



# **P38 Board Code of Conduct**

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## 1. Introduction

- 1.1 This Board Code of Conduct has been developed to enable Cancer Council NSW **(Cancer Council)** to:
  - (a) maintain the highest levels of integrity and business ethics
  - (b) ensure that actual, potential, or perceived conflicts of interest are identified, disclosed and managed, and
  - (c) ensure that Board Directors adhere to a statement of principles and expected behaviours that assist them in the performance of their duties and the exercise of their powers.
- 1.2 This Board Code of Conduct applies in addition to any relevant provisions of Cancer Council's general Code of Conduct Policy and takes precedence to the extent of any inconsistencies. Board Directors should have regard to that Policy and are expected to demonstrate the Cancer Council values as set out in that Policy.
- 1.3 This Board Code of Conduct cannot address all ethical questions or behaviour that Board Directors may encounter. Board Directors therefore need to be aware of, and comply with, relevant legislation and Cancer Council's other policies and guidelines.
- 1.4 All Board Directors are to receive this Board Code of Conduct as part of their induction. If Board Directors need more information or are unsure of Cancer Council's expectations or of their duties and responsibilities, they should contact the Chair of the Board, the CEO, or the Company Secretary.
- 1.5 The document owner is the Chair of the Board.
- 1.6 This Board Code of Conduct may be reviewed and varied from time to time in accordance with the relevant legislation requirements and to meet the ongoing needs of the organisation.

## 2. Application and review

- 2.1 This Board Code of Conduct will commence on #date# and will be reviewed on or before #date#. It replaces all other versions of this policy.
- 2.2 This Board Code of Conduct applies to all Board Directors of Cancer Council. Non-compliance may result in the Board Director needing to undertake further training and education or Cancer Council taking appropriate remedial action. In the case of a significant breach of this policy, the Board should consider terminating the Board Director's appointment.

## 3. Code of Conduct Statement of Principles

- 3.1 Board Directors should always act in Cancer Council's best interests and value its reputation, including:
  - (a) undertaking their duties with care and diligence in accordance with their legal obligations
  - (b) always acting in good faith and in the best interests of Cancer Council as a whole
  - (c) using their powers for a proper purpose and exercising their authority responsibly and within their limits. Board Directors are responsible for understanding these limits and are accountable for how they use their authority

- (d) behaving in a way that brings credit to Cancer Council and takes into account its impact on the broader community and its position as a community funded and owned organisation, and
  - (e) applying independent judgement to all matters before them and take all reasonable steps to be satisfied as to the soundness of all decisions taken by the Board.
- 3.2 Board Directors should always act with honesty and integrity, including:
- (a) acting honestly and with integrity in all of their dealings for Cancer Council
  - (b) not making promises or commitments they know Cancer Council does not intend, or would be unable, to honour
  - (c) not knowingly participating in any illegal or unethical activity
  - (d) always speaking the truth, and not knowingly misleading directly or indirectly or making false statements, or misleading by omission
  - (e) not using Cancer Council's name, property or information to further any personal or other business transaction, and
  - (f) using goods, services, systems, equipment and facilities provided to them by Cancer Council for proper purposes and strictly in accordance with the terms on which they are provided.
- 3.3 Board Directors should always treat others with respect and value differences, including:
- (a) treating all people they encounter through their work with Cancer Council with dignity and respect
  - (b) making any appointment decisions based on merit, and not on attributes that are irrelevant to appointment or performance, and
  - (c) never unlawfully discriminating, harassing, or bullying anyone in their Cancer Council dealings. This includes being sensitive to behaviour that may be acceptable to them but not to others.
- 3.4 Board Directors should always respect and maintain privacy and confidentiality, including:
- (a) not improperly disclose or use any confidential information about Cancer Council acquired as a Director
  - (b) ensure that confidential information relating to Cancer Council staff, volunteers, clients and Cancer Council's operations is not given by them either inadvertently or deliberately to third parties without the consent of Cancer Council, and
  - (c) respect the privacy of others.
- 3.5 Board Directors should always identify conflicts of interest and manage them responsibly, including:
- (a) fully disclosing any active private or other business interests promptly (including financial and other interests that could compromise or be perceived to influence the impartial performance of their duties) and any other matters that may lead to potential or actual conflicts of interest
  - (b) in addition to providing full disclosure, refraining from and avoiding being engaged in any decision-making capacity with respect to Cancer Council decisions in relation to matters, persons or entities which involve an actual or perceived conflict of interest (and being prepared to change their circumstances to avoid or remove the relevant conflict)
  - (c) avoiding any financial or other interest that could compromise or be perceived to influence the impartial performance of their duties

- (d) not improperly using Cancer Council's information or property for personal financial or other gain, nor to obtaining any financial or other benefit for any other person or business
  - (e) fully disclosing active private or other business interests promptly and any other matters that may lead to potential or actual conflicts of interest
  - (f) fully disclosing all relationships they have with Cancer Council. Board Directors' dealings with Cancer Council should always be at arm's length to avoid the possibility of actual or perceived conflicts of interest, and
  - (g) complying with the Cancer Council Constitution, the Board Charter, Board sub-committee charters, and any other Cancer Council policies concerning Board Director's disclosure of interests and the handling of conflicts of interest.
- 3.6 Board Directors should never make or receive improper payments, benefits or gains, including:
- (a) never accepting or offering any improper payment or benefit in connection with their role as a Cancer Council Board Director
  - (b) never accepting any gift, reward, or entertainment, including discounted products, or free or discounted travel or accommodation, if it could create any obligation or expectation that could conflict with their role as a Cancer Council Board Director. If in any doubt, Board Directors should discuss the matter with the Chair, the CEO, or the Company Secretary
  - (c) never trying to improperly influence the outcome of any decision, for example by offering a payment or benefit that is not legitimately due. Such payments or benefits are unacceptable, and
  - (d) not using their status as a Board Director to seek personal gain from those doing business or seeking to do business with Cancer Council.
- 3.7 Board Directors should always abide by and comply with this Code of Conduct, the law and Cancer Council policies, as well as:
- (a) be familiar and comply with all relevant laws and regulations applicable to them. Board Directors must not take any action, or fail to take any action, that may breach the law or applicable Cancer Council policies, procedures or practices
  - (b) complete all induction and education programs required of them by the Board to build and maintain their awareness and understanding of relevant laws, policies, procedures and practices, and
  - (c) comply with the spirit as well as the letter of the law and this Code of Conduct.

## 4. Conflict of Interest

- 4.1 A conflict of interest is a situation where an actual, perceived or potential conflict exists between a Board Director's personal or private interests or duties and their duties to Cancer Council.
- (a) Actual Conflict of Interest: involves a direct conflict between a Director's duties and responsibilities to Cancer Council and a competing interest or obligation, whether personal or involving a third party
  - (b) Perceived Conflict of Interest: involves a situation where it could reasonably be perceived, or give the appearance, that a competing interest could improperly influence the performance of a Board Director's duties and responsibilities to Cancer Council
  - (c) Potential Conflict of Interest: arises where a Director has an interest or obligation, whether personal or involving a third party, that could conflict with the performance of a Board Director's duties and responsibilities to Cancer Council.
- 4.2 A Conflict of Interest can be either financial or non-financial:

- (a) financial conflict of interest involves an actual, perceived or potential financial gain or loss. It may, for example, result from the Board Director owning property, holding shares or a position in a company bidding for Cancer Council work, accepting gifts or hospitality or receiving an income from a second job
- (b) non-financial conflict of interest does not involve a financial component but may, for example, arise from a personal or family relationship or involvement in sporting, social or cultural activities. It includes any favour or prejudice resulting from friendship, animosity or other personal involvement that could lead to bias in the exercise of judgment or a discretion or the making of a decision.

4.3 Conflicts of interest can occur when a Board Director (or a member of their family):

- (a) has a financial interest in a matter involving Cancer Council
- (b) is a shareholder, Board member, Director or employee of other organisations (or has some other contractual arrangement with such an organisation from which they may benefit (financially or otherwise) with which Cancer Council has a financial interaction
- (c) holds personal beliefs or attitudes that may influence their impartiality
- (d) has personal relationships with people within Cancer Council or with whom Cancer Council is dealing that go beyond the level of a professional working relationship
- (e) without restricting individual democratic rights, is involved in party political activities which could affect the ability to represent Cancer Council's interests in a non-partisan way to the community and their elected representatives
- (f) has access to information that could be used for personal gain
- (g) participates in outside activities, including volunteer work, that could adversely affect their ability to act as a Cancer Council Director, or
- (h) has a duty or loyalty to another organisation that may compete with their duty to act in the best interests of Cancer Council

The above situations present the risk that a Board Director will make a decision based on, or affected by, these influences, rather than the best interests of Cancer Council, and must be managed accordingly.

4.4 The Board will manage actual, perceived or potential conflicts of interest by requiring Board Directors to:

- (a) disclose all employment, Directorships and other roles prior to appointment and update these disclosures in the event of any change
- (b) avoid conflicts of interest where possible
- (c) identify and disclose any conflicts of interest
- (d) carefully manage any conflicts of interest, and
- (e) follow this Code of Conduct and respond to any breaches.

4.5 Prior to appointment to the Board, all Board Directors are required to disclose:

- (a) the name of their employer and the names of other institutions for whom they perform paid services or with which they have an ongoing formal attachment
- (b) directorships they hold in public and private companies or other incorporated bodies, and
- (c) any other areas where they consider the potential exists for a direct or indirect conflict of interest between their role as a Cancer Council Board Director and another role, involvement or interest.

4.6 Board Directors may make a standing disclosure of the existence of a private interest, even though the circumstances may not give rise to a conflict of interest at the time. If a conflict of interest later arises, Board Directors are not required to make further disclosure, provided that the standing notice remains accurate at the time.

- 4.7 Once an actual, perceived or potential conflict of interest has been appropriately disclosed, the conflicted Board Director must not:
- (a) receive any Board or other papers in relation to any item of business affected by the conflict; and
  - (b) be present while the matter is discussed at any Board or other Meeting, or
  - (c) vote on the matter.
- 4.8 In exceptional circumstances, the Board (excluding any conflicted Board Director) may decide whether a conflicted Board Director may receive any Board or other papers in relation to any item of business affected by the conflict; and/or provide information to the Board in relation to that item of business.
- 4.9 Exceptional circumstances may include situations where a conflicted Board Director:
- (a) has made an application for a Cancer Council research grant has been seconded from another organisation, or
  - (b) Cancer Council is proposing to invest in an organisation where the Director has previously been employed.
- 4.10 Where an actual, perceived or potential conflict is very significant or likely to prevent a Board Director from regularly participating in ongoing Board discussions, the Board should consider whether it is appropriate for the conflicted Board Director to resign from the Board. In deciding the appropriate approach to take, the Board will consider:
- (a) whether the conflict will realistically impair the disclosing Board Director's capacity to impartially participate in decision-making
  - (b) whether the conflict needs to be avoided (including with the Board Director not participating in Board discussions and not voting)
  - (c) alternative options to avoid the conflict
  - (d) Cancer Council's objects and Mission, and
  - (e) the possibility of creating an appearance of improper conduct that might impair confidence in, or the reputation of, Cancer Council.
- 4.11 The approval of any action requires the agreement of at least a majority of the Board, excluding any conflicted Board Director, who are present and voting at the meeting. The action and the decision will be recorded in the minutes of the meeting and in the Register of Directors' Disclosures.
- 4.12 All Directors must be aware of the Australian Charities and Not-for-profits Commission (ACNC) governance standards, particularly governance standard 5, requiring them to disclose conflicts of interest. They must disclose any actual or perceived material conflicts of interest as required by that Standard.
- 4.13 The Company Secretary will maintain a Register of all Directors' disclosures. Directors must advise the Company Secretary of any changes to their disclosures as soon as possible after any change. The most recent version of the Register will be tabled at each Board Meeting for noting by the Board.

## **5. Public comment**

- 5.1 Board Directors should refer requests for media statements to the CEO. If public comment from the Board on behalf of Cancer Council is appropriate, the statement should be reviewed by the Board in advance, in consultation with the CEO, and would

likely come from the Chair. Board Directors may make an official comment when giving evidence in court.

- 5.2 Board Directors have the right as private citizens to express their personal views through public comment on political and social issues. However, they should not make, or appear to make, public comment on behalf of Cancer Council without completing media training organised by Cancer Council's PR and Communications team. Public comment includes public speaking engagements, comments in the media, views expressed in letters to newspapers, in online services such as social media, or in publications. Public comment would not include, for example, acknowledgement of volunteer and staff contributions at Cancer Council events.
- 5.3 Board Directors should not disclose confidential documents or information received in the course of their work, other than as required by law, or where agreed by a decision of the Board in consultation with the CEO. Client information and other personal information maintained by Cancer Council must be protected as required by Cancer Council's Privacy Policy.

## **6. Breaches of the Board Code of Conduct**

- 6.1 Any breaches of this Board Code of Conduct should be reported to the Chair of the Board, or the Chair of the Governance Committee.

## **7. References/related documents**

- Board and Committee Charters
- Cancer Council Constitution
- Code of Conduct
- Privacy Policy
- Fraud Policy and Investigation Procedure