

# Conflicts of Interest Policy

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## 1. Policy Statement

The Department of Employment, Small Business and Training (DESBT) (the department) is committed to ensuring all employees perform their duties in a fair and unbiased way, and that any decisions they make are not affected by self-interest, private affiliations, or the likelihood of personal gain or loss.

## 2. Scope

This policy applies to all DESBT employees<sup>1</sup>, including public service officers, general employees, and employees engaged on a temporary or casual basis as defined by the Public Service Act 2008.

## 3. Purpose

The purpose of this policy is to outline the key principles and requirements for identifying, disclosing and managing employee conflicts of interest.

## 4. Principles

The department is committed to creating a positive, ethical and healthy workplace culture, where employees, supervisors and managers display<sup>2</sup>:

- respect for the law and the system of government;
- respect for persons;
- integrity;
- diligence; and
- economy and efficiency.

<sup>1</sup> Employees will have the same meaning as defined in [section 9 of the Public Service Act 2008](#).

<sup>2</sup> This policy has been based on the principles prescribed in the [Public Sector Ethics Act 1994](#) and [Crime and Corruption Commission Queensland Managing Conflicts of Interest in the Public Sector – Guidelines](#).

## 5. Requirements / Responsibilities

### The department

- Promote employee awareness of public service values, [Code of Conduct for the Queensland Public Service](#) and all relevant ethical legislation, such as the [Public Sector Ethics Act 1994](#).
- Educate employees on the different types of conflicts that can exist (for example, actual, perceived and potential) and how they may be managed appropriately.
- Work to create a workplace culture that encourages and supports the identification and declaration of conflicts of interest.
- Promote and protect the public interest, support transparency and accountability, promote individual responsibility and personal example and build a supportive organisational culture.

### All employees

- Ensure their responsibility to disclose any conflicts of interest (actual or perceived) are met and reported appropriately (see below for further information on disclosing conflicts of interest).
- Should not use their official position or government resources for private gain.
- Be aware that conflicts of interest can be actual, perceived or potential and may include (but are not limited to)<sup>3</sup>:
  - non-pecuniary interests (i.e. personal or family relationships)
  - shareholdings in public and private companies;
  - family and business trusts and nominee companies;
  - bonds, debentures and like investment
  - savings and investment accounts;
  - partnerships;
  - real estate;
  - directorships in or employment by a public or private company;
  - other assets;
  - other substantial sources of income;
  - other interests;
  - liabilities;
  - organisational memberships.
- Restrict the extent to which a private interest could compromise or be seen to compromise impartiality when carrying out official duties. For example, actions which could be seen to have an improper advantage from inside information accessed through their official duties.

<sup>3</sup> As per the [Declaration of Interests – Chief Executives \(Directive 01/15\)](#) and [Declaration of Interests – Public Service Employees \(other than departmental Chief Executives\) \(Directive 03/10\)](#).

- Disclose any interests, including interests of their partner and / or dependents, that may have a bearing, or perceived to have a bearing, on their ability to properly or impartially perform their duties.
- Abstain from involvement in official departmental decisions and actions which could be compromised by their private interests and affiliations.
- Ensure there can be no perception that they have received an improper benefit that may influence the performance of their official duties.
- Disclose any conflict of duty. One situation may be, an employee has more than one role and acquires confidential information during one of their roles that could be useful in relation to their other work. The employee would be required to disclose this to their manager.
- Should not take improper advantage of their official position or privileged information gained in that position when seeking employment outside the public sector.

## Senior Executives

- Senior Executive staff must submit an initial [Declaration of Interest Form](#) within one month of taking up duty to the Chief Executive or to the relevant and appropriate delegate (not their supervisor).
- In addition, Senior Executives are responsible for reviewing their existing Declaration of Interests and either certifying and completing a [no variation form](#) or submitting a [revised declaration of interest](#) form within one month, if appointed to another role in the same organisation.
- For further information on how declaration of interests for Senior Executive are to be declared see the [Declaration of Interests Policy – Senior Executives and Equivalent Employees include Statutory Office Holders](#),

## Chief Executives

- Chief Executives of government departments including public service offices must provide a Declaration of Interests in a [form](#) prescribed by the Public Service Commission Chief Executive (CCE) and submit a copy of the prescribe form to their portfolio Minister/s, the Queensland Integrity Commissioner and CCE.
- The above requirement is outlined in the [Commission Chief Executive Directive: Declaration of Interests – Chief Executives of Government Departments](#) and should be referred to by Chief Executives.

## Identifying, managing and monitoring conflicts of interests

All employees subject to this policy are responsible for identifying, disclosing and monitoring any interests that may have a bearing or be perceived to have a bearing on their ability to properly and / or impartially discharge their duties.

### Identifying a conflict of interest

A conflict of interest may have a number of features which needs to be considered. These include, but are not limited to the:

Type	Actual – involves a conflict between an employee’s duties and responsibilities and the employee’s private interest. <i>For example, running a private business that supplies service or products to the department.</i>
Nature	<b>Perceived</b> - can exist where it could appear to others that an employee’s private interests could improperly influence the performance of the employee’s official duties and responsibilities, whether or not this is actually the case. <i>For example, a female manager dates a male employee who reports to her or vice versa.</i>
	<b>Potential</b> – can arise where an employee has private interests that could in the future conflict with their official duties and responsibilities at the department. <i>For example, a manager provides paid consulting services on the weekend to a company customer or supplier</i>
Nature	The interest could be <b>direct</b> e.g. an employee is half owner of a business that is entering into a contract with the department, or <b>indirect</b> e.g. where the employee’s spouse or other family member has a direct interest.
Duration	A conflict does not end until the potential for gain or loss has been completely extinguished. This would mean the opportunity (or risk) is completely closed.
Special conflicts	These are conflicts that may need particular action and include, interaction with lobbyists, working with family, secondary employment or material procurement activity.

### Disclosing conflicts of interests

Part of managing conflicts of interest is ensuring that appropriate disclosures are made in a timely manner to an employee’s manager / supervisor. Employees with an actual, perceived or potential conflict of interest must declare the conflict in writing to their manager/supervisor. Disclosures are to be made using the appropriate [Public service employees declarations of interest form](#).

Even if an employee believes their particular situation is not a ‘conflict’ they are encouraged to notify and discuss the matter with their manager or a member of the [Ethics and Integrity](#) team.

Alternatively, employees may refer to the [Crime and Corruption Commission – Identifying conflicts of interest in the public sector – checklist](#) for further guidance. (Tool 8.1: Checklist for identifying a conflict of interest and Tool 8.2: Checklist for identifying a pecuniary interest).

Once an employee has completed the appropriate declarations of interest form, employees are advised to:

- declare the conflict to their manager/supervisor by providing them with a copy of the completed Declaration of Interest Form;
- make a record that they made this disclosure to their manager / supervisor; and
- make a record of any assessment of their disclosure and any subsequent decisions made and action taken (if applicable).

In the circumstance where written declaration is not immediately practicable or where an employee is not in a position which allows them to disclose a conflict of interest in writing immediately. For example, where an employee is in a meeting and without prior warning a matter is introduced which may be a conflict of interest, the employee should:

- verbally disclosure their interest;
- ensure that their disclosure is recorded in the minutes of the meeting;
- record the disclosure in their own meeting notes; and
- remove themselves from the meeting while this item is being discussed, or have the meeting stopped or postponed until they can remove themselves from the meeting.

#### *Strategies for managing conflicts of interest*

On receiving a declaration of interest, the employee's manager / supervisor will assess the information.

Strategies for resolving and managing conflicts of interest will vary depending on the individual's circumstances. The following are options for managing conflicts of interests:

Strategy		Suitable for
Register	Record the disclosure of conflict in a formal register.	<ul style="list-style-type: none"> <li>▪ Very low risk / potential conflicts of interest.</li> <li>▪ Potential conflict of interests where the act of transparency through recording the conflict of interest is sufficient.</li> </ul>
Restrict	Involves restricting the employees involvement in the matter.	<ul style="list-style-type: none"> <li>▪ Where the employee concerned can be effectively separated from parts of the activity or process.</li> <li>▪ Where the conflict of interest is not likely to arise frequently.</li> <li>▪ The employee is not required to perform the duties associated with the conflict of interest (the restricted duties) on a regular basis.</li> </ul>
Recruit	<p>Involves the recruitment of a disinterested third party to oversee part or all of the process that deals with the matter.</p> <p>Arranging for the affected decision to be made by an independent third party.</p> <p>Engaging an independent third party or probity auditor to oversee or review the integrity of the decision-making process.</p> <p>Increasing the number of people sitting on the decision-making committee to balance the influence of the single member with the conflict of interest.</p>	<ul style="list-style-type: none"> <li>▪ Where the potential effects (or perceived effects) of the conflict of interest on the proper performance of the employee's duties are more significant and require proactive management.</li> <li>▪ Where is not appropriate or desirable for the employee with the conflict the interest to remove themselves from the decision-making process.</li> <li>▪ Relevant for individuals who work in small or isolated teams / communities and where particular expertise is necessary and genuinely not easily replaced.</li> <li>▪ <i>Where there is a reasonably perceived, but not actual, conflict of interest or the conflict of interest is only identified at or near the conclusion of the process or after the making of the decision.</i></li> </ul>
Remove	Involves the employee choosing to	<ul style="list-style-type: none"> <li>▪ Ongoing serious conflicts of interest where ad hoc restrictions or recruitment of other are not feasible or appropriate.</li> </ul>

Strategy		Suitable for
(Where possible removal strategies should be considered in tandem with relinquishment)	remove themselves from the matter creating the conflict.	<ul style="list-style-type: none"> <li>Where it is possible to remove the individual with the conflict of interest, from all duties related to the conflict of interest.</li> </ul>
	Abstaining from any formal or informal discussion about the matter.	
	Re-arranging duties and responsibilities to a non-conflicting function.	
Relinquish	Transferring the employee to another project or agency.	<ul style="list-style-type: none"> <li>Where the employee's commitment to public duty outweighs their attachment to their private interests.</li> </ul>
	The employee relinquishes the private interests that is creating the conflict.	
Resign	Note: Individuals affected by this strategy should be involved in the final decision-making process that concerns their relinquishment.	<ul style="list-style-type: none"> <li>Individual affected, cannot or will not relinquish their conflicting private interest.</li> <li>Changes to the employee's work responsibilities are not feasible.</li> <li>The conflict of interest and its potential or perceived effects are of high risk or high significance.</li> </ul>
	Where the employee resigns from their position with the department.	
	Note: Resignation is the most extreme solution to a serious conflict of interest and should only be considered if the conflict of interest cannot be resolved in any other workable way.	

Formal records should be kept of all assessments, decisions made and actions taken (including review dates), in relation to all conflicts of interest. The completed [declaration of interest](#) form involving an employee other than a Chief Executive, Senior Executive or equivalent level is to be stored on the employee's personal employment file.

Managers requiring further advice are encouraged to contact a member of the [Ethics and Integrity](#) team. Managers may also wish to refer to the [Crime and Corruption Commission – Managing conflicts of interest in the public sector - toolkit](#) (Tool 9.1: Options for managing conflicts of interest) for further guidance.

#### *Monitoring and reviewing conflicts of interest*

Ongoing monitoring and review of any conflict of interest is essential to the management of conflicts of interest. In monitoring conflicts of interests, employees and managers/supervisors are responsible for working together to regularly review and assess the:

- original situation that gave rise to declaring the conflict of interest;
- initial determination and management decision;
- strategy put in place to manage the conflict of interest;
- actions taken in implementing the strategy to manage the conflict of interest;

- perceptions held by others that the conflict of interest is having an improper influence on the matter
- reassessments and management decisions made about the continued management of the conflict of interest; and
- changes made to the management strategy and its implementation.

#### Further information

*What do I do if my circumstances change?*

Where an employee's circumstances change, the employee must submit a [vary of declaration of interest – non executive employees form](#) within one month of becoming aware of their circumstances changing. For Senior Executive Service Officers please see the Queensland Government [website](#), Senior Executive Service officer declarations of interest.

#### Consequences for non-disclosure

Employees who fail to disclose a conflict of interest may be in breach of the [Code of Conduct for the Queensland Public Service](#) and be disciplined in accordance with section 187 of the [Public Service Act 2008](#).

## 5. Legislation

- [Industrial Relations Act 2016](#)
- [Public Service Act 2008](#)
- [Public Sector Ethics Act 1994](#)

## 6. Supporting documents

- [Code of Conduct for the Queensland Public Service](#)
- [Crime and Conduct Commission Queensland Managing Conflict of Interests in the Public Sector – Guidelines](#)
- [Crime and Corruption Commission – Identifying conflicts of interest in the public sector - checklist](#)
- [Declaration of Interests – Chief Executives \(Directive 01/15\)](#)
- [Declaration of Interests – Public Service Employees \(Other than chief executives\) \(Directive 03/10\)](#)
- [Declaration of Interests – Senior Executives and Equivalent Employees](#)
- [Public service employees declarations of interest forms](#)
- [Senior Executive Service officer declaration of interest forms](#)

## 7. Definitions

Term	Definition
Actual conflict of interest	Involves a direct conflict between a public official's current duties and responsibilities and their existing private interest <sup>4</sup> .
Changes in interest	Change in interest may include <sup>5</sup> :

<sup>4</sup> [Crime and Conduction Commission Managing Conflicts of Interest in the Public Sector](#).

<sup>5</sup> As prescribed in the [Declaration of Interests – Chief Executives \(Directive 01/15\)](#) and [Declaration of Interests – Public Service Employees \(other than departmental Chief Executives\) \(Directive 03/10\)](#).



Term	Definition
	<p>any significant change in the interests about which information is required including acquisition, divestment or an altered relationship in the interest; or</p> <p>a significant change in the official responsibilities of the public service employee.</p>
Conflict of Interest	A conflict between the public duty and private interests of a public official, in which the public official has private interests which could improperly influence the performance of their official duties and responsibilities <sup>6</sup> .
Conflict of duty	Where an employee has more than one role in an organisation with a competitive relationship, or where one has a regulatory or review role in relation to the other <sup>4</sup> .
Interest	Anything that can have an impact on an individual or group <sup>4</sup> .
Corruption	The situation where an employee's private interest actually motivates or influences the exercise of their duty <sup>4</sup> .
Perceived (or apparent) conflict of interest	Where it could be perceived, or appears, that a public official's private interest could improperly influence the performance of their duties – whether or not it is the case <sup>4</sup> .
Potential conflict of interest	Arises where a public official has private interests that could conflict with their official duties in the future <sup>4</sup> .
Private interests	<p>The term which includes personal, professional or business interests that an individual has, as well as the personal, professional or business interests of individuals or groups an individual associates with. This can include relatives, friends, rivals and enemies (whether we wish to see them benefit or be disadvantaged) and can be categorised into two further types:</p> <ol style="list-style-type: none"> <li>1. Pecuniary interest (also known as 'material personal interests') - involve an actual or potential gain or loss.</li> <li>2. Non-pecuniary interests do not have a financial component and may arise from personal or family relationships, or involvement in sporting, social or cultural activities. Include any tendency toward favour or prejudice resulting from friendship, animosity, or other personal involvement with another person or group.</li> </ol>
Public interest	The interest of the community as a whole.

<sup>6</sup> [OECD guidelines, 2003](#).