# Conflict of Interests Policy

**What is a Conflict of Interests?**

A conflict of interests involves a conflict between our duty, as public sector employees, to serve the public interest and our personal interests.

Conflicts of interests can be actual, perceived or potential:

* actual conflict of interests - involves a direct conflict between current duties and responsibilities as a public sector employee and existing private interests;
* perceived conflict of interests - exists where it could be perceived, or appears, that a public sector employee’s private interest could improperly influence the performance of their duties;
* potential conflict of interests – exists where a public sector employee has private interests that could conflict with their official duties in the future.

Conflict of interests can be pecuniary and non-pecuniary. A pecuniary conflict of interests involves an actual or potential financial gain, however money does not have to change hands. A non‑pecuniary conflict of interests does not have a financial component and may arise from a personal or family relationship.

**Examples of conflict of interests**

* Employing a close relative or friend, even on a casual basis
* Being involved in the assessment of a tender, when holding shares in a company tendering to supply services or goods to the department
* Being a director in a company over which in your role as a public sector employee you exercise discretionary power

**Department of Justice and Attorney-General case examples**

* An inspector who inspects a licensed premises to ensure the organisation complies with the licence conditions accepting discounted drinks or food outside of work hours.
* Participating on a selection panel where a relative is an applicant.

*Public Sector Ethics Act 1994*

In recognition that public office involves a public trust … public officials seek to promote public confidence in the integrity of the public sector and –

a. are committed to the highest ethical standards;

b. accept and value their duty to provide advice which is objective, independent, apolitical and impartial;

c. show respect towards all persons, including employees, clients and the general public;

d. acknowledge the primacy of the public interest and undertake that any conflict of interest issue will be resolved or appropriately managed in favour of the public interest; and

e. are committed to honest, fair and respectful engagement with the community.

**Code of Conduct for the Queensland Public Service**

The *Code of Conduct for the Queensland Public Service* (1.2 Manage conflicts of interest) provides the ethical principle that underpins a conflict of interests. This should give you a good understanding of how to approach the question as to whether your circumstances might give rise to a conflict of interests or appear to others that they might. It is irrelevant that you may consider that you could not be influenced by particular circumstances, or that you have strong moral or ethical values. What is important is what an independent observer, properly informed of the facts would think.

Often a potential conflict of interests arises not because of some action on your part but rather a change in circumstances. There is an example declaration attached where the perception of a conflict of interests arises due to a change in a spouse’s employment arrangements **(Appendix 1)**. Similarly, you could find yourself participating in a selection process only to discover that a close personal friend or family member is an applicant. Alternately, in a regulatory role you may find that a former close workmate is now project manager for a construction site you need to inspect. If the possibility could arise where someone could challenge your objectivity in decision-making because of your current/past/future relationship, you have at least a perceived conflict of interests which must be declared. Management then needs to work with you to resolve the conflict in the public interest.

**Declaring a Conflict of Interests**

Under the Public Sector Commission [Directive 1/15 – Declaration of Interests - Chief Executives of Government Departments](https://www.forgov.qld.gov.au/documents/directive/0115/declaration-interests-chief-executives), Chief Executives of Government Departments are required to fully disclose a conflict of interest that may have a bearing or be perceived to have a bearing on their ability to impartially discharge their duties of office. Chief Executives are required to provide the declaration upon commencement with the department and annually thereafter.

The Director-General of the Department of Justice and Attorney-General is required to submit their declaration form to the Attorney-General and Minister for Justice and the Public Sector Commission Chief Executive.

Senior Executive Service officers also have an obligation to provide a Declaration of Interests to the Director-General and update annually (both for themselves and their partner).

Under the Public Sector Commission’s [Directive 3/10 – Declaration of Interests – Public Service Employees (other than chief executives)](https://www.forgov.qld.gov.au/employment-policy-career-and-wellbeing/directives-policies-circulars-and-guidelines/declaration-of-interests-public-service-employees-other-than-chief-executives-directive-0310), public sector employees are required to fully disclose a conflict of interests that may have a bearing or be perceived to have a bearing on their ability to impartially discharge their duties of office.

It is important to remember that a conflict of interests declaration is required if a public sector employee’s partner and/or dependents have an interest that may have a bearing or be perceived to have a bearing on the employee’s ability to impartially discharge their duties of office.

Under the Integrity Act 2009, the Director-General other designated persons including Senior Executive Service and equivalent officers may approach the Queensland Integrity Commissioner in writing for advice about a conflict of interests. For further information see [Queensland Integrity Commissioner Website](https://www.integrity.qld.gov.au/).

Failure to make a Conflict of Interests Declaration and have the matter managed in the public interest may amount to misconduct or corrupt conduct and could result in disciplinary action. A Conflict of Interests Declaration must be submitted for all conflicts of interests and possible conflicts of interests.

Departmental employees have an obligation to report any suspicion of misconduct relating to conflicts of interests to the Director, Ethical Standards Unit.

If you have an actual, perceived or potential conflict of interests (whether pecuniary or non‑pecuniary) to declare:

1. Use the guidance in the [Code of Conduct for the Queensland Public Service](https://www.forgov.qld.gov.au/__data/assets/pdf_file/0024/182292/code-of-conduct.pdf) and the attached Conflict of Interests Declaration form to make your declaration and then give it to your manager to consider.
2. Once your manager has considered it and discussed it with you, he or she will add their assessment of the issues you raised and any other issues that might emerge, and provide it to the decision-maker who holds the relevant HR delegation, usually the Executive Director of the area.
3. The decision-maker will consider the issues raised, suggested management and monitoring strategies (if any are deemed necessary) and will make a decision about the conflict of interests after consulting with the Director, Ethical Standards Unit. The decision-maker must consider and act in accordance with human rights.
4. The decision-maker will provide a copy of the decision to you and your manager and will ensure that a record of the process is maintained on your personnel file at your workplace.

**Managing a conflict of interests**

You and your manager are responsible for managing a declared conflict of interests appropriately. It is recommended that all strategies implemented to manage the conflict of interests are documented and continually reviewed as to their effectiveness.

It is vital to hold regular meetings to discuss the situation to ensure that the management and monitoring strategies implemented are working effectively.

It is important to report any issues or concerns about the management and monitoring strategies to your manager.

The existence of a Conflict of Interests Declaration is in itself a management strategy and how the conflict of interests is dealt with will vary depending on its nature and may include:

* scheduled reviews of any unplanned leave;
* reallocation of certain work due to a conflict of interests;
* monitoring trends at intervals for the duration that a conflict of interests exists;
* stepping down from a selection panel where a relative /friend is an applicant.

For a more detailed understanding of all of the issues please consult the following:

**Legislation and policies**

* *[Public Sector Act 2022](https://www.legislation.qld.gov.au/view/html/asmade/act-2022-034)*
* *[Public Sector Ethics Act 1994](https://www.legislation.qld.gov.au/view/html/inforce/current/act-1994-067)*
* *[Financial Accountability Act 2009](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2009-009)*
* [Directive 1/15 – Declaration of Interests - Chief Executives of Government Departments](https://www.forgov.qld.gov.au/documents/directive/0115/declaration-interests-chief-executives)
* [Directive 3/10 – Declaration of Interests – Public Service Employees (other than chief executives)](https://www.forgov.qld.gov.au/employment-policy-career-and-wellbeing/directives-policies-circulars-and-guidelines/declaration-of-interests-public-service-employees-other-than-chief-executives-directive-0310)
* [Code of Conduct for the Queensland Public Service](https://www.forgov.qld.gov.au/__data/assets/pdf_file/0024/182292/code-of-conduct.pdf)
* [Workplace Policy for the Department of Justice and Attorney-General](https://intranet.justice.govnet.qld.gov.au/__data/assets/pdf_file/0008/75392/Workplace-Policy.pdf)
* [Other Employment Policy - Department of Justice and Attorney-General](https://www.publications.qld.gov.au/dataset/djag-ethical-standards-unit-policies/resource/9107ce52-183f-4c2e-b686-36a2c5f47602)
* [FMPM Policy - Giving and Benefits Policy - Department of Justice and Attorney-General](https://intranet.justice.govnet.qld.gov.au/__data/assets/pdf_file/0016/142630/gifts-and-benefits-policy.pdf)
* [Directive 22/09 - Gifts & Benefits Policy - Public Service Commission](https://www.forgov.qld.gov.au/documents/directive/2209/gifts-and-benefits)

**Review**

This policy will be reviewed three years from date of approval.

Version History:

**Version** **Notes** **Change Officer(s)** **Date of Change**

1.0 Approved Director-General 01 January 2011

2.0 Approved Director-General 30 March 2012

3.0 Approved Director-General 08 December 2014

3.1 Minor Changes Executive Director, ESU 24 July 2015

3.2 Minor Changes Executive Director, ESU 2 November 2015

3.3 Minor Changes Executive Director, ESU 10 February 2016

3.4 Minor Changes Executive Director, ESU 04 September 2020

1. Public Sector Act 2022 Changes Executive Director, ESU 07 March 2023

4.1 Template and formatting Director, ESU 14 February 2024

***Privacy Collection Notice***

The Department of Justice and Attorney-General is collecting personal information on this form for the purpose of assessing and managing an actual, perceived or potential conflict of interests under the *Public Sector Ethics Act 1994* and *Public Sector Act 2022*. Only authorised departmental officers have access to this information. Your personal information will not be disclosed to any other party without your consent, unless authorised or required by law.

**CONFLICT of INTERESTS DECLARATION**

1. **DETAILS OF THE PERSON MAKING THE DECLARATION**

|  |  |  |  |
| --- | --- | --- | --- |
| **Surname:** |  | **Given names:** |  |
| **Position Title:** |  |
| **Employee number:** |  | **Unit/Division:** |  |

1. **DECLARATION OF PRIVATE INTEREST** (What is your private interest that might conflict with your public sector duties? Refer to the *Code of Conduct for the Queensland Public Service*, Principle 1 - Integrity and impartiality - Standard of conduct 1.2, and *Workplace Policy for the Department of Justice and Attorney-General,* Value 9, pp 7-8 - to assist you.) [See also the sample Conflict of Interest Declaration at Appendix 1].
2. **PUBLIC DUTIES POTENTIALLY IMPACTED BY THIS CONFLICT**  (What is it about your job that makes the private interest a perceived/potential/actual conflict?)
3. **MANAGEMENT OF THIS ACTUAL / PERCEIVED / POTENTIAL CONFLICT OF INTERSTS** (Please circle)

**Employee’s suggestions:** (Document here the suggestions you have to avoid, minimise or manage and monitor the conflict?)

The information I have supplied is correct and has been discussed with my Manager.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Employee: |  |  |  |  |  |  |
|  |  | (Name) |  | (Signature) |  | (Date) |

**Manager’s Comments:**

Do you think this is a conflict of interests?

Do you consider this to be an unacceptable conflict of interests?

Are there additional issues not identified by the employee that need to be documented and considered?

Are the suggestions made to avoid, minimise or manage and monitor the conflict reasonable, appropriate and in the public interest?

Do you have other suggestions?

*Outline your response to all of these questions for the consideration of the decision maker and discuss them with the employee. Include whether the employee agrees with your assessment.*

The information provided has been discussed with the employee and management issues have been identified for the decision maker’s consideration.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Manager: |  |  |  |  |  |  |
|  |  | (Name) |  | (Signature) |  | (Date) |

**Decision Maker’s decision:**

Consider carefully the employee’s position and the manager’s analysis. The conflict if any has to be resolved in the public interest. Some conflicts, not of the employee’s making, will result in rearrangement of their duties to avoid the conflict. **The Director, Ethical Standards Unit, is to be consulted on the proposed decision before it is made and is available to be consulted if the conflict analysis proves difficult.**

Outline your decision as to whether a conflict of interests exists or not and if so if it is an unacceptable conflict. If it is a manageable conflict, outline the management strategy and monitoring arrangements. If it has been resolved by negotiation and no longer exists e.g. by withdrawal of intent to pursue the particular interest, document this decision here:

[ ]  The advice provided by the Director, Ethical Standards Unit is attached.

[ ]  The employee has been advised of and provided with a copy of this decision.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Decision Maker: |  |  |  |  |  |  |
|  |  | (Name) |  | (Signature) |  | (Date) |

**Appendix 1**

**SAMPLE CONFLICT of INTERESTS DECLARATION**

1. **DETAILS OF THE PERSON MAKING THE DECLARATION**

|  |  |  |  |
| --- | --- | --- | --- |
| **Surname:** | Schofield | **Given names:** | John Henry |
| **Position Title:** |  |
| **Employee number:** | 11098345 | **Unit/Division:** | Something Legal |

1. **DECLARATION OF PRIVATE INTEREST**

My spouse, Mary Schofield, has been appointed as Business Manager of Helpful Lawyers Pty Ltd with which we have dealings in seeking representation for XYZ clients.

My wife has no ownership interest in the business but her contract includes bonuses for business growth.

1. **PUBLIC DUTIES POTENTIALLY IMPACTED BY THIS CONFLICT**

I am one of six officers who source and authorise representation for clients from a panel of pre-qualified legal firms of which Helpful Lawyers Pty Ltd is one. In the past year I have used this firm seven times.

Use of each firm is dependent on availability of someone to act for the client at short notice. Typically we ring a number of firms on the panel before securing someone.

1. **MANAGEMENT OF THIS ACTUAL / PERCEIVED / POTENTIAL CONFLICT OF INTERSTS** (Please circle)

**Employee’s suggestions:**

I could:

* cease my role in relation to sourcing and authorising representation for clients but this would increase the load on the other officers;
* always use firms other then Helpful Lawyers but that would disadvantage them; or
* continue to do what I currently do but be mindful not to increase the proportion of work for which Helpful Lawyers is engaged.

The information I have supplied is correct and has been discussed with my Manager.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Employee: |  | John Schofield |  | John Schofield |  |  |
|  |  | (Name) |  | (Signature) |  | (Date) |

**Manager’s Comments:**

The panel arrangements are long standing andcreating or managing them isnot part of Mr Schofield’s responsibilities. His spouse has recently secured her job with Helpful Lawyers. The limited amount of work the Department puts to panel firms is a tiny fraction of their revenue so in my opinion there is no risk that an increase in our business with Helpful Lawyers would lead to bonus payments to Mr Schofield’s spouse and therefore create a conflict of interests for Mr Schofield.

The information provided has been discussed and the management considerations identified for the decision maker’s consideration.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Manager: |  | Mary Johnson |  | Mary Johnson |  |  |
|  |  | (Name) |  | (Signature) |  | (Date) |

**Decision Maker’s decision:**

The employee is not responsible for his spouse’s employment nor for her employers being part of a pre-qualified panel of suppliers.

I determine it to be a perceived conflict of interests which can be managed effectively by the existence of this declaration and the employee ensuring that there is no unusual increases in the proportion of work that Helpful Lawyers Pty Ltd is engaged by him to do.

The employee and manager are to monitor engagement trends at 6 monthly intervals for the duration of his spouse’s employment with Helpful Lawyers.

[x]  The advice provided by the Director, Ethical Standards Unit is attached.

[x]  The employee has been advised of and provided with a copy of this decision.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Decision Maker: |  | Brad Bilsen |  | Brad Bilsen |  |  |
|  |  | (Name) |  | (Signature) |  | (Date) |