

Integrity Spotlight

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Advisory

Poorly managed conflicts of interest are a threat to the integrity of public administration.

Conflicts of Interest

What is a conflict of interest?

A conflict of interest is when the **personal interests** of a public officer **come into conflict** with, or could be **perceived** as coming into conflict with, their professional duties and responsibilities.

The existence of a conflict of interest, or a potential conflict of interest, is not necessarily unethical.

All public officers have interests outside their public roles and it is inevitable that from time to time conflicts of interest will arise.

What is the problem?

If conflicts of interests are not **identified, disclosed** and **managed**, there is a risk the community will lose confidence in public administration. The **perception** of a conflict can damage public confidence as much as an actual conflict, and can give rise to suspicions of corruption.

Poorly managed conflicts of interest are a threat to the integrity of public administration.

All public officers have obligations regarding conflicts of interest.

Perception is an important consideration when identifying conflicts of interest.

I think I might have a conflict, what do I do?

All public officers have **obligations** regarding conflicts of interest. These obligations vary for different types of public officers and may be set by Acts of Parliament, regulations, codes of conduct and agency specific policies.

You should be familiar with the relevant statutory, regulatory, policy and procedural obligations attached to your role. If you are unsure of the specific obligations that apply to your role, you should consult your manager or supervisor.

All conflict of interest obligations are underpinned by **three fundamental principles**:

- identify
- disclose
- manage

How do I identify a conflict of interest?

To identify a conflict of interest, you need to be aware of your personal interests, public duties and responsibilities and the conflicts (real or perceived) between them.

What are my personal interests?

Personal interests are interests you have in your private life. Those interests can be financial or non-financial, they can be your own, or the interests of your family, friends or associates. A personal interest could also include a grievance or bias that you hold against a person or association.

What are my public duties?

Public duties are the roles and tasks associated with your employment as a public officer, including any power or influence that can be exercised. Public duties must be carried out **impartially**, and public officers need to be aware of where there may be actual, perceived or potential conflicts.

When does a conflict of interest arise?

A conflict of interest arises wherever you have a personal interest that conflicts with, or could be perceived as conflicting with, the performance of your duties as a public officer.

Perception is an important consideration when identifying conflicts of interest and the **reasonable person test** should be applied. This means asking yourself:

Would a fair and reasonable person perceive me as having a conflict of interest?

As a manager or supervisor, once a conflict of interest has been disclosed to you, you need to prepare a plan to manage it.

How do I disclose a conflict of interest?

Once you have identified a conflict of interest, you must disclose it. The manner in which it is disclosed is determined by relevant legislation, regulations and policies. In most cases, a conflict of interest should be disclosed:

- as soon as practicable after it has been identified
- in writing to a manager or supervisor

The written disclosure should contain **sufficient information** to enable effective management of the conflict. Inaccurate or incomplete disclosures can prevent effective management.

Intentionally providing inaccurate or misleading information about the conflict can give rise to allegations of corruption.

How do I manage a conflict of interest?

Public officers should not solely manage their own conflicts of interest. This may increase the perception of inappropriate behaviour.

A more appropriate way to manage your conflict of interest is to involve a more senior public officer, such as your **manager** or **supervisor**, who does not share your conflict of interest. Managing a conflict of interest under the direction of an independent public officer ensures a more transparent approach.

I am a manager and a conflict of interest has been disclosed to me. What should I do?

As a manager or supervisor, once a conflict of interest has been disclosed to you, you need to prepare a **plan** to manage it. This involves assessing the risk the conflict of interest poses to the public authority, and the community more generally.

Managing the conflict involves considering:

- the nature of the public officer's duties
- the nature of the public officer's personal interests
- potential consequences if the public officer were to favour their interest or influence a process or outcome
- potential for the public officer to be perceived as biased if they were to take part in any activity where the conflict might have an impact

Managing a conflict of interest involves ongoing monitoring.

A plan to manage the conflict should focus on **separating** the public officer's personal interest from his or her duties and responsibilities as much as possible. If this is not practical, then the risks arising from the conflict need to be managed.

All management strategies should **eliminate** the conflict between personal interest and public duty. Management strategies may involve registering the interest, recruiting an independent party to oversee the relevant issue, or restricting or removing the public officer from any matter where the conflict is relevant. In the most serious cases, it may require that the public officer relinquishes the personal interest that gave rise to the conflict, or resigns from their public position.

Managing a conflict of interest involves ongoing monitoring, because circumstances change. Issues for ongoing monitoring include:




- whether the public officer's personal interests have changed
- whether the public officer's duties and responsibilities have changed
- the ongoing relevance of the management strategy: is it effective in managing the conflict, and does it require amendment?

Other resources available

For more information about how to identify, disclose and manage conflicts of interest, public officers are encouraged to complete *ICAC Conflicts of Interest Course 2021*, available via the ICAC Online Learning Portal: www.icac.sa.gov.au/education

The ICAC report - *Identify, Disclose and Manage: Conflicts of Interest in Public Administration* - also provides more information for public officers about conflicts of interest: www.icac.sa.gov.au/publications

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