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Australian Government
**Department of Industry,
Science and Resources**

Conflict of Interest Policy

People Branch

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Contents

1	Purpose	2
2	Scope.....	2
3	Definitions	2
4	Principles.....	2
5	Legislative framework.....	3
6	Conflict of interest	3
6.1	Recognising potential conflicts of interest	3
6.2	Immediate family	4
6.3	Personal relationships	4
6.4	Relationships with lobbyists	4
6.5	Acceptance of gifts.....	4
7	Insider Trading.....	4
7.1	Recognising ‘insider trading’ information	4
8	Management Framework	5
8.1	Awareness tutorial	5
8.2	Procedure for continuous disclosure of material personal interests.....	5
9	Managing conflicts of interest.....	6
10	Strategies to manage a conflict of interest - the five “R’s”	7
11	Storage and security of declarations	8
12	Intention to trade in financial products relevant to the division	8
13	After leaving the department.....	8
14	Boards and committees	8
15	Further Information	9
16	Version control	9

1 Purpose

The department's Conflict of Interest policy provides a framework which enables staff to disclose, and take reasonable steps to avoid, any conflicts of interest in connection with their work. The policy also provides guidance for staff on how to recognise and avoid insider trading, which is prohibited by law.

2 Scope

This policy applies to those who are covered by the [*Department of Industry, Innovation and Science Enterprise Agreement 2019-2022*](#) (enterprise agreement) or who are engaged by the department to assist in delivery of its functions.

3 Definitions

Conflict of Interest is a circumstance which places a staff member in a position where their personal interests (including those of their immediate family – to the extent known) could compromise their independence. Apparent (or perceived) conflicts of interest may be as important as real conflicts.

Insider trading is trading in shares or other financial products (including procuring or inducing another person to buy or sell such products) on the basis of inside information. Inside information is information which is not generally known and which, if it were generally known, could reasonably be expected to have a material effect on the value of the particular financial product. Insider trading is prohibited by the *Corporations Act 2001* and has criminal penalties. Insider trading would also breach the *Public Service Act 1999* requirement not to make improper use of inside information.

Material personal interest is an interest that can give rise to a real or apparent conflict of interest that could affect the ability of an official to discharge their duties. Material personal interests could arise, for example, when:

- a member of an accountable authority is also a director of an organisation that is seeking to provide services to the Commonwealth entity
- an official is on an employment selection panel that is interviewing a friend or family member for a position with the Commonwealth entity
- an official approving or recommending the approval of a grant is directly or indirectly involved with an organisation seeking the grant.

4 Principles

The following principles apply to the department's approach to managing conflicts of interest:

- The overriding principle for the declaration of a material personal interest should be: if in doubt, declare the interest.
- An apparent or allegation of conflict of interest or insider trading can be damaging to individual staff and adversely affect the reputation of the department and its ability to function effectively.
- Fostering an awareness of the circumstances leading to conflict of interest and insider trading is an important mechanism for avoiding such situations.
- Transparency through a continuous disclosure reporting framework is the appropriate approach to handling these issues.

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- The freedom of staff to invest and associate should not be unduly limited by their APS employment or engagement by the department.
- The procedures should not unreasonably interfere with the privacy of staff or their families.
- If a conflict of interest becomes apparent the department will seek to resolve this in a way which manages the conflict in line with risk, including consideration of staff impact.

5 Legislative framework

In the course of their duties, staff have access to commercial and other sensitive information which may either pose a conflict with their material personal interests, or create a perception that such a conflict exists.

The APS Code of Conduct (section 13(7) of the *Public Service Act 1999*) requires that APS employees disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment. It is also in the interests of all employees that the firms and people we do business with are confident that we act in accordance with the Code of Conduct and do not make improper use of information.

The *Public Governance, Performance and Accountability Act 2013* also places similar duties on officials in relation to information and the disclosure of interests.

Insider trading would also breach the *Public Service Act 1999* requirement not to make improper use of inside information. Furthermore, insider trading is prohibited for all members of the community under the *Corporations Act 2001* and has criminal penalties.

There is also a more general obligation under the *Public Service Regulations 1999* on employees not to disclose any information about public business or anything of which the employee has official knowledge and, under the *Crimes Act 1914*, it is an offence for an employee to publish or communicate such information.

The department also has obligations under the *Privacy Act 1988*. These include having a reasonable basis for requiring information and securing information to ensure privacy. Further information is available at <http://www.privacy.gov.au>.

6 Conflict of interest

6.1 Recognising potential conflicts of interest

Staff should consider whether any of their material personal interests, such as personal relationships and financial interests (including those of their immediate family), could be affected by the decisions of the department over which the staff member has influence.

A staff member who is unclear whether particular circumstances constitute (or may in the future constitute) an apparent conflict of interest should discuss the matter with their Manager, General Manager or Head of Division in a timely manner, to clarify matters and ensure appropriate procedures are followed. This is an important protection, both for the reputation of the department and the staff member, and would help to provide a response to any subsequent allegations of misconduct.

6.2 Immediate family

For the purpose of this policy, immediate family is defined as the employee's spouse/partner and/or children. The obligation on staff to disclose the material personal interests of their immediate family is limited by the extent to which the staff member can reasonably be expected to know such interests and the consent of the relevant family member(s) to disclose any personal information.

6.3 Personal relationships, connections or affiliations

Staff may have personal relationships, connections or affiliations (including family and friendships) with people who are engaged in activities that could have an interest in issues with which the staff member deals, or over which the employee has influence, in connection with the affairs of the department. Examples could include journalists, lobbyists (see below) or people who have business dealings with the department. Staff may have such relationships however, in the interests of transparency, staff should disclose the relationship and activities that could be seen to impact upon their responsibilities or work at the department.

6.4 Relationships with lobbyists

Staff need to be aware of and manage any real or apparent conflict of interest between their official duties and their relationships with lobbyists, including personal or social relationships with lobbyists.

The Lobbying Code of Conduct sets out the Government's policies for all APS employees in relation to contact with professional lobbyists and seeks to ensure that such contact is conducted in accordance with public expectations of transparency, integrity and honesty. All APS employees should familiarise themselves with the requirements of the [Lobbying Code of Conduct](#). Any lobbyist who acts on behalf of third-party clients for the purposes of lobbying Government representatives must be registered on the [Register of Lobbyists](#).

6.5 Acceptance of gifts

Staff are expected to apply high standards of probity and ethical behaviour when accepting gifts or benefits (Accountable Authority Instructions 2.4 refer). Gifts or benefits should not be accepted by an employee or a member of their immediate family if acceptance could, in any way, be construed as an attempt to influence an administrative, regulatory or contractual decision, or create the appearance of a conflict of interest.

If a staff member has any doubts about the propriety of accepting a gift or benefit, then the gift or benefit should not be accepted, or the matter raised with their Disclosure Officer for guidance.

7 Insider Trading

7.1 Recognising 'insider trading' information

Staff should be aware that the information they access in the department may be inside or commercially sensitive information. Employees must not trade in shares or other financial products, or induce others to do so, on the basis of such information. It is the responsibility of each employee to form a judgment as to whether the information they access in the course of their APS employment would be considered inside material information.

Key considerations include:

- Is the information publicly available?
- How was the information obtained – was it provided with a ‘commercial-in- confidence’ or ‘in-confidence’ classification?
- Do you believe knowing the information would be ‘getting in early’ ahead of the investment market more generally?
- Would you expect the information to have a material effect on the value of the particular financial product?

Employees in some areas may have access to material information relating to companies in sectors outside of the Industry and Science portfolio. It is important to note that the absence of direct policy or program responsibility would be no defence to an insider trading allegation.

8 Management Framework

8.1 Awareness tutorial

The awareness tutorial is designed to provide guidance and educate employees on what a conflict of interest is, how it can be addressed or managed, how to make a disclosure and what responsibilities all employees have. It is essential that all employees watch the tutorial to assist in making an informed decision on whether or not they have a conflict of interest to disclose. A conflict of interest declaration form should be completed where an employee has a material personal interest to disclose.

8.2 Procedure for continuous disclosure of material personal interests

Staff are required to follow the department’s procedure for the continuous disclosure of material personal interests by making annual declarations (as required) and making sure they monitor their circumstances (ongoing disclosure).

8.2.1 General requirements

SES employees are required to complete an annual conflict of interest declaration form (located in ServiceNow);

Acting SES employees are required to complete a conflict of interest declaration (located in ServiceNow) form where the period of acting is for three months or more. This is in addition to any declarations they may have disclosed as non-SES employees.

Non-SES employees should consider whether they have anything to disclose after watching the awareness tutorial located in PageUp. Should employees need to disclose an interest in line with their ongoing requirement to monitor their circumstances, they can do so by completing a conflict of interest declaration form (located in ServiceNow).

New employees should consider whether they have anything to disclose after watching the awareness tutorial located in PageUp. Should new employees need to disclose an interest, they can do so by completing a conflict of interest declaration form (located in ServiceNow).

Employees who have transferred between divisions should consider whether they have anything to declare within 4 weeks of commencing in a new division.

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Non-employees (e.g. contractors and consultants) accessing the department's ICT facilities and resources have to abide by the relevant departmental policies and ensure that the security of all department networks are maintained. Any conflicts of interest are to be discussed with the relevant contact in the department and managed in accordance with the relevant contractual arrangement, taking into account this policy. A conflict of interest declaration form can be completed in ServiceNow if the contractor or consultant has ICT network access. Alternatively, a paper-based conflict of interest declaration form can be requested from the Employee Relations Team.

Questacon casuals and volunteers who do not have ICT access are exempt from completing the department's conflict of interest declaration process.

8.2.2 Activity based requirements

In carrying out the department's work, staff may be required to complete conflict of interest declarations when involved in specific activities. For example, staff involved in procurement activities should complete activity based conflict of interest declarations (regardless of whether there is a conflict to disclose) commensurate with risk.

All program staff involved in grants activities are to complete activity based conflict of interest declarations (regardless of whether there is a conflict to disclose). A conflict of interest register reflecting these declarations is to be maintained for each grant program (or equivalent).

Activity based conflict of interest declaration processes and reporting formats are managed by the relevant business areas. If any interests are disclosed during these activities, staff should consider how they are meeting the general requirements of this policy (e.g. whether a conflict of interest form in ServiceNow should also be completed).

9 Managing conflicts of interest

Under the general requirements for staff conflict of interest declarations, the Disclosure Officer is responsible for assessing declarations and determining whether a real or apparent conflict of interest exists. Managers assist the Disclosure Officer by obtaining and providing relevant information. In the event that a conflict of interest is identified, the staff member will be advised of any actions required to manage the conflict. The Disclosure Officer is responsible for addressing conflicts of interests by:

- having a conversation with the staff member who discloses the conflict and/or their Manager to obtain details of the disclosure; and
- agreeing on a management strategy with the staff member who discloses the conflict and/or their Manager by using the five 'R's.

Disclosure Officers are as follows:

- Secretary – Disclosure Officer for SES Band 3
- Deputy Secretary – Disclosure Officer for SES Band 2 and SES Band 1
- General Manager – Disclosure Officer for non-SES staff, including EL and APS employees
- Managers/Directors – are not Disclosure Officers but assist with the assessment and management of disclosures as appropriate.

Disclosure Officers and Managers are encouraged to contact the Employee Relations Team for advice on managing conflicts and disclosures.

10 Strategies to manage a conflict of interest - the five “R’s”

Disclosure Officers will receive automated notification in their inbox when a staff member has completed a conflict of interest declaration in ServiceNow.

Disclosure Officers must develop a management strategy with staff who make disclosures by utilising one or numerous management strategies based on the five “R’s” framework, as follows:

Strategy	What this strategy means	When it is most suitable
1. Register	The employee formally registers details of the existence of a conflict of interest.	<ul style="list-style-type: none"> • For very low-risk conflicts of interest. • Where recording the conflict of interest is sufficient to maintain transparency.
2. Restrict	Restrictions are placed on the employee’s involvement in the matter to oversee part or all of the process that deals with the matter.	<ul style="list-style-type: none"> • The employee can be effectively separated from parts of the activity or process. • The conflict of interest is not likely to arise frequently.
3. Remove	You choose to remove the employee completely from the matter.	<ul style="list-style-type: none"> • For ongoing serious conflicts of interest, where restriction or recruitment of others is not appropriate.
4. Relinquish	You request the employee relinquishes the private interest that is creating the conflict.	<ul style="list-style-type: none"> • Where the employee’s commitment to public duty outweighs their attachment to their private interest.
5. Resign	The employee should resign from their position within the agency.	<ul style="list-style-type: none"> • No other options are workable. • Where the employee cannot or will not relinquish their conflicting private interests. • Where the employee prefers this course as a matter of personal principle.

11 Storage and security of declarations

Conflict of interest declarations are stored electronically. ServiceNow is classified at the PROTECTED level for forms submitted in that system.

12 Intention to trade in financial products relevant to the division

It is also required that, before making any trades (either purchase or sale) of financial products related to the policy or operational responsibility of the employee's division, the employee should discuss the matter with the relevant Disclosure Officer. This includes trading by the employee and by the employee's immediate family (to the extent known by the employee). Employees are reminded that such proposed trading may give rise to potential conflicts of interest or insider trading and early discussion with the relevant Disclosure Officer is encouraged. Employees should note that any such discussion shall not be construed as the provision of investment advice or recommending one course of action over another. The purpose of the discussion will be to explore the principles of conflicts of interest and insider trading as they may apply to the proposed trade.

13 After leaving the department

On leaving the department, staff are reminded of their obligation to not disclose, or act upon, information gained as a result of their employment or engagement with the department. The only exemption would be when such information is publicly available.

There are additional restrictions on post-separation employment by SES employees who leave the APS after 1 July 2008 whereby they shall not, for a 12 month period, engage in lobbying government representatives on any matters on which they have had official dealings as public servants over their last 12 months of employment.

More information on post separation employment can be obtained from the Australian Public Service Commission website.

14 Boards and committees

Government boards and committees play an important strategic role in providing leadership, direction and accountability across the public sector.

There are many types of government boards and committees including:

- boards of public trading enterprises
- boards of statutory authorities
- policy coordination committees
- research committees
- tribunals
- registration boards
- appeal boards

- public trusts
- advisory committees

The potential exists for conflicts of interest for duty in committees or boards established by the department, particularly where a Minister appoints the chair and/or members and the committee or board can significantly influence decisions.

It is important for divisions to establish procedures to alert committee members to the need to identify and avoid conflicts of interest. This may include committee members providing written declarations of interests that relate to activities of the committee, and making conflicts of interest a standing agenda item for committee meetings.

15 Further Information

For further information about conflict of interest visit the [Conflict of Interest iCentral page](#), or contact the Employee Relations Team via Service Now (People and Payroll > Employment Conditions Query).

16 Version control

Version Number	Date of Issue	Author/s	Brief description of change	Next review date
1.0	5 October 2022	People Branch	Policy into new format, with changes	October 2024