

DEPARTMENT OF JUSTICE

Conflict of Interest Policy

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# Purpose

The purpose of this policy is to set out a framework for Department of Justice (DoJ) employees and other relevant persons to identify, disclose, manage and monitor conflicts of interest in a transparent way.

# Policy Statement

DoJ staff have a duty to always put the public interest above their personal interests when carrying out their official duties. A conflict of interest may affect a person’s judgement as to what is in the public interest, or may lead to a bias in their decision making. Likewise, the perception of a conflict of interest affects the public’s view that can also lead to a perception of bias.

It is not always possible to avoid a conflict of interest and a conflict of interest is not necessarily unethical or wrong. However, it is imperative that a conflict of interest is declared and managed in a way that is transparent and open to scrutiny.

It is important that any actual, perceived or potential conflict of interest is identified, disclosed and effectively managed (including avoided if possible). Management of conflicts of interest must be fair, transparent, accountable and free from bias.

Failure to adhere with this Policy may amount to a breach of the [State Service Code of Conduct.](http://www.thelaw.tas.gov.au/tocview/index.w3p;cond=;doc_id=85%2B%2B2000%2BGS9%40EN%2B20160719000000;histon=;pdfauthverid=;prompt=;rec=;rtfauthverid=;term=;webauthverid=)

# Scope

This policy applies to all DoJ employees, officers, and contractors.

# Legislation and Documents

The following legislation and documentation is relevant to this policy:

* *State* *Service Act 2000* – the State Service Code of Conduct s 9(8), which specifies that:

*An employee must disclose, and take reasonable steps to avoid, any conflict of interest in connection with the employee’s State Service employment.*

* Department of Justice Conflict of Interest Procedures
* Treasurer’s Instructions – Specifically [Treasurer's Instructions 1101 (goods and services) and 1201 (building and construction/roads and bridges)](http://www.treasury.tas.gov.au/domino/dtf/dtf.nsf/0/261EDE2724C415CBCA25720A00163916?OpenDocument)
* Employment Direction No. 8 – Gifts and Benefits.

There is extensive material on the [Integrity Commission website](http://www.integrity.tas.gov.au/prevention_and_education/misconduct_risk_areas/conflict_of_interest) about conflict of interest, including checklists, fact sheets, flowcharts, quizzes, templates, and scenarios.

# Definitions

**Conflict of interest** means a situation arising from a conflict between the performance of a public duty and a private or personal interest. A conflict of interest may be actual, perceived or potential.

* + 1. **Actual**: means there is a conflict between a person’s official duties and responsibilities in serving the public interest, and their personal interest.
		2. **Perceived**: means when a reasonable person, knowing the facts, would consider that a conflict of interest may exist, whether or not this is the case.
		3. **Potential**: means where a person has a personal interest that could conflict with their official duties in the future.

**Personal interest** includes the private, professional or business interests of a person, or of the individuals or groups with whom they have a close association, whether it be a positive or negative one. Personal interests may be pecuniary or non-pecuniary.

* + 1. **Pecuniary**: a pecuniary interest refers to an actual or potential financial gain or loss for the person, their family, friends or close associates arising from (but not limited to) ownership of shares, trusts, partnerships, real estate, directorships, other assets, other substantial sources of income, liabilities and memberships.
		2. **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, religious or sporting activities. Dislike for someone as well as friendship can give rise to a conflict of interest.

# Responsibilities

**DoJ Agency Executive** will:

* + support, endorse, and review the conflict of interest policy, procedures and related guidance;
	+ ensure there are systems to educate, train, and induct persons to whom the policy, procedures or guidance applies about their meaning and how to apply them, in a practical sense;
	+ monitor, analyse and report upon relevant personal interests and conflicts of interest that have been disclosed, avoided or managed
	+ ensure that declarations of conflict of interest (except for those relating to procurement and recruitment processes) are stored centrally and securely by Human Resources in an electronic records management system. Procurement and recruitment related conflicts of interest will be stored on the appropriate procurement or recruitment electronic records management system file.

**Employees and others to whom the conflict of interest policy applies will:**

* disclose any actual, perceived or potential conflict of interest;
* seek independent advice about how a conflict will be managed; and
* report any actual, perceived or potential conflict of interest that they observe
* ensure that they understand and apply the conflict of interest policy, procedures or any guidance that applies to them;
* meet their obligation to disclose and report relevant personal interests and conflicts of interest including completing the appropriate forms;
* negotiate and agree with their line manager or person nominated by the line manager, the steps or processes to avoid or manage conflicts of interest where such conflicts are identified; and
* report upon how conflicts of interest that they have disclosed have been avoided or managed.

# Declaring and managing conflicts of interest

All conflicts of interest (including perceived and actual) should be declared. Each situation is different, and sound judgment needs to be exercised to determine what approach to take. It is better to have a management strategy – even if it is imperfect – than to avoid dealing with the conflict at all.

Strategies for managing conflicts of interest may include:

1. **Restricting** your involvement in the matter
2. **Recruiting** a disinterested third party (i.e. someone who does not have any pecuniary or non-pecuniary interest in the matter) to oversee the process
3. **Removing** yourself from involvement in the matter
4. **Relinquishing** the personal interest.

# Procedures

Refer to the Conflict of Interest Procedures for instructions on steps to take if you consider that you may have an actual, potential or perceived conflict of interest.

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