

Conflict of Interest Policy

PURPOSE

This policy provides a framework for employees to identify, disclose, manage and monitor conflicts of interest within the existing provisions of the *State Service Act 2000*.

SCOPE

This policy applies to the Chief Executive Officer (CEO), employees, authorised persons, assessors, investigators and any member of, or any person, appointed to assist an Integrity Tribunal and a contractor.

It excludes the Board, which has already committed to a specific disclosure process.

Other legislation and Instructions will also mandate specific requirements including:

- The *State Service Act 2000 Code of Conduct* that State servants must disclose, and take reasonable steps to avoid, any conflict of interest in connection with their State Service employment.
- Treasurer’s Instructions PF-3 (goods and services) sets out specific compliance requirements for purchasing products.
- Employment Direction No 8 – Gifts and Benefits.

The policy applies to perceived, potential and actual conflicts of interest, whether pecuniary or non-pecuniary, including interests related to outside employment.

Outside employment is any additional work undertaken beyond a person’s role at the Commission whether or not for remuneration or other benefit. It includes, but is not limited to:

- working for another employer;
- running a business whether as principal, agent, partner or employee;
- consultancy services;
- being involved in a family business or trust;
- private practice of any profession, occupation or trade;
- accepting or holding office, other than with the Commission, with any state government, the Commonwealth or any local government;

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- any position with a corporation, company or firm; and
- voluntary work.

Key concepts

1. A conflict of interest arises when a person’s private interests influence, or can be seen to influence, their public duties. A conflict of interest may affect their judgement as to what is in the public interest, or may lead to a bias in their decision making. The public interest must come first on every occasion.
2. A private interest includes the personal, professional or business interests of a person or of the individuals or groups with whom that person may have a close association, such as relatives, friends or even enemies. Private interests may be pecuniary or non-pecuniary:
 - Pecuniary: a pecuniary interest refers to an actual or potential financial gain or loss for the person, their family, friends or close associates.
 - Non-pecuniary: a non-pecuniary interest refers to an interest that is not financial or monetary but arises from such things as personal relationships, beliefs, or involvement in social, cultural, political, religious or sporting activities.
3. A conflict of interest may be potential, perceived or actual:
 - Potential occurs where the private interests of staff could influence their public duties in the future. The interest may exist, but have no impact upon the performance of their duties at a given point in time. Potential conflicts can be avoided or managed to prevent the interest causing an actual conflict.
 - Perceived occurs when a reasonable person would consider that a member of staff’s private interests could improperly influence, or may have improperly influenced, their public duties.
 - Actual occurs where there is a current conflict between the private interests of the person and the performance of their duties. In this instance, the conflict of interest must be carefully managed (including through avoidance of the conflict), to minimise the risk of the conflict developing into misconduct.

POLICY STATEMENT

The Commission is committed to conducting business and delivering services in a fair, transparent, accountable and impartial manner, in accordance with the *State Service Code of Conduct* and the *Commission’s Statement of Values and Conduct*.

The Commission recognises that conflicts of interest, including the perception that they have arisen, have the potential to do significant damage to the reputation of the Commission and to public confidence in its work.

The Commission is cognizant that it is not always possible to avoid a conflict of interest and that a conflict of interest is not necessarily unethical or wrong and may not have been invited. The important thing for the Commission is that conflicts are recognised, and then managed or avoided if possible.

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The Commission will manage conflicts of interest fairly, transparently, accountably and free from bias. Therefore it requires:

1. Staff are to disclose to the CEO:
 - every pecuniary and non-pecuniary interest (if any) by 30 January of each year or at commencement of employment and update that disclosure whenever an existing interest changes or a new interests arise; and
 - any conflict of interest where any conflict of interest (actual or perceived) may arise.
2. Staff are to disclose to the relevant Director, all pecuniary and non-pecuniary interests relating to the Commission’s operational matters or other activities (for example on a selection panel) on a case-by-case basis.
3. Disclosures by the CEO are to be made to the Chief Commissioner.
4. Where a conflict of interest has been identified, or where the CEO identifies that a conflict may exist, the CEO may:
 - following consultation with the person and the relevant Director, determine appropriate and reasonable strategies to avoid or manage the conflict; or
 - where avoidance of the conflict is not reasonable or possible, require the person to comply with reasonable conditions to manage the conflict of interest; and
 - following consultation with the person and their relevant Director, set a termination date or a review period for any condition.
5. As far as practicable, a person must comply with any agreed condition required by the CEO to manage a conflict of interest, noting that failure to comply has disciplinary ramifications under the State Service Act and specific employment contracts.

RESPONSIBILITIES

Directors

- Declare all pecuniary and non-pecuniary interests annually on the approved form as well as declaring conflicts of interest as they arise.
- Identify any conflicts of interest for review by the CEO.
- Where a conflict of interest cannot be avoided, manage the conflict in accordance with any conditions required by the CEO.
- Record conflicts of interest declared by their staff on a case-by-case basis.
- As part of the formal performance management process, review with their staff any identified conflicts of interest.
- Refer Policy Framework for general responsibilities.

The CEO has specific responsibilities:

- Develop mechanisms to avoid or manage future conflicts of interest.

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- Work with a person and their Director to resolve or mitigate a conflict.

Employees

- Declare all pecuniary and non-pecuniary interests annually on the approved form as well as declaring conflicts of interest as they arise.
- Identify any conflicts of interest for review by the CEO.
- Where a conflict of interest cannot be avoided, manage the conflict in accordance with any conditions required by the CEO.
- As part of the formal performance management process, work with the supervisor to review any identified conflicts of interest and to identify any new conflicts of interest.
- Refer Policy Framework for general responsibilities.

Document Management - Corporate Services

RELATED DOCUMENTS

Commission

- Policy Framework
- Statement of Values and Conduct
- Conflict of Interest and Statement of Private Interests and Associations Form
- Website

Other

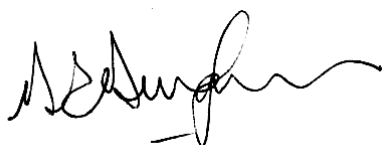
- *State Service Act 2000*
- Tasmanian State Service Award
- Employment Directions
- Tasmanian State Service Policy – *Managing Conflicts of Interest in Recruitment.*
- Cabinet Handbook on appointment of persons to a Government Board, Authority or Committee.

DOCUMENT CONTROL

Version	Release Date	Doc ref:	Reason
1.0	1/11/2016	2016/001524-1	Replaced Conflict of Interest and Statement of Private Interests Policy
1.01	11/9/2019		Minor

APPROVED

Richard Bingham, Chief Executive Officer



11 September 2019

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