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ICAC

INDEPENDENT COMMISSION
AGAINST CORRUPTION

Identifying and managing conflicts of interest in the public sector

As a public official, you have a responsibility to perform your role efficiently, effectively and fairly. Your personal situation, inclination or preferences and those of your family, friends and associates should not influence you when making decisions in a public capacity.

Who does this apply to?

The information in this brochure is aimed at public officials working in the NSW Public Service. Those public officials working in local government should refer to the information on conflict of interests contained in the model Code of Conduct and the *Local Government Act 1993*.

What is a conflict of interest?

A conflict of interest occurs when you as a public official are in a position to be influenced, or appear to be influenced, by your private interests when doing your job. A conflict of interest can involve avoiding personal disadvantage as well as gaining personal advantage. A conflict of interest is not limited to circumstances where you, or others close to you, may gain or lose financially from your public position. It includes situations where your official decisions may be influenced by your private interests in social and professional activities, and interests with individuals or groups, including family and friends.

What are the different types of conflicts of interest?

Actual conflict of interest	Perceived conflict of interest	Potential conflict of interest
You hold a public position where right now you can be influenced by your private interests when doing your job.	You hold a public position where you appear to be influenced by your private interests when doing your job.	You hold a public position where you may in future be influenced by your private interests when doing your job.

Is it wrong to have a conflict of interest?

Conflicts of interest are not wrong in themselves. It is how they are managed that is important.

Public officials are also private individuals, and there will be occasions when your own private interests may come into conflict with your public duty to put the public interest first at all times. All conflicts of interest must be disclosed and effectively managed.

Why managing a conflict of interest properly is important

The community has a right to expect that public officials at all levels perform their duties in a fair and unbiased way, and that the decisions they make are not affected by self interest, private affiliations, or the likelihood that they, or those close to them, will financially gain or lose. The perception that a conflict of interest has influenced an outcome can undermine public confidence in the integrity of the organisation and the individual.

Unresolved or badly managed conflicts of interest can actually lead to corruption or abuse of public office, or the perception that these exist.

What is my responsibility?

Where reasonably possible, you should avoid conflicts between your personal interest and the public interest. Where conflicts of interest cannot reasonably be avoided, you have a responsibility to identify and effectively manage any conflicts of interest you may have, in consultation with your supervisor.

How do I know if I have a conflict of interest?

A personal interest outside of work does not automatically mean that there is going to be a conflict of interest. If something arises at work that is associated with those interests, then you may have a conflict of interest.

There are some factors you need to consider when making a decision about whether your public duty and your private interests are in conflict. Factors that may put you at risk of a conflict of interest include:

- ☐ financial and economic interests, such as debts or assets
- ☐ a family or private business
- ☐ a secondary employment commitment
- ☐ affiliations with for-profit and non-profit organisations, sporting bodies, clubs and associations

- ☐ affiliations with political, trade union or professional organisations, and other personal interests
- ☐ obligations to professional, community, ethnic, family or religious groups in a personal or professional capacity
- ☐ obligations because of relationships to people living in the same household
- ☐ enmity towards, or competition with, another individual or group
- ☐ significant family or other relationships with clients, contractors or other staff working in the same (or a related) organisation
- ☐ highly specialist skill(s) in an area where demand for the skill(s) frequently exceeds supply
- ☐ future employment prospects or plans (that is, post-separation employment).

It is not always possible to avoid having a conflict of interest, particularly in smaller communities or specialist industries. What is important is what you do, or do not do, once you become aware of the conflict of interest.

What do I do if I identify a conflict of interest?

Depending on the legislation and policy that apply to your organisation generally, you would be required to formally register details of the conflict of interest and report the conflict to your supervisor. Situations might arise where you may need to disclose your conflict of interest verbally (for example, in a meeting), though, you should also ensure your disclosure is properly recorded.

It is always better that you disclose and discuss a possible conflict of interest rather than conceal the matter. There are a number of strategies that you and your supervisor can choose from, to help you manage your conflict of interest effectively and transparently.

What strategies can I use to manage a conflict of interest?

Strategy	What this strategy means	When it is most suitable
Register *	You formally register details of the existence of a possible or potential conflict of interest.	<ul style="list-style-type: none">■ For very low-risk conflicts of interest.■ Where recording the conflict of interest is sufficient to maintain transparency.
Restrict	Restrictions are placed on your involvement in the matter to oversee part or all of the process that deals with the matter.	<ul style="list-style-type: none">■ You can be effectively separated from parts of the activity or process.■ The conflict of interest is not likely to arise frequently.
Recruit	Recruit a disinterested third party to oversee part or all of the process that deals with the matter.	<ul style="list-style-type: none">■ It is not feasible or desirable for you to remove yourself from the decision-making process.■ In small or isolated communities where your particular expertise is necessary and genuinely not easily replaced.
Remove	You choose to remove yourself completely from the matter.	<ul style="list-style-type: none">■ For ongoing serious conflicts of interest, where restriction or recruitment of others is not appropriate.
Relinquish	You relinquish the private interest that is creating the conflict.	<ul style="list-style-type: none">■ Where your commitment to public duty outweighs your attachment to your private interest.
Resign	You resign from your position with the agency.	<ul style="list-style-type: none">■ No other options are workable.■ Where you cannot or will not relinquish your conflicting private work.■ Where you prefer this course as a matter of personal principle.

* All conflicts of interest should be registered, regardless of what additional management strategies are adopted.

Frequently asked questions about conflicts of interest

Why should I worry about conflicts of interest?

Managing conflicts of interest is important because the public has entrusted you and others with powers and public resources, and expects you to carry out your official duties without bias.

Isn't it better to keep quiet about conflicts of interest?

No, it is better to manage conflicts of interest transparently. Things kept behind closed doors are more likely to attract suspicion and allegations of possible misconduct.

What can I be asked to do if I have a conflict of interest?

You can be asked to register the interest, to discuss it with your supervisor, and come to some agreement about how the interest will be managed.

Do I still need to disclose a conflict of interest if there is no financial benefit or loss involved?

Yes, conflicts of interest cover a range of activity that is wider than financial concerns – therefore your personal relationships, feelings and associations should also be taken into account.

Where do I get more information about conflicts of interest?

Contact the Independent Commission Against Corruption on 02 8281 5999 or 1800 463 909 (outside the Sydney metropolitan area) and ask for the corruption prevention advice line. Email queries can be sent to icac@icac.nsw.gov.au. Information is available on the Commission's website via the online toolkit, www.icac.nsw.gov.au/preventing-corruption/known-your-risks/conflicts-of-interest.



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Level 21, 133 Castlereagh Street
Sydney, NSW, Australia 2000

Postal Address: GPO Box 500,
Sydney, NSW, Australia 2001

T: 02 8281 5999
1800 463 909 (toll free for callers outside
metropolitan Sydney)
TTY: 02 8281 5773 (for hearing-impaired
callers only)
F: 02 9264 5364

E: icac@icac.nsw.gov.au
www.icac.nsw.gov.au

Business Hours: 9.00 am - 5.00 pm Monday to Friday