



Purpose

To document the Office of the Health Ombudsman (OHO) commitment to maintaining integrity in all areas of its operations and describe the processes for the identification, declaration, management and monitoring of conflicts of interest, both before and after they occur.

Conflict of interest occurs when the private interests of an employee or the offer of benefits to an employee, may affect, or appear to affect, decisions made by that employee in the workplace. Where an officer makes decisions of a commercial or contractual nature and/or they have an active involvement and decision-making role with respect to individuals, community groups or community affairs, there may be potential for conflict of interest to arise.

Application

This procedure applies to all OHO employees, contractors and consultants. All employees shall formally disclose interests or affiliations that conflict or have the potential to conflict with their official duties.

Policy statement

The integrity of public sector officers and processes is fundamental to the rule of law. Conflicts of interest are a major risk to integrity in all areas of government. It is therefore crucial that all conflicts of interest are managed and resolved in the public interest.

The OHO is committed to performing its duties in a fair and unbiased way, and to making decisions not affected by self-interest, private affiliations or the likelihood of personal gain or loss.

Declaring a real or perceived conflict of interest is essential for maintaining the integrity of and community confidence in the OHO.

The OHO is committed to ensuring conflicts of interest are identified, disclosed and managed in a transparent and accountable manner.

Legislative provision

- *Public Sector Ethics Act 1994*
- *Public Service Act 2008*

Related resources

- Code of Conduct for the Queensland Public Service
- Crime and Corruption Commission - Managing Conflicts of Interest in the Public Sector toolkit
- Directive No.1/15 - Declaration of Interest - Chief Executives
- Directive No.3/10 - Declaration of Interests - Public Service Employees (other than departmental Chief Executives)
- Declaration of Interests policy - Senior Executive Service and Equivalent Employees including Statutory Office Holders
- Declaration of Related Party Transactions
- Managing Conflicts of Interest Procedure
- Conflicts of interest register
- OHO Financial Management Practice Manual





Forms

- Declaration of Interests
- Resolving or Managing a Conflict of Interest
- Notification of Other Employment Form

Principles

Mechanisms for the declaration of conflicts of interest are currently provided for under existing public sector legislation, policies, codes, regulations and directives. Their aim is to protect public sector employees, the agency, clients and the community from the potential consequences of conflict of interest.

Principle 1.2 of the Code of Conduct for the Queensland Public Service states as public service employees we are committed to demonstrating our impartiality and integrity in fulfilling our responsibilities and as such we will:

- always disclose a personal interest that could, now or in the future, be seen as influencing the performance of our duties (this will be done in accordance with agency policies and procedures)
- actively participate with the agency in developing and implementing resolution strategies for any conflict of interest
- ensure that any conflict of interest is resolved in the public interest.

Principle 4.2 of the Code of Conduct for the Queensland Public Service requires employees to manage gifts, benefits or hospitality in accordance with agency policies. Directive 22/09 - Gifts and Benefits provides further information about the ethical considerations and procedures involved in the giving and receiving of gifts and benefits by employees and agencies of the Queensland Public Service.

- Refer to the OHO Financial Management Practice Manual (Gifts and Benefits) for further information about ethical considerations and procedures involved in the giving and receiving of gifts and benefits by employees.

Key risk areas for conflicts of interest

There are many situations and circumstances where a conflict of interest may arise for OHO employees. The Managing Conflicts of Interest procedure sets out how conflicts should be managed, however some of the most common situations are outlined below with the OHO policy for how the particular conflicts should be managed:

Policy 1 - Accepting gifts and benefits

The acceptance of any benefits other than incidental gifts, customary hospitality, or benefits of a nominal value may be deemed a conflict of interest.

You should ask yourself whether an informed and reasonable person would consider that the benefit creates a conflict of interest or is otherwise improper. If the answer is 'yes' or 'possibly', the offer of the benefit should be refused and reported to your manager, even if the benefit is not accepted.

The following questions will also be helpful in determining the acceptability of the gift:

- What is the purpose of the gift? Is it simply to thank you for a job well done or is it possible or likely the giver will expect something in return or could create a feeling of obligation in the recipient?
- Will there be further or repeated contact with the giver and if so, will accepting the gift affect future dealings?



- What type of gift is it? Is it a token gift of negligible worth or is it valuable?
- Will there be adverse effects for OHO and/or the Queensland Government if you do not accept the gift or benefit? This is a very important consideration when dealing with individuals whose culture and/or customs may differ from ours.

Policy 2 - Contracts

If you are in a position to seek tenders for contracts and one of the tenderers is a company, organisation or person in which you or your family has a private interest (or in the case of the person, is a close friend or relative of you or your family), there is a significant potential to present a conflict of interest, particularly where you are the sole decision maker or have a major influence on the outcome of the tender.

In such situations, the matter is to be reported to your manager and you should withdraw from any involvement in the tendering process.

Policy 3 – Disposal of assets

The disposal of OHO assets is an area of potential risk as equipment management may involve issues of fraud, private and/or unofficial use of equipment, conflicts of interest and misuse of resources.

It is important to be aware that employees have no prior right to the acquisition of surplus equipment, materials or furniture over members of the public. The disposal process for any asset is not to give an unfair advantage to employees or any Queensland Government department or agency.

The acquisition, supply, maintenance and disposal of equipment and stores must be conducted in accordance with relevant agency procedures. Refer to the OHO Financial Management Practice Manual (Disposal).

Policy 4 – Other employment

It is important to recognise that concurrent employment in both the public and private sector may give rise to a real or a perceived conflict of interest. This is particularly the case when your private work is in an area related to your official duties. Depending on the circumstances, the public's confidence in the integrity of the OHO's administration and your ability to perform your public duties efficiently may be adversely affected. Prior to commencing other employment, you must notify the relevant delegate and discuss if the employment represents a conflict, and if it does, whether and how the conflict may be managed.

While undertaking other employment is not prohibited, an employee must meet certain obligations under the Code of Conduct for the Queensland Public Service and the Public Service Act 2008 - Employees are required to perform their public service role efficiently and effectively in a fair and impartial manner placing the duties and responsibilities of their public office first at all times.

All conflicts of interests are to be managed and resolved in favour of the public interest.

Policy 5 – Staff recruitment and selection

Participating in a decision to employ a person with whom you have a past or present professional and/or personal relationship is deemed to be a conflict of interest.

If you are asked to participate in a selection exercise and one of the applicants is:

- related to you, a close personal friend, or someone whose success, performance or otherwise you have an interest in - the relationship must be declared to the chair of the panel (or if you are the panel chair, to your manager) and you should absent yourself from the selection panel. This also applies to the recruitment of temporary and casual staff



- A person with whom you have a professional relationship e.g. work colleague, direct report – this does not preclude you from participating in the process but you should declare to the panel the relationship, to the extent that it exists, and ensure it is documented in the selection report.

As an additional precautionary measure, the chair of the panel should canvas the panel members during initial panel discussions regarding any relationships or friendships they may have with the applicants. Panel members must declare any past or present professional and/or personal relationship with an applicant to ensure the integrity of the recruitment process.

Policy 6 – Interests and affiliations

When dealing with health service or other complaints at the OHO staff have the ability to influence a decision or an outcome of how a complaint is managed.

If you are assigned a complaint or become aware during a complaint process that you have an affiliation with a party, or an interest in the matter you should immediately report this to your supervisor and arrange for the complaint to be assigned to another staff member. You should also note this conflict in the Resolve complaints management system ('officer conflict' on the complaint record) and complete Resolving or Managing a Conflict of Interest form.

Additionally, you should not access the complaint or seek to find information on the status or outcome, or seek further information about the party with whom you have an affiliation or interest.

Roles and responsibilities

Public sector officials

Public sector officials can fulfil their public duty to put the public interest first by carrying out their duties fully and effectively within established ethical frameworks and identifying and managing any actual, perceived or potential conflicts of interests.

Pursuant to the *Public Sector Ethics Act 1994*, this involves:

- restricting the extent to which a private interest could compromise, or be seen to compromise, their impartiality when carrying out their official duties
- abstaining from involvement in official decisions and actions which could be compromised by their private interests and affiliations
- avoiding private action in which their access to inside information as a result of their official duties could be seen as an improper advantage
- refraining from using their official position or government resources for private gain
- ensuring there can be no perception that they have received an improper benefit that could influence the performance of their official duties
- refraining from taking improper advantage of their official position or privileged information gained in that position when seeking employment outside the public sector
- acknowledging the primacy of the public interest and undertake that any conflict of interest will be resolved or appropriately managed in favour of the public interest.

The OHO

The OHO has a responsibility to:

- provide a clear and realistic description of what circumstances and relationships are likely to lead to conflicts of interest for those in the organisation



- ensure staff and managers know what is required of them in relation to identifying and declaring conflicts of interest (when, in what situations, how etc.)
- develop appropriate procedures for managing conflicts of interest
- provide staff and managers with relevant and effective strategies to manage conflicts of interest appropriately and transparently.

Chief Executive

Directive 3/10 - Declaration of Interests - Chief Executives requires that chief executives are responsible for fully disclosing their interests that may have a bearing, or be perceived to have a bearing, on their ability to properly and impartially discharge the duties of their office.

Chief executives are also responsible for disclosing the interests of their partner and/or dependents. Those interests that may have a bearing, or be perceived to have a bearing, on their ability to properly and impartially discharge the duties of their office, need to be disclosed.

Responsibility for the recognition of a real or perceived conflict of interest rests solely with the chief executive concerned.

Senior Executives

Declaration of Interests policy - Senior Executive Service and Equivalent Employees including Statutory Office Holders and the Financial Accountability Act 2009 requires senior executives to provide a declaration of interest form to the Chief Executive (Health Ombudsman), within one month of taking up duty. This also applies to a staff member who is temporarily performing the duties of a Senior Executive for a continuous period exceeding twelve (12 months).

If the Senior Executive is appointed to another role in the OHO they are required to review their existing Declaration of Interests and either certify no change has occurred or resubmit a revised declaration within one (1) month of taking up duty in the new role.

Senior executives are all responsible for submitting a revised Declaration of Interests within one (1) month after they become aware of any interest changes to the extent the potential conflict of interest is altered.

Managers and team leaders

The role of managers and team leaders includes, implementing and giving effect to the OHO's policies on a day-to-day basis, and demonstrating how the policy should work by setting an example when their own conflicts arise.

Managers and team leaders are responsible for complying with this procedure in relation to their own conflicts of interest and are also responsible for carefully considering whether any positions under their supervision are vulnerable to potential conflicts of interest and discussing the matter with their staff.

Any discussions regarding declaration of interests by employees must be treated in the strictest confidence. Upon receiving a disclosure of a conflict of interest a manager or team leader should consider whether a conflict of interests exists by gathering all necessary information, seeking advice as required and providing it to a delegate (Director) to determine the appropriate action.

All employees

Regardless of their level, all employees have a responsibility to follow policy and procedural requirements for managing conflicts of interest.

Directive 3/10 - Declaration of Interests - Public Service Employees requires all employees who are not chief



executives to:

- be aware of potential conflicts of interest that might affect them
- if possible, avoid any obvious conflicts of interest that they encounter
- promptly identify and disclose any conflict of interest that might affect, or might be perceived to affect, the proper performance of their work.

Version control

Version no.	Changes made
[Insert version number, e.g. 1.2]	

Approval

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¹ NB. The following footnote may be deleted if not required. Its intent is to provide guidance when deciding the security classification of information.

Official – routine information without special sensitivity or handling requirements and a low business impact per document if compromised or lost. For example, information that may be shared across government agencies.
Sensitive – information that requires additional handling care due to its sensitivity or moderate business impact if compromised or lost. For example, information containing legal professional privilege.
Protected – information that requires the most careful safeguards due to its sensitivity or major business impact if compromised or lost. For example, cabinet documents.