



AusNCP Governance and Advisory Board Terms of Reference

Version: March 2026

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Purpose

1. The Governance and Advisory Board (Board) provides advice and support to the Australian National Contact Point for Responsible Business Conduct (AusNCP) and its Independent Examiners, with the principal objective of ensuring that the AusNCP is visible, accessible, transparent and accountable, in accordance with its obligations under the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guidelines).

Role

2. The Board will provide advice and expertise to support the effective functioning of the AusNCP, including on matters of governance and accountability. Board members will assist the AusNCP's Independent Examiners by providing professional advice that is relevant to their consideration of active and potential National Contact Point complaints (referred to as 'specific instances' by the OECD), including in relation to procedural matters.
3. Board members will actively support the AusNCP by using their own networks, events and publications to promote the OECD Guidelines and the AusNCP function. Board members will be engaged on various operational and administrative matters as needed.

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4. The Board is responsible for helping the AusNCP promote the OECD Guidelines and for providing oversight during each phase of the AusNCP complaints process, consistent with the OECD Guidelines and principles of procedural integrity. Board members will:
 - 4.1 actively engage in outreach activities that promote the AusNCP and the OECD Guidelines, in line with the AusNCP's annual stakeholder engagement strategy. Board members are also encouraged to promote the OECD Guidelines and responsible business conduct, as appropriate, in their ordinary business
 - a) Board members may be asked to provide updates on actions they have taken to promote the OECD Guidelines, including in writing or at Board meetings, where the AusNCP has indicated this ahead of time.
 - 4.2 oversee the AusNCP in effectively handling its complaints, including as part of providing input on procedural fairness matters. Board members will engage with Independent Examiners to help ensure that their decision-making is consistent with the OECD Guidelines and can withstand external scrutiny, including by:
 - a) providing feedback to the Independent Examiners on complaint handling and AusNCP statements, the application of the AusNCP complaint procedures and the OECD Guidelines (including whether accepting a particular complaint would contribute to its purposes and effectiveness), and offering government and external (i.e. business, civil society or unions) viewpoints
 - b) recommending or facilitating access to additional expertise on topics that fall outside the AusNCP and the Independent Examiners' knowledge and experience
 - c) supporting the AusNCP and the Independent Examiners in understanding broader contexts and emerging issues of relevance to complaints under consideration (e.g. responsible business conduct policy developments and parallel proceedings)

- d) forming Board Review Committees, where necessary and in accordance with the AusNCP complaint procedures, for the purposes of conducting procedural reviews of AusNCP Final Statements.
- 4.3 work with the AusNCP to ensure that its non-judicial dispute resolution mechanism continues to demonstrate transparency and accountability in an evolving complaints landscape.
- 5. Board members are encouraged to share their individual feedback on promotional activities, AusNCP statements and Board papers with the wider group to support a collaborative approach, but are not required to form a consensus view on any particular issue or complaint.
- 6. The Board may make recommendations to the AusNCP regarding these Terms of Reference, and any changes that may be required to better achieve the Board's principal objective (as outlined in paragraph 1).
- 7. The Department of the Treasury (Treasury), as the agency responsible for the AusNCP, will provide secretariat services to the Board through the AusNCP Secretariat. Treasury will also provide induction materials to new Board members. The Board is not responsible for:
 - 7.1 the final and formal observations and recommendations that Independent Examiners make in their published statements for AusNCP complaints
 - 7.2 formally representing the AusNCP in external contexts and domestic or international fora, except where there this has been expressly and separately agreed in writing with the AusNCP Secretariat
 - 7.3 decisions about the AusNCP's resourcing, reporting and organisational matters, but may provide advice to Treasury on opportunities to improve the effectiveness of the AusNCP, including where that is operational and structural in nature.

Composition

- 8. The Board is to be comprised of 16 members maximum, and a quorum of four government members and four external members (including at least two business representatives and two civil society or union representatives) will be required to hold formal Board meetings.
- 9. Board member positions are to be held by Australian Government agencies (eight seats, including the Chair), the business community (four seats), and civil society and unions (two seats each, for a total of four seats), in the proportions outlined in this paragraph.
- 10. These positions are allocated to organisations, rather than individuals. The Board is convened and chaired by the Treasury Assistant Secretary that is accountable for the AusNCP (the Chair), who will appoint the government and external organisations that are to be represented on the Board (see paragraph 14) on the basis of their ability to contribute to the work of the AusNCP.
- 11. Organisations holding Board membership will self-nominate a suitable individual to become a member of the Board. It is preferable that the nominated Board member(s) have authority to represent their organisation in deliberations of the Board. All Board members are required to abide by these Terms of Reference, which will be listed on the AusNCP website
 - 11.1 AusNCP Independent Examiners will be permanent Observers to the Board, including for the purposes of reporting to the Board on their handling of AusNCP complaints.

12. Where there are reasonable grounds to do so, the Chair may dissolve the Board or alter its membership. The Board must be advised by the Chair or the AusNCP Secretariat in writing of any significant changes to its membership or meeting occurrence.
- 12.1 Any changes in this regard will be outlined on the AusNCP website. The Chair may also invite experts who are not on the Board to participate in meetings on an ad-hoc basis.
13. Government members of the Board will bring relevant public policy expertise. External members will bring expertise and the ability to draw on broad stakeholder networks, from domestic and/or international perspectives, in one or more of the following areas: public policy, complaints handling, corporate governance, and responsible business conduct.
14. Per paragraphs 9 and 10, the organisations that are currently appointed to the Board, including the number of seats they hold, are listed below.

Government organisations	External organisations*
Attorney-General's Department	Australian Chamber of Commerce and Industry
Australian Trade and Investment Commission	Business Council of Australia
Australian Human Rights Commission	Pillar Two
Department of Climate Change, Energy, the Environment and Water	UN Global Compact Network Australia
Department of Foreign Affairs and Trade	Australian Corporate Accountability Network (seat one)
Department of Industry, Science and Resources	Australian Corporate Accountability Network (seat two)
Export Finance Australia	Australian Council of Trade Unions (seat one)
Treasury (Chair)	Australian Council of Trade Unions (seat two)

* External organisations that have two seats to allocate must allocate at least one seat to an individual who is not a member of the organisation's staff.

15. The existing government and external organisations on the Board (see paragraph 14) will have ongoing membership, and will continue to appoint their representatives and notify Treasury accordingly, unless this is adjusted by the Chair.

Board operations

16. Board membership is voluntary. Board members are not remunerated for their services. However, external members will be compensated by Treasury for pre-approved out of pocket expenses, including travel to attend applicable in-person meetings that are convened by the Chair.
17. Government and external members of the Board may make representations in their individual professional capacity or, where applicable, on behalf of their organisation and its members. External members are required to sign a confidentiality agreement with the AusNCP.
 - 17.1 Board members are permitted to disclose non-sensitive information about their role on the Board, where this disclosure supports the AusNCP's broader objectives and their core responsibilities as Board members.
18. Board members will conduct themselves in accordance with strict confidentiality requirements, and must take proactive and reasonable steps to disclose any personal, financial, professional and other interests that may conflict with their Board duties or active AusNCP complaints.
 - 18.1 In circumstances where there may not be 50 per cent representation from external members at a Board meeting, or where 50 per cent of external members are conflicted out of advising on a particular AusNCP complaint, the AusNCP Secretariat may work with the organisations of the unavailable external members to identify ways to ensure representation and opportunities to receive advice from other suitably qualified individuals.
 - 18.2 Where a government official representing their agency on the Board is unable to attend a Board meeting, or is otherwise recused from advising on a particular AusNCP complaint, the AusNCP Secretariat will work with the relevant agency to determine whether a proxy can attend or advise, in lieu of the ordinarily appointed member.
 - 18.3 **Annex A** contains a framework and further guidance in respect of Board members disclosing interests to the AusNCP and managing any associated conflict issues.
19. The Board will meet at least twice a year, and may be convened for additional meetings, where this is considered necessary by the Chair.
 - 19.1 The AusNCP Secretariat will consult Board members on suggested agenda items for upcoming meetings, including potential speakers and items for discussion.
20. Treasury will review these Terms of Reference every two years, in consultation with Board members, or sooner if required.

Annex A: Framework for disclosing interests and managing conflicts

Introduction and purpose

This framework outlines when and how conflicts of interest should be identified, assessed and managed by members of the AusNCP Governance and Advisory Board (Board), collectively referred to as Board members in this Annex, based on advice from the AusNCP Secretariat. This framework seeks to ensure that the Board's activities continue to withstand scrutiny and are undertaken in a fair and unbiased way, in line with the OECD's '*Managing Conflict of Interest in the Public Service*'.

Treasury (as the Australian Government department that is responsible for AusNCP operational matters), specifically the AusNCP Secretariat, will use this framework to assess Board member disclosures and identify suitable management strategies accordingly to treat any actual, perceived and potential / apparent conflicts of interest.

Context

Conflicts of interest can arise when the interests of Board members, or their families, close friends and organisations that they are involved with, are incompatible or in competition with the interests of the AusNCP. Conflicts of interest can:

- result in decisions or actions being taken that are not in the best interests of the AusNCP or the parties of one of its active complaints
- undermine the integrity and functioning of the Board
- breach the requirements of the OECD Guidelines, if not properly managed
- attract adverse publicity and damage the work and reputation of the AusNCP and the Board

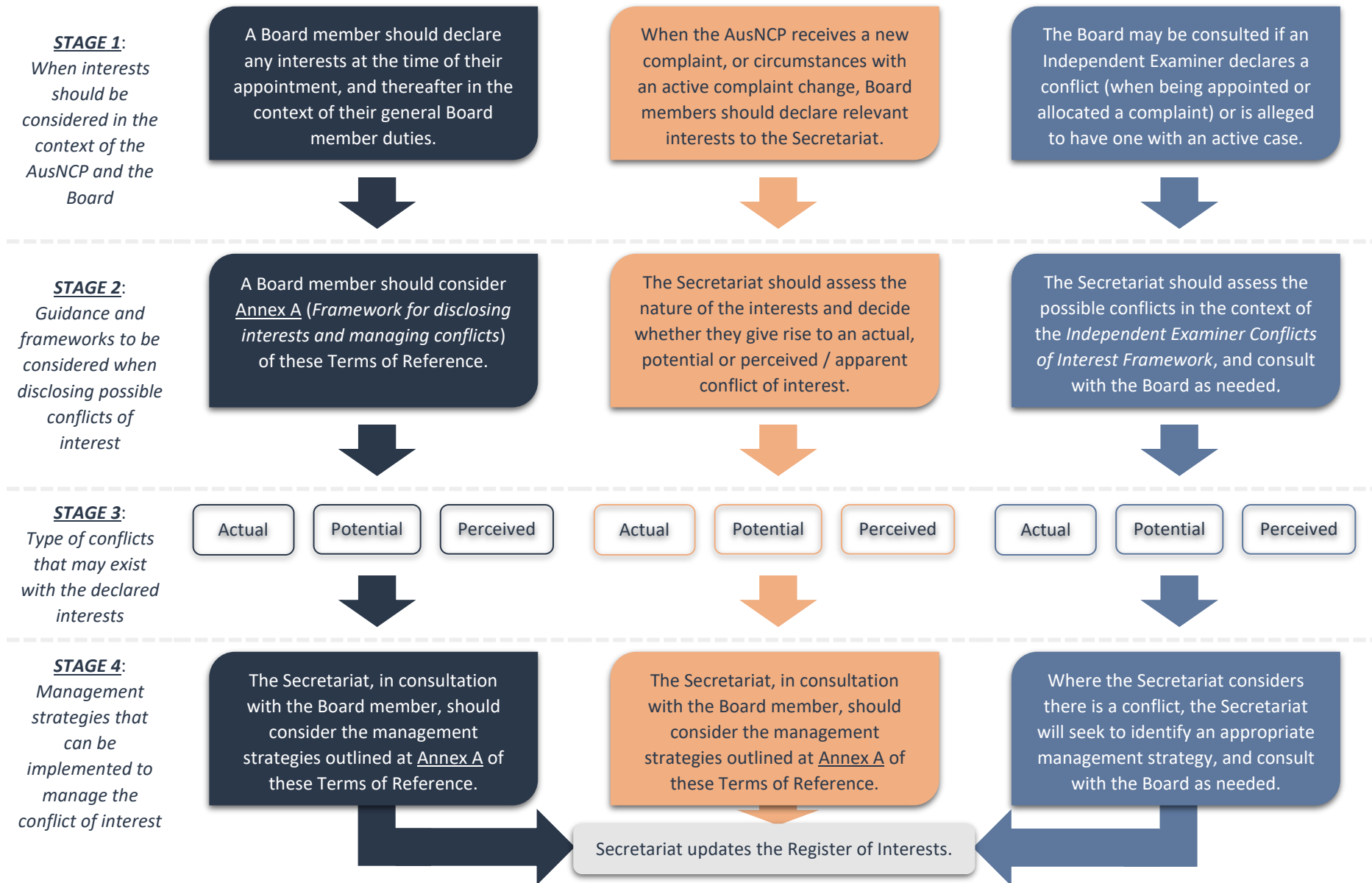
Per paragraph 18 of the Board's Terms of Reference, all Board members must take proactive and reasonable steps to disclose their personal, financial, professional and other interests that may conflict with their Board duties or active AusNCP complaints.

Generally speaking, conflict of interest issues should be considered by Board members at the following times:

- ***at the time of their appointment as a Board member, and thereafter in the context of their general Board member duties*** – Board members have an ongoing obligation to declare any conflict of interest that may arise in relation to the AusNCP's functions more generally
- ***when the AusNCP receives a new complaint, or circumstances with an active complaint change*** – Board members are expected to advise whether they have any interests to declare in relation to a newly received complaint, once the AusNCP Secretariat brings new complaints to the Board's attention. Board members should also proactively do the same for active complaints, where their personal, financial, professional and other circumstances have changed, or when informed that the facts and scope for a particular complaint have materially changed, such as the concerned enterprise(s).
 - In this situation, the relevant Board member will have regard to the advice of the AusNCP Secretariat, in terms of agreeing on suitable measures to manage the conflict.

- ***potentially where an Independent Examiner has declared a conflict*** – where a possible conflict arises in relation to an Independent Examiner, the Secretariat may consult with the Board on proposed management strategies, after applying the *AusNCP – Independent Examiner Conflicts of Interest Framework for the AusNCP Secretariat*.
 - This includes circumstances where a party of an active AusNCP complaint raises a conflict of interest issue with their allocated Independent Examiner. In this situation, the AusNCP Secretariat will consider these matters with the Independent Examiner, and may in turn consult the Board for advice if necessary.
 - Board members that are themselves recused from a complaint, or where the possible conflict also concerns them, will not be involved in such consultation.

The diagram on the following page summarises when and how Board members should address actual, perceived and potential / apparent conflicts of interest.



Guidance for addressing conflicts of interest

A context-specific approach is required to effectively address different conflicts that may arise. The following guidance considers each of the stages that have been identified in the diagram on page 7, and establishes procedures for identifying and managing conflict of interest situations.

The AusNCP Secretariat has a significant role in advising the Board and maintaining materials relating to conflicts of interest. AusNCP Secretariat staff are also required (as a condition of their Treasury employment) to report any relevant interests that may conflict with their public service duties. In the event that staff within the AusNCP Secretariat have interests that are relevant to the functions of the AusNCP, this will be managed in accordance with Treasury's Conflict of Interest Policy.

Stage 1 – Identifying interests and conflicts for Board members

What is a conflict?

A conflict of interest arises when the interests, obligations and other positions of Board members (such as their business and workplace interests, or family or friends) improperly influence, or could be seen to improperly influence, their duties to the Board and the AusNCP.

Why is disclosure of conflicts important?

A conflict of interest has the potential to undermine the integrity of the AusNCP, including public and stakeholder confidence in the function's effectiveness and its processes for resolving complaints. It can also damage the reputation of individual Board members, even those not directly associated with an identified conflict.

For this reason, it is important that Board members and those involved in the AusNCP are alert to conflict of interest issues, and promptly disclose all relevant information about possible conflicts:

- at the time of their appointment
- when their personal circumstances change (e.g. after an initial disclosure has been made)
- when an AusNCP complaint is received and the Board is alerted
- if and when a new situation arises (e.g. being called upon to form a Board Review Committee for a procedural review).

When might a conflict arise?

A relevant interest may give rise to a conflict, if a Board member:

- previously had, currently has or intends to have direct involvement in a complaint prior to it being submitted to the AusNCP (as opposed to simply raising awareness of the AusNCP function and explaining general procedural information to prospective notifiers)
- represents, or is employed by (or consults to), organisations with financial or contractual links or affiliations to a party of an AusNCP complaint
- has a close personal relationship (e.g. spouse, domestic partner or immediate family member) with someone employed by, or otherwise supporting (including through a board appointment or consulting services), a party to an AusNCP complaint
- holds an account or major shareholdings with a party to an AusNCP complaint
- has a close personal relationship with those who have any of the above interests.

This is not an exhaustive list of possible conflicts of interests, and it is up to the individuals concerned to consider and fully disclose interests that may impact the functions of the AusNCP and/or the public's confidence in the AusNCP's activities.

Board members must regularly assess whether they have interests to disclose, and take reasonable steps to avoid situations where their personal, financial, professional and other interests could be, or perceived to be, in conflict with their role as a Board member. Board members must not allow these interests to improperly influence the decisions they make, the actions they take or the advice they provide in the course of their Board member duties.

Stage 2 – Disclosing interests and conflicts

In addition to an ongoing requirement to disclose all relevant interests, the AusNCP Secretariat will also request that Board members consider their interests, and where required, ask them to make a conflict of interest declaration or update an existing declaration. It is important that declarations provide sufficient detail on the relevant interest to facilitate an informed assessment of the nature of the interest, the type of conflict that may arise and appropriate management strategies.

Disclosures to be recorded in the Board’s Register of Interests

Details of disclosed interests will be recorded in the Board’s Register of Interests (see page 16 for the form of this register). The AusNCP Secretariat is responsible for updating the Board’s Register of Interests, when new or updated disclosures are made. The Register of Interests and any declarations made by Board members will be maintained and held in confidence by the AusNCP Secretariat.

This register will not be publicly disclosed due to the sensitive nature of complaints and the private information of individual Board members. The AusNCP Secretariat may require Board members to provide a signed confidentiality agreement relating to the confidentiality of the Register of Interests.

Leveraging Board member expertise and networks

This framework seeks to preserve access to expertise and stakeholder networks that both government and external Board members will bring to their role. Per paragraph 17 of the Board’s Terms of Reference, Board members may make representations in their individual professional capacity and/or on behalf of their organisation. In the case of:

- government members, this is to ensure they can draw upon the expertise of their agencies as appropriate (e.g. in reviewing AusNCP statements through the lens of their agency’s policy responsibilities and interests)
- external members, this is to ensure that those members can make representations on behalf of their constituent groups.

Professional or personal associations with a party to a complaint that arise from a Board member’s stakeholder network or constituency will generally not constitute an **actual** conflict of interest. A different assessment may be made where the Board member has been *directly involved* in the preparation and/or submission of an AusNCP complaint (including where they are employed by a party to a complaint).¹ However, even where no actual conflict exists, a perceived conflict may still arise and may need to be managed.

¹ For clarity, Board members may provide high-level advice to organisations within their stakeholder networks on whether a potential case falls within the scope of the OECD Guidelines, including general guidance on the National Contact Point complaint process and reference to relevant AusNCP resources. This is distinct from any direct involvement in drafting or submitting a complaint, or acting as a complainant, which would constitute a different level of engagement.

Stage 3 – Assessing declared interests

The AusNCP Secretariat will assess relevant interests declared by Board members as either **actual**, **potential or perceived / apparent conflicts of interest**, in accordance with the following criteria:

Actual

Where the AusNCP Secretariat considers there is a real conflict between a Board member's duties and their existing private or professional interests that improperly influences the performance of their duties, as outlined in the role of the Board's Terms of Reference).

Potential

Where the AusNCP Secretariat considers that private interests are not currently in conflict with a Board member's duties, but could come into conflict at some point in the future.

Perceived / Apparent

Where the AusNCP Secretariat considers that it appears or could reasonably be perceived that a Board member's private interests are improperly influencing the performance of their duties, whether or not that is actually the case.

Examples of the different types of conflicts include:

Actual conflicts of interest may arise where a Board member is involved with a complaint, in which they (or a close family member) hold a position within an organisation that is a party to the complaint or are coaching them.

Potential conflicts of interest may arise where a Board member has an interest in an entity who is a party to a complaint or may have an interest in that complaint (in circumstances where full details of the parties to the complaint are not yet known), or a close personal relationship with someone who has an interest in the complaint or who occupies a management position of a party who may become involved in the complaint.

Perceived / Apparent conflicts of interest can occur where a Board member maintains strong social, personal and/or professional relationships with parties to a complaint.

As part of the assessment process, the:

- **AusNCP Secretariat will consult with a relevant Board member on their disclosure and share the AusNCP Secretariat's assessment** – Board members should not seek to assess themselves as to whether or not their interest is materially relevant. Instead, the AusNCP Secretariat will seek to determine the extent to which the declared interests of Board members are material,² or could be seen to be material, followed by advising relevant Board members of the AusNCP Secretariat's view
- **Board's Register of Interests will be updated to reflect the AusNCP Secretariat's assessment of the interest** – the Board's Register of Interests will reflect the AusNCP Secretariat's assessment of the declared interests (as actual, potential or perceived / apparent conflicts of interest). The reason to categorise an interest in this manner is to ensure full transparency, common language and mutual understanding for all Board members.

² Considerations for assessing materiality include the type or size of the Board member's declared interest, the nature or significance of a particular AusNCP complaint or function, the extent to which the Board member's interest could affect or be affected by that AusNCP complaint or function, and the nature or extent of the Board member's current or intended involvement in that AusNCP complaint or function.

Stage 4 – Evaluate management strategies to manage the conflicts of interest

Stage 4 of the conflict of interest process involves identifying appropriate management strategies for addressing or resolving a Board member’s conflict. Fundamentally, the AusNCP Secretariat should take remedial action in circumstances where a conflict could undermine the ability of the Board (and/or its individual members) to impartially carry out the role and responsibilities detailed in these Terms of Reference with integrity. **Evaluation of specific management strategies for declared conflicts and factors for consideration**

Following an assessment of a disclosed interest, the AusNCP Secretariat should consider possible management strategies that may be applicable to a declared conflict. The Board (excluding the relevant Board member) may be consulted during this process as needed.

To determine an appropriate management strategy, the following factors should be considered:

- a) the type of conflict assessed by the AusNCP Secretariat (i.e. whether the interest gives rise to an actual, potential or perceived / apparent conflict of interest)
- b) the nature of the interest disclosed, including the extent to which the interest is ongoing or pervasive (i.e. whether it extends across multiple matters or could influence a broad range of decisions)
- c) the degree of influence a Board member might have on the issue or individuals involved
- d) whether there is a material benefit to be gained, or could reasonably be seen to be gained by the Board member participating in the oversight of the complaint
- e) the specific circumstances of the individual case.

Management strategies will vary, depending on the particular AusNCP complaint or function that a conflict pertains to, its circumstances and the point in which it is identified and/or declared. Possible management strategies may include, but are not limited to:

- sharing information with the Board about the interest, and how it may conflict with the Board’s role
- excluding the relevant Board member from correspondence or other information on the particular matter (partially or in full)
- ensuring the relevant Board member is not present for discussions on the particular matter (partially or in full)
- avoiding sharing internal papers that discuss the particular matter with the relevant Board member (partially or in full)

- excluding a Board member from participating in procedural reviews, if there is an actual or perceived / apparent conflict of interest
- temporarily permitting a suitably qualified individual who is not already on the Board to undertake certain specific duties (e.g. advising on a complaint), if 50 per cent or more of external members are conflicted out
- if possible under the circumstances, the Board member divesting or liquidating the interest (this management strategy may be required if the interest is likely to recur frequently and undermine a Board member's capacity to perform their role on an ongoing basis)
- the Board member being recused from any advisory or oversight role for the particular matter (this management strategy may be required where it is not possible to quarantine information, or where it is not practical for the Board member to be excluded from certain parts of the matter).

Once an appropriate management strategy has been identified, the AusNCP Secretariat should work with the relevant Board member (and other Board members as needed) to ensure effective implementation.

Review and update of the disclosure and conflict of interest framework

This framework, which is included as an Annex to the Board's Terms of Reference, was updated in March 2026.

The framework will be reviewed every two years, concurrently and as part of the biennial review of the Board's Terms of Reference, to ensure they remain fit-for-purpose. A Complaint Recusal Matrix (below the Board Register of Interests on page 16) will be kept up to date and circulated ahead of each Board meeting, and will draw on the Board's more complete Register of Interests. The purpose of the Complaint Recusal Matrix is to be a short and sharp one-page document that shows the AusNCP complaints that Board members are recused from.

Board Register of Interests

(to be held in strict confidence and not for wider circulation)

Relevance	Name and position	Summary	Assessment	Outcome	Remedial action taken	Declared interest
Complaint: Other issue:	Name: Organisation: Board member commencement date: Appointment conclusion date:	Personal interest(s): Financial interest(s): Professional interest(s): Other interest(s):	Nature of influence and the AusNCP Secretariat's assessment of the disclosed interest:	[Actual, potential or perceived / apparent]	Management strategy taken and agreed with the Board member:	[Board member's description of the interest]

AusNCP Complaint Recusal Matrix

Complaint Status-> [OPEN/CLOSED] [OPEN/CLOSED] [OPEN/CLOSED] [OPEN/CLOSED] [OPEN/CLOSED] [OPEN/CLOSED]

	[Complaint ID]	[Complaint ID]	[Complaint ID]	[Complaint ID]	[Complaint ID]	[Complaint ID]
[Board member]						
[Board member]						