



# Procedure

## Conflict of interest

### Audience

Department-wide

Implementation date: 17/11/2020  
Version: 1.2

### Purpose

To detail the minimum requirements for the identification, declaration, management and monitoring of conflicts of interest that may arise for employees of the Department of Education (the department). This procedure is supported by the department's [Conflict of interest guideline](#).

### Overview

The public has a right to expect that all public officials will perform their duties in a fair and unbiased way, and that the decisions they make are not affected by self-interest, private affiliations, or the likelihood of personal gain or loss.

As the integrity of public sector officers and processes is fundamental to the rule of law, conflicts of interest are a major risk in all areas of government. It is therefore crucial that all conflicts of interest are managed and resolved in the public interest.

Principle 1.2 of the [Code of Conduct for the Queensland public service](#) states as public service employees we are committed to demonstrating our impartiality and integrity in fulfilling our responsibilities and as such we will:

- always disclose a personal interest that could, now or in the future, be seen as influencing the performance of our duties. This will be done in accordance with our agency policies and procedures
- actively participate with our agency in developing and implementing resolution strategies for any conflict of interest; and
- ensure that any conflict of interest is resolved in the public interest.

The department is committed to ensuring conflicts of interest are identified, disclosed and managed in a transparent and accountable manner. A transparent system that is observed by all employees as a matter of course will also demonstrate to the public and others who deal with the department that the department's role is performed in a way that is fair and unaffected by improper considerations.



## Responsibilities

Public sector officials can fulfil their public duty to put the public interest first by carrying out their duties fully and effectively within established ethical frameworks and identifying and managing any actual, perceived (apparent) or potential conflicts of interests.

Under the [Public Sector Ethics Act 1994 \(Qld\)](#) this involves:

- restricting the extent to which a private interest could compromise, or be seen to compromise, their impartiality when carrying out their official duties
- abstaining from involvement in official decisions and actions which could be compromised by their private interests and affiliations
- avoiding private action in which their access to inside information as a result of their official duties could be seen as an improper advantage
- refraining from using their official position or government resources for private gain
- ensuring there can be no perception that they have received an improper benefit that could influence the performance of their official duties
- refraining from taking improper advantage of their official position or privileged information gained in that position when seeking employment outside of the public sector
- acknowledging the primacy of the public interest and undertake that any conflict of interest will be resolved or appropriately managed in favour of the public interest.

### Department of Education:

- Provide a clear and realistic description of what circumstances and relationships are likely to lead to conflicts of interest for those in the organisation
- Ensure staff and managers know what is required of them in relation to identifying and declaring conflicts of interest (when, in what situations, how etc.)
- Develop formal procedures to allow staff and managers to disclose their interests in a transparent manner
- Provide staff and managers with relevant and effective strategies to manage conflicts of interest appropriately
- Develop appropriate procedures for managing conflicts of interest.

### Chief Executives:

- Chief Executives are responsible for fully disclosing their interests that may have a bearing, or be perceived to have a bearing, on their ability to properly and impartially discharge the duties of their office
- Chief Executives are also responsible for disclosing the interests of their partner and/or dependants. Those interests that may have a bearing, or be perceived to have a bearing, on their ability to properly and impartially discharge the duties of their office, need to be disclosed
- Responsibility for the recognition of a real or perceived conflict of interest rests solely with the Chief Executive concerned.

**Managers/Principals/Supervisors:**

- The role of managers/supervisors/principals includes implementing and giving effect to the department's policies on a day-to-day basis, and demonstrating how the policy should work by setting an example when their own conflicts arise
- Managers/supervisors/principals are responsible for complying with this procedure with respect to their own conflicts of interest. Managers/supervisors/principals are also responsible for carefully considering whether any positions under their supervision are vulnerable to potential conflicts of interest and discussing the matter with their employees
- Any discussions regarding declaration of interests by employees must be treated in the strictest confidence
- Upon receiving a disclosure of a conflict of interest a manager/supervisor/principal is responsible for determining whether a conflict of interests exists by assessing the available information, obtaining further information if required, and seeking advice if necessary to determine the appropriate course of action.

**Integrity and Employee Relations unit:**

- Receive and manage all referrals and complaints regarding conflict of interest matters in line with established practices
- Ensure referrals are processed as required either internally and/or referred, as legally or operationally necessary, to the Queensland College of Teachers, the Crime and Corruption Commission, the Queensland Police Service and the department's Performance and Conduct area for consideration
- Include education and information regarding the identification, management and monitoring of conflicts of interest in training materials
- Communicate the department's commitment to its policy and procedures for managing conflicts of interest
- Provide advice and guidance to employees, parents/carers, principals, managers, supervisors and regional directors on appropriate responses to conflict of interest matters. Such advice will include the identification of proposed actions with regards to assessing and implementing relevant risk management strategies to prevent or minimise the recurrence of any further harm, loss or detriment to the department
- Provide input in the ongoing risk identification and minimisation of issues affecting all stakeholders and involved parties.

**All employees:**

Regardless of their level, all employees have a responsibility to follow policy and procedural requirements for managing conflicts of interest.

[Directive 03/10 – Declaration of Interests – Public Service Employees \(other than chief executives\)](#) requires all employees who are non Chief Executives to:

- be aware of potential conflicts of interest that might affect them
- if possible, avoid any obvious conflicts of interest that they encounter
- promptly identify and disclose any conflict of interest that might affect, or might be perceived to affect, the proper performance of their work.

## Process

The process for managing conflicts of interest consists of three stages.

### STAGE 1: Identify

### STAGE 2: Manage

### STAGE 3: Monitor

Managing a conflict of interest will involve the input of managers/supervisors and individuals. The department's [conflict of interest guideline](#) provides further information regarding the three stage process and the [conflict of interest decision-making flowchart](#) provides a diagrammatic illustration of the steps that should be taken in deciding how to deal with conflicts of interest.

Proper record keeping is fundamental to any effective decision-making process as it promotes fairness, transparency and accountability. Public authorities are required to make 'full and accurate records' of their activities in accordance with the [Public Records Act 2002 \(Qld\)](#). It is recommended that you use the [form for resolving or managing a conflict of interest](#) to formally record the identification, management and monitoring process of conflicts of interest and that this form be attached to the appropriate [declaration of interests form](#).

### STAGE 1: Identify

#### Establish that a conflict of interest exists

Assess the situation and the circumstances of the situation to determine if a conflict of interest exists. If you are unsure that you have a conflict of interest you may refer to the checklists located in the [Crime and Corruption Commission – Managing conflicts of interest in the public sector: toolkit](#) for guidance. (Tools 8.1: Checklist for identifying a conflict of interest and 8.2: Checklist for identifying a pecuniary interest).

#### Declare the conflict of interest

As soon as you recognise that the potential or perception of a conflict of interest may exist you must declare the conflict in writing to your manager/supervisor/principal. Your disclosure is to be made using the appropriate [declaration of interests form](#). Your manager/supervisor/principal will assess the situation and seek advice if necessary to determine the most appropriate course of action.

To maintain openness and transparency in disclosing conflicts of interest you should observe the following steps:

#### Step 1:

- Complete the appropriate [declaration of interests form](#).

#### Step 2:

- Declare the conflict to your manager/supervisor/principal and provide them with a copy of your completed Declaration of Interests Form
- Make a record that you have made this disclosure to your manager/supervisor/principal

- Make a record of any assessment of your disclosure and any subsequent decisions made and actions taken.

You must declare as much information as is necessary to allow the matter to be adequately assessed and/or investigated to determine whether a conflict exists.

### **When a written declaration is not immediately practicable**

There may be times when you are in a position that does not allow you to disclose a conflict of interest in writing. For example, you may be in a meeting where, without prior warning, a matter is introduced in which you recognise you may have a conflict of interest. In such circumstances you should observe the following steps:

#### Step 1:

- Verbally disclose your interest
- Ensure that this disclosure is recorded in the minutes of the meeting
- Record this disclosure in your own meeting notes
- Remove yourself from the meeting while this item is being discussed, or even have the meeting stopped or postponed.

#### Step 2:

- Complete the appropriate [declaration of interests form](#)
- Declare the conflict to your manager/supervisor and provide them with a copy of your completed Declaration of Interests Form
- Make a record that you have made this disclosure to your manager/supervisor.

### **STAGE 2: Manage**

Once the potential for a conflict of interest is reported by an employee to their manager/supervisor/principal, the manager/supervisor/principal must determine whether a conflict of interest exists and make a decision as to the action required to address the situation in the public's interest.

While conflicts of interest may be resolved or managed in a variety of ways, the choice of strategy will depend on an assessment of the individual circumstances of each case.

The six major options for managing conflicts of interest are:

- **Register** - Recording the disclosure of a conflict of interest in a formal register is an appropriate management strategy for dealing with very low-risk and potential conflicts of interest. It is also an adequate response where the act of transparency through recording a conflict of interest is deemed sufficient
- **Restrict** - Where restrictions are placed on the employee's involvement in the matter/process
- **Recruit** - A disinterested third party is used to oversee part or all of the process that deals with the matter
- **Remove** - Where an employee is removed from their involvement in the matter or process creating the conflict
- **Relinquish** - Where the employee relinquishes the private interest that is creating the conflict
- **Resign** - Where the employee resigns from their position with the department.

The [conflict of interest management options ready reckoner](#) provides a brief description of the types of situations where certain management options would be suitable, and when such options would be considered less appropriate management strategies. Further information regarding each of these management options can be located in the [Crime and Corruption Commission – Managing conflicts of interest in the public sector: toolkit](#).

In all cases, the ultimate decision maker with respect to conflict of interest matters is the Director-General.

Formal records should be kept of all assessments and decisions made in relation to all declared conflicts of interest. The completed declaration of interests form involving an employee other than a Chief Executive, Senior Executive or equivalent level is to be stored in the employee's personal employment file.

### STAGE 3: Monitor

Monitoring is an essential component of any strategy adopted to manage conflicts of interest. Ongoing monitoring and regular reviews of identified conflicts of interest allow changes to be made to the management strategy if the need arises.

It is important 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 management strategy
- 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
- changes made to the management strategy and its implementation.

Formal records should be kept of all reassessments and decisions made in relation to all declared conflicts of interest.

A checklist for managing conflicts of interest is located in the department's [Conflict of interest guideline](#).

### Consequences for non-disclosure

If an employee fails to disclose a conflict of interest they may be in breach of the department's [Standard of Practice](#), the [Code of Conduct for the Queensland Public Service](#) and be liable to disciplinary action.

An employee's refusal to take any action directed by the department to resolve or manage a conflict of interest may be in breach of the department's [Standard of Practice](#) and [Code of Conduct for the Queensland Public Service](#) and subsequently the [Public Service Act 2008 \(Qld\)](#) and may render the employee liable to disciplinary action.

### Definitions

<b>Conflict of interest</b>	Involves a conflict between a public official's duty to serve the public interest and the public official's private interests. A conflict of interest can arise from avoiding personal losses as well as gaining personal advantage, financial or otherwise. A conflict of
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	<p>interest occurs when the private interests of a public sector officer interfere, or appear to interfere, with the performance of their official duties.</p> <p>A conflict of interest can occur when an employee has, or is seen to have, a private interest, either pecuniary or non-pecuniary, which conflicts or may conflict with the discharge of the employee's duties.</p> <p>Types of conflicts of interest:</p> <ul style="list-style-type: none"> <li>• An <b>actual</b> conflict of interest involves a direct conflict between a public official's current duties and responsibilities and existing private interests</li> <li>• A <b>perceived or apparent</b> conflict of interest can exist where it could be perceived, or it appears, that a public official's private interests could improperly influence the performance of their duties – whether or not this is in fact the case</li> <li>• A <b>potential</b> conflict of interest arises when an employee has a private interest that could conflict with their official duties in the future.</li> </ul>
<b>Interest</b>	<p>Is anything that can have an impact on an individual or group. Anything that can bring a benefit or disadvantage to us as individuals, or to others whom we may wish to benefit or disadvantage. Interests may be pecuniary or non-pecuniary:</p> <ul style="list-style-type: none"> <li>• <b>Non-pecuniary interest</b> – do not have a financial component but may arise from personal or family relationships or involvement in sporting, social, community or cultural activities. They include any tendency toward favour or prejudice resulting from friendship, animosity or other personal involvement that could bias your judgement or decisions</li> <li>• <b>Pecuniary interest</b> – involves an actual or potential financial gain or loss. It may result from the employee or related party owning property, holding shares or a position in a company bidding for government work, accepting gifts or hospitality, or receiving an income from a second job. Money does not actually have to change hands for an interest to be pecuniary.</li> </ul>
<b>Private or personal interests</b>	<p>Are those private, professional or business interests that can benefit or disadvantage us as individuals, or others we may wish to benefit or disadvantage. They also include the personal, professional or business interests of individuals or groups we associate with. Private interests include a wide range of external activities including financial and economic interests, family or private businesses and interest groups and involvement in other employment.</p>
<b>Public interest</b>	<p>The collective interest of the entire community – not the sum of individual interests nor the interest of a particular group.</p>
<b>Other employment</b>	<p>Has the same meaning as defined by the <a href="#">Notification of other employment procedure</a>.</p>

## Legislation

- [Public Sector Ethics Act 1994 \(Qld\)](#) section 6
- [Public Service Act 2008 \(Qld\)](#) section 102
- [Code of Conduct for the Queensland Public Service](#)
- [Standard of Practice](#)
- [Directive 01/15 - Declaration of Interests - Chief Executives](#)
- [Directive 3/10 - Declaration of Interests - Public Service Employees \(other than chief executives\)](#)

## Delegations/Authorisations

- Nil

## Related policies

- [Queensland Whole-of-Government Air Travel Policy](#) (DoE employees only)

## Related procedures

- [Equipment management for business units](#)
- [Equipment management for schools](#)
- [Notification of other employment](#)
- [Receipt of gifts and benefits by employees of the department](#)

## Guidelines

- [Conflict of interest guideline](#)

## Supporting information/websites

- [Conflict of interest declaration forms](#)
- [Conflict of interest decision-making flowchart](#)
- [Management options ready reckoner](#)
- [Managing a conflict of interest checklist](#)
- [Form for resolving or managing a conflict of interest](#)

## Contact

For further information, please contact:

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## Superseded versions

Nil

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