



# Conflict of Interest Policy

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ISSUED BY:

WORKFORCE CAPABILITY AND  
GOVERNANCE, CMTEDD

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## Introduction

1. The ACT Public Service (ACTPS) is committed to serving the ACT community and Territory with integrity, impartiality and in good faith by undertaking its work in a fair and unbiased way.
2. The purpose of the ACTPS Conflict of Interest Policy (the policy) is to advise all ACTPS employees of their responsibilities to declare and manage their conflicts of interest; whether they be perceived, potential or actual.

## Application

3. This policy contains a set of whole-of-government instructions issued by the Head of Service under section 17(2)(a) the *Public Sector Management Act 1994* (PSM Act) and binds all employees engaged under that Act
4. For the purpose of this policy, employees are defined as including permanent officers, temporary employees, casual workers and Statutory Office Holders of the ACTPS.
5. All directorates/agencies are expected to adhere to this policy as a minimum standard. However, directorates /agencies may put in place their own policy and procedural documents which recognises differences in their operating environments and organisational structures.

## Key Legislative Provisions

6. The ACTPS values are Respect, Integrity, Collaboration and Innovation. Integrity in the ACTPS means being apolitical, honest, dependable, and accountable in dealings with Ministers, the Parliament, the public and each other. It means recognising achievement and implies a consistency in dealings with others.
7. Section 9 of the PSM Act outlines the expectations of employees' conduct and behaviours including, but not limited to, taking all reasonable steps to avoid a conflict of interest and to declare or manage a conflict of interest that cannot reasonably be avoided. This means taking into consideration what a reasonable person in the employee's situation would do when facing a conflict of interest issue.
8. All ACTPS employees are also bound by the [ACT Public Service Code of Conduct](#) (ACTPS Code of Conduct), which provides guidance on the sorts of behaviours expected of employees consistent with section 9 of the PSM Act. A breach of the ACTPS Code of Conduct equates to a breach of section 9 under the PSM Act.
9. A breach of this policy may be reviewed under section 9 of the PSM Act. It is to be managed under clause H6: Misconduct and Discipline of the relevant ACTPS Enterprise Agreements (and their respective counterparts in the Medical Practitioners, and the Nursing and Midwifery Enterprise Agreements) for non-executive employees and section 47 of the Public Sector Management Standards 2016 (PSM Standards 2016) for executives.

## Definitions

10. A conflict of interest arises when an employee's private interests or connections may lead to improperly influencing the performance of their official duties and responsibilities.
11. It includes any interests resulting from a connection, resentment or otherwise personal involvement by the employee in a matter outside of work that would influence their judgement when taking actions or making decisions. For example, if an employee were to make a work-related decision that

favours their personal interests, they could be seen as benefitting themselves with the outcome or providing a disadvantage to another person or group.

12. A conflict of interest could also arise where an employee has dual responsibilities and roles. This includes situations where one component of the employee's role is regulatory and the other is operational or advisory, or where the employee volunteers in an organisation that is also a stakeholder to their area of work.
13. A conflict of interest can be specified as being perceived, potential or actual:
  - a. a **perceived conflict of interest** arises when it appears to another individual that an employee's private interest could improperly influence the performance of their duties, but this is not in fact the case. In determining if a perceived conflict of interest exists, the test is whether a reasonable observer would regard the employee's actions as reasonable in the situation;
  - b. a **potential conflict of interest** arises where an employee has private interests that are of such a nature that a conflict of interest would arise if they were to become involved in official responsibilities related to those interests in the future; or
  - c. an **actual conflict of interest** arises where the improper influence on the employee is actually occurring now or has occurred in the past. This could include instances where the Chair of a recruitment panel has a direct family member apply for an advertised position which the panel relates to.
14. A conflict of interest can also be pecuniary/financial or non-pecuniary:
  - a. a **pecuniary/financial** interest involves an actual or potential financial gain or loss. Money does not need to actually change hands for an interest to be pecuniary. This includes situations where:
    - I. the employee holds shares or a position in a company bidding for government work, accepts gifts or hospitality that is related to the performance of their official duties, or receives an income from a second job; or
    - II. the employee is responsible for scheduling their shift workers on an 'on-call' register and includes their friends and themselves on the register more frequently than their other colleagues.
  - b. a **non-pecuniary** interest does not have a financial component but may arise from personal or family relationships or involvement in sporting, social, religious or cultural activities. They include any tendency towards favouring or prejudicing resulting from friendship, animosity or some other personal involvement of the employee that could bias their impartiality when taking actions or making decisions.
15. Further conflict of interest examples and definitions can be found in the ***Conflict of Interest Policy Tool 1 – Examples and Definitions***.

## Principles

16. Having a perceived, potential or actual conflict of interest does not automatically mean that an employee has undertaken corrupt conduct. However, the potential for corruption may increase where such conflicts of interest are undeclared, played down, mishandled, exploited or hidden.
17. The likelihood of corrupt conduct occurring may also increase when employees decide to self-manage the risks associated with an actual or potential conflict of interest, which prevents their directorate/agency from resolving or addressing the risk appropriately. Please refer to the ACT Integrity Commission [website](#) for further information and guidance.

## Private/Personal interests

18. Private/personal interests are those interests that can bring benefits or disadvantages to employees as individuals, or to others whom they may wish to benefit or disadvantage.
19. A conflict of interest may be perceived if a person has significant personal/family relationships with clients, contractors or other staff working in the same, or a related, organisation.

## Gifts

20. One particular conflict of interest example is the acceptance of gifts. A gift offered to and accepted by an employee that is related in any way to the performance of their official duties has the potential to damage their reputation or affect the public's trust in their directorate/agency's independence and integrity.
21. There are specific rules about accepting gifts or other benefits in relation to an employee's official duties. Please refer to the [Gifts, Benefits and Hospitality Policy](#) and the ACT Integrity Commission [website](#) for further information and guidance.

## Second Jobs and Volunteering

22. Second jobs and volunteering roles for employees within and outside the ACTPS also have the potential to cause and contribute to a conflict of interest.
23. Section 244 of the PSM Act provides that an employee must have approval from the Head of Service (or delegate) for any of the following activities, other than in the exercise of their work-related functions. Examples of working outside the service include but are not limited to:
  - a. any other employment;
  - b. any other business activities; or
  - c. being a member of any other board or committee.
24. Similarly, section 152 of the PSM Act confers this approval power to Statutory Office Holders and/or Chief Executives for public sector bodies.
25. In accordance with section 108 of the PSM Act, the Head of Service (or delegate) must not approve an application for a second job outside the service if they reasonably believe that it would create a real or perceived conflict of interest, or it would not be consistent with the public sector principles. Similar consideration should also be undertaken by the Head of Service (or delegate) when reviewing an application to perform a second job within the ACTPS.
26. Employees are to complete the [Second Jobs Application form](#), or any other directorate/agency specific forms, prior to commencing any second jobs. Please refer to the [Second Jobs and Volunteering Policy](#) for further information and guidance.
27. While this pre-approval does not apply to employees who intend to participate in volunteering activities, it is important that these employees still make a self-assessment of whether any conflicts of interest exist between their volunteering activities and their work-related functions at the ACTPS.
28. If there are any perceived, potential or actual conflict of interest concerns with their volunteering role, the employee should complete a [Conflict of Interest Disclosure form](#) at **Attachment A** and discuss any further options for managing the conflict with their supervisor/manager.

## Political Activity

29. All employees can in their own time participate in political campaigns including, but not limited to:
  - d. doorknocking, letterboxing, phone polling and any other volunteer campaign activities;
  - e. engaging in political debate including making comments in a private capacity; and

- f. participating in rallies and events.
30. However, it is imperative that if an employee chooses to engage in any political campaigns in their own time, they must not give the impression that they are acting in an official capacity representing the ACTPS.

## Public Comment

31. In accordance with section 9 of the PSM Act, an employee must not, without lawful authority, disclose confidential information gained through their job or make a comment that reasonably appears to be an official comment.
32. The Territory has protocols for engagement with media and authorisation of official comment and representation. It is recognised that employees increasingly use social media to interact with each other and the ACT community for work-related and social purposes during and after working hours.
33. Employees are to exercise good judgement and not knowingly misrepresent the ACTPS as an employer. When commenting after working hours on personal or private social media channels, it is important that the employee does not give the impression that they are acting in an official capacity and representing the Territory in any way.
34. Please refer to the [Use of Social Media Policy](#) for further information and guidance.

## Recruitment

35. Actual conflicts of interest may arise in recruitment and selection processes, which may sometimes be unforeseen.
36. Where a panel is involved in a recruitment process, all members must complete a [Conflict of Interest Declaration form](#) to ensure that all perceived, potential or actual conflicts of interest are disclosed.
37. This could include where a panel member has a personal relationship with an applicant. These completed forms must be documented and disclosed to the delegate and any other panel members.
38. Following the disclosure, it will then be decided whether the affected employee should stand aside from the process or from consideration of the particular applicant.
39. Please refer to the [Recruitment Guidelines](#) for further information and guidance.

## Procurement

40. Employees involved in certain procurement activities must follow the requirements of the [Probity in Procurement Guide](#).
41. An ACT Procurement [Conflict of Interest Disclosure form](#) will need to be completed to confirm that the employee does not have a conflict of interest or that a conflict of interest is unlikely to arise during the course of their involvement in the procurement activity; particularly in relation to evaluating responses to tenders.
42. There is also an onus on the employee to disclose any conflict of interests if their circumstances change during the course of the procurement process.

## Decision-making

43. Conflicted activities may include certain decision-making processes where a personal relationship with affected parties exists, which includes, but is not limited to:
- a. awarding grants;
  - b. general administrative duties such as processing invoices for a particular community organisation; or

- c. exercising a delegation.
44. If an employee allows their private interests to have an influence on their official duties and decision-making, it could be classified as misconduct and attract disciplinary action under clause H6: Misconduct and Discipline (and their respective counterparts) of the relevant ACTPS Enterprise Agreements for non-executive employees and section 47 of the PSM Standards 2016 for executives.

## Procedure

### Avoiding and/or Managing Conflicts of Interest

45. The ACTPS is committed to ensuring that all staff and volunteers maintain a high standard of professionalism and integrity in the workplace and in the performance of their work. To ensure that the community perceives employees of the ACTPS as impartial, effective and fair, they must ensure that their official responsibilities do not conflict, or do not appear to conflict with their personal or financial interests; including the interests of their immediate family.
46. However, the employee may still be able to have a personal or financial interest in a matter that their directorate or agency is dealing with, so long as the interest is declared and effectively managed.
47. In meeting this obligation, any employee with a perceived, potential or actual conflict of interest should firstly declare this to their supervisor/manager, followed by further discussions to agree on the appropriate management strategy to manage or avoid the conflict. Suggested management strategies include:

| Strategy          | What this strategy means  | When this is most suitable  |
|-------------------|---|---|
| <b>Register</b>   | The employee formally registers details of the existence of a perceived or potential conflict of interest.                            | For very low-risk conflicts of interest. Where recording the conflict of interest is sufficient to maintain transparency.   |
| <b>Restrict</b>   | Restrictions are placed on the employee's involvement in the matter to oversee part or all of the process that deals with the matter. | The employee can be effectively separated from parts of the activity or process. The conflict of interest is not likely to arise frequently.  |
| <b>Recruit</b>    | Recruit a disinterested third-party to oversee part or all of the process that deals with the matter.                                 | It is not feasible or desirable for the employee to be removed from the decision-making process. In small or isolated communities where the employee's particular expertise is necessary and genuinely not easily replaced. |
| <b>Remove</b>     | The employee is removed completely from the matter.   | For ongoing serious conflicts of interest, where restriction or recruitment of others is not appropriate.   |
| <b>Relinquish</b> | The private interest that is creating the conflict is relinquished.   | Where the employee's commitment to public duty outweighs their attachment to their private interest.  |
| <b>Resign</b>     | The employee resigns from their position with the agency.   | No other options are workable. Where the employee cannot or will not relinquish their conflicting private work.   |

48. The employee must also avoid placing themselves in a position where there is a perceived or actual conflict of interest. If a situation arises where there may be a perception of a conflict of interest, the employee must notify their supervisor/manager of the situation to avoid any criticism or allegations of inappropriate or questionable behaviour/action or potential misconduct. This enables consideration of appropriate management of the conflict.
49. Appropriate management actions taken can ensure that no improper influence occurs and the integrity of the ACTPS is intact. The choice of management strategy will depend on an assessment of the situation and the role. Further information can be found in the ***Conflict of Interest Policy Tool 2 – Information Sheet***.
50. For example, where a member of a recruitment panel has a direct family member apply for an advertised position related to the panel, they must declare the issue to their supervisor/manager and must remove themselves from the recruitment process. Although an actual conflict of interest is there, the appropriate management action has been taken to ensure that no improper influence occurred, and the integrity of the recruitment process is intact.
51. Regardless of how the conflict of interest is resolved or managed, it is important to start documenting the process from when the discussion about the conflict of interest first occurred.
52. Supervisors/managers must also in turn ensure that they are aware of the conflicts of interest inherent in their team’s work. As such, they play an active role in assisting their staff to effectively manage their conflicts of interest.
53. When managing and monitoring their employee’s conflict(s) of interest, supervisors/managers are encouraged to consider the questions found in ***Conflict of Interest Policy Tool 3 – Supervisor/Manager Checklist***.
54. Supervisors/managers should be aware that the personal information of their staff may need to be disclosed as part of their conflict of interest matter. This includes instances where the employee’s personal information is necessary to give effect to certain conflict of interest management strategies, or where their personal information being disclosed when their supervisor/manager is required to notify an independent body such as the Integrity Commission of the matter.
55. Where a conflict of interest situation cannot be avoided by the actions of the employee and has been disclosed, the directorate/agency has an obligation to assist in the resolution of the problem. This can occur by actions such as:
  - a. having the employee remove themselves of their personal interest;
  - b. ensuring the employee is not further involved in actioning a piece of work or participating in a decision-making process related to the conflict; or
  - c. transferring the employee to another position.

## Responsibilities

### Employees

56. The employee is responsible for:
  - a. taking all reasonable steps to avoid a conflict of interest within the course of their employment, whether it be perceived, potential or actual;
  - b. being aware of their obligations to avoid, where possible, conflicts of interest and declare or manage those conflicts of interest that cannot be avoided;



- c. cautiously assessing their private and personal interests and whether they conflict, or have the potential to conflict with their duties, and raising this with their supervisor/manager if in doubt;
- d. advising their supervisor/manager or delegate of any perceived, potential or actual, conflicts of interest in the workplace by completing the Conflict of Interest Disclosure form;
- e. taking reasonable steps to restrict the extent to which a private interest could compromise, or be seen to compromise, their impartiality when carrying out their official duties;
- f. abstaining from involvement in official decisions and actions that could reasonably be seen to be compromised by their private interests and affiliations;
- g. exercising caution and not participating in decision-making on a matter while a declared conflict is being assessed, or once a declaration has been made;
- h. avoiding private actions in which they could be seen to have an improper advantage from inside information they have access to because of their official duties;
- i. advising their supervisor/manager if they observe possible conflicts from other staff in the workplace;
- j. reporting to the Senior Executive Responsible for Business Integrity and Risk (SERBIR) on any corrupt conduct of serious maladministration;
- k. not using their official position or the Territory's resources inappropriately, including for private gain or the gain of others, or when seeking employment outside the ACTPS; and
- l. ensuring any contractors that they engage or are responsible for do not have a conflict of interest.

## **Supervisors, Managers and Executives**

57. Supervisors, Managers and Executives are responsible for:
- a. meeting the requirements of the policy with respect to their own conflicts and potential conflicts of interest;
  - b. being aware of the risks of conflicts inherent in the work of the staff they supervise/manage;
  - c. making their staff aware of the policy and procedures for meeting the policy's requirements;
  - d. recording and retaining appropriate records in relation to disclosures of conflict of interests reported to them by their staff;
  - e. advising their staff and providing guidance on appropriate ways to manage conflicts of interest;
  - f. assisting staff who disclose conflicts of interest in preparing any strategies to manage them;
  - g. monitoring the work of their staff and the risks they are exposed to;
  - h. discussing a potential conflict of interest with their staff if a concern is raised with them by another party;
  - i. acknowledging any conflict of interest situation and supporting their staff in implementing the agreed management strategies where possible;
  - j. contacting the relevant HR/corporate areas to discuss any declared conflicts of interests that require further clarification on; and
  - k. managing the situation to ensure that both their staff and the ACTPS are not seen to be in a position where a conflict of interest has not been managed appropriately.
58. In addition to having the same responsibilities as Supervisors and Managers, Executives are also responsible for:
- a. promoting and demonstrating their commitment to integrity within the ACTPS, by modelling appropriate behaviour, encouraging discussions within the workplace around conflict of interest and raising awareness on what constitutes as being a conflict of interest;
  - b. ensuring that records of notification relating to conflict of interest are maintained appropriately;

- c. reporting to the ACT Integrity Commission on any escalated conflict of interest matters; a
- d. contacting the relevant HR/corporate area and the employee's supervisor/manager to discuss declared conflicts of interests that require further clarification on; and
- e. authorising an appropriate employee and their supervisor/manager to decide whether there is a conflict of interest and providing advice in exceptional circumstances.

## SERBIRS

59. Senior Executives Responsible for Business Integrity Risk (SERBIRS) also have an overall responsibility for the implementation and promotion of the integrity framework and its related functions.
60. As part of this, the SERBIR representative of each directorate/agency should facilitate ongoing discussions around conflict of interests and encourage employees within their areas to be aware of the differing types of conflicts, as well as this policy and any directorate/agency specific policies or forms.
61. SERBIRS also have an advisory role; that is, they may provide advice to employees and executives in relation to this policy as well as have a role in identifying and reporting on directorate/agency-specific trends in relation to integrity matters.

## Consultation

62. This policy was consulted with the ACTPS Human Resources Council (HRC), Unions, Workforce Capability and Governance and the ACTPS Strategic Board.

## References

63. The relevant legislation, policy and employment arrangements underlying this operational guidance are:
  - [\*Public Sector Management Act 1994\*](#), particularly section 9: Code of Conduct
  - [\*Public Sector Management Standards 2016\*](#)
  - [\*Declaration of Private Interests Policy\*](#)
  - [\*Probity in Procurement Guide\*](#)
  - [\*Gifts, Benefits and Hospitality Policy\*](#)
  - [\*Second Jobs and Volunteering Policy\*](#) and [\*Second Jobs Application form\*](#)
  - [\*Use of Social Media Policy\*](#)
  - [\*Recruitment Policy and Guidelines\*](#)
  - [\*ACT Integrity Commission website\*](#)

## Further Information

64. For further information please contact your Human Resources/Corporate Area or the Senior Director, Whole of Government Industrial Relations and Public Sector Employment team, Workforce Capability & Governance Division at the Chief Minister, Treasury and Economic Development Directorate.

## Review

65. This policy is due for review 3 years from the last issued or reviewed date, or earlier where there are changes that affect the operation of the policy.

|  |   |
|--|---|
| Document name: ACTPS Conflict of Interest Policy | Prepared by: Assistant Director, Industrial Relations and Public Sector Employment, Workforce Capability & Governance, CMTEDD |
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## Approval Authority

Dr Damian West

Deputy Director-General

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Chief Minister, Treasury and Economic Development Directorate

On behalf of the Head of Service

June 2021

# Attachment A – Conflict of Interest Disclosure Form



## Conflict of Interest Disclosure Form

### Instructions

1. Complete this form in accordance with the ACT Public Service Conflict of Interest Policy and associated documents.
2. Once completed by the employee and their supervisor/manager, the form should be kept as a record within the business unit. A copy of the form should also be sent to your directorate HR area (or as required by your directorate/agency policy/guidelines).
3. At the time of review (if applicable) a new Conflict of Interest Disclosure form should be completed and attached to the original form.

| Part 1: Employee Details  |  |                                    |
|---|--|------------------------------------|
| Name:   | Date:                                  |                                    |
| Position:   | Classification:                        |                                    |
| Directorate: Select Directorate   | Supervisor name:                       |                                    |
| Branch:   | Subunit:                               |                                    |
| Conflict of Interest / Circumstances  |  |                                    |
| 1.  |  |                                    |
| 2.  |  |                                    |
| Duties affected by the Conflict / Circumstances   |  |                                    |
| 1.  |  |                                    |
| 2.  |  |                                    |
| Conflict of Interest was last reviewed on (if applicable)                                     | Date:                                  |                                    |
| Part 2: Manager to complete the following section:  |  |                                    |
| The conflict of interest has been identified as (please tick the appropriate box)             |  |                                    |
| Actual <input type="checkbox"/>   | Perceived <input type="checkbox"/>     | Potential <input type="checkbox"/> |
| Pecuniary/financial <input type="checkbox"/>  | Non-pecuniary <input type="checkbox"/> |                                    |
| The risk of the conflict of interest has been identified as (please tick the appropriate box) |  |                                    |
| High <input type="checkbox"/>   | Medium <input type="checkbox"/>        | Low <input type="checkbox"/>       |
| Management Strategy (please tick the appropriate box)   |  |                                    |
| Register <input type="checkbox"/>   | Restrict <input type="checkbox"/>      | Recruit <input type="checkbox"/>   |
| Remove <input type="checkbox"/>   | Relinquish <input type="checkbox"/>    | Resign <input type="checkbox"/>    |
| Details of restrictions and strategies implemented  |  |                                    |

|   |                            |              |
|---|----------------------------|--------------|
| 1.  |                            |              |
| 2.  |                            |              |
| Conflict of Interest to be reviewed on this date<br>(if required):  |                            |              |
| <b>Review Complete (New form to be completed and attached)</b>  |                            |              |
| <b>Date Review was completed:</b>   |                            |              |
| <b>Employee Acknowledgement</b>   |                            |              |
| I, <b>[employee name]</b> , declare that the above details are correct to the best of my knowledge and I make the conflict of interest declaration in good faith. <b>The agreed management strategy will, to the best of my knowledge, address the disclosure made.</b>   | <b>Signature:</b><br>_____ | <b>Date:</b> |
| <b>Supervisor/Manager Acknowledgement</b>   |                            |              |
| I, <b>[supervisor/manager name]</b> , declare that the above details are correct to the best of my knowledge and acknowledge my role in overseeing the management strategy of the conflict of interest as declared. As part of this, I will monitor the effective implementation and management of the agreed strategy (if applicable). | <b>Signature:</b><br>_____ | <b>Date:</b> |



**ACT**  
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CMTEDD

June 2021