

Conflict of Interest Policy

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1. Policy

1.1. Purpose

This Policy sets standards and provides guidance on how to manage conflicts of interest in an ethical manner.

The Public Service Commission (**PSC**) is committed to preventing adverse consequences that can arise from conflicts of interest, the appearance of favouritism, undue influence or impropriety, or inappropriate management of conflicts of interest.

Appropriate management of conflicts of interest is important because NSW citizens rightly expect that staff of the PSC, or their close connections and associates, should never be in a position to obtain undue personal benefits as a result of the work of the PSC. This is consistent with the Ethical Framework for the government sector and Code of Ethics and Conduct for government sector employees and reflects the view that public office is held for the public good, not the purposes or benefits of an individual employee or office holder.

1.2. Scope

This Policy applies to all PSC staff. “PSC staff” refers to all PSC employees (ongoing, temporary, term and casual and those on secondment to the PSC) and any individual working with or on behalf of the PSC including any consultants, contractors or volunteers.

This document should be read together with the PSC Conflicts of Interest Procedures (“**the Procedures**”), Code of Ethics and Conduct for government sector employees and PSC Code of Ethics and Conduct Policy.

1.3. Policy and Procedures in brief

You must:

- disclose all conflicts of interests in accordance with this Policy;
- cooperate with your manager or other colleagues to ensure conflicts of interest are properly managed consistently with an approved management plan;
- always put the public interest first and never allow your personal interests to affect the way you carry out your duties;
- protect the reputation of the PSC by considering how a conflict of interest situation might be perceived; and
- if you are a senior executive, declare any private financial, business, personal or other interests that have the potential to affect the way you carry out your duties.

2. Conflicts of Interest

2.1. Identifying conflicts of interest

You are responsible for identifying and declaring your own conflicts of interest.

A conflict of interest exists when a reasonable person might perceive that your personal interest(s) could be favoured or have influence over your public duties. In practice, this requires a connection or overlap between your private interests and your public duties.

In addition to the requirements of your job description, your public duties include a requirement to comply with the Code of Ethics and Conduct for government sector employees, and to act in accordance with the policies, procedures, codes and values of the PSC.

You should always place the interests of the PSC and the public interest ahead of your own personal interests.

To determine if a conflict of interest exists, you should ask yourself:

- Do you have a personal interest?
- Do you have a public duty?
- Is there a connection or overlap between your personal interest and your public duty?
- Could a reasonable person perceive that your personal interest might be favoured?

The key test is whether, in carrying out your public duty, you could be influenced, or appear to be influenced, by a personal interest. If the answer is yes, to the above questions, then you have a conflict of interest.

Any conflict of interest that is concealed or mismanaged can damage the reputation of the PSC. You should note the following important points:

- In most cases, only you will be aware of the potential for a conflict of interest. Consequently, the onus is on you to identify and declare any conflict of interest in accordance with this Policy and Procedures.
- It can be challenging to objectively assess whether your own personal interests are in conflict with your public duties. You should err on the side of caution and

make a disclosure if you are unsure about whether you have a conflict of interest.

Please refer to **Appendix 1** of the Procedures for examples of different types of conflict of interest.

2.2. Avoiding conflicts of interest

While having a conflict of interest is not necessarily wrong, you should avoid placing yourself in conflicting situations where it is practical to do so. This can be achieved by avoiding:

- assignments and tasks that could conflict with your private interests;
- investments or financial arrangements that could relate to your duties;
- commercial dealings with suppliers and other stakeholders that are not on a professional and independent “arm’s length” basis;
- situations in which professional relationships with suppliers and other contractors could develop into personal relationships; and
- social media activity that could be perceived as compromising your impartiality.

You should ensure that relationships with consultants, contractors and volunteers remain professional and free of conflicts of interest.

2.3. Disclosing conflicts of interest

As soon as possible, you must:

- accurately disclose any conflict of interest in writing to your manager and relevant SLT member by completing the relevant Conflicts of Interest Declaration Form set out in **Appendices 3 – 6** of the Procedures;
- accurately disclose any conflict of interest during any specific processes you are involved in such as procurement, tender committees, recruitment, and project management by completing the relevant form set out in **Appendices 3 – 6** of the Procedures; and
- promptly make a new or revised disclosure if there is a significant change in the nature of your conflict of interest.

If you change roles, act in another role or report to a different manager, you should promptly notify your new manager of the details of your conflict of interest and any management plan (see section 2.1.2 of the Procedures).

Any failure to disclose a conflict of interest, or conduct which favours a personal interest, is a breach of this Policy and may amount to misconduct.

2.4. Management of conflict of interest

If you have a conflict of interest, you must:

- discuss with your manager and document how the conflict of interest will be managed in the relevant Conflict of Interest Declaration Form;
- exercise caution and not participate in decision making related to the conflict until a management plan has been agreed and approved by an SLT or Management Board member;
- adhere to the agreed, documented approach to managing your conflict of interest; and
- note that your conflict of interest will be managed confidentially in accordance with this Policy and the Procedures.

If you are a manager and a conflict of interest is disclosed to you, you must:

- ensure the disclosure is documented in writing by the staff member using the relevant Conflict of Interest Declaration Form;
- if necessary, make further enquiries to verify the accuracy and completeness of the disclosure such as asking further questions or requiring the staff member to provide supporting documentation;
- notify and consult with the Director Governance and Risk/CFO and/or Associate Director People & Engagement as required in Table 1 below;
- consider, discuss with the staff member, and document how the conflict of interest will be managed by completing the “management plan” section of the relevant Conflict of Interest Declaration Form;
- submit the completed Conflicts of Interest Declaration Form (including agreed management plan) for review and approval in accordance with Table 1 below;
- ensure the approved Conflict of Interest Declaration Form is promptly provided to both the staff member who made the declaration and the officer responsible for record keeping (see Table 1 below); and
- monitor the situation to ensure compliance with the approved management plan.

Table 1 Review, approval and record keeping pathways

Declaration	Document how conflict to be managed	Approver	Record keeping
Ongoing declaration by non-executive staff (Appendix 3)	Manager and Senior Leader	Senior Leader	Associate Director People & Engagement, for placement on the staff member's personnel file and inclusion on register
	Consult Director Governance and Risk/CFO		
Secondary employment	Manager and Senior Leader	Approving delegate (Commissioner, Deputy Commissioner or senior executive)	Associate Director People & Engagement, for placement on staff member's personnel file and inclusion on register
	Consult Associate Director People and Engagement		
Recruitment and selection decisions	The Hiring Manager	Hiring Manager or one level up Manager (for any conflict involving Hiring Manager)	Hiring Manager, for placement on the relevant recruitment/selection file
	Consult Associate Director People and Engagement	Notify Commissioner or delegate in Brief approving recruitment or selection decision	
Procurement or Tender Evaluation Committee (TEC) declarations	The project manager or TEC convenor	The project manager TEC convenor or one level up Manager (for any conflict involving project manager or TEC convenor)	Project manager or TEC convenor, for placement on the relevant procurement file
	Consult Director Governance and Risk/CFO and PSC Procurement	Notify Commissioner or delegate in Brief approving contract award	

Appendix 2 of the Procedures sets out various options for managing conflicts of interest. Managers should always consider whether the circumstances warrant removing an employee from duties that are in conflict with their personal interests. While not always practical, this approach eliminates much of the risk.

Managers, including contract and project managers, should also be aware that the responsibilities set out above also apply to consultants, contractors and volunteers working with or on behalf of the PSC that disclose conflicts of interest.

2.4.1 Managing the conflicts of interest registers

The PSC's Conflicts of Interest Register comprises:

1. Senior executive private interest declarations register maintained by the Commissioner's Executive Officer;
2. Non-executive staff ongoing conflict of interest declarations register maintained by the Associate Director People & Engagement;
3. Secondary employment declarations register maintained by the Associate Director, People & Engagement;
4. Recruitment and selection declarations stored confidentially in the relevant file for the recruitment or selection process; and
5. Procurement and Tender Evaluation Committee declarations stored confidentially in the relevant file for the procurement process.

The Director Governance and Risk/CFO will conduct an annual risk management review of the registers to identify:

- any declarations which may have expired; and
- any deficiencies in the declaration and management of conflicts of interest.

2.4.2 Managing privacy

Conflicts of interest can involve the disclosure of information that may be private in nature, such as details about personal finances and relationships. While you must disclose this information, if required, personal information should only be shared with staff on a genuine need-to-know basis.

2.5. Further policy requirements

2.5.1 Dealing with yourself or your family

You must not process transactions, make decisions, or be involved in workplace duties that involve your personal affairs, without written authorisation. The same requirement applies to matters involving members of your immediate family or relations.

In addition, you may not self-approve transactions that provide you with a personal financial benefit (for example, payroll, overtime, leave and expense reimbursement matters).

2.5.2 Personal dealings with suppliers and service providers

You should avoid making personal purchases from the suppliers and service providers of the PSC unless they are on a professional and independent “arm’s length” basis. Seeking discounts or favourable terms from suppliers for personal purchases could create a conflict of interest. If you are in any doubt, seek advice from your manager or the Director Governance and Risk/CFO.

2.5.3 Secondary employment

You may for various reasons wish to undertake work in addition to your primary role at the PSC. Secondary employment may give rise to a conflict of interest between your primary and secondary employment.

PSC staff must not engage in any paid or unpaid secondary employment or business activity outside your official duties without the written permission of the Commissioner or their delegate.

You are not required to obtain approval for secondary employment if you are employed in casual employment or working part-time during the period that you are not required to perform duties at the PSC, but only if the performance of those duties is not adversely affected and no conflict of interest arises.¹

To apply for approval for secondary employment, you should complete the Secondary Employment Declaration Form at **Appendix 4** of the Procedures and submit it to People and Engagement for approval by the Commissioner or an authorised delegate (Deputy Commissioner or a PSC senior executive). If granted, approval for secondary employment will be reviewed annually.

2.5.4 Declaring private interests as a senior executive

Senior executives (including acting senior executives) are required to make a written declaration of any private financial, business, personal or other interests or relationships that have the potential to influence, or could be perceived to influence, decisions made, or advice given by the senior executive. Where a senior executive has no such private interests to declare, they must declare a “nil return”.

Declarations should be made in accordance with the [Senior Executive Declaration of Private Interests Procedures](#).

¹ Clause 7 of the Government Sector Employment Regulation 2014

2.5.5 Procurement processes

All members of a PSC Tender Evaluation Committee (TEC) and all PSC staff involved in any procurement process must declare any conflict of interest in relation to a supplier, potential supplier or any other participant in the procurement process in compliance with this Policy and Procedures.

Declarations should be made by completing the Procurement processes and TEC Conflict of Interest Form at **Appendix 6** of the Procedures (see further policies and procedures for procurement projects including PSC's Tender Evaluation Guideline).

The TEC convenor or procurement project manager (where applicable) is responsible for:

- providing the declaration to the Director Governance and Risk/Chief Financial Officer;
- ensuring that confidential records of all declarations are kept on the file for the relevant procurement process with appropriate DLM and access settings;
- addressing any declared conflict of interest and approved management plan in the relevant Brief seeking approval for the procurement process.

For any conflict involving project manager or TEC convenor, the one-up manager is to review and approve the declaration and management plan.

Suppliers must comply with the Supplier Code of Conduct and immediately report any conflict of interest to the PSC.

2.5.6 Recruitment and Selection Decisions

To maintain the integrity of employment decisions, those involved in the assessment of candidates should disclose whether they know any candidates or assessors and the nature of the relationship. For instance, an assessor may be the supervisor of a person but have no relationship with them outside work, in which case the assessor should disclose a professional relationship. On the other hand, an assessor might be both a supervisor or peer and have a social relationship, in which case the assessor should disclose a personal relationship.

All those involved in the assessment of candidates (assessors) must complete the Conflicts of Interest in Recruitment and Selection form at **Appendix 5** of the Procedures.

A conflict of interest may include:

- Any professional and/or personal relationship with an applicant or another person involved in the recruitment and selection process which may create a conflict of interest for example, prior knowledge of an applicant from a supervisory relationship, as a friend, or family member.
- Any connection with an applicant or another person involved in the recruitment and selection process which may create a conflict of interest, for example any affiliations other than a professional or personal relationship.

You should declare the conflict of interest as soon as you become aware of it (usually once all applications have been received and prior to the commencement of assessments).

Once you declare a conflict of interest, you should not participate any further in the assessment process until the conflict of interest has been considered by your manager and an appropriate plan documented and put in place to manage the conflict. If it is not possible to appropriately manage the conflict in a way that permits you to continue to act as an assessor, then you should withdraw from the recruitment process and an alternative assessor should be found.

You should make a new or revised disclosure using the form at any time during the recruitment or selection process if the circumstances require.

The hiring manager is responsible for:

- providing the declaration to the Associate Director, People & Engagement;
- ensuring that confidential records of all declarations are kept on the file for the relevant recruitment or selection process with appropriate DLM and access settings;
- addressing any declared conflict of interest and approved management plan in the relevant Brief seeking approval for the recruitment or selection decision.

2.6. Breach of the Conflicts of Interest Policy and Procedures

Breaches of this Policy or Procedures may amount to misconduct and result in disciplinary action. Any breach will be dealt with in a manner consistent with applicable law, policy or process.

Depending on the circumstances, this may include the procedures for dealing with misconduct under section 69 of the *Government Sector Employment Act 2013* and Part 8 of the *Government Sector Employment (General) Rules 2014*, the Code of Ethics and Conduct, the Grievance Resolution Policy, the Fraud and Corruption Control Policy or another policy or process.

In some cases, failure to comply with the Conflicts of Interest Policy or Procedures may constitute corrupt conduct, for example where a person conceals, understates, mismanages, or abuses a conflict of interest. Breaches that are reasonably suspected to amount to corrupt conduct will be reported to the NSW Independent Commission Against Corruption and reports of such conduct may be covered by the protections of the *Public Interests Disclosures Act 2022*. Breaches that amount to criminal conduct will be reported to the police.

3. Roles and Responsibilities

Public Service Commissioner

This role is responsible for:

- the general conduct and management of the PSC in accordance with the core values of the Ethical Framework for the government sector
- maintaining an overall framework of internal control
- ensuring systems are in place to take appropriate action to manage any conflicts of interest, as required by the Code of Ethics and Conduct and this Policy.
- reporting reasonably suspected corrupt conduct to the NSW Independent Commission Against Corruption.

Employees and contractors

Employees and contractors are responsible for:

- placing the interests of the PSC and the public interest ahead of their personal interests in compliance with the Code of Ethics and Conduct
- disclosing all conflicts of interest in accordance with this Policy and the Procedures
- promptly notifying your manager in writing of any significant changes to your conflict of interest and updating your declaration
- adhering to the agreed, documented approach to managing conflicts of interest
- reporting reasonably suspected breaches of this Policy

Managers

Managers are responsible for:

- ensuring that their staff, including consultants, contractors and outsourced service providers, comply with this Policy and the Procedures
- providing leadership in dealing with conflicts of interest

- exercising sound judgment when considering how the conflicts of interest of their staff should be managed
- reviewing and providing completed conflicts of interest declarations for approval (see Table 1 for approval pathways)
- providing approved conflict of interest declarations to the staff member concerned
- monitoring adherence to any agreed management plan and ensuring plans are reviewed within the agreed review period
- when managing a procurement or recruitment process, ensuring the declaration is filed confidentially in the relevant procurement or recruitment file with appropriate DLM and access settings
- making recommendations concerning secondary employment declarations and ensuring the declarations are provided to the relevant delegate for approval
- notifying and consulting with the Director, Governance and Risk/Chief Financial Officer and/or Associate Director, People & Engagement in relation to declarations as required by this Policy
- reporting reasonably suspected breaches of this Policy
- ensuring that relationships with suppliers and other contractors remain on a professional and transparent footing, free of conflicts of interest.

Associate Director, People & Engagement

The Associate Director, People & Engagement is responsible for:

- maintaining a register of ongoing declarations of conflicts of interest by non-executive staff accessible only by the Commissioner, Commissioner's Office, General Counsel, Director, Governance and Risk/Chief Financial Officer and the Associate Director, People & Engagement
- ensuring that ongoing declarations of conflicts of interests by non-executive staff are recorded on the employee's personnel file with appropriate DLM and access settings
- maintaining a register of secondary employment approvals accessible only by the Commissioner, Commissioner's Office, General Counsel, Director, Governance and Risk/Chief Financial Officer and the Associate Director, People & Engagement

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- conducting annual reviews of secondary employment approvals
 - ensuring that recruitment decision and selection declarations are recorded in the relevant file for the recruitment or selection with appropriate DLM and access settings
 - ensuring that appropriate action is taken to manage conflicts of interest in employment decisions
 - working with General Counsel to develop and deliver any required training on conflicts of interest.

Director, Governance and Risk/Chief Financial Officer

The Director, Governance and Risk/Chief Financial Officer is responsible for:

- conducting annual reviews of the conflicts of interest register
- ensuring compliance with requirements for the declaration and management of conflicts of interest in relation to procurement processes
- documenting any conflicts of interest in relation to consideration or approval of a declared conflict of interest
- reviewing and advising on management of any risks in relation to a conflict of interest
- ensuring that the frameworks and registers of the PSC reflect the risk of conflicts of interest.

General Counsel

General Counsel is responsible for:

- advising on any legal issues that may arise in the management of any declared interests
- providing legal advice on the application of this Policy and the Procedures, where required
- working with People and Engagement to develop and deliver any required training on conflicts of interest.

Chief risk officer (CRO)

The CRO is responsible for:

- oversight of compliance with this Policy by managers and staff

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- oversight of management of the risk posed by conflicts of interest.

Chief audit executive (CAE)

The CAE is responsible for:

- auditing compliance with this policy
- documenting any conflicts of interest concerning the other operational roles held by the CAE,
- receiving and investigating reports of breaches of this Policy and Procedures, including providing mechanisms for PSC's service providers to raise any identified or perceived conflicts of interest with the Commissioner and then, if appropriate, the ARC.

Policy owner

The Policy owner is responsible for

- developing and maintaining policies to ensure they reflect the relevant compliance requirements, risk management and business plans;
- seeking and obtain Management Board approval for new or revised policies;
- ensuring, and approving, the required guidelines, procedures, registers and reports in place to give effect to the policies; and
- ensuring PSC complies with policies.

4. Document Information

4.1. Legislative context

This Policy has been developed in line with:

- *Government Sector Employment Act 2013 (NSW)*
- *Independent Commission Against Corruption Act 1998 (NSW)*
- *Privacy and Personal Information Protection Act 1998*

4.2. Related resources

This Policy should be read in conjunction with:

- The PSC Conflict of Interest Procedures
- The PSC Code of Ethics and Conduct
- Instrument of Delegation and Sub-delegation, Government Sector Employment Act 2013
- The PSC Fraud and Corruption Control Policy and Guidelines
- The PSC Public Interest Disclosures Policy
- The PSC Gifts, Benefits and Hospitality Policy
- The PSC Procurement Policy and Procedures, Tender Evaluation Guidelines and the PSC Conflict of Interest Form for tender evaluations
- The PSC Senior Executive Declaration of Private Interests Procedures.
- The PSC Privacy Management Plan

Further information about this Policy and the management of conflicts of interest can be obtained by:

- contacting the Policy Owner
- visiting the website of the Independent Commission against Corruption at www.icac.nsw.gov.au (see ICAC's publication "Managing Conflicts of Interest in the NSW Public Sector").

4.3. Document information

This Policy will be reviewed at least every three years in the absence of any significant changes or more frequently where required taking into account legislative or organisational changes, risk factors and consistency with other supporting policies.

Joint Policy owners

Director Governance and Risk/CFO and Associate Director People and Engagement

This version endorsed by

PSC Management Board

Date endorsed	6/12/2023
Date effective	1/03/2024
Due for review	1/12/2026

Version no.	Endorsed date	Description of change
1.0	6/12/2023	Document created
