficiently affect the MCBA interest for a lesser option such as restricting involvement or recruiting an independent person to be considered.

If MCBA Board or the committee is uncertain whether a lesser option is in the MCBA interest, independent advice should be sought from Basketball Victoria, or another appropriate organisation as determined by the MCBA Board.

Examples of where, considering all the relevant circumstances MCBA Board or the committee may determine that a lesser option is in the MCBA interest are:

Member expertise—If the 'conflicted' member was appointed on the basis of their knowledge of the issue and/or as a stakeholder representative, it may be in the MCBA interest for them to be present for at least part of the MCBA Board or the committee discussions, so as to enable the MCBA Board or the committee to utilise this knowledge and/or understand key stakeholder views.

Remove—the recommended procedure for managing conflicts of interest

The option of removing the conflicted member from decision making will usually be sufficient to manage the conflict where the conflict is in relation to a single issue. The recommended procedure for dealing with a conflict of interest is for the member with the conflict to:

- leave the room at the start of the relevant agenda item and not return until the start of the next agenda item
- not discuss the matter at all with any other member (either in the meeting or elsewhere)
- not participate in any MCBA Board or the committee on the matter.

This procedure should be followed unless MCBA Board or the committee determines and documents clear reasons why the MCBA interest requires the MCBA Board or the committee manage the conflict in a different way. Depending on the nature of the conflict, lesser or stronger options may be required. Lesser options include placing restrictions on the conflicted member's involvement in discussion and decision making, while stronger options include relinquishment and resignation.

Relinquish or resign—stronger options for managing conflicts of interest

In some cases, the conflict of interest may be more enduring. That is, it is such that members of the MCBA could reasonably form the view that a member's situation is unacceptable and may damage the reputation of the entity.

It may then be necessary for the member to:

- relinquish their private interests
- resign or temporarily stand down from the other organisation to which he/she has a duty
- resign from MCBA Board or the committee

If the MCBA Board or the committee is uncertain whether the stronger option is in the MCBA interest, independent advice should be sought from Basketball Victoria.

Record

Details of the conflict are recorded in the minutes. Monitoring will occur to check whether this remains the appropriate option.

RECORD KEEPING

For each identified conflict of interest, the prescribed form will be completed. It will be retained securely by the responsible by the MCBA Board Secretary.

Any conflicts of interests (whether actual, perceived or potential) declared at a meeting will be recorded in the minutes, including a description of the conflict and the action the Board, committee, working group or regional council will take to manage the conflict in the MCBA interest.

MCBA Board registers are held and managed by the MCBA Board Secretary.

A report on the conflict of interest process will be reported to the MCBA Board Audit and Risk Committee on annual basis.

BREACHES OF THIS POLICY

Any breach of this policy by an MCBA Board or the committee or other member as outlined in this policy will result in sanctions to act as a deterrent but proportionate to the seriousness of the breach. Serious breaches may lead to dismissal and/or reporting to the police.

SPEAK UP/CALL IT OUT

MCBA Board or the committee/advisory committee members who consider that a conflict of interest within MCBA Board or the committee, employee or key volunteer may not have been declared or is not being appropriately managed should speak up and notify the MCBA Board Secretary.

The MCBA Board encourages and assists people in making disclosures of improper conduct by MCBA members and its community. Protection will be provided to people who make disclosures in accordance with the Public Interest Disclosures Act 2012 and the MCBA Board will establish a system for the matters disclosed to be investigated and rectifying action to be taken.

MCBA Board does not tolerate improper conduct, nor the taking of reprisals against those who come forward to disclose such conduct. It is committed to ensuring transparency and accountability in its administrative and management practices and supports the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of MCBA resources, or conduct involving a substantial risk to MCBA health and safety or the environment.

MCBA Board will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure. It will also afford natural justice to the person who is the subject of the disclosure to the extent that it is legally possible.

PRIVACY

Reporting potential or actual conflicts and making declarations of private interest may involve disclosing personal information. All such information will be handled in accordance with the Victorian Privacy and Data Protection Act 2014.

To protect a member’s personal privacy only relevant persons will be advised of the declaration and any arrangements necessary for the purpose of recording and managing the conflict of interest.

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