



## CONFLICT OF INTEREST POLICY

Policy Owner		ERFA board of directors	
Approved by		ERFA board of directors	
Date Approved	Date of Last Review	Date of Next Review	
21 May 2018	May 2018	May 2021	

### Contents

1. Introduction
2. Legal, Registration & Membership Obligations
3. Purpose & Scope
4. Definitions
5. Guidelines for Management of Conflicts of Interest
6. Policy Statement
7. Responsibilities
8. Procedures
9. Breach of Policy
10. Relationship to Other Policies
11. Recommended Reading
12. Appendices

### 1 Introduction

Edmund Rice Foundation (Australia)'s (ERFA) Conflict of Interest Policy is grounded in ERFA's commitments to integrity, ethical behavior, accountability and transparency.

### 2 Legal, Registration & Membership Obligations

#### 2.1 Corporations Act 2001 (Commonwealth)

ERFA is incorporated under the Corporations Act 2001 (the Act) as a company limited by guarantee. Section 191 of the Act imposes the requirement on directors of a company to disclose material personal interests in matters relating to the affairs of the company. Section 195 of the Act imposes the additional requirement on directors of public companies (of which ERFA is one) to absent themselves from the meeting and from voting where the matter involves a material personal interest of the director. There are exceptions to both the disclosure and the non-participation requirements where the director makes full prior disclosure of the interest and obtains the consent of the other directors to participate.

#### 2.2 Australian Charities & Not-for-profits Commission (ACNC)

ERFA is an ACNC registered charity. All charities are required to meet a set of ACNC Governance Standards which set out core minimum governance standards for all registered charities. Governance Standard 5 includes a requirement that directors disclose any actual or perceived conflict of interest.

#### 2.3 Australian Council for International Development (ACFID)

ERFA is an ACFID member. The ACFID Code of Conduct requires that member organisations have a Conflict of Interest Policy which must include a requirement that responsible persons

(directors), staff and volunteers disclose perceived, potential and actual conflicts of interest. A copy of this policy is to be available on member organisations' websites. The relevant section of the ACFID Code reads as follows:

#### **2.4 ACFID Code Principal 7: Governance**

**Commitment 7.4:** We have responsible and independent governance mechanisms.

**Compliance Indicator 7.4.3:** Members manage conflicts of interest with responsible persons, staff and volunteers relating to all activities undertaken by the organisation.

**Verifiers for 7.4.3:** A Conflict of Interest Policy that addresses:

- A definition of 'conflict of interest'.
- A requirement by responsible persons, volunteers and staff to disclose perceived, potential and actual conflicts of interest.
- A procedure for addressing and recording perceived, potential and actual conflicts of interest, including those that have already occurred.
- Procedures to enable open and fair procurement of goods and services (or reference made to a relevant policy).

### **3 Purpose & Scope**

The purpose of this policy is to enable ERFA to discharge its obligations with respect to conflict of interest and to enable ERFA directors, employees and volunteers to effectively identify, prevent, disclose and manage any actual, potential or perceived conflicts of interest in order to protect the integrity of ERFA and its personnel and to manage risk.

It is ERFA's expectation that the principles and standards set out in this Conflict of Interest Policy will be mirrored at governance and operational levels in all programs and projects ERFA funds in developing countries and within Australia.

### **4 Definitions**

#### **4.1 Conflict of Interest**

A conflict of interest would occur when personal interests conflict with responsibility to act in the best interests of ERFA. Personal interests include direct interests as well as those of family, friends, or other organisations a person is involved with or has an interest in. At board level it would also include a conflict between a director's duty to ERFA and another duty that the director has, such as board membership of another not-for-profit organisation.

A conflict of interest may be actual, potential or perceived and may be financial or non-financial or involve a conflict of loyalties. Conflict of interest situations present the risk that a person may make a decision based on, or affected by, these influences, rather than in the best interests of ERFA and must be managed accordingly.

#### **4.2 Actual Conflict of Interest**

A person is being influenced by a conflict of interest – i.e. the conflict is obvious.

#### **4.3 Potential Conflict of Interest**

A person could be influenced by a conflict of interest.

#### **4.4 Perceived Conflict of Interest**

A person could appear to be influenced by a conflict of interest.

(Perception is as important as intention because it could potentially affect the reputation of both the person and ERFA).

## **5 Guidelines for Management of Conflicts of Interest**

### **5.1 Identifying Conflicts of Interest**

Identifying potential conflicts of interest requires an understanding of:

- ERFA's charitable purpose / why ERFA exists (see ERFA Constitution, Section 3: Objects)
- one's personal interests
- one's duties as a director, employee or volunteer

### **5.2 Personal Interests**

Personal interests would include:

- current & previous paid & volunteer work
- current & previous board memberships
- ownership of or share in a business
- memberships of other organisations
- similar interests of family, friends and significant associates.

### **5.3 Potential Consequences of Failure to Manage Conflict of Interest**

**Poor Governance** through:

- failure of directors to always act in the best interests of ERFA
- loss of trust in the board room and undermining of collective decision making
- risk to accountability & transparency about decisions, operations & transactions.

### **5.4 Reputational Damage** with negative impact on:

- fundraising & donations
- public trust and confidence in ERFA
- recruitment & retention of staff & volunteers.

## **6 Policy Statement**

ERFA is committed to establishing and maintaining an organisational environment that embodies integrity, ethical behavior, accountability and transparency. Therefore, ERFA is committed to ensuring that conflicts of interest are identified and managed so that they do not impact negatively on the integrity of the decision making and operation of the organisation and to enable ERFA's supporters and the Australian public to have confidence in the integrity, intentions and actions of ERFA directors, employees and volunteers.

ERFA recognizes that because directors, employees and volunteers have numerous professional, business, family and social relationships there is potential for conflicts of interest. Such conflicts need not necessarily be a significant problem. However, if not managed effectively, conflicts of interest may impact negatively on the integrity of the organisation and its personnel.

It is the policy of ERFA and the responsibility of all personnel to ensure that ethical, financial and other conflicts of interest are avoided wherever possible and that any such conflicts, where they do



arise, do not cause conflict with personnel obligations to ERFA. Therefore, it is the responsibility of all ERFA personnel to identify and disclose all conflicts of interest according to the responsibilities and procedures set out in Sections 6 & 7 of this policy.

Directors, the company secretary and the CEO must disclose to the board chair any conflicts of interest which they may have at any time. Similarly, employees and volunteers will disclose any conflicts of interest to the CEO.

In addition, directors, employees and volunteers will refrain from obtaining or using any list of donors for personal or private solicitation purposes at any time during the term of their affiliation with ERFA.

New members of the board of directors and new employees and volunteers will be given a copy of this policy at the time of their engagement with ERFA.

Failure to deal adequately with a conflict of interest may not always be illegal, but it will almost always be unethical.

## **7 Responsibilities**

All ERFA personnel are responsible for identifying, disclosing and resolving conflicts of interest. Specific responsibilities:

### **7.1 Board of Directors**

- Ensure that effective systems for identifying, disclosing and managing conflicts of interest are developed and implemented at board and operational levels.
- Ensure that this policy is adhered to, that compliance is monitored, that the policy is reviewed annually and that any breaches are responded to.
- Ensure that appropriate education and training opportunities in conflict of interest are available at all levels of the organisation.
- Disclosing interests is part of a director's role and the board should promote a board culture of disclosure and encourage open discussion of conflicts of interest that is supportive and non-judgmental.

### **7.2 Company Secretary**

- Retain on file individual Director, Company Secretary and CEO Declarations of Interests (see Appendix 1).
- To facilitate transparency and accountability in governance, the company secretary will maintain a Register of Officers' Interests (see Appendix 3) for directors, company secretary and CEO and monitor, update and review the effectiveness of the Register.
- The Register of Interests and individual Declarations are confidential to the board.

### **7.3 Chief Executive Officer**

- Ensure compliance with this policy at the operational level.
- Maintain a Register of Interests (see Appendix 4) for ERFA employees and volunteers and monitor and review the effectiveness of the Register.
- Ensure that appropriate education and training opportunities in conflict of interest are available for employees and volunteers.

- Inform the board chair of any significant conflict of interest issues that arise at operational level and action taken.
- The Employee & Volunteer Register of Interests is confidential to the CEO and the board.

#### **7.4 Employees & Volunteers**

- Maintain awareness of this policy and awareness on any potential conflicts of interest.
- Promptly identify and disclose to ERFA CEO any actual or potential conflicts of interest that might be perceived to affect the proper performance of their duties.
- Disclose any relationships outside ERFA where they exercise decision making power regarding purchasing or acquisition of services for ERFA, that might reasonably raise expectations of a possible conflict of interest with their ERFA duties.

## **8 Procedures**

A general principle for managing conflicts of interest effectively and preventing them from adversely affecting decision making is to identify potential conflicts in advance.

### **8.1 Board of Directors**

- The board chair will bring this policy to the attention of prospective directors.
- Before commencing service on the board, new directors will complete and forward to ERFA company secretary, ERFA Director Declaration of Interests form (see Appendix 1).
- It will be standard practice for the board chair, at the start of each board meeting, to ask for any declarations of conflict of interest arising from the meeting agenda as set.
- Any director who has a material personal interest in a matter to be considered at a board meeting must disclose the nature and extent of the that interest to the board.
- All such declarations and any ensuing actions taken will be recorded in the meeting minutes and be added to the Register of director Interests.
- Stages of Remedial Action – director Conflict of Interest
  - Stage 1: Director identifies that they have a conflict of interest.
  - Stage 2: Conflicted director informs the board of their conflict.
  - Stage 3: Non-conflicted directors determine appropriate course of action.
  - Stage 4: Non-conflicted directors inform conflicted director of the outcome.
- The non-conflicted directors must determine, in relation to the matter of the conflict, if the conflicted director may:
  - participate in discussion or refrain from participation
  - be present in the room during discussion or remove themselves from the room
  - vote on the matter or abstain from voting on the matter.
- Where a conflict of interest is very significant and may need more proactive management, it may be appropriate for the board to enlist the services of an independent third party with relevant expertise to oversee or review all or part of the decision making process.

### **8.2 Company Secretary**

- The Company Secretary's Declaration of Interests will be filed with the directors' Declarations and will be entered on the Register of Directors' Interests.

### **8.3 Chief Executive Officer**

- The CEO's Declaration of Interests will be forward to ERFA Company Secretary.
- The CEO will bring this policy to the attention of employees and volunteers and maintain a Register of Interests for all employees and volunteers below CEO level.

### **8.4 Employees & Volunteers**

- Before commencing service, new employees and volunteers will complete the Employee & Volunteer Declaration of Interests form (see Appendix 2) and forward to the CEO.

## **9 Breach of Policy**

Failure to disclose a conflict of interest is a breach of the Conflict of Interest Policy and for directors would involve a breach of governance responsibilities. A serious instance could involve disciplinary action and even severance from the organisation if deemed to be an incident of misconduct, wrongdoing or an abuse of power or authority.

## **10 Relationships to Other Policies**

This Conflict of Interest Policy should be read in conjunction with, in particular, ERFA's Risk Management Framework and also with ERFA's:

- Anti-Corruption & Anti-Fraud Policy
- Counter Terrorism Policy
- Funding Policy
- Fundraising, Donations & Refund Policy
- Staff Code of Conduct.

## **11 Recommended Reading**

*Managing Conflicts of Interest – A Guide for Charity Board Members*: Australian Charities & Not-for-profits Commission 2015, available at:

<http://www.acnc.gov.au/ACNC/Publications/COIguide/COIGuide1.aspx>

*Handling Conflicts of Interest*: Institute of Community Directors Australia, available at:

<https://www.communitydirectors.com.au/icda/tools/?articleId=1346>

## **12 Appendices**

Appendix 1: Template – ERFA Director Declaration of Interests

Appendix 2: Template - ERFA Employee & Volunteer Declaration of Interests

Appendix 3: Template – ERFA Register of Director Interests

Appendix 4: Template – ERFA Register of Employee & Volunteer Interests



## Conflict of Interest Policy - Appendix 1 ERFA Director Declaration of Interests

I ..... as a director of Edmund Rice Foundation Australia, have set out below my private interests in accordance with the organisation’s Conflict of Interest Policy.

Category	YES / NO	If Yes, Provide Details of Interest
<b>Directorships</b> Are you a director or trustee of another company that might reasonably raise expectations of a possible conflict of interest with your duties as an ERFA director?		
<b>Office Holder</b> Do you hold public or private organisation office or memberships that might reasonably raise expectations of a possible conflict of interest with your duties as an ERFA director?		
<b>Substantial Sources of Income</b> Do you receive substantial income from current employment, or past employment in which you retain a financial interest that might reasonably raise expectations of a possible conflict of interest with your duties as an ERFA director?		
<b>Business Interests</b> Do you have ownership of or a share in a business that might reasonably raise expectations of a possible conflict of interest with your duties as an ERFA director?		
<b>Agreements</b> Are you, or a member of your immediate family, party to any contract, agreement or understanding that gives rise to an obligation or an expectation of reward that could reasonably raise an expectation of a conflict of interest with your duties as an ERFA director?		
<b>Family, Friends &amp; Associates</b> Does any member of your immediate family, friends or close associates hold any substantial financial or other interests that could raise an expectation of a conflict of interest with your duties as an ERFA director?		
<b>Director’s Duties</b> Have you ever been disqualified from acting as a director within the meaning of the Corporations Act 2001, or been disqualified by the ACNC from being a responsible person of a registered charity?		
<b>Other Conflicts</b> Are there any other potential conflicts of interest not covered by the above?		

To the best of my knowledge, the above information is complete and correct. I undertake to update as necessary the information provided and to review the accuracy of the information annually.

Signed:

Position:

Date:



## Conflict of Interest Policy - Appendix 2

### ERFA Employee & Volunteer Declaration of Interests

I ..... as an employee/volunteer (*delete as appropriate*) of Edmund Rice Foundation Australia, have set out below my private interests in accordance with the organisation’s Conflict of Interest Policy.

Category	YES / NO	If Yes, Provide Details of Interest
<b>Relational Personal</b> Do you have any personal relationships outside ERFA that might reasonably raise expectations of a possible conflict of interest with your ERFA duties?		
<b>Relational Business</b> Do you have any relationships outside ERFA where you exercise decision making power regarding purchasing or acquisition of services for ERFA that might reasonably raise expectations of a possible conflict of interest with your ERFA duties?		
<b>Office Holder / Memberships</b> Do you hold office or memberships in a public or private organisation that might reasonably raise expectations of a possible conflict of interest with your ERFA duties?		
<b>Financial Benefit</b> Do you or any members of your immediate family have ownership of or a share in a business or any financial interests, direct or indirect that might reasonably raise expectations of a possible conflict of interest with your ERFA duties?		
<b>Agreements</b> Are you, or any member of your immediate family, party to any contract, agreement or understanding that gives rise to an obligation or an expectation of reward that might reasonably raise an expectation of a conflict of interest with your ERFA duties?		
<b>Gifts &amp; Hospitality</b> Have you or any member of your immediate family received any gifts or hospitality in the past 12 months from any external entity with which ERFA has dealings, that might raise an expectation of a conflict of interest with your ERFA duties?		
<b>Other Conflicts</b> Are there any other potential conflicts of interest not covered by the above, that might raise an expectation of a conflict of interest with your ERFA duties?		

To the best of my knowledge, the above information is complete and correct. I undertake to update as necessary the information provided and to review the accuracy of the information annually.

Signed:

Position

Date:

Please forward completed form to ERFA CEO





