

Managing Conflict of Interest Guidelines

1. Introduction

These guidelines should be read in conjunction with the WA Health Managing Conflict of Interest Policy (<http://www.health.wa.gov.au/circularsnew/attachments/452.pdf>)

2. Conflict of Interest

2.1 Overview

Definitions of terms used can be found in the WA Health Conflict of Interest Policy, however, to reconfirm, a conflict of interest is defined as:

*“A situation arising from conflict between the performance of public duty and private or personal interests”.*¹

It is important to note that it is not always possible to avoid a conflict of interest and in itself, a conflict of interest is not necessarily wrong or unethical. What is important, however, is to appropriately identify/disclose and effectively manage any **actual, perceived or potential** conflict of interest situations.

2.2 Identifying a Conflict of Interest

There is no ‘right’ way to identify every possible conflict of interest situation. However the WA Integrity Coordinating Group has developed the following questions which may assist in identifying if a conflict of interest situation has or could arise:

- Do I have personal or private interests that may conflict, or be perceived to conflict, with my public duty?
- Could there be benefits for me now, or in the future, that could cast doubt on my independence or objectivity?
- How will my involvement in the decision or action be viewed by others? Are there risks associated for me or my organisation?
- Does my involvement in the decision appear fair and reasonable in all the circumstances?
- What are the consequences if I ignore a conflict of interest? What if my involvement was questioned publicly?
- Have I made any promises or commitments in relation to the matter? Do I stand to gain or lose from the proposed action/decision?

¹ *Conflict of Interest Guidelines*, The WA Integrity Coordinating Group (a group consisting of the Office of the Auditor General, the Commissioner for Public Sector Standards, the Corruption & Crime Commission and the Ombudsman of Western Australia)

2.3 Managing a Conflict of Interest

Conflicts of interest can occur in many situations within WA Health. For example, they can arise in relation to a staff member's:

- financial and economic interests
- involvement with family or private businesses
- secondary employment
- affiliations with for-profit and not-for-profit organisations and associations
- affiliations with political, community, ethnic, family or religious groups (either in a personal or professional capacity)
- hostility or competition with another individual or group
- significant family or other relationships (eg clients, contractors or other staff working in the same or a related organisation)
- specialist skills (eg if practitioners are in short supply)
- future employment prospects or plans.

Depending on the specific situation relating to the identified conflict of interest, there are many ways in which it can be managed appropriately. Information on strategies that could be employed in managing conflicts of interest can be found in [Attachment 1](#).

2.4 Reporting a Conflict of Interest

a. Staff Member Initiated Identification of a Conflict of Interest

Once identified, the staff member is to advise their direct supervisor of an actual, possible or perceived conflict of interest.

The staff member is to then complete an '[Assessment Guide and Record](#)' form (as per [Attachment 2](#)). The staff member should complete the following sections:

- Introduction
- Step 1: Description of the Issue
- Step 2: Description of the public duty
- Step 3: Consideration of whether a conflict of interest situation exists
- Step 4: Identification of the conflict of interest
- Step 5: Identification of the type of conflict of interest
- Step 6: Proposed strategy for resolving or management the conflict situation

The direct supervisor is to acknowledge this report (including the proposed action for resolving or managing the conflict situation) and forward it to the Head of the Department/Division, for endorsement. The form is then to be forwarded to the relevant Tier 2 or Tier 3 Officer (the 'Executive') for consideration. A [sample letter](#) which may be used in conjunction with the Assessment Guide and Record form can be found at [Attachment 3](#).

The Executive (or delegated officer) is to consider the matter and either:



- a. confirm that a conflict of interest situation exists. In this case, the Executive should confirm this with the staff member and ensure that the identified action (as indicated on the [Assessment Guide and Record](#) form) is undertaken
- b. advise the staff member that no conflict of interest situation exists. In this case, the Executive should advise the staff member.

Note 1: If the Executive determines that another course of action should be taken, this should be discussed and agreed with the staff member concerned.

Note 2: If a Tier 2 Officer identifies a conflict of interest situation involving them, they should complete the Assessment Guide and Record form and submit it for consideration to the Director General.

b. Conflict of Interest Identified in a Meeting

If a staff member identifies a conflict of interest situation during a meeting, the staff member should verbally declare the interest to the Chair, which is to be recorded in the minutes of the meeting. The officer should then withdraw from all related discussions and not participate in any decision making associated with the identified conflict of interest.

If the Chair identifies that they have a conflict of interest, they should declare this to the meeting and ensure it is properly recorded. The Chair should then withdraw from all related discussions and not participate in any decision making associated with the identified conflict of interest.

There is no need for these types of conflicts to be recorded in any other register (e.g. Conflict of Interest Register).

c. Conflict of Interest Identified by Management or a Third Party

If someone other than the staff member concerned identifies a conflict of interest and reports it, the Head of the relevant Department/Division or the relevant Executive will investigate (or authorise another officer to investigate) the matter. Any such investigation should include a discussion with the staff member concerned.

If a conflict of interest is found and it is one that should have been disclosed by the staff member concerned, then their behaviour may amount to a breach of the Managing Conflict of Interest Policy.

2.5 Recording of Conflicts of Interest

Conflicts of interest are to be recorded on a Conflict of Interest Register.

a. Area Health Services

Area Health Services are to maintain Conflicts of Interest Registers for their own Area Health Service. Accordingly, all Executives are to advise their delegated area of any reported conflicts of interest. This report is to be made by sending a copy of the [Assessment Guide and Record](#) Form (as discussed above) to their delegated area.

b. Department of Health

The Corporate Governance Directorate is to maintain a central Conflict of Interest Register for the Department of Health. All Departmental Executives are to advise



the Directorate of any reported conflicts of interest. This report is to be made by sending completed copies of any [Assessment Guide and Record](#) Forms (as discussed above) to the Corporate Governance Directorate.

Sample conflict of interest reports and registers can be found at [Attachment 4](#).

All Area Health Service Conflicts of Interest Registers may be reviewed by the Corporate Governance Directorate, as a part of their Governance Audits.

Records must be maintained in accordance with the Department of Health Record Keeping Plan and maintained for the periods outlined within approved Retention and Disposal Schedules. Where a specific sentence does not exist that covers the records, the records must be retained until such time as a sentence is created and approved that would authorise disposal.

3. Breaches of the Conflict of Interest Policy

Any breaches of this policy could constitute a possible act of misconduct. Reference is accordingly made to the WA Health Misconduct & Discipline Policy which outlines the relevant processes that may be followed if misconduct is suspected.



Attachment 1 Managing Conflicts of Interest Guidelines

Strategies for the Management of Identified Conflicts of Interest

1. Record/Register:

Recording the disclosure of conflict of interest in a register is an important first step, however this does not necessarily resolve the conflict. It may be necessary to assess the situation and determine whether one or more of the following strategies is required.

2. Restrict:

It may be appropriate to restrict involvement in the matter. For example, by refraining from taking part in debate about a specific issue, abstaining from voting on decisions, and/or restricting access to information relating to the conflict of interest. If such a situation occurs frequently, and if an ongoing conflict of interest is likely, other strategies may need to be considered.

3. Recruit:

If it is not practical to restrict involvement in a matter, an alternate office may be able to take on the relevant role, or an independent third party may need to be engaged to participate in, oversee or review the integrity of the decision-making process.

4. Remove:

Removal from involvement in a matter altogether is the best option when ad hoc or recruitment strategies are not feasible, or appropriate.

5. Relinquish:

Relinquishing the personal or private interest which prompted concerns about a conflict of interest may be a valid strategy. For example, this could be the relinquishment of shares or a membership of a club or association.

6. Resign:

Resignation is usually a last option, but may be appropriate, if the conflict of interest cannot be resolved in any other way. For example, some cultural and political affiliations may not be able to be practically relinquished.

Based on the Integrity Group “Conflict of Interest Guidelines” and the Corruption & Crime Commission “Assessment Guide”.



Conflict of Interest Assessment Guide and Record

How to use this form:

Employee to complete the following sections:

- Introduction
- Step 1: Description of the Issue
- Step 2: Description of the public duty
- Step 3: Consideration of whether a conflict of interest situation exists
- Step 4: Identification of the conflict of interest
- Step 5: Identification of the type of conflict of interest
- Step 6: Proposed strategy for resolving or management the conflict situation

Direct Supervisor to indicate acknowledgement at:

- Step 7: Acknowledgement

Head of Department/Division to indicate endorsement at:

- Step 8: Endorsement

Executive to acknowledge and approve proposed strategy at:

- Step 9: Acknowledgement and Approval

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Introduction:

Employee Name: _____

Position: _____

Location: _____

Telephone and Email: _____

Signature: _____

Step 1: Describe the nature of the matter or issue that is the subject of the possible conflict of interest:

Step 2: Describe the public duty in question (eg involvement in tender process):



Step 3: Determine if a conflict of interest situation exists:

(Consider all the questions on the checklist below to ensure all relevant factors and risks have been taken into account. A 'yes' answer to any of the questions would indicate that a conflict exists and should be reported)

Private Interest:

Do I have any significant ties, obligations, financial relationships and/or affiliations with organisations, clubs, groups or individuals who stand to gain or lose from this matter?	Yes	No
Do I, or anyone associated with me, have a private business (or secondary employment) interest in this matter?	Yes	No
Do I have significant family or other relationships with clients, contractors or other people involved in the matter?	Yes	No
Does the matter relate to financial (pecuniary) interest as defined in legislation and regulations?	Yes	No
If there is a private interest, is it sufficiently influential or motivating so that it may lead to a conflict of interest?	Yes	No
Do I have doubts about my ability to act impartially in the public interest (ie to absolutely ensure that any private considerations do not affect my decisions/actions)?	Yes	No

Potential Benefits:

Could I, or anyone associated with me, benefit now or in the future from my actions or decisions in relation to the matter?	Yes	No
Could I, or anyone associated with me, be detrimentally affected now or in the future by my actions or decisions in relation to this matter?	Yes	No
Have I received a benefit, gift, donation or hospitality (eg meals, drinks, tickets, etc) from someone who stands to gain or lose from a decision or action in relation to this matter?	Yes	No
Am I, or anyone associated with me (eg a relative, friend or associate) likely to gain or lose financially if the matter is resolved a certain way?	Yes	No
Could the matter have an influence on my future employment opportunities?	Yes	No

Perceptions:

Would it appear to a neutral or disinterested observer that my private interests were in conflict with my public duty?	Yes	No
Could a neutral or disinterested observer reasonably believe my private interests had influenced me?	Yes	No
Do I hold any private or professional views and biases that may lead others to conclude that I am not an appropriate person to deal with this?	Yes	No
Are there perception risks for WA Health or myself if I remain involved?	Yes	No
Would I think it was wrong or improper if I saw someone else doing this?	Yes	No



Proportionality:

If I am not involved, is there a better way to ensure impartiality, fairness and to protect the public interest?	Yes	No
Is my involvement illegal?	Yes	No
Is my involvement contrary to WA Health policies and procedures and/or those of the public sector?	Yes	No
Do I need to seek advice from someone who knows about these things or who is an objective party?	Yes	No

Public Scrutiny Test:

Is the matter one of significant public interest? Is it controversial and likely to attract significant public attention?	Yes	No
Would I be unhappy if my private connection or association was made? Would I feel ashamed if my private interest was exposed on the evening news or the front page of a newspaper?	Yes	No
Would I find it hard to defend and justify my actions and/or involvement if questioned publicly?	Yes	No
Could my involvement result in negative consequences for others, WA Health or myself?	Yes	No

Promises and Obligations:

Have I made any promises or commitments, been involved in or contributed privately to the matter?	Yes	No
Do I have a current or previous relationship with interested parties that would place me under an obligation?	Yes	No
Do I have affiliations past or present (eg political, union, profession, religious) past or present that could place me under an obligation?	Yes	No

Step 4: The identified conflict of interest is:

<input type="checkbox"/>	An actual conflict	<input type="checkbox"/>	A perceived conflict	<input type="checkbox"/>	A potential conflict
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Step 5: The type of conflict is:

<input type="checkbox"/>	An financial conflict	<input type="checkbox"/>	A partiality conflict	<input type="checkbox"/>	A role conflict
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Step 6: Proposed strategy for resolving or managing the conflict of interest.



Attachment 3 Managing Conflict of Interest Guidelines

Sample Letter Reporting a Conflict of Interest

Name
Title
Address

Dear (Insert Name and Title of Relevant Executive)

Report of [~~delete that which is not applicable~~] Actual / Perceived / Potential Conflict of Interest

It has been determined that a situation has arisen in which a conflict of interest may exist. The situation has been assessed as being [~~delete whichever of the following do not apply~~] an actual / perceived / potential conflict of interest.

The circumstances in which the conflict of interest arose are described in the Conflict of Interest Assessment Guide & Record, which I have attached, as required under WA Health's Managing Conflict of Interest Policy. This record also describes the suggested strategy for managing the situation.

Referred for your consideration and approval.

Yours sincerely

[Name of Head of Department/Division]

[Date]



Sample Conflict of Interest Register

Ref No	Date Reported	Staff Member's Name	Location	Contact Details	Type of Conflict (Actual, Perceived, Potential)	Assessment Guide & Record Attached and Approved (Yes/No)

