Conflicts of interest

Statement

All Queensland Health employees are required to abide by the Code of Conduct for the Queensland Public Service (Code of Conduct), putting the public interest first by carrying out their duties in a fair and unbiased manner, within established ethical frameworks, and identifying and managing any actual, perceived (apparent) or potential conflicts of interests.

In performing their roles, all employees are expected to make decisions that are not affected by self-interest or personal gain. Employees are individually responsible for arranging their private affairs as far as reasonably possible to prevent conflicts of interest arising.

Queensland Health is committed to ensuring conflicts of interest that could now, or in the future, be seen as influencing the performance of duties and outcomes of processes, are identified, disclosed and managed in a transparent and accountable manner and in favour of the public interest.

This guideline is to be read in conjunction with the Code of Conduct and the Workplace conduct and ethics HR policy E1.

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1 Scope

This Guideline applies to all employees, including executives, permanent, temporary, full-time, part-time and casual employees, Visiting Medical Officers, any volunteer, student, contractor, consultant or anyone who works in any other capacity for and on behalf of Queensland Health.

2 Requirements

This conflicts of interest guideline is a practical reference tool for employees and managers. It has been developed to assist employees and managers to:

- identify conflicts of interest that employees and managers may encounter during their employment in the public sector
- recognise their responsibilities to disclose and promptly address any conflicts of interest or potential conflicts of interest
- outline the process for managing conflicts of interest.

3 What is an interest?

An interest is anything that can have an impact on an individual or group. The impact can bring a benefit or disadvantage to us or others. Interests can be public or personal. There are two main types of interests – pecuniary and non-pecuniary – that can impact on either the public interest or a private/personal interest.

3.1 Public interest

The public interest refers to the collective interest of the entire community – not the sum of individual interests, nor the interest of a particular group.

3.2 Private/personal interest

A private or personal interest 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, such as family members and friends. Private interests include a wide range of external activities including financial and economic interests, family or private businesses, clubs or interest groups, and involvement in other employment.

3.3 Pecuniary interest

A pecuniary interest involves an actual or potential financial gain or loss. It may result from the employee or someone associated with them (e.g. family member) 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.

3.4 Non-pecuniary interest

A non-pecuniary interest does not have a financial component but may arise from personal or family relationships, involvement in sporting, social, trade union, community or cultural activities. Non-pecuniary interests include any tendency toward favour or prejudice resulting from friendship, animosity or other personal involvement that could bias your judgement or decisions.
4 What is a conflict of interest?

4.1 Actual conflict of interest

An actual conflict of interest involves a direct conflict between an employee’s official current duties and responsibilities and existing private interests.

4.2 Perceived conflict of interest

A perceived or apparent conflict of interest can exist where it could be perceived, or it appears, that an employee’s private interests could improperly influence the performance of the employee’s official duties and responsibilities – whether or not this is in fact the case.

4.3 Potential conflict of interest

A potential conflict of interest arises when an employee has a private interest that could conflict with their official duties and responsibilities in the future.

Refer to Attachment One for examples of conflicts of interest.

5 Where may a conflict of interest occur?

The appearance of a conflict of interest is damaging to public confidence in Queensland Health, the public sector, and to the reputation of the government. As such, actions which would raise the suspicion of a conflict of interest in the mind of a reasonable person should be avoided in the first instance or declared and managed appropriately if avoidance is not possible.

There are many areas of work and organisational functions within the public sector that may create a high risk for potential conflicts of interest, including (but not limited to):

- recruitment and selection processes and making appointments to positions
- managing staff
- purchasing/procurement and contracting
- exercising delegations
- coordinating medical wait lists and access to clinical trials
- having discretion for planning or development applications
- disposing of assets
- undertaking investigations
- carrying out regulatory tests and procedures
- inspecting, regulating or monitoring standards, businesses, equipment or premises
- issuing qualifications or licences
- allocating grants of public funds
- issuing or reviewing the issue of fines or other sanctions
- interacting regularly with the private sector
- providing subsidies, financial assistance, concessions or other relief to those in need
- making determinations or handing down judgement about individuals or disputes
- providing consumer advice.

Conflicts of interest can also occur when:

- an employee undertakes secondary employment in another public sector agency or in the private sector
• an employee’s role requires them to take on another public sector or community-based role, in conjunction with their Queensland Health role, e.g. to also be a member of an advisory committee or board
• an employee with more than one role acquires confidential information that could be useful in relation to their work in another role.

Refer to Attachment One for examples of conflicts of interest.

6 Identifying a conflict of interest

Employees are responsible for identifying and disclosing their own conflicts of interest. Consideration is to be given as to whether in performing their role, an employee could be influenced, or appear to be influenced, by personal interests.

Employees need to consider:

• if they, or someone associated with them, would benefit or be disadvantaged directly or indirectly, now or in the future, from a decision they may be involved in making in their public employment capacity
• whether they, or someone associated with them, has received a gift or benefit from another person or business who stands to benefit from a decision the employee makes or can influence
• whether a member of the public would view the employee’s decision as being influenced by their personal interests or associations with other persons/entities.

7 Disclosure

An employee must not abuse a position for personal advantage or act in a manner contrary to the Code of Conduct. All employees are required to avoid any conflicts of interest they encounter.

Should an actual or perceived conflict of interest arise, an employee must promptly identify and disclose any conflict of interest that might affect, or might be perceived to affect, the proper performance of their work. Different duties and functions may require a different declaration.

Examples

Employees participating in procurement advisory or evaluation committees that are conducted through Health Support Queensland (HSQ) are required to complete an acknowledgement of obligations form to declare if they have or do not have any conflicts of interest in relation to the procurement process they are involved in.

Panel members participating in recruitment and selection exercises are required to declare their work and personal associations with applicants, including any current or former relationships. The online selection report within the Springboard recruitment management system and the selection report template both contain a section for panel members to declare any conflicts of interest they may have, for example, if an applicant is related to them.

It is common practice for the chair of a meeting to ask meeting participants if they have any conflicts of interest to declare. If an employee becomes aware they may have a conflict of interest, the employee should verbally declare the conflict for recording in the meeting minutes, make note in their own minutes, and following the meeting complete a declaration of interest form.

Where a potential conflict of interest exists, an employee must be mindful to disclose the conflict as soon as it becomes a perceived or actual conflict of interest. Any disclosures or discussions regarding conflicts of interests must be treated in the strictest confidence.
Where an employee has disclosed a conflict of interest, the employee must not take further action in relation to a declared conflict of interest until appropriately directed by the Director-General or delegate.

Public sector employees have a responsibility to report any corrupt conduct (e.g. abuse of public office) when they have an honest belief, on reasonable grounds, that corrupt conduct has occurred (refer Requirements for reporting corrupt conduct HR Policy E9). An employee who fails to identify, declare and manage a conflict of interest could be the subject of a public interest disclosure made by another employee under the Public Interest Disclosure Act 2010.

8 Managing conflicts of interest

Conflicts of interest must be resolved, or appropriately managed, fairly and effectively and in the public interest. Both employees and managers have a part to play in managing conflicts of interest. Refer to Attachment Two for more information on the process for managing conflicts of interest.

8.1 Employee obligations

As an employee you are required to comply with the Code of Conduct and other relevant employment related legislation. Section 1.2 of the Code relates to managing conflicts of interest and states that public sector employees are obliged to:

‘Always disclose a personal interest that could, now or in the future, be seen as influencing the performance of our duties’.

The Public Sector Ethics Act 1994 requires public sector employees to act with integrity and impartiality. Section 6(d) requires an employee must:

‘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’.

8.2 Manager responsibilities

When a line manager receives an employee’s declaration of a real or perceived conflict of interest, it is incumbent upon the line manager to ensure it is brought to the attention of the Director-General or relevant delegate (where the line manager is not the delegate) for consideration and a decision regarding resolving the conflict.

Upon receipt of a disclosure of a conflict of interest, the delegate is responsible for determining whether a conflict of interest exists. The line manager may make appropriate recommendation/s to the delegate on how the real or perceived conflict of interest could be managed.

The line manager is to advise the employee not to take further action in relation to the real or perceived conflict of interest until a decision has been made by the Director-General or delegate.

Once a decision has been made by the Director-General or delegate on how the real or perceived conflict of interest should be managed, the decision is to be clearly relayed to the employee in writing, stating what the expectations are or the actions required to be taken by the employee.

Managers should carefully consider whether any positions under their supervision are at risk for potential conflicts of interest and discuss the matter with their employees. Where it is considered a conflict or perceived conflict exists, the matter is to be raised with the relevant delegate.
9  Consequences for not disclosing, managing or resolving a conflict of interest

If an employee fails to disclose a conflict of interest or refuses to take any action directed by the delegate to resolve or manage a conflict of interest, the employee may be subject to disciplinary action. Disciplinary action may include termination of employment. Additionally, the employee’s behaviour may also amount to corrupt conduct or abuse of office, requiring the matter to be referred to other external agencies, e.g. the Crime and Corruption Commission, and could result in criminal charges.

Queensland Health could impose sanctions on any external organisation or contractor who has not disclosed, managed or resolved a conflict of interest. For example, the retrospective cancellation of affected tainted contracts, or exclusion of organisations from future contracting opportunities. Matters of corrupt activity regarding external organisations may also be referred to other authorities.

10  Gifts and benefits

Queensland public sector employees are bound by strict rules which apply to gifts, benefits and hospitality. The acceptance of any benefits other than incidental or token gifts, customary hospitality, or benefits of a nominal value may be deemed a conflict of interest. There are two main considerations:

- why was the offer made?
- what would the public perception be?

Any gift or benefit valued at more than $150 must be reported. Any offer of cash, or items which can be readily converted into cash (e.g. lottery tickets, ‘scratchies’, shares, store gift cards) must be refused.

Refer to the Financial Management Practice Manual and the Public Service Commission directive and guideline relating to gifts and benefits.

11  Legislation

- Integrity Act 2009
- Public Interest Disclosure Act 2010
- Public Sector Ethics Act 1994
- Public Service Act 2008

12  Supporting documents

- Recruitment and Selection HR Policy B1
- Workplace conduct and ethics HR Policy E1
- Requirements for reporting corrupt conduct HR Policy E9
- Public interest disclosure HR Policy I5
- Code of Conduct for the Queensland Public Service
- Public Interest Disclosure Standard No.1
- PSC Directive 15/13 – Recruitment and Selection
- PSC Directive 3/10 – Declaration of Interests – Public Service Employees (Other than chief executives)
- PSC Directive 22/09 - Gifts and Benefits
- PSC Declaration of Interests policy - Senior Executive Service and Equivalent Employees including Statutory Office Holders
- Public Service Commission Guideline – Gifts and Benefits
- Hospital and Health Service Human Resource (HR) Delegations Manual
- Department of Health Human Resource (HR) Delegations Manual
**Version control**

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| 2.0     | July 2020 | Guideline:  
- naming conventions and references updated  
- application amended as a result of changes to the Hospital and Health Boards (Changes to Prescribed Services) Amendment Regulation 2019. |
| 1.0     | April 2017| New document introduced to support existing human resources policies.                                                                         |
Attachment One – Examples of conflicts of interest

The following examples* are provided to give employees guidance in relation to identifying actual, perceived or potential conflicts of interest that may arise when performing their duties and functions in the public sector; such conflicts are to be avoided.

Each employee is responsible for assessing their individual circumstances and identifying their own conflicts of interest. When an employee is uncertain of the existence or potential existence of a conflict of interest, the employee is to discuss the matter with their manager, local human resources or local ethical standards unit (or equivalent).

*The following are provided as examples only and are not exhaustive. Any resemblance to actual conflict of interest situations that have occurred are purely coincidental.

Recruitment and selection

• An employee participating on a recruitment and selection panel fails to disclose to other panel members that her son’s girlfriend is an applicant for the role. The panel member encourages other panel members to shortlist the applicant.

• A manager who is chairing a selection panel provides an applicant, who is a current employee, with a ‘heads up’ of the questions that will be asked at interview.

• An executive director makes comment to one of the managers in their team that their son is looking for a job and has applied for a current vacancy that the manager is chairing a panel for.

• A chair of a selection panel uses their seniority to coerce other more junior panel members to select a particular applicant for appointment.

Employee management

• A supervisor gives preferential rostering to a team member who is a close friend.

• The same supervisor allocates less favourable shifts to an employee who was previously dating the supervisor’s sister.

• An employee constantly receives higher duties opportunities over other employees who are more deserving. The employee is the sister-in-law of the approving delegate.

• A manager is dating a member of their team. The manager approves the team member attending a national conference they will also be attending.

• A line manager fails to address issues of continued late arrival and extended lunch breaks taken by a team member with whom they socialise with outside of work.

Secondary employment

• In addition to performing full-time employment for the employer, an employee works in their family’s restaurant most nights until late. The employee has been observed seemingly asleep at various times during the workday.
• In addition to their employment, an employee runs their own small business. Each morning the employee diverts their personal mobile (i.e. their business phone number) to their work phone. The employee receives regular calls relating to their private business on their work phone and spends extended periods of work time responding to private business calls during the day.

• A full-time employee who works Monday to Friday is also registered with a private employment agency. On Tuesday the employee is contacted by the agency and offered work for the next three days. For each of the next three days the employee calls in sick each morning to their line manager. Meanwhile, the employee is undertaking casual work at a private company on those days, as arranged through the employment agency.

• A person is employed as a full-time project officer in a Queensland government department. The employee is also employed by Queensland Health as a part-time registered nurse, working every Saturday at the local public hospital Emergency Department. The person has not disclosed to either of their public sector employers that they have another job and are working more than one full-time equivalent role for the Queensland government.

**Purchasing/procurement**

• A supply arrangement is due to expire. A key manager who uses the arrangement accepts a custom Christmas hamper from one of the preferred suppliers. The supplier subsequently asks the manager to be a referee for their new tender application.

• A company wishing to contract with Queensland Health arranges a meeting with two employees to discuss business needs. At the end of the meeting the two employees accept an invitation to attend the next football home game as corporate box guests of the potential supplier.

• An employee taking part in the evaluation and selection of a supplier of healthcare products fails to disclose they have shares in one of the companies shortlisted for the contract.

**Access to information**

• An employee’s partner operates a consultancy. The employee is aware of some upcoming consultancy opportunities. Unbeknown to the senior director of the work area, the employee provides their partner with details on the scope of the work required and the senior director’s contact email, work phone and mobile numbers.

• Without an official need, an employee with access to personnel records looks up and notes the home addresses and dates of birth of other employees in the organisation.

• An employee’s uncle is a managing director in a company tendering for Queensland Health work. The employee downloads internal information off the QHEPS intranet and provides this to their uncle.

• A person who works in government department A has been engaged to undertake a staff grievance investigation in government department B. The person’s partner works in government department B. The department B employee provides their partner with their personal thoughts and opinions on the department B staff members being investigated.

**Decision making**

• An employee gives preferential treatment to their neighbour by putting their file ahead of other patients who have been waiting longer.
- A person offers to donate $5,000 to the local hospital if a guarantee can be given to get the person’s partner on a new cancer drug trial.

- An employee is required to provide supplier recommendations to clients as part of their role. One of the service providers has advised the employee that for every referral they receive the employee will get a kickback.
Attachment Two - Process for managing conflicts of interest

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

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. When in doubt, an employee should discuss the matter with their manager.

Disclose the conflict of interest

As soon as a potential or perceived conflict of interest is identified, it must be declared in writing, generally to the employee's manager. However, depending on the activity/duty being undertaken, the conflict of interest may need to be disclosed to other persons, for example:

- If you are participating on a recruitment panel and upon receipt of the applications become aware that a person’s applying for the role are known to you, either professionally or personally, you need to disclose this to the other panel members. There is not an issue with a panel member being nominated as a referee for an applicant however the panel member needs to remain objective and unbiased during the process. Should the panel member or chair feel the conflict is or would be perceived as compromising the validity of the selection process, the panel member should excuse themselves from the panel. Conflict of interest disclosures made by panel members are to be documented in the selection report.

- When it is not possible to disclose a conflict of interest in writing, for example, during a meeting where, without prior warning, a matter is introduced in which the employee recognises they may have a conflict of interest, the employee should immediately verbally disclose the interest. The employee’s disclosure should be recorded in the minutes of the meeting and in their own meeting notes. The employee should then remove themselves from the situation while this item is being discussed or, if necessary, ask for the discussion to be stopped or postponed. At the earliest possible opportunity, the employee should then follow the process to provide a written declaration.

An employee 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. A record of the disclosure should be kept by the employee along with records of any subsequent discussions.

Stage 2: Manage

On receipt of the written declaration, the employee’s manager (delegate) must assess the situation, determine whether a conflict of interest exists and make a decision as to the action required to address the situation in the public interest.

The manager should seek advice (if necessary) from the Ethical Standards Unit (or equivalent) or local HR unit to determine the appropriate action to manage and/or resolve the conflict.

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:
Record

The disclosure of a conflict of interest is to be recorded in writing using the appropriate form. This provides the delegate with transparency of information to assess the level of risk associated with the actual or perceived conflict of interest in order to manage the situation appropriately.

Restrict

Where restrictions are placed on the employee's involvement in the matter.

Recruit

Where a neutral third party is used to oversee part or all of the process that deals with the matter.

Remove

Where the employee is removed from their involvement in the matter 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 employer.

In resolving or managing the conflict of interest, the following should be achieved:

- restricting the extent to which a private interest could compromise, or be seen to compromise, impartiality when carrying out official duties
- ensuring there can be no perception of receiving an improper benefit that could influence the performance of official duties
- removing the employee from involvement in official decisions and actions which could be compromised by private interests and affiliations.

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 the declaration of the conflict of interest
- initial determination and management decisions
- 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 written records should be kept of all reassessments, decisions made and actions taken in relation to all conflicts of interest.

The process for managing conflicts of interest is articulated in the decision-making flow chart at Attachment Three.
Attachment Three – Decision-making flow chart

1. IDENTIFY

Assess the situation and surrounding circumstances

Is there a conflict of interest?

No → Record

Yes → Report

Record

Review

Is further management required?

No → Record

Yes → Choose strategy

Register → Restrict → Recruit → Remove → Relinquish → Resign

Record

Additional strategy required?

No → Implement

Yes → Record

3. MONITOR

Significant change

Yes → Review

No → Monitor