

Conflict of interest policy

Department of Industry, Tourism and Trade

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Version	Date	Author	Changes made
1.0	14 March 2023	Director Governance	Substantial update to Policy to ensure: <ul style="list-style-type: none"> i. Reflects legislative requirements ii. Simply explain obligations iii. Reflects current practice
1.1	3 April 2024	Policy Officer, Governance	The policy underwent a review, resulting in the following minor amendments: <ul style="list-style-type: none"> • Aligning to the new template and internal policy framework • Changed review to biennially • Enhanced formatting and reordering of sections to enhance readability • Moved process detail into newly developed 'conflicts of interest procedure' • Integrated hyperlinks for increased accessibility and ease of navigation • s2.1 Addition of a new section addressing temporary conflicts as out of scope • s8.1 Inclusion of details regarding closing off a declaration form • s9 Revised reporting to the Board of Management (BoM), along with adjustments to frequency

Acronym	Full form
RMAC	Risk Management and Audit Committee
CEO	Chief Executive Officer
DCEO	Deputy Chief Executive Officer
Department	Department of Industry, Tourism and Trade
ECO	Executive Contract Officer

Acronym	Full form
BoM	Board of Management
ICAC	Independent Commissioner Against Corruption
NTPS	Northern Territory Public Service
PSEMA	<i>Public Sector Employment Management Act 2002</i>
SAO2	Senior Administration Officer Level 2
SP2	Senior Professional Level 2

Term	Definition
Conflicts of interest	<p>A conflict of interest occurs when the private interests of an employee interferes with, or is perceived to interfere with, your professional obligations to the public.</p> <p>A conflict of interest can be actual, potential or perceived.</p>
Actual conflicts of interest	Where the private interests of an employee interfere with the employee's official duties/responsibilities.
Potential conflicts of interest	Where an employee has private interests that could interfere with the official duties at some point in the future.
Perceived conflicts of interest	Where a third party could form a view that an employee's private interests could improperly influence the performance of their official duties.
Private interests	Those personal, professional or business interests that can benefit or disadvantage individuals, or that may disadvantage another. They also include the personal, professional or business interests of individuals or groups we associate with (e.g. friends, family, rivals or enemies).
Public duty	The responsibility of employees to put the public interest above their own personal or private interests when carrying out their official duties
Delegate	Person who has authority to make a decision regarding a disclosure of interest's declaration.
Relationships with companies, professional or non-profit organisations	Direct or distant family connection, close acquaintance, third party relationship through clubs or associations

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1. Purpose

This policy outlines the obligations and responsibilities of Department of Industry, Tourism and Trade (the department) employees regarding the disclosure and appropriate management of conflicts of interest.

The aim is to assist with effective decision-making when a conflict of interest arises and encourage communication so that employees are comfortable to disclose and discuss conflicts of interest. The overarching objectives of the policy are to:

- maintain public trust by encouraging employees to make decisions on merit without regard to private interest, personal attributes or opinions
- support transparency and scrutiny by providing mechanisms to disclose and manage interests and conflicts as they arise
- promote individual responsibility and personal example
- provide protection to employees and the department from perceptions or allegations of improper or unprofessional conduct.

2. Scope

This policy applies to all ongoing, fixed period and casual employees of the department. It encompasses the personal, professional and business interests of employees, as well as their relatives, close friends and associates.

This policy should be read in conjunction with the [conflict of interest procedure](#).

2.1. Out of scope

Conflicts that arise *temporarily* and are specific to the business of a governance committee, grants administration, recruitment, or procurement activity, should be addressed through the relevant business processes before any formal discussions take place. This may include providing details to the relevant committee chair, panel chair, or Division Head for consideration and record keeping.

3. Principles

Responsible management of conflicts of interest is based on the following principles:

- protecting the public interest through upholding public sector values
- supporting transparency and accountability
- promoting individual responsibility for integrity and impartiality
- developing an organisational culture that encourages effective management of conflict of interest.

4. Authority

The Northern Territory Public Sector (NTPS) code of conduct defines the expected level of conduct and provides guidance on a range of ethical and moral issues that may affect NTPS employees.

The code of conduct mandates all perceived conflicts of interest, potential or actual, to be declared and managed so that duties can be performed in a fair and unbiased way and to ensure confidence in the integrity of the employee and the department is maintained.

The department will ensure conflicts are managed openly and transparently, in accordance with [Employment Instruction 12 – code of conduct](#).

All employees are required to declare actual, perceived or potential conflicts of interests.

5. Roles and responsibilities

Role	Responsibility
Employee	<p>Awareness and understanding of their obligations under the Code of Conduct.</p> <p>Discuss conflicts of interest with supervisor.</p> <p>Submit a conflict of interest disclosure when actual, potential or perceived conflicts arise.</p> <p>Manage their conflict of interest in accordance with their agreed management action plan.</p> <p>Review disclosure prior to commencing in a new work unit.</p>
Supervisor/manager	<p>Discuss declarations with employees to identify the best practice of managing or resolving conflicts.</p>
Executive director or equivalent	<p>Review all declarations completed by employees in their work unit/s, and agree with a management approach if required.</p>
Delegate	<p>Review and approve/decline all disclosed conflicts per section 5.4.4 of the code of conduct.</p>
Governance	<p>Review declarations in which a conflict is identified and provide advice or suggest an alternative management plan. Assists employees and managers to resolve disagreement on the conflict management plan.</p>
SAO2/SP2 and above	<p>Determination 13 of 2011 under <i>Public Sector Employment and Management Act 1993</i> states that an executive contract officer (ECO) must disclose in writing to the department where a potential conflict between their personal interest and official duty, whether real or apparent, has arisen or is likely to arise.</p> <p>The BoM determined that all senior department staff (at the SAO2/SP2 designation and above) are required to submit a conflict of interest declaration (which includes disclosing that they have nil conflicts) by 30 June every year.</p>
Chief Executive Officer	<p>The CEO is required to complete a declaration of financial and other interests form upon commencement, annually thereafter, and when a potential conflict arises or becomes apparent. The declaration form is provided to the Commissioner for Public Employment in accordance with the guidelines.</p>

6. Identifying conflicts of interest

A personal interest outside or inside of work does not automatically mean that there is a conflict of interest. If something arises at work that is associated with those interests, then you may have a conflict of interest. Note: Private interests can extend to the interests of immediate family members and close friends of the employee.

Factors to consider when determining whether public duty and private interests may be/are in conflict include, but are not limited to:

- shareholdings or other interests in a company or business
- family or other relationships with co-workers, clients or contractors
- interests in property or land
- significant liabilities to organisations or individuals excluding indebtedness for home mortgages
- outside employment, appointments or directorships whether remunerated or not
- bankruptcy
- affiliations with for profit or non-profit organisations (including sporting bodies, clubs and associations)
- obligations to professional, community, ethnic family or religious groups in a personal or professional capacity
- holding Local Government office
- enmity towards or competition with another individual or group
- future employment prospects or plans (i.e. post separation employment).

For further examples or a clearer understanding of conflicts of interest, please consult the [conflict of interest procedure](#). Additionally, you can refer to the [educational video course](#), jointly developed by the NT ICAC Commissioner, the Auditor-General, the Ombudsman, and the Electoral Commissioner.

7. Disclosure

It is not always possible to avoid having conflicts of interest, particularly in small communities or specialist industries. The importance is what employees do, or do not do, once aware of the conflict.

Ongoing conflicts of interest must be disclosed via an online [conflict of interest declaration form](#). Follow the [conflict of interest procedure](#) if required.

Failure or refusal to complete a conflict of interest declaration may be considered a breach of employment (or a breach of contract in the case of an ECO) under section 49 of the *Public Sector Employment and Management Act 1993*.

8. Managing conflicts of interest

The conflicts of interest declaration requires employees and managers to discuss and propose arrangements for managing declared conflicts. One or more of the following actions may be recommended to address the declared conflicts:

- abstain from the conflicted process

- remove the employee from the decision-making process associated with the conflict
- find another employee to undertake the function
- refer to a more senior officer/delegate
- have an independent person check/review actions undertaken by the employee
- restrict or cease involvement in the private interest or association
- remove the employee from the conflict, for example transferring the employee to another business unit within the department or to another agency
- in more serious cases, the employee can resign from their position.

In the event of conflicts of interest, the delegate must decide whether:

- the employee can continue his or her duties
- the employee should be requested to divest themselves of the interest
- a rearrangement of duties amongst staff, or transfer is required to perform duties that remove the conflict.

The delegate may consult with the supervisor/senior director/executive director, governance and/or the employee concerned before making a decision regarding the management of the conflict of interest. The employee and manager will be notified of the delegate's decision in writing.

8.1. Changes to an employee's interests

If an employee's interests change to the extent that the conflict of interest is altered, a new conflict of interest declaration form must be submitted.

Changes in interests may include acquisition or divestment, an altered relationship or a significant change in the official responsibilities of the employee.

If an employee's interests no longer present a conflict, contact governance to have your declaration form closed.

8.2. Grievances

Should the employee and the delegate fail to agree on a management plan, the matter should be referred to the Director Governance.

If the issue is not resolved after involvement of the Director Governance or the Executive Director Governance and Finance or, as appropriate the CEO, the employee may lodge a request for a grievance review with the Commissioner for Public Employment under section 59 of the [Public Sector Employment and Management Act 1993](#).

To ensure that the objectives of this policy are not jeopardised, the employee must cease involvement in the matters involving the conflict of interest until the grievance is resolved.

8.3. Corrupt conduct

Under Section 10 of the Independent Commissioner Against Corruption Act 2017, failure to manage adequately an actual or perceived conflict, is considered corrupt conduct.

Subsection (2) Conduct is also corrupt conduct if it is conduct engaged in by a public officer (whether or not the identity of the public officer is known):

(c) that involves or results in any of the following:

(ii) failure to manage adequately an actual or perceived conflict

8.4. Investigation of breaches and/or corrupt conduct

The Director Governance will investigate the claims and make a recommendation to the relevant delegate or CEO on the appropriate action to be taken.

Where claims of failure to declare or manage conflicts of interests is substantiated, the matter will be referred to:

- the delegate
- CEO; and/or
- ICAC in the case of corrupt conduct.

9. Reporting and monitoring

A register for conflicts of interest declarations is held securely by governance.

Unless required by law, access to declarations will be limited to the employee concerned, their supervisor, the relevant director/regional director/executive director/delegate and the CEO.

Governance will provide quarterly reporting and insights to BoM via 2 avenues - BoM meetings and Divisional meetings.

Reporting to	Reporting avenue	Reporting frequency
BoM (collective reporting)	BoM meetings	Biannual
BoM (individual reporting)	Divisional meetings	Biannual

10. Communication

This policy will be published on the department's intranet and links to the information will be included in the new starter induction.

The policy will also be available on the department's website for third party access.

11. Review of the policy

This policy will be reviewed at least every 2 years or following any significant organisational, legislative, or regulatory changes.

12. Related legislation

[Public Sector Employment and Management Act 1993](#)

[Employment Instruction No. 12 - Code of Conduct](#)

[Information Act 2002](#)

[Procurement Act 1995](#)

[Contracts Act 1978](#)

[Independent Commissioner Against Corruption Act 2017](#)

13. Interpretation, feedback and further information

For further information or any feedback, contact governance by phone on 8999 2350 or by email governance.ditt@nt.gov.au