

## Managing Conflicts of Interest

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The following options should be considered when deciding how to manage conflicts of interest.

### 1. Restrict

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Restrictions are placed on the staff member's involvement in the matter.

This is appropriate when staff can be effectively separated from parts of the activity or process, or when the conflicts of interest are not likely to arise frequently.

Strategies:

- Non-involvement in any critical criteria setting or decision-making role in the process concerned
- Refraining from taking part in any debate about the issue
- Abstaining from voting on decision proposals
- Withdrawing from discussion of affected proposals and plans
- Having restricted access to information relating to the conflict of interest
- Being denied access to sensitive documents or confidential information relating to the conflict of interest.

This option is not suitable when the conflicts of interest are likely to arise frequently causing ad hoc restriction to be an unworkable option or constantly unable to perform a number of regular duties because of conflicts of interest issues. Ongoing conflicts of interest are likely to indicate a problem that requires more serious attention in its management. In this situation one of the strategies outlined in the following sections might be more appropriate:

### 2. Recruit

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An independent third party is used to oversee part or all of the process that deals with the matter. This is appropriate when the expertise of staff, who have declared conflicts of interest, are required to be part of the decision making process.

Strategies:

- Arranging for the affected decision to be made by an independent third party
- Engaging an independent third party or probity auditor to oversee or review the integrity of the decision-making process – this strategy is particularly appropriate 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
- Increasing the number of people sitting on decision-making committees to balance the influence of a single member who may have some special reason to remain on the committee
- Seeking the views of those likely to be concerned about potential, actual or reasonably perceived conflicts of interest about whether they object to staff having any, or any further, involvement in the matter.

This option is not suitable when the conflict is serious and ongoing, rendering ad hoc recruitment of others unworkable. It is also not suitable when recruitment of a third party is not appropriate for the proper handling of the matter or a third party is unable to be sourced.

### **3. Remove**

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Staff choose to remove themselves completely from the matter. This is appropriate when there are ongoing serious conflicts of interest and where ad hoc restrictions or recruitment of others are not feasible or appropriate. Staff are removed from all duties related to the conflicts of interest for as long as the conflicts of interest exist.

Strategies:

- Staff to abstain from any formal or informal discussion about the matter
- Removing staff from the situation where they may still exert, or be perceived to exert, a covert influence on decisions or actions taken in the matter
- Re-arranging duties and responsibilities to a non-conflicting function
- Transferring staff to another project
- Transferring staff to another area of the organisation
- Ensuring that the duties in which the conflict of interest has arisen are not reallocated to another officer who is supervised by the individual with the conflict.

Where possible, removal strategies should be considered in tandem with relinquishment. It is extremely important that this management strategy be developed through an ongoing dialogue that includes the affected staff member.

This option is not suitable when the conflicts of interest and its potential or perceived effects are of low risk or low significance. It is also not suitable if the staff member with the conflict of interest relinquishes the relevant private interests rather than radically changing their work responsibilities or environment.

### **4. Relinquish**

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Staff member relinquishes the private interest that is creating the conflict. Instead of managing the staff member's duties involved in the conflict of interest, relinquishing the private interests giving rise to the conflict is often an equally valid alternative strategy.

Strategies:

- Staff liquidate their private interest in an arm's length transaction
- Staff divest themselves of or withdraw their support for their private interests – the one case where divestment may not be appropriate is if the interest is an essential part of the staff member's qualifications for a position, such as membership of a professional body
- Staff assign their conflicting interest to a genuinely 'blind trust' or 'blind management' arrangement for at least the duration of the conflict. Such arrangements place the assets causing the conflict of interest in the hands of a trustee or manager who is at arm's length from the staff member.

The staff member may not have any power of management or control over assets held and managed in trust. The trustee or manager likewise, may not seek or accept any instruction or advice from the staff member concerning the management or the administration of the assets. The staff member is entitled however, throughout the duration of the agreement, to be kept informed of the basic value of their assets. In making such arrangements, the agency may need to receive legal advice to properly

evaluate the effectiveness of any 'blind trust' arrangement entered into by staff.

This option is not suitable when staff are unable or unwilling, for various reasons, to relinquish the relevant private interests. It is also not suitable when the conflict of interest and its potential or perceived effects are of low risk or low significance.

## **5. Resign**

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Staff member resigns from their position with the agency. Resignation is the most extreme solution to serious conflicts of interest. Although extreme, resignation should be a strategy available for consideration if the conflicts of interest cannot be resolved in any other workable way. Public sector employees should be required to resolve conflicts of interests or, if managerial remedial action is not effective, they may have no other choice than to resign from their public position.

There may be a situation in which a staff member cannot or will not relinquish their conflicting private interest when changes to their work responsibilities or environment are not feasible and the conflicts of interest and their potential or perceived effects are of high risk or high significance.

A staff member may choose to resign as a matter of personal principle when their private interest conflict with a proposed action or position taken by the agency.

Strategies:

- Staff member resigns from their position with the agency
- Staff member requests a transfer to another agency or jurisdiction
- Early retirement if the option is feasible and available.

This option is not suitable when the conflict of interest and its potential or perceived effects are of low risk or low significance, or there are other options that are workable for the staff member and the agency.

Any action under this strategy must take into account natural justice, procedural fairness, relevant employment law and any contractual provisions.