



CONFLICT OF INTEREST POLICY

Department of Human Services (DHS)

Summary

This policy is to ensure integrity is maintained by all Department of Human Services (DHS) employees in managing situations where staff may be perceived to have a conflict of interest between their roles and responsibilities and their personal interests.

Table 1: Document Details

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Issued by	Finance and Business Services
Delegated Authority	Chief Executive
Policy Custodian	Nick Ashley, Chief Financial Officer
Content author	Daniel Green, Director Finance
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Table 2 – Revision Record

Date	Version	Revision description
01/07/2012	1.0	
07/10/2014	1.1	Minor edits, discussion of year end process
04/07/2017	1.2	Alignment with ICAC/OPI and AASB Related Party disclosure requirements. Policy reviewed and developed within the context of the NDIS transition
13/02/2020	1.3	Template update and replacing QARBI with FCAS
22/07/2021	2.0	Change to centralise declarations and to ensure employees declare any actual or perceived conflicts of interest at the earliest opportunity a change of circumstances occurs.

Table of Contents

DHS Conflict of Interest Policy

1.	Policy Title	3
2.	Purpose.....	3
3.	Context.....	3
4.	Scope	3
5.	Policy Detail.....	4
	5.1 Conflict of Interest.....	4
	5.1.1 Employees declaring a conflict	4
	5.1.2 Board or committee members declaring a conflict	4
	5.1.3 Financial year end processes	5
	5.2 Related Party disclosure	5
	5.3 Reporting	5
	5.4 Independent Commission Against Corruption (ICAC).....	6
6.	Risk.....	6
7.	Definitions.....	6
8.	Reference Documents	7
	8.1 Directive documents	7
	8.2 Supporting documents	7
	8.3 Aboriginal Impact Statement Declaration.....	8
9.	Policy Approval	8

1. Policy Title

DHS Conflict of Interest Policy

2. Purpose

This policy supports the Department of Human Services (DHS) in complying with the *Public Sector (Honesty and Accountability) Act 1995* and the Code of Ethics for the South Australian Public Sector.

This policy is to ensure integrity is maintained by all employees of DHS in managing situations where staff may have or be perceived to have a conflict of interest between their roles and responsibilities and their personal interests.

3. Context

The *Public Sector (Honesty and Accountability) Act 1995* ('the Act') requires that as a public sector employee (including members of government appointed part time boards and committees), all employees must disclose to the Chief Executive or their delegate a pecuniary or other personal interest that conflicts, may conflict or may be perceived to conflict with their duties. For the purposes of this policy, a delegate is defined as an employee's Director or Executive Director.

Under the Act, an employee must comply with any written directions given by the Chief Executive or their delegate to resolve the conflict between their duties and a pecuniary or other personal interest.

On behalf of the South Australian Government, DHS manages a large budget in order to provide services to the community. The department takes this obligation seriously and has a zero tolerance policy regarding any fraudulent or corrupt activities which may divert resources from those for whom they are intended.

This policy also communicates Section 17 of the Act which sets out the duty of senior officials with respect to conflicts of interest and Section 27, the duty of employees with respect to conflicts of interest.

This policy also supports the operations of the *Independent Commission Against Corruption (ICAC) Act 2012* which includes responsibility as a public officer to immediately report to the Office for Public Integrity (OPI) any matters that are reasonably suspected to involve corruption, misconduct and maladministration as required under the *ICAC Act 2012*.

4. Scope

This policy applies to all DHS staff, including members of government appointed part time boards and committees.

5. Policy Detail

5.1 Conflict of Interest

A conflict of interest occurs when a staff member or an associate has, seeks or may be perceived as having or seeking to obtain pecuniary or other personal interest which conflicts or may conflict with the proper discharge of their duties.

A conflict of interest may be in many forms and must be managed and declared at the earliest possible opportunity. Examples of conflict of interest include becoming involved in decision making where an employee or a family member has, or may be perceived as having, a financial or personal interest in the outcome (e.g. making a decision about awarding a contract to a family member).

Conflicts of interest can also arise when a staff member has outside employment with another employer, for example, having employment with a company that provides or is seeking to provide goods and or services to DHS.

All employees must be aware of the potential for an external party or the public to perceive that a conflict of interest exists.

5.1.1 Employees declaring a conflict

All employees must disclose a conflict of interest or perceived conflict of interest and document it in writing. The employee must take whatever action management decide is necessary to avoid a real or perceived conflict of interest.

Employees who have a conflict of interest or perceived conflict of interest need to complete the [Conflict of Interest Form](#). A new [Conflict of Interest Form](#) must be submitted for any changes in circumstances which affect the employee's declared conflict of interest.

The Chief Executive must disclose their pecuniary or other potential conflicts of interest in writing to their relevant Minister.

Line managers are required to consider the roles staff perform under their responsibility. Where a line manager becomes aware of a conflict of interest or potential conflict of interest in relation to one of their staff, the line manager should direct the employee to complete the [Conflict of Interest Form](#).

The extent to which employees have privileged access to a range of information and their ability to influence decisions places special responsibility upon them to ensure private interests (for example, holding a position on a board or committee) are at the very least kept separate from state government responsibilities and at best, where a conflict is likely to be perceived, not entered into at all.

5.1.2 Board or committee members declaring a conflict

Members of government appointed part time boards and committees must disclose any new relevant, actual, potential or perceived conflicts of interest at the commencement of a meeting. At least annually members will provide written declarations via the [Conflict of Interest Form](#), declaring any potential or actual conflicts of interest they may have in relation to their responsibilities.

Members should consider past employment, consultancy arrangements and related party issues in making these declarations. The Chair and the Chief Executive must be satisfied that there are sufficient processes in place to manage any real or perceived conflict.

5.1.3 Financial year end processes

All Senior Officers and members of government appointed part-time boards and committees are required to complete the [Conflict of Interest Form](#) annually. The form will also be distributed to all employees who made a declaration during the year.

Line managers are required to forward the declaration to any staff under their direction who, due to the nature of their role, may need to complete the form.

Notwithstanding these year end processes, all employees must declare actual or potential conflicts of interest anytime a change in circumstances occurs, through completion of the [Conflict of Interest Form](#).

5.2 Related Party disclosure

From 1 July 2016, the Australian Accounting Standards Board has extended the scope of AASB 124 *Related Party Disclosures* to apply to not-for-profit entities. The standard requires disclosures for related party relationships, related party transactions and resulting balances. The standard also requires disclosure of compensation paid to key management personnel (KMP).

In DHS, KMP are the Chief Executive and members of the Executive Leadership Team. It also includes all employees acting in these positions for 30 days or more.

A related party transaction is one where a KMP or their close family member or entities controlled or jointly controlled by a KMP or close family member, transacts with the SA Government. These transactions do not include transactions where the KMP or close family member transacts as part of their normal dealings as a member of the general public with the SA Government.

Financial Compliance and Accounting Services (FCAS) will administer the declarations to members of the Executive Leadership Team. A KMP will need to complete the relevant [KMP declaration form](#):

- At commencement or while acting for 30 days or more as a KMP
- Upon an ELT member ceasing as a KMP
- At the end of each financial year as part of year end processes.

5.3 Reporting

All declarations by DHS staff regarding their actual or potential conflict of interests and related party transactions are collected by [FCAS](#). These are assessed and reported to the Chief Executive and to the appropriate Executive or Internal Audit, if necessary.

Annual KMP submissions are also provided to the Auditor-General's Department for financial statement purposes.

5.4 Independent Commission Against Corruption (ICAC)

All employees are to immediately report to Office for Public Integrity (OPI) if there is a reasonable suspicion that corruption, or serious or systemic misconduct or maladministration may have occurred, as required under the *ICAC 2012*.

If a complaint is made, or will potentially be made to the OPI, staff must not publish or cause to be published that a report has been made against a person or if that is intended for a report to be made.

6. Risk

Failure to have an updated directive document pertaining to conflicts of interest will result in the loss of a key internal control. If conflicts of interest are not dealt with appropriately, the community may lose confidence in DHS and its employees and the department may be exposed to reputational damage and negative media coverage.

7. Definitions

Associate: includes a spouse, partner, parent, child, a more distant relative or business associate.

Board and Committee Members: members of boards or committees established by or under an Act of Parliament of South Australia, by a Minister or by the Chief Executive of the department with the responsibility of providing advice and guidance to DHS.

Conflict of Interest: describes the situation in which a public official who, contrary to the obligation and absolute duty to act for the benefits of the public or designated individual, exploits the relationship for personal benefit, typically pecuniary.

Delegate: For the purposes of this policy, delegate is defined as Directors or Executive Directors in DHS.

Independent Commission Against Corruption (ICAC): The functions of the Commission are provided in section 7 of the ICAC Act. The functions of the Commission are designed to further the identification and investigation of corruption in public administration, including through referral of potential issues, education and evaluation of practices, policies and procedures.

Line manager: a DHS officer with direct managerial responsibility for other employees eg a supervisor.

Key Management Personnel (KMP): For the purposes of this policy, within this department, KMPs are the Chief Executive and members of the Executive Leadership Team (ELT). It also includes all employees acting in these positions for 30 days or more.

Office for Public Integrity (OPI): The OPI is established by Part 2 of the ICAC Act and manages complaints about public administration to identify corruption, misconduct and maladministration in public administration and ensuring that these complaints are dealt with by the most appropriate person or body.

Pecuniary interest: Is an interest that a person has in a matter because of a reasonable likelihood of expectation of appreciable financial gain or loss to the person or another person with whom the person is associated. The application of this term is specified in more detail in the *Public Sector (Honesty and Accountability) Regulations 2010*.

Public officer: Under Schedule 1 of the ICAC Act, public officers include public sector employees, local government employees, local government elected members, members of parliament, judges, and persons performing contract work for a public authority or the Crown. This includes non-government organisations and their workers.

Public sector employee: As defined in the *Public Sector Act 2009*, a public sector employee means a chief executive of an administrative unit or an employee in an administrative unit or other employee of a public sector agency.

Relevant authority: For the purposes of this policy, relevant authority and delegate are defined as direct line managers, Directors and Executive Directors.

Senior officer: For the purposes of this policy, senior officers include particular groups such as executives, and staff with procurement, contract or financial responsibilities and/or with financial delegations, as they are deemed to have a greater potential for pecuniary interests.

8. Reference Documents

8.1 Directive documents

- [Public Sector Act 2009](#)
- [Public Sector \(Honesty and Accountability\) Act 1995](#)
- [Public Sector \(Honesty and Accountability\) Regulations 2010](#)
- [Independent Commission Against Corruption \(ICAC\) Act 2012](#)
- [Code of Ethics for the South Australian Public Sector](#)
- [Commissioner for Public Sector Guidelines Gifts and Benefits](#)
- [South Australian Public Sector Fraud and Corruption Control Policy](#)

8.2 Supporting documents

- [Independent Commission Against Corruption \(ICAC\) Directions and Guidelines 2013](#)
- [DHS Outside Employment, Advisory Boards and Committees Policy](#)
- [DHS Conflict of Interest Form](#)
- [DHS KMP Declaration forms](#)
- [DHS Fraud and Corruption Control Framework](#)

8.3 Aboriginal Impact Statement Declaration

The needs and interests of Aboriginal people have been considered in the development of the policy there is no specific direct or indirect impact on Aboriginal people

9. Policy Approval

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<p>Comments:</p>	<p style="text-align: center;">APPROVED / NOTED ----- Chief Executive / /</p>	