

Whose interests? Why defining the 'public interest' is such a challenge

Written by Jane Johnston, Associate Professor in Communication and Public Relations, The University of Queensland



What may be deemed in the public interest today may not be so in a decade's time. shutterstock

The “public interest” is a political concept that’s regularly trotted out along with other democratic principles such as transparency and accountability. And, like transparency and accountability, it’s difficult to pin down exactly what it means.

Former NSW Ombudsman [Chris Wheeler](#) has pointed out:

... while it is one of the most used terms in the lexicon of public administration, it is arguably the least defined and least understood ... identifying or determining the appropriate public interest in any particular case is often no easy task.

Centuries of scholarship examine the public interest alongside the “common good”, “common interest”, and “public good”, associated with some big names in political philosophy. Common among their thinking was the idea that governments should serve the people, and the people should be the beneficiaries of governing.

Why is the public interest so hard to define?

The public interest is such a complex and tricky concept to navigate because it has intentionally evolved as ambiguous and mutable. It has no overarching definition because it is contextually determined in scope and purpose.

This means, in any particular instance, political, legal and regulatory authorities make judgement calls. And what may be deemed in the public interest today may not be in a decade; it changes with social mores and values.

For example, during the UK’s [Leveson Inquiry](#) into the media, the public interest came under

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close scrutiny. The inquiry found media practice should better reflect the contemporary views of the British public.

As Guardian blogger Andrew Sparrow [said](#) :

50 years ago it was assumed that there was a public interest in knowing that an MP was gay, but little or no public interest in whether he drove home drunk, hit his wife or furnished his house using wood from non-sustainable sources. Now, obviously, it's the other way round.

Legal bodies and judgements also steer clear of definitions. The [Australian Law Reform Commission](#) has expressly noted:

Public interest should not be defined.

And, in a Federal Court Freedom of Information case, justice Brian Tamberlin [wrote](#) :

The public interest is not one homogenous undivided concept. It will often be multi-faceted and the decision-maker will have to consider and evaluate the relative weight of these facets before reaching a final conclusion as to where the public interest resides.

Most will never have reason or occasion to engage with the public interest in an official sense; we leave that to politicians, officials, judges, heads of inquiries, and so on. Wheeler places the onus squarely on their shoulders:

Public officials have an overarching obligation to act in the public interest.

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Public interest is about more than compliance

Monday night's [Four Corners](#) program put the Gold Coast City Council and its “developers, donations and big decisions” under a public interest spotlight.

ABC Four Corners program All That Glitters.

What was intriguing about the program was the conflation of the public interest with “real or perceived conflicts of interest” as relating to development issues.

Gold Coast Mayor Tom Tate and his deputy, Donna Gates, both described staying in council chambers to participate in discussion and vote on development issues citing the “public interest” as holding overriding importance.

Giving evidence before the Crime and Corruption Commission, [Gates said](#) :

I have, in the main, stayed in the room to vote in the public interest because I firmly believe that that's what I need to do.

Journalist Mark Willacy and Tate pointed out that all behaviour is legally compliant. Willacy concluded:

What's happening with development here is well within the law and to many that's the problem.

But (despite its lack of definition) the public interest should mean more than legal compliance – it is as much about process and procedure as it is outcome. It's also about governance and ethics.

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Wheeler lists seven elements that better round out the full process that should take place:

- complying with applicable law (both its letter *and spirit*);
- carrying out functions fairly and impartially;
- complying with the principles of procedural fairness/natural justice;
- acting reasonably;
- ensuring accountability and transparency;
- exposing corrupt conduct or serious maladministration;
- avoiding or properly managing private interests conflicting with official duties; and
- acting apolitically in the performance of official functions.

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There's no rule book for working in the public interest and, despite arguments that it is too loose, ambiguous and easy to hide behind, it is an integral part of the discourse, law, regulation and governance of modern democracies.

Some professions, such as the [Institute of Chartered Accountants in England and Wales](#), have tackled it head-on. This would seem a prudent measure for all professions in the future.

Jane Johnston does not work for, consult, own shares in or receive funding from any company or organization that would benefit from this article, and has disclosed no relevant affiliations beyond the academic appointment above.

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