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# Fisheries Management Guide

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A guide for  
Management and Ministerial Advisory  
Committees (MACs)  
and the conduct of meetings issued by  
the Minister for Fisheries

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Fisheries Management Guide No. 3

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**Department of Fisheries  
Western Australia**

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**A GUIDE FOR  
MANAGEMENT AND MINISTERIAL ADVISORY COMMITTEES (MACs)  
AND THE CONDUCT OF MEETINGS**

## **1. Purpose**

This Guide has been provided by the Minister for Fisheries to assist Management and Ministerial Advisory Committee (MAC) members in undertaking their duties under the *Fish Resources Management Act 1994*, the *Fisheries Adjustment Scheme Act 1987* and the *Pearling Act 1990*. Its development has involved extensive consultation with stakeholders as well as consideration of other pertinent reviews, such as the independent review of Australian Fisheries Management Authority MACs.

This Guide provides information in addition to or complementary to that provided in the Act and the Instrument of Appointment for a MAC. This Guide applies to all fishery MACs including those that are formed by statute, unless otherwise stated.

This Guide supersedes the previous guidelines provided by the Minister for Fisheries in August 2000.

## **2. Preamble**

MACs are the major source of advice for the Minister for Fisheries on the management of the State's fisheries and other issues affecting the Fisheries Portfolio. They also provide a forum where stakeholders are involved in discussion on problems identified and possible solutions developed.

MACs play a key role in the decision-making process for management of the State's fish resources and the management of issues associated with the Fisheries Portfolio.

## **3. Introduction**

Part 4 of the *Fish Resources Management Act 1994* ("the Act") provides for the establishment of fishery management and other advisory committees to provide information and advice to the Minister for Fisheries on:

1. matters related to the protection and management of the fishery; or
2. the administration of the Act.

A similar advisory process is outlined in the *Pearling Act 1990* for the pearling and pearl culture sectors, which is called the Pearling Industry Advisory Committee. This Committee also provides advice to the Executive Director of Fisheries.

Similar provisions in the *Fisheries Adjustment Scheme Act 1987* exist for the establishment of Voluntary Fishery/Fisheries Adjustment Scheme Committees of Management which provide advice to the Minister for Fisheries on the desirability of establishing schemes and the subsequent consideration of offers under those schemes.

This Guide refers to:

- MACs providing advice on matters relating to the protection and management of fisheries, which are referred to as Management Advisory Committees or ‘fishery MACs’ - see (1) above.
- MACs providing advice on the administration of the Act (see (2) above), which are referred to as Ministerial Advisory Committees. MACs covered by the Guide and the relevant Sections of the Act are outlined in Attachment 1.
- The Pearling Industry Advisory Committee.
- The Fisheries Adjustment Scheme Committees of Management.

## **4. Role of a MAC**

**MACs are expertise-based, advisory in nature and make recommendations to the Minister for Fisheries.**

The Minister for Fisheries has a statutory requirement to consult with designated stakeholders when changes are made to management plans. In most instances the designated consultative body is the MAC.

A MAC is the major source of advice to the Minister for Fisheries on issues relating to a fishery or Fishery Portfolio area. The MAC is a forum where issues relating to a particular fishery or Fisheries Portfolio area are discussed, problems identified and possible solutions developed for consideration by the Minister.

Each MAC gives the Minister a means to make his policies known to client groups and, in turn, a medium through which client groups’ views may be made known to the Minister.

The outcomes of the MAC’s deliberations determine the advice the MAC will provide to the Minister. The fisheries MACs also provide an opportunity for interaction between all those who have an interest in the resource, including users, researchers and managers.

The Minister may seek advice from sources other than the MAC. The advice of the Executive Director of Fisheries will be sought by the Minister as a matter of course in relation to the MAC advice vs wider government policy or as to the consistency of the MAC advice to the objectives for the fishery. Where additional information is made available to the Minister, in normal circumstances, the Minister will refer that information to the MAC so that it can review its initial recommendations in light of the new information and provide the Minister with the best advice possible.

It must be clearly understood that the MAC is an adviser to the Minister for Fisheries, who is responsible for the final management decisions under fisheries legislation.

Where the Minister takes a differing view to the MAC advice or defers a decision, the MAC will receive feedback from the Minister advising of the reasons for that decision.

### **4.1 Scope of MAC Activities**

A fishery MAC has certain statutory functions outlined in s65 of the Act in relation to amending and revoking Management Plans and, at the Minister’s request, in relation to Policy Guidelines (s248).

In general, fishery MACs will also have the function of advising the Minister on a range of activities in relation to fisheries such as:

1. the development of proposals in relation to Management Plans;
2. research and development priorities and review;
3. finance and budget planning and review;
4. fisheries management services;
5. extension and publicity, including community awareness programs;
6. compliance and monitoring;
7. performance indicators; and
8. strategic plans.

Ministerial Advisory Committees will have Terms of Reference outlining those functions that relate to their specific task, but will also include many of the above functions.

When developing advice on these activities, the MAC is expected to liaise closely with the Department of Fisheries and relevant client groups.

The MAC is not a body corporate. It has no power to expend or collect money in its own right, to own assets or employ contractors or staff. The MAC may advise the Minister on the collection or expenditure of money, but the Minister is responsible for approving expenditure against objectives of the FRMA or Pearling Act or other government policy and the Executive Director of Fisheries is accountable under the *Financial Administration and Audit Act 1985* for ensuring expenditure is in accordance with the approvals. A budget may be allocated for a MAC's operations, but this budget will be administered by the Department of Fisheries.

## 4.2 Functions of a MAC

The specific functions of the Rock Lobster Industry Advisory Committee, the Aquaculture Development Council and the Recreational Fishing Advisory Committee are spelt out in the Act. Those of the Pearling Industry Advisory Committee are detailed in the *Pearling Act 1990* and those of the Fisheries Adjustment Scheme Committees of Management are detailed in the *Fisheries Adjustment Schemes Act 1987*.

The function of other fishery MACs as provided for in s41 of the Act "*is to provide information and advice to the Minister on matters related to the protection and management of the fishery*".

For these MACs, the Act provides in Section 41(3) that:

"....

(3) *The instrument establishing the Advisory Committee -*

- (a) *must identify the fishery for which the committee is established and the members of the committee;*
- (b) *may provide for any other matter that, in the Minister's opinion, is necessary for the operation of the committee."*

The functions of a MAC established under s41 may vary, depending on the nature of the fishery and its participants. This will be described in the Instrument that sets up the Advisory Committee.

However, the general functions of a fishery MAC may be itemised as follows:

1. to identify issues which affect fishing in that fishery;
2. to advise the Minister on matters relating to the management, protection and development of the fishery;
3. to advise the Minister on matters relating to the fishery on which the advice of the MAC is sought by the Minister;
4. to assist in the cost efficient, cost effective and accountable management of the fishery; and
5. to provide a conduit for consultation with stakeholders.

The function of other MACs as provided for in s42 of the Act is “*to provide information and advice to the Minister on matters related to the administration of the Act*”.

The functions of a Ministerial Advisory Committee established under s42 may vary depending on the nature of the issues concerned. This will be described in the Instrument that sets up the Advisory Committee.

All MACs are required to act in a manner that results in the Minister being satisfied that the advice received is well-founded.

In the normal course of its business a MAC will need to consider and inform itself on a range of issues. These considerations should be consistent with the Minister’s directions, as outlined in the Instrument or by letter, relevant Government policies, the Department of Fisheries strategic and business plans, and the MAC’s own operational plan. The MAC will:

1. prepare an operational plan for the business of the MAC including:
  - i. method of reporting to the Minister;
  - ii. objectives and performance criteria;
  - iii. arrangements for public reporting;
  - iv. consultative mechanisms with interest groups, including (but not be limited to) the relevant peak bodies as appropriate.
  - v. general method of operating with the Department of Fisheries; and
  - vi. operation of Sub Committees;
2. advise on preparation of a budget for the operations of the MAC;
3. advise on arrangements for executive servicing of the MAC; and
4. advise on the Department’s budget relevant to the MAC’s terms of reference and, if applicable, the cost recovery process.

The MAC will be expected to provide supporting rationale for its advice, linked to management and relevant Government policy objectives as appropriate. This MAC advice should, as appropriate, canvass the range of options before it and indicate its preferred option, giving the rationale for its preference. Where there are divergent views among members, this should be reflected in the advice sent to the Minister.

The MAC may also be expected to provide input into the relevant Department of Fisheries Program or Sub-Program Business Plan and ensure linkages to its own operational plan.

### 4.3 Terms of Reference

Sections 41(3) & 42(1) of the Act allow the Minister to establish the functions - usually referred to as the “Terms of Reference” - of a MAC's activities. These are described in the Instrument that sets up the Advisory Committee. Sample Terms of Reference for two types of fishery MACs can be found in Attachment 2.

The Terms of Reference will reflect the specific needs and priorities relevant to the particular area for which the MAC is providing advice.

The Minister for Fisheries may also describe in the Constitution and Proceedings document accompanying the Instrument, or by a set of instructions delivered by him in writing, the following relationships between:

1. the MAC, and in particular the Chair, with the media;
2. the MAC, and in particular the Chair, with the Minister and his office in terms of advice and reporting;
3. the MAC and the Department of Fisheries; and
4. the MAC and the peak industry body (or other relevant body) for the particular fishery or Fishery Portfolio area.

## 5. Financial Management and Services

A Department of Fisheries document called ‘Building a Creative Relationship’ has been developed to assist interested parties to understand the roles of the Minister, MACs and the Department of Fisheries in relation to Government financial management and service provision. A copy of this document is available from the Department of Fisheries.

The paper outlines a consultative and cooperative process for information sharing between the Department and the MACs relating to strategic and budget planning and, where relevant, cost recovery.

Each MAC will be involved in preparing a budget for its own operations and, where applicable, advice on a budget for a fishery or its sphere of activity. This advice will be provided to the Minister for Fisheries for consideration.

Advice on the MAC budget will contain operating costs of the MAC, including the Chair, Secretariat and Executive Officer, plus meeting costs.

Advice on the fishery budget, where applicable, will be as described in the scoping document ‘Building a Creative Relationship’.

The final budget for the Department of Fisheries will have a component determining the licence fees payable by those operators in a fishery under the cost recovery arrangements in place at the time.

The *Financial Administration and Audit Act 1985* places a responsibility on MAC members to ensure efficient and effective operations and to avoid extravagant and wasteful use of resources.

MAC members will:

- analyse financial statements and reports with due care;
- ensure he or she is properly informed prior to making decisions; and
- ensure adequate action is taken on audit reports.

## 6. MAC Membership

All MAC members, except those appointed “*exofficio*”, are appointed by the Minister for Fisheries following nominations sought through public advertisement, nomination by interest groups, direct approach due to their specific skills, or other methods as appropriate. On occasion, the Minister may seek comment from relevant interest groups on the selection of persons to a MAC.

The Minister for Fisheries has final responsibility for determining the actual membership of each MAC.

The categories of members for the Rock Lobster Industry Advisory Committee, the Recreational Fishing Advisory Committee and the Aquaculture Development Council (often referred to as the “statutory MACs”) are described in Divisions 1, 2 and 3 of the Act. For other MACs, including the Pearling Industry Advisory Committee, membership will reflect the expertise available to advise the Minister on the management of the fishery, and the type of advice that the Minister requires.

Each MAC will normally expect to have an appropriate number of members with expertise in the sector for which it is established, at least one member from the Department of Fisheries and members with other expertise as required. This may include expertise in economics, biology, conservation, tourism, recreation or marketing.

Currently for most fishery MACs, the number of members from the major client groups is more than half the total number of members of the MAC. This is in recognition that:

1. the prime purpose of the MAC is to provide advice on the management of the activity undertaken by the major client group;
2. the client group will be the most affected by the decisions made; and
3. the client group is paying totally or partially for the costs of management.

Over time, there are desires to increase the level of professional expertise-based representation within MACs and broaden membership to include community representation. The shift to increasing skills-based representation will evolve with time and requires legislative change for the statutory MACs (Sections 29, 33 & 37 of the Act). There is also a desire to move to smaller advisory committee structures.

Clearly, this will need to be considered on a MAC-by-MAC basis recognising the variances in MAC responsibilities and make-up of any specific fishery.

The Minister may appoint MAC members for terms of up to three years. If a member resigns, the Minister may appoint a replacement for the remainder of the term of appointment. The Executive Director’s appointment, or that of his/her nominee is ongoing, except for the Rock Lobster Industry Advisory Committee and the Pearling Industry Advisory Committee.

The Minister has also adopted a policy concerning appointment of persons with convictions for fisheries offences (Attachment 3).

### 6.1 MAC Chair

The Act requires the Chair of the Rock Lobster Industry Advisory Committee, the Recreational Fishing Advisory Committee and the Aquaculture Development Council to be independent of the specific fishery. Other MACs may have either an independent

Chair, a member of the Department of Fisheries as its Chair, or any other arrangement determined by the Minister.

It will be for the Minister for Fisheries to determine, after taking into account the recommendations of any selection committee that he may appoint for the purpose, and the requirements of the Act, whether an independent Chair should be appointed to a particular MAC.

The model to be applied with respect to independent Chairs for other MACs will be as follows:

1. be independent of the Department of Fisheries;
2. be independent of commercial or other interests associated with the particular fishery;
3. have demonstrated capacity in chairing meetings; and
4. preferably have some fisheries (or resource) management, or fishing industry management, experience .

The MAC Chair will play a key role in ensuring effective and thorough discussion of factors affecting the performance of a particular fishery or Fishery Portfolio area. Preferably, a MAC Chair needs to have the following attributes:

1. an understanding of, and ability to independently chair, management advisory committee meetings in accordance with accepted meeting procedures;
2. an ability to identify strategic goals, objectives and directions, and facilitate their achievement through the management advisory committee processes;
3. an understanding of sector and public policy issues; and
4. a demonstrated ability to communicate, particularly with respect to acting as the MAC spokesperson and representing MAC views, as required by the Minister, to the sector and Government in a balanced and rational manner.

Should a Chair not be present at a MAC meeting, or if the Chair position is temporarily vacant when a meeting is required, the MAC will appoint one of its members to chair the meeting, if necessary after a vote.

The Chair is encouraged to determine at the meeting a formal set of words for those resolutions and actions agreed at that meeting, in order to ensure clarity of understanding of the position reached by members so these can be reported to the Minister, and an accurate record of proceedings of the meeting compiled.

The Chair also needs to ensure that the work of the MAC between meetings is undertaken through consultation with the MAC Secretariat and Executive Officer.

## **6.2 The Role of the Executive Director (or nominee)**

Ordinarily, a MAC will have the Executive Director of Fisheries (or nominee) as a member. Where the Executive Director of Fisheries or nominee is a member of a MAC, that person will participate as a full member of the MAC in its deliberative outcomes.

This person will also provide guidance to the MAC that is consistent with legislative requirements, Ministerial Guidelines, the current policy position of the Department of

Fisheries, the state of biological or economic knowledge, and any other expertise that is available to the Department. He/she will also act as the conduit of information between the MAC and the Department of Fisheries.

The Executive Director's nominee will usually be a senior member of the Department of Fisheries. Should this member be unable to support the majority position reached within a MAC, his/her view should be presented to the Minister as a minority report within the MAC advice to the Minister.

The Minister may seek advice from sources other than the MAC. The advice of the Executive Director of Fisheries will be sought by the Minister as a matter of course in relation to the MAC advice vs wider government policy or as to the consistency of the MAC advice to the objectives for the fishery. Where additional information is made available to the Minister, in normal circumstances, the Minister will refer that information to the MAC so that it can review its initial recommendations in light of the new information and provide the Minister with the best advice possible.

### 6.3 Members

The contribution of the individual members of each MAC is critical.

**All MAC members will be required to act corporately and provide considered advice that is in the best interests of the objectives of, for example, a relevant management plan rather than the sectoral interests of a particular fishery or a group within it.**

Specifically, MAC members must be prepared to meet the following requirements:

1. be able to put views clearly and concisely;
2. act in the best interests of the fishery as a whole, or the Fisheries Portfolio area concerned, rather than as an advocate for any particular organisation, interest group or regional interest, even if nominated by a particular organisation, interest group or regional interest;
3. observe confidentiality and exercise tact and discretion when dealing with sensitive issues;
4. avoid pursuing personal agendas or self-interest, but participate in discussion in an objective and impartial manner;
5. must not directly or indirectly use information gained in the course of their tasks as a MAC member to gain an advantage, financial or otherwise, for themselves or another party. This requirement may be enforced through confidentiality agreements.
6. make the necessary commitment of time to ensure that they are fully informed of matters which are the subject of consideration at a MAC; and
7. be committed to decisions taken by the MAC.

Where consensus cannot be reached on an issue, members should submit all views of the MAC to the Minister for Fisheries.

MAC members are in a position of trust. Government power is derived ultimately from the citizens who expect public officers to carry out their functions with professional integrity and due regard for the public interest. All MAC members need a clear understanding of their public duty and legal responsibilities.

MAC members are expected to act in an ethical manner, in particular by not demonstrating any behaviour that could be interpreted as racist, sexist or discriminatory against any class of people.

MAC members will therefore be expected to:

- Gain a clear understanding of the role and purpose of the MAC.
- Develop an understanding of the physical, political and social environment in which the MAC operates.
- Stay informed of all relevant activities affecting the MAC.
- Attend all meetings. Where attendance is not possible, members will submit an apology.
- Participate actively and work cooperatively with fellow members and stakeholders.
- Prepare for meetings by reading and considering all background papers and information supplied.
- Treat each other with professionalism, courtesy and respect.
- Not improperly influence other MAC members.
- Act loyally and in good faith.
- Consult stakeholders regarding issues under consideration while maintaining notice of confidentiality limitations.
- Act in a lawful, ethical and justifiable manner.
- Demonstrate personal integrity and reliability.

**In general, MAC Members are appointed on the basis of their individual expertise, knowledge and experience and not as representatives/delegates of any particular group or sector. All MAC members must be committed to serving the best interests of a fishery or Fishery Portfolio area *as a whole*, rather than the interests of a group or sector who may have nominated them.**

An accepted benchmark description of a MAC member's role is outlined by Sir Laurence Street in the Supreme Court of New South Wales in the case "Bennets vs Board of Fire Commissioners of New South Wales and Others (1967)" (Attachment 4). Although MACs have no independent statutory decision-making responsibility, the statement outlines the key issues for members.

## 6.4 Termination of Appointment

The specific circumstances concerning vacation of office by a member (including the Chair) are outlined in the Constitution and Proceedings attached to the Instrument for the MAC. Some examples are given below.

A MAC member may resign by giving signed notification to the Minister.

The Minister may also terminate appointments after consultation with the Chair, for a variety of other reasons. For example the Minister may terminate the appointment of the Chair or any other MAC member for:

1. misbehaviour or physical or mental incapacity; or

2. inefficiency or incompetence.

Any action by a Chair or Member which demonstrates that he/she is either unwilling or unable to comply with his/her obligations and responsibilities as set out in this Guide may constitute misbehaviour and/or inefficiency and, as such, may be grounds for termination of appointment.

Appointment may also be terminated if:

1. the Chair or Member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his/her creditors or makes an assignment of his/her remuneration for their benefit; or
2. the Chair or Member, without reasonable excuse, does not disclose an interest; or
3. the Chair is absent, except with the leave of the Minister, from three consecutive meetings of the MAC; or
4. a Member is absent, except with the leave of the Chair, from three consecutive meetings of the MAC.

Members may also be removed following breaches of fisheries law as outlined in Attachment 3.

## **6.5 Alternate or Deputy Members**

The Minister will not appoint alternate or deputy members. The Minister appoints particular individuals to be members of the MACs on the basis of their skills and expertise, and because of their ability to complement the skills of other MAC members. It is important for a MAC to have consistency of membership to ensure continuity and consistency in discussion and decision-making.

For the Rock Lobster Industry Advisory Committee, the Recreational Fishing Advisory Committee and the Aquaculture Development Council in particular, appointments to MACs are statutory in nature. Therefore if a member is unable to fulfil his/her responsibilities, he/she should resign from the MAC and allow for the appointment of a member who can meet the responsibilities involved.

Guests or advisers may be invited to attend the meeting and this will be at the discretion of the Chair. Such guests and advisers will have no voting rights on any decision before the MAC and proxy members are not allowed.

## **7. Support for MACs**

The MAC is to advise the Executive Director of the Department of Fisheries of its administrative support (secretarial and executive officer) requirements. The Executive Director is responsible for arranging this support, which will normally be through officers of the Department, or contractors employed for the purpose as decided by the Minister on the advice of the MAC. New appointments for support personnel will normally be made in consultation with relevant MAC Chairs. Neither the secretariat nor the Executive Officer are members of the MAC.

## **7.1 Executive Officer**

The Department of Fisheries will generally arrange Executive Officer services as per the requirements of the MAC. An Executive Officer is responsible to the Chair for the purposes of MAC business and to assist the MAC members in undertaking their role.

He/she will help develop MAC advice, prepare background papers, reports, correspondence and conduct research and investigations into matters affecting the fishery on behalf of the MAC. In consultation with the MAC Chairman, this officer will either act as the Secretary for the MAC or arrange secretarial services.

## **7.2 Secretariat**

The Department of Fisheries will generally arrange secretarial services as per the requirements of the MAC. It will be the responsibility of the person providing this service, in consultation with the MAC Chair or the Executive Officer, to organise meetings of the MAC; prepare the meeting agenda; ensure papers are prepared and sent to members of the MAC in a timely fashion; and provide draft minutes and draft Chair's Reports as required.

## **7.3 Sub-committees**

A MAC may establish sub-committees, with or without outside expertise (ie. coopted members), to advise it on particular matters. Ministerial approval to establish such sub-committees has been provided for in the Instrument of Appointment (Constitution and Proceedings) of non-statutory MACs.

To ensure communication and coordination of sub-committee advice through the MAC, each sub-committee should be convened and chaired by a MAC member nominated and appointed at a MAC meeting.

Sub-committees are solely responsible to the MAC.

## **8. Remuneration of MAC Members**

The Minister will determine the remuneration for the Chair and members of a MAC. Such remuneration will normally follow Public Sector Guidelines for members of statutory bodies.

Accommodation, meals and out of pocket expenses incurred on official business will be reimbursed at public sector rates, including those costs associated with sub committee meetings. Members using their own vehicles will be entitled to claim the lesser of an allowance per kilometre (as per Public Service rates) or an equivalent airfare.

All travel claims are to be completed by the member on the approved form and forwarded for approval through the MAC Executive Officer. Claims should be submitted as soon as possible after a meeting, and any claims submitted more than twelve months after a meeting may not be considered for payment.

Where a member engaged on MAC business elects to use a class of air travel higher than economy class or to incur higher accommodation costs than that provided, that member will meet these additional costs.

Reimbursement and remuneration of sub-committee members will be detailed in the relevant Instrument of Appointment.

MAC Members are encouraged to arrange their air travel and accommodation requirements through the MAC Executive Officer.

MAC members will not accept any fee, reward, gratuity, gift or remuneration of any kind other than sitting fees or allowances officially applicable to the MAC. MAC members must not use their public position for personal profit or gain.

MAC members will not use travel points accumulated on government business under frequent flyer or other programs to acquire benefits such as upgrading of tickets above normal entitlements or for private travel, whether or not MAC members have personally met the costs of membership to a frequent flier scheme. Benefits accrued on MAC business can only be used for official purposes.

MAC members should keep adequate records of the frequent flyer points accumulated on MAC travel and private travel and these must be produced when required for audit purposes.

## **9. Communication Policy**

A MAC will be expected to develop effective communication with the Minister for Fisheries, Department of Fisheries, Industry Peak Bodies and the people engaged in, or with an interest in, the fishery or Fishery Portfolio area, as required.

### **9.1 Communication with the Minister**

The MAC will normally communicate with the Minister in writing through a report from, or on behalf of, the Chair following each meeting. Where possible, the Minister will respond prior to the next MAC meeting, particularly in relation to specific advice offered.

The Minister may seek advice from sources other than the MAC. The advice of the Executive Director of Fisheries will be sought by the Minister as a matter of course in relation to the MAC advice vs wider government policy or as to the consistency of the MAC advice to the objectives for the fishery. Where additional information is made available to the Minister, in normal circumstances, the Minister will refer that information to the MAC so that it can review its recommendations and provide the Minister with the best advice possible.

### **9.2 Communication with Interest Groups**

The MAC is encouraged to formally communicate with stakeholders, the Department of Fisheries and other interested parties on what it is doing, the problems being dealt with and the possible solutions being considered. The MAC, as part of its Operational Plan, is also required to develop a protocol and process by which peak industry bodies and other interested parties can advise the MAC of their views on any of the issues under consideration. Consistent with agreed confidentiality rules established by the

MAC or any existing Ministerial Guideline, members of a MAC should communicate with interest groups on issues before it. However, Members are not expected to be the formal basis of reporting to the MAC the views of interest groups on these matters.

### 9.3 MACs and the Media

MACs are advisory to the Minister and as a matter of course the Minister for Fisheries or the Executive Director of Fisheries deals with any media enquiries. Where agreed, the Minister may nominate the MAC Chair as the spokesperson on matters of process or agreed management planning proposals.

Should a MAC member wish to approach or respond to the media as a member of a specific interest group, he/she must do so clearly on the basis of being a member of that interest group, not as a member of the MAC.

Where a MAC member wishes to deal with the media as an individual, he/she must declare that they are speaking as an individual.

### 9.4 Confidentiality

All documentation produced by the MAC forms part of the public record. A MAC discusses occasionally highly sensitive matters, and discussion in some cases may be limited to MAC members only.

However, all decisions and recommendations affecting the policy, practice or welfare of a public body or public officers must be transparent and all decisions and processes must be documented. Documentation protects all parties involved in the decision, both collectively and individually.

MAC members will:

- Respect confidential information and observe any restrictions agreed by the MAC (subject to *Freedom of Information Act 1992* requirements).
- Maintain confidentiality and not divulge information deemed confidential or sensitive. If members are uncertain of the confidentiality of specific information, they should seek clarification from the Chair or the Executive Officer.
- Ensure recorded information under their control (in both paper and electronic form) is kept in a secure place.
- Be cautious about leaving MAC records on fax machines, photocopiers or computer screens.
- Avoid discussing MAC business in public places where there is a likelihood of being overheard.
- Dispose of duplicate copies of records no longer required in accordance with archive procedures.

While the Executive Officer may have primary responsibility for the handling and maintenance of records, all MAC members have individual responsibility

for any document, tape, disk, or other record in their custody. Records of any type should not be left in places where non-MAC members may see them, such as at home, an office or a motor vehicle. Records should not be transmitted from a MAC member to a non-MAC member.

This does not however negate the need for adequate consultation and consideration of issues raised at a MAC meeting.

Under criminal law, MAC members are public officers (s.85 of the Criminal Code) and as such MAC members must not falsify, destroy, alter or damage any public record. They must also not remove folios from files nor backdate any information.

If MAC members are approached with a query under the *Freedom of Information Act (1992)*, the query must be referred to the *Department of Fisheries*.

## 10. Interests of MAC Members

The specific circumstances concerning disclosure of interest by a member (including the Chair) are outlined in the Constitution and Proceedings attached to the Instrument for the MAC.

### 10.1 Disclosure of Interests

1. If -
  - (a) a member of the Advisory Committee has a direct or indirect interest in a matter being considered, or about to be considered, by the Advisory Committee; and
  - (b) the interest could conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as practicable after the relevant facts have come to the knowledge of the member, disclose the nature of the interest at a meeting of the Advisory Committee ("a conflict of interest").
2. A member of the Advisory Committee must not vote in relation to a matter about which he/she has a direct pecuniary interest.

MAC members are expected to place public interest above personal interest and must not use their public position for personal gain.

A conflict of interest can occur when:

- a MAC member stands to benefit or make a financial gain from a MAC recommendation or decision;
- a MAC member's spouse, children or near relative stands to benefit or make a financial gain from a MAC recommendation or decision;
- a MAC member holds membership of another organisation that stands to benefit or make a financial gain from a MAC recommendation or decision; or

- a MAC member's spouse, children or near relative holds membership of another organisation that stands to benefit or make a financial gain from a MAC recommendation or decision.

See Attachment 6 for further discussion on conflict of interest and confidentiality.

## **11. Procedural matters**

The procedures to be followed for MAC meetings are set out in Attachment 5.

## **12. Entering Government Premises**

The Executive Director of the Department of Fisheries is responsible for the day-to-day management of the agency. The MAC as a whole, or individual members, may need to visit the agency in a formal capacity or to use government facilities and equipment.

MAC Members will cooperate with the Executive Officer or other relevant staff when using the premises for meetings, other MAC business, or when using government equipment for MAC business.

## **13. Amendment to Guide**

This Guide is for the assistance of MAC members. From time-to-time, as the need arises, this Guide may be amended or varied.

## **ATTACHMENT 1: Management and Ministerial Advisory Committees**

The *Fish Resources Management Act 1994* (“the Act”) provides for the establishment of Fishery Management Advisory Committees and other advisory committees, or MACs as they are more commonly known, to provide information and advice to the Minister for Fisheries on matters related to the protection and management of the fishery or the administration of the Act.

A similar advisory body is outlined in the *Pearling Act 1990* for the pearling and pearl culture sectors, which is called the Pearling Industry Advisory Committee.

In addition, provisions exist in the *Fisheries Adjustment Scheme Act 1987* for the establishment of Voluntary Fishery/Fisheries Scheme Committees of Management, which provide advice to the Minister on the desirability of establishing schemes and the subsequent consideration of offers under those schemes.

Specific advisory committees (often referred to as “statutory MACs”) are established under Divisions 1, 2 and 3 of Part 4 of the Act for particular sectors. The constitution and proceedings of those advisory committees are specifically provided for in the Act. These advisory committees are:

1. Rock Lobster Industry Advisory Committee (section 29)
2. Recreational Fishing Advisory Committee (section 33)
3. Aquaculture Development Council (section 37)

The Minister can also establish other advisory committees under Part 4 of the Act, Division 4 (section 41), for the protection and management of a fishery, or Division 5 (section 42) for the administration of the Act.

The constitution and proceedings of the MACs established under Division 4 and 5 of Part 4 of the Act are set out in attachments to the Instrument of Appointment for each one of those committees and generally have a similar format and content to those for the statutory MACs as set out in the Act.

The MACs established by the Act (Part 4, Divisions 1 & 2) and by the Minister for Fisheries (Part 4, Division 4, section 41) to provide advice on matters relating to the protection and management of fisheries (fishery MACs) include:

1. Rock Lobster Industry Advisory Committee
2. Recreational Fishing Advisory Committee
3. Abalone Management Advisory Committee
4. WA Net and Hook Fisheries Management Advisory Committee
5. Purse Seine Management Advisory Committee
6. Northern Demersal Scalefish Management Advisory Committee
7. Joint Trawl Management Advisory Committee
8. Twelve Regional Recreational Fisheries Advisory Committees

A MAC may be established whether or not a management plan is in force for a fishery (section 41(5)).

The advisory committees established under Part 4, Division 3, section 37 and Part 4, Division 5, section 42 to provide advice on the administration of the Act include:

1. Aquaculture Development Council
2. Abrolhos Islands Management Advisory Committee

## **ATTACHMENT 2: Terms of Reference of Typical Fishery MACs**



### **A. A Typical Commercial Fishery MAC**

1. To advise the Minister on matters relating to the fishery on which the advice of the Advisory Committee is sought by the Minister;
2. To seek advice from all parties with an interest in the fishery, including peak industry bodies, on matters relating to the fishery on which the advice of the Advisory Committee is sought by or being given to the Minister.

### **B. Regional Recreational Fishing Advisory Committee**

1. To advise the Minister in the management and enhancement of regional recreational fisheries, fish stocks and their habitat, by canvassing community views and providing advice to the Recreational Fishing Advisory Committee (RFAC) and Department of Fisheries.
2. To provide advice and comment to RFAC from a regional perspective on recreational and other fisheries management issues which are referred to it by the Minister.
3. To develop recommendations for the consideration of RFAC which have implications for the regional recreational fishing community.
4. Ensure the needs of regional recreational fishers are adequately catered for on issues of specific relevance to the region they represent.
5. Ensure that regional committee views are representative of the wider recreational fishing community within the region.
6. Cooperate with the Department of Fisheries in regional community education and extension of recreational management initiatives.

### **ATTACHMENT 3: Policy Guideline: Convictions for Offences Under Fisheries Law - Effect on Membership of Management Advisory Committees**

In an ever-increasing number of fisheries, the primary method of consultation is through Management and Ministerial Advisory Committees established under Part 4 of the *Fish Resources Management Act 1994*.

In the case of commercial fisheries, these Committees typically consist of active professional fishers, Department of Fisheries officers, representatives from the processing sector, representatives of the public interest and recreational fishers.

Management and Ministerial Advisory Committees have the task of providing balanced and informed advice to the Executive Director of Fisheries and the Minister for Fisheries. It is critical that members have - and maintain - the confidence and respect of industry and the Western Australian community.

It is generally undesirable for persons convicted of offences under State, Territory or Commonwealth Fisheries Law (or companies of which a person is or was a director or shareholder at the relevant time) to be appointed or continue as members of these Committees.

To this end, the following policy will apply to the appointment and removal of members of all Management and Ministerial Advisory Committees set up to consider matters under the scope of the *Fish Resources Management Act 1994* the *Pearling Act 1990* and the *Fisheries Adjustment Scheme Act 1987*:

1. This policy is not an absolute policy, as within the bounds of natural justice, the Minister must consider the individual circumstances of each case. However it would only be in exceptional circumstances that the Minister would vary from the policies in this document.
2. Prior to appointment of a person to a Management or Ministerial Advisory Committee, the Minister may request the applicant to provide a statutory declaration to the effect that neither he/she nor any company with which that person has been a director, has been convicted of an offence under State, Territory or Commonwealth fisheries law in the past five years.
3. The nature of the offence will influence the decision as to whether the Minister will accept the nomination of that person.
4. If a member of a Management or Ministerial Advisory Committee is convicted of any offence whatsoever under State, Territory or Commonwealth Fisheries Law, depending upon the severity of the offence, the Minister, after consultation with the Executive Director and the Chair of the Management or Ministerial Advisory Committee, may write to the committee member seeking his/her voluntary resignation.
5. If a member refuses to resign voluntarily, then the Minister will proceed to remove that person from office.

## ATTACHMENT 4: Duties and Responsibilities of Members of Management Advisory Committees

An accepted benchmark description of a MAC member's role is outlined by Sir Laurence Street in the Supreme Court of New South Wales in the case "Bennets vs Board of Fire Commissioners of New South Wales and Others (1967)". Although MACs have no independent statutory decision making responsibility, the statement outlines the key issues for members.

*"By the terms of their statutes, boards such as this comprise a number of persons nominated or chosen by various groups, each of which nominating or choosing groups has a direct interest in the public undertaking controlled by the board. Each of the persons on such a board owes his membership to a particular interested group; but a member will be derelict in his duty if he uses his membership as a means to promote the particular interests of the group which chose him.*

*The object of providing for interested groups to nominate the members of such a board as this might be said to be threefold; first, one can be confident that an interested group will select a man whose personal qualities and competence equip him for membership; second, it promotes the confidence of that particular group in the board, and provides a means of liaison between that group and the board; and third, it ensures that the board, as a single entity, has available in its deliberations the views of all the interested groups. The presence of the second and third elements necessitates in a board member the highest standards of integrity, both in his thinking and in his actions. The consideration which must in board affairs govern each individual member is the advancement of the public purpose for which parliament has set out the board. A member must never lose sight of this governing consideration. His position as a board-member is not to be used as a mere opportunity to serve the group which elected him. In accepting election by a group to membership of the board he accepts the burdens and obligations of serving the community through the board. This demands constant vigilance on his part to ensure that he does not in the smallest degree compromise or surrender the integrity and independence that he must bring to bear in board affairs.*

*Undoubtedly there will be differences of opinion between board members. Indeed, it is well that this should be so; sound and wise decisions by the board can only be based upon a full and informed discussion of varying and conflicting views and considerations. Nomination of the individual members and their election to membership by interested groups ensures that the board as a whole has access to a wide range of views, and it is to be expected within this wide range of views that inevitably there will be differences in the opinions, approaches and philosophies of the board members. But the predominating element which each individual must constantly bear in mind is the promotion of the interests of the board itself. In particular, a board member must not allow himself to be compromised by looking to the interests of the group which appointed him rather than to the interests for which the board exists. He is most certainly not a mere channel of communication or listening post on behalf of the group which elected him. There is cast upon him the ordinary obligation of respecting the confidential nature of board affairs where the interests of the board itself so require."*

## **ATTACHMENT 5: Management Advisory Committees: Procedural Matters**

A Management Advisory Committee (MAC) will operate in accordance with the following procedures.

### **A. Notice of a Meeting**

The Secretary/Executive Officer should forward notice of a meeting to all members no less than 28 days prior to a meeting being held. The notice should stipulate:

- the date of the meeting (including the day of the week);
- the time the meeting will commence;
- the venue for the meeting; and
- the proposed business (agenda) to be dealt with.

The notice should be sent to every member of the MAC, whether or not they are able to attend.

It will be the responsibility of the MAC member to ensure that he/she can receive in a timely manner any material posted as standard mail.

Where significant business is proposed by a member, the agenda item and any background papers covering such business should be submitted to the Secretary/Executive Officer by the member no less than 21 days prior to the meeting, accompanied by a brief explanatory note setting out the main points of the proposal. Otherwise, special items should only be submitted with the concurrence of the Chair. As a general principle, agenda papers, reports, correspondence, statistical statements, etc should be sent out with the notice and agenda for a meeting.

### **B. Electronic meetings**

From time to time, a MAC may be required to consider a single issue, often at short notice, for which it may not be economic or feasible for the MAC to physically meet. In such circumstances, the convening of a meeting by electronic means may be appropriate. Such electronic means may include a telephone hook-up, or video conferencing.

A MAC is authorised to hold meetings by electronic communication without the members being present in one place, provided that:

- (a) when the MAC deliberates, members of the MAC constituting a quorum are able to speak to, and hear, each other at the same time; and
- (b) the Chair of such a meeting takes care to ensure that a quorum is maintained during the meeting.

### **C. Quorum**

A quorum is the minimum number of persons who need to be present to constitute a valid meeting. If a meeting is not properly constituted, it cannot validly transact business. Further,

the prior issue of a notice of the meeting to all persons entitled to receive such notice is also needed for a meeting to be validly constituted. For resolutions of a meeting to be valid, the number of members necessary to form the quorum must be present throughout the meeting.

A sensible size for a quorum is a sufficient number of members to conduct business with an adequate spread of responsibility, experience and representation. In the case of statutory Management and Ministerial Advisory Committees, the number shall be two-thirds of the members of the MAC as prescribed by legislation.

For the remainder of MACs set up under s41 or s42 of the Act, the quorum is as described in the Constitution and Proceedings within the Instrument of Appointment. It is usually half of the total number of members (rounded up to the nearest whole number) plus one.

## **D. Agenda**

An agenda is more than a list of items or a guide to matters to be dealt with at a meeting. It provides a program, scheduled in a suitable way to facilitate the consideration of each item and the transaction of business in an orderly manner, for completion within an appropriate time. An agenda enables the items to be arranged in a logical and flowing manner, promoting efficiency in the use of meeting time. It also provides a basis on which to write the minutes of the meeting.

The preparation of the agenda should be done by the Secretary/Executive officer in consultation with the Chair and subsequently approved by the Chair. The agenda, and any associated documentation, should be made available to members at least 14 days prior to the commencement of the meeting.

An agenda should be in the following order:

### WELCOME

The Chair should welcome and introduce all those present, particularly invited observers/advisers.

### APOLOGIES

### MINUTES OF THE PREVIOUS MEETING ON (DATE)

This gives those present the opportunity to be satisfied about the correctness of those minutes as a record of the proceedings of that meeting. It also serves as a reminder of decisions made, and progress reported, at the last meeting, and thus of matters which remain pending, decisions still to be made and developments about which reports should be forthcoming.

Minutes may be detailed or simply a record of decisions. This is for the MAC to decide.

### BUSINESS ARISING FROM THE MINUTES

While the immediate consideration of any business that arises from the minutes of the previous meeting seems a logical way to go about things, it is sometimes preferable for some or all such matters to appear as individual items later in the agenda, except where concise reports will deal with them. Such reports can be received under this item, as well as any other issue arising from the minutes that is not the subject of a separate agenda item. Also under this heading, the Chair should inquire whether a member wishes to refer to any further matter arising from the minutes.

An 'action sheet' is used by some Committees to assist in tracking business arising.

## ROUTINE ITEMS

Regular business that comes before the Committee (such as correspondence) should be dealt with at an early stage in the meeting to enable such items to be dealt with expeditiously but without undue haste.

## BUSINESS ITEMS TO BE DEALT WITH

The order in which business is dealt with at a meeting needs to take account of business items arising from the previous meeting and the possible effects on later agenda items. Business items should be structured logically and the sequence of their discussion should not be changed from that in the agenda, unless to achieve some worthwhile benefit and then only after adequate consideration.

Preferably there should be defined starting times for the discussion of major business items where the Department of Fisheries or other advisers have been requested to attend, so that efficient use can be made of their time.

## OTHER BUSINESS

This agenda item provides for the consideration, if only in a preliminary way, of any unexpected or fresh and important business. It also enables up-to-date information on matters of passing interest to be reported and noted at the time of the meeting, rather than waiting for the next one. As a general rule, items under this agenda heading should not go beyond the scope of the notice for the meeting.

## DATE AND PLACE OF NEXT MEETING

### **E. Attendance of Advisers/Observers**

The attendance of advisers and observers at MAC meetings will be at the discretion of the Chair within the rules decided by the MAC. Generally attendance should be deemed consistent with the efficient and effective operations of the MAC. This attendance should be limited to the extent necessary to provide for the effective management of the business before the MAC.

### **F. Rules of Debate**

Rules of debate have no legal authority and it is not necessary to apply such rules at a meeting. However, adherence to conventional rules of debate provides a Chair and others with confidence that a meeting will be conducted in an orderly fashion, with good manners and common decency.

In the case of MAC meetings, it is unlikely that the rules of debate will need to be enforced. Rather, issues should be discussed in a cooperative, informal and consultative manner, with resolutions being normally arrived at through consensus. At the same time, it is important for members to appreciate that the business of a meeting will be expedited by their personal observance of the general rules of debate and support for the maintenance of order.

### **G. Voting**

Voting procedures for MACs are set out in the Instrument of Appointment for each MAC. In

brief these are normally as follows:

- a decision of the majority of the members present is a decision of the MAC;
- the Chair does not have a deliberative vote in relation to a motion, but does have a casting vote if the votes of the other members present at the meeting are equally divided; and
- if a member other than the Chair is presiding at a meeting, that member is to have a casting vote if the votes of the other members present at the meeting are equally divided in addition to his deliberative vote.

Regardless of the outcome of voting, members may request their position be put forward to the Minister for Fisheries.

## **H. Resolutions of Meetings**

Chairs are encouraged to develop an agreed form of words to summarise the resolution of each agenda item. This will also assist the clear notation of the meeting proceedings by the Secretary/Executive Officer. This should also be the standard practice for agreed actions developed by the MAC.

## **I. Out of session deliberations**

Occasionally, it may be necessary for a MAC to be asked to decide on an issue "out of session". A resolution in writing signed or assented to by letter or fax by each member shall be as valid as if it had been passed at a meeting of the MAC.

## **J Chair's Report**

A MAC is to provide information and advice where appropriate and make recommendations to the Minister for Fisheries. The Minister normally expects the Chair of each MAC to provide him with a written report within seven days of each MAC meeting.

Where appropriate, this report will also include:

- a situation report on current developments in the area of the MAC's responsibility;
- decisions that are within existing policy; and
- recommendations by the MAC that, to be implemented, will require a change to existing policy (such recommendations will need to be sufficiently developed and supported to allow the Minister to fully address the issue and make decisions).

## **K. The Minutes**

The MAC should determine whether it requires the keeping of formal minutes, or a summary record that records the major decisions and outcomes of the meeting.

Minutes may be defined as the official, permanent, written record of the business transacted at a meeting. The purpose of minutes is to provide an accurate, objective account of the proceedings of a meeting. They should be concise, lucid and free from ambiguity or uncertainty. Where detail is significant, minutes need to be explicit.

As a general rule, minutes should be expressed in clear and concise words. They should preferably be free of fisheries jargon.

The minutes usually include:

- day and date of meeting;
- place of meeting;
- names of those present;
- apologies from those unable to attend; and
- reference to the minutes of the previous meeting and the signing of them as a correct record of the proceedings of that meeting by the Chair
- record of agenda items discussed, including agreements reached and action required;
- date and time for the next meeting; and
- time the meeting closed.

A summary record is likely to include:

- day and date of meeting;
- place of meeting;
- names of those present;
- apologies from those unable; and
- record of items discussed and decisions reached.

The minutes or summary record should be written up and submitted to the Chair by the secretariat for comment and approval, within 14 days and distributed to members within 21 days of the conclusion of the meeting.

## **L. Chair's Summary**

The Chair's summary is likely to include:

- day and date of meeting;
- place of meeting;
- names of those present;
- apologies from those unable to attend;
- a record of items discussed and decisions reached; and
- any other relevant advice to the Minister to assist in decision making.

In normal circumstances, the Chair's summary arising from a MAC meeting or public version of it will be circulated to interest groups upon approval of the Minister for Fisheries. Unless otherwise directed by the Minister, the Chair's report and the minutes, if produced, should be confidential to the Committee.

The Chair's summary will differ little from the report sent to the Minister for Fisheries for consideration. However, it is recognised that there may be issues of a confidential nature under ongoing consideration by a MAC that are in the Chair's report. These may be held back from the Chair's summary, pending an outcome from the MAC and a decision by the Minister for Fisheries. This approach ensures that interested parties, in relation to issues or proposals that have not been fully developed, do not take decisions/actions.

The Chair needs to ensure that the work of the MAC between meetings is undertaken through consultation with the MAC Executive Officer and Secretariat.

## ATTACHMENT 6: Conflicts Of Interest And Confidentiality

[The following document has been provided by the Office of the Public Sector Standards Commissioner on the issues of conflicts of interest and confidentiality.]

The Minister appoints MAC members on the basis of their individual expertise, and not as representatives of any group.

### Legal responsibilities

Under common law, which applies to all government boards and committees, a member has an obligation to:

- act honestly and in good faith, always acting in the best interests of the body;
- exercise reasonable care and skill in carrying out their duties in the best interests of the body;
- not make improper use of information, by divulging confidential information or using it for personal gain; and
- avoid any conflicts of interest.

### What is a Conflict of Interest?

Many different definitions have been offered for conflict of interest. Whatever the precise expression, the general intent is usually very similar. Consider some definitions:

... any situation in which they might seem to be deriving inappropriate personal advantage from their position with a public body, or in which their individual interests may be in conflict with those of the body.

... when the member, the member's spouse or a dependent in relation to the member has significant private interests, other than permitted private interests, that afford the opportunity for the member to benefit, whether directly or indirectly, as a result of the execution of, or the failure to execute, any office of the member.

... any situation ... of a nature to compromise his impartiality in the performance of his duties or of a nature to influence adversely his judgment and his sense of fairness.

... a situation in which an official has a private financial interest sufficient to influence, or appear to influence, the exercise of his public duties and responsibilities.

...where a person has divided loyalties.

It will readily be seen that such definitions lack the detail and specificity necessary for their application to individual circumstances.

One Department has defined apparent conflict as "a situation where a member of the public would have reasonable cause to believe that a public official may be in conflict, even though he or she might not be."

For an *apparent conflict* to exist, it is not necessary for the public official to have actually taken an official action related to a private financial interest.

A potential or actual conflict of interest exists when commitments and obligations to the public interest are likely to be compromised by a person's other interests or commitments, especially financial, particularly if those interests or commitments are not disclosed.

There is an obligation not simply to obey the law but to act in a manner so scrupulous that it will bear the *closest public scrutiny*. In order that honesty and impartiality may be beyond doubt, public officials should not place themselves in a position where they are under obligation to any person who might benefit from special consideration or favour on their part or seek in any way to gain special treatment from them. Equally, a public official should not have a pecuniary interest that could conflict in any manner with the discharge of his official duties.

Upon appointment to office, public officials are expected to arrange their private affairs in a manner that will prevent conflicts of interest from arising.

Public officials should hold no outside office or employment that could place on them demands inconsistent with their official duties or call into question their capacity to perform those duties in an objective manner.

Public officials should not accord, in the performance of their official duties, preferential treatment to relatives or friends or organizations in which they or their relatives or friends have an interest.

### **Declaring Conflicts of Interest**

All public officials are expected to disclose to their chairperson or other appropriate person in authority, usually in writing, all business, commercial or financial interests where such interest might conceivably be construed as being in actual or potential conflict with their official duties.

Where there is any conflict or potential conflict, this should be declared and the public official should abstain from voting on or discussing the issue.

It is vital that public officials are encouraged or required to state all areas of interest that could cause a conflict of interests. This helps avoid conflicts by identifying possible causes and taking appropriate action before these become conflicts.

Some bodies require members to declare any personal or family interests upfront (e.g. financial, property, business or affiliations). Others require members to declare an interest when and if a matter arises in which they may have a direct interest.

### **Confidentiality**

While all documentation produced by a public body is part of the public record,

sometimes highly sensitive issues are discussed. It is the duty of public officials not to disclose confidential information.

Public officials should exercise care in the management of their private affairs so as not to benefit, or appear to benefit, from the use of information acquired during the course of their official duties, which information is not generally available to the public.

Any information kept by the public official or body should be held in a secure place.

While in an individual's custody all documents, recordings, faxes and even words and images on computer screens, are deemed to be in the control of that official and are his/her responsibility to not divulge or carelessly leave lying around.

It is rarely appropriate to divulge information gained in the course of the public official's duties to any other person or body except where legally required to do so or as required under the Freedom of Information Act.

A public official is liable to prosecution under the Criminal Code if they falsify, destroy, alter or damage any public record. This includes removing folios from official records and backdating information.

### **Procedural Considerations**

Have a pro-forma for declaring conflicts of interest when a person joins a MAC.

Have a documented procedure for declaring any conflict of interest that may arise from time to time.

Keep a separate, secure and confidential file for declarations of interest. Check with the Public Records Office on how long such records should be kept and how they should be disposed of.

Ensure that every member of the body has the opportunity to know about their obligations and responsibilities in relation to conflicts of interest, public duty and confidentiality.

Document who (chair?) has responsibility for managing declaration of conflicts procedures.

### **Public Duty**

Ideally, the work of all public sector agencies, departments and positions is to serve the public good.

Public officials are responsible for carrying out this public duty. For public officials to determine to what extent a decision is for the public good, a set of ethics, or standards is required. These are the standards of public duty.

It is important to realise that this set of ethical standards may differ from other sets of ethics - personal or professional.

As individuals, public officials may have their own set of personal ethics or standards. Some individuals base these personal ethics on religion or culture or adapt their own values to match those around them in order to fit in.

A public official's personal set of standards will often overlap with the standards of public duty. However, when these two sets of ethics can come into conflict in the course of official duties, public officials *must base their decision on public duty*.