



Conflicts of Interest Policy and Procedure

1. Introduction

Staff of the Office of the Information Commissioner (**OIC**) are employed under the *Public Service Act 2008 (PSA)* or appointed by Governor in Council.

The PSA requires chief executives¹ and public service employees² to disclose any interest that conflicts or may conflict with the performance of their employment duties. This document outlines the procedure to meet such obligations at OIC.

The Code of Conduct for the Queensland Public Service applies to all employees, including chief executives and senior executive officers. The Code contains the ethics principles and their associated set of values as set in the *Public Sector Ethics Act 1994 (Qld)*. The principles include Integrity and Impartiality, and Accountability and Transparency. The Code states that having a conflict of interest is not unusual and it is not wrongdoing in itself. However, failing to disclose and manage the conflict appropriately is likely to be wrongdoing.

1.1 Purpose

The purpose of this policy is to outline the actions OIC employees and statutory office holders must take, and processes to follow, when actual, perceived or potential conflicts of interest arise in connection with their employment at OIC.

1.2 Application/Scope

This policy applies to all OIC employees, whether permanent, temporary, on secondment, internship and statutory office holders, including the Information Commissioner, Privacy Commissioner and Right to Information Commissioner.

1.3 Effective date

Approved by the Information Commissioner on 8 September 2022.

2. Policy statement

OIC employees who have an actual, perceived or potential conflict of interest must disclose it, so it can be properly recorded, managed and monitored in favour of the public interest.

Conflicts of interest may be actual, perceived or potential, but regardless of their type they must be disclosed, managed and monitored. They can arise for a variety of circumstances due to:

- previous, existing or new relationships and associations with other people
- secondary employment
- accepting or being offered a gift or benefit, or
- our personal views and beliefs.

3. Principles

Key principles:

- We will ensure employees are aware of their obligations in relation to conflicts of interest.
- Employees are responsible for recognising and disclosing conflicts of interest to their manager where such interests could, now or in future, be seen as influencing the performance of official duties.

¹ Section 102 of the PSA.

² Section 186 of the PSA.



- We will manage and resolve conflicts of interest in a respectful, collaborative and open manner, whilst ensuring confidentiality of both an employee's personal affairs and, if applicable, review matters, complaints or audits.
- Conflicts of interest are to be resolved in favour of the public interest, rather than employee's personal interests.
- At regular intervals we will ask every employee to consider whether their personal interests may constitute conflicts of interest and request they either amend their disclosure or confirm there have been no changes.

We recognise that:

- effective management of conflicts may contribute to a safe and rewarding workplace
- one of OIC's purposes is to build trust through transparency by independently and impartially upholding promotion of information access and privacy rights.

4. Procedure

4.1 When to disclose

Employees must disclose actual, perceived or potential conflicts of interest as soon as they become aware of it, and within 5 working days. This requires awareness of their **personal interests** to be able to assess whether a conflict of interest with their employment arises.

Personal interests include pecuniary and non-pecuniary interests of the employee and the individuals they associate with such as family, dependants and friends. The Appendix lists possible personal interests. Employees must recognise and understand that accepting a **gift, benefit or hospitality** in connection with their employment may constitute a real, perceived or potential conflict of interest.

Secondary employment may be a conflict of interest if it impacts on an employee's work performance, or health and wellbeing. Alternatively, secondary employment could provide the opportunity for personal loss or gain, such as using confidential information obtained from the public sector workplace or conducting personal business during work time.

4.1.1 OIC functions

Conflicts of interest may also arise in the context of the exercising functions and public interactions of the OIC. For example where an employee has an interest in:

- information obtained through their employment. For example, confidential cabinet information, legally privileged or otherwise sensitive information; non routine work personal information of other individuals.
- decisions made during their employment. For example, the process or outcome of an external review, privacy complaint, audit or service complaint made to OIC, use of resources or procurement.

4.1.2 External reviews, privacy complaints and audit functions

To avoid ambiguity, a conflict of interest may exist, and must be disclosed, where an employee identifies that they (and/or their partner and/or any dependants) have a connection/association/relationship with an individual or organisation involved in the exercise of OIC's statutory functions, and where that connection/association/relationship could reasonably be expected to be perceived as a conflict of interest, or the employee identifies it as a real or potential conflict of interest.

4.1.3 Procurement and recruitment

Employees must disclose any real, perceived or potential conflicts of interest in procurement and recruitment activities being undertaken by the OIC.



4.2 Disclosing a conflict of interest

An employee who becomes aware of a conflict of interest, must raise it with their immediate supervisor either orally, or in writing, as soon as practicable after becoming aware of it, and no later than 5 working days after identifying their concern.

If required, the supervisor will ask the employee to complete a *Conflict of Interest Disclosure Advice Form* available on the OIC Intranet. The form may be amended where an employee's circumstances change. If an employee has many conflicts of interest to disclose.

If a supervisor or Unit Director/Commissioner holds a reasonable belief that an employee has a conflict of interest, they may direct the employee to complete a conflict of interest form and cease working on a matter related to the conflict, unless otherwise authorised.

If the IC has a conflict of interest that conflicts or may conflict with the discharge of their responsibilities, the IC must disclose the nature of the conflicts of interest to the Speaker of Parliament and the parliamentary committee.³

4.3 Managing conflicts of interest

The employee's immediate supervisor will assess the risk and develop a plan to manage the conflicts of interest, in consultation with the Unit Director/Commissioner. The employee will sign the conflict of interest disclosure form and proposed risk management plan. The supervisor will make a recommendation about approval to the Unit Director/Commissioner for the proposed risk management plan.

4.3.1 Procedure

I. Identify

Employees must complete the conflicts of interest form as soon as they become aware of it, and within 5 working days.

The employee's supervisor should assess the situation identified in the conflicts of interest form (or conflicts of interest spreadsheet), consider whether a conflict of interest exists in the situation, and identify if the conflict is actual, perceived or potential.

II. Manage

Supervisors should:

- make and keep appropriate written records, attaching any employee correspondence.
- Review the employee's COI form to determine if further management is required (other than disclosure).
- If required, develop a strategy to manage the conflict in consultation with the employee, recommend approval to their Unit Director/Commissioner, implement the strategy and record the details in a confidential G drive folder.

Conflicts of interest resolution and management strategies include, but are not limited to:

- **Register** - details of the existence of possible or potential conflicts of interest are formally registered. Strategy for dealing with low-risk and potential conflicts of interests.
- **Restrict** – restrictions placed on public employee's involvement in the matter. Strategy for when public employee can effectively be separated from the activity and conflict of interest is not likely to arise frequently.
- **Recruit** – objective third party asked to oversee part or all of the process. Suitable where potential/perceived conflicts of interest are more significant and/or sensitive.

³ Section 140B of the *Right to Information Act* (Qld).



An employee can also elect to:

- **Remove** – public service officer chooses to be removed from the matter. Most appropriate for ongoing conflicts of interests where ad hoc restriction/recruitment not feasible or appropriate.
- **Relinquish** – public service officer relinquishes private interest that is creating the conflict. Consider where commitment to public duty outweighs attachment to private interest.
- **Resign** – public service officer resigns from their position with the agency. Most extreme outcome – to be considered when the conflicts of interest cannot be resolved.

III. 3. Monitor

The immediate supervisor will monitor the risk management plan on an ongoing basis and regularly review the strategy chosen to manage the conflict. The immediate supervisor will make changes to the plan where suitable or necessary and will make a written record of amendments. Approval will be sought from the Unit Director/Commissioner.

Failing to disclose and manage conflict of interest may amount to misconduct, corrupt conduct or a criminal offence.

4.4 Record keeping

To maintain confidentiality between business units within the OIC, records will be maintained separately by each unit.

A confidential folder titled “Conflicts of Interest – Records” will be stored on the G drive. This folder will contain folders for each unit which will be accessible by the unit’s head and the Director of Engagement and Corporate Services. Unit heads will create and maintain de-identified individual folders relating to officers who have disclosed a conflict of interest. Relevant emails/file notes, conflict of interest forms, supporting documents, and risk management plans are to be saved in this folder.

External Review Team	Right to Information Commissioner
Privacy Team	Privacy Commissioner
Audit and Evaluation Team	Director, Audit and Evaluation
Engagement and Corporate Services Team	Director, Engagement and Corporate Services
Executive Leadership Team	Information Commissioner

We will take all necessary action to maintain the confidentiality of all parties when dealing with conflicts of interest. We will not release any information related to the conflicts of interest unless required to do so by law, industrial instrument, mandatory reporting requirement, government policy or to resolve or manage the conflicts of interest.

Declaration of Interests records may be the subject of applications for access under the *Information Privacy Act 2009* (Qld), but only to the extent it applies to the staff of the Information Commissioner (section 46(1) of the IP Act).

Only the parties involved in the process i.e. the employee, supervisor and unit head will have access to an individual’s conflicts of interest documentation which is to be saved in G drive, with restricted access. Access by the supervisor and employee will be requested through the IT Helpdesk, supervisor and employee access will be revoked through the IT Helpdesk at the end of the implementation period. The employee may retain a copy. Supervisors may retain a copy of the approved risk management plan for the period of implementation of the plan in a secure location only they are able to access, agreed to by their Unit Director/Commissioner. The copy must be deleted at the end of the implementation period. Details are not to be held on an employee’s personnel/HR file.

Unit heads will retain the conflicts of interest documentation for seven years and destroy after that date, as required.



5. Roles and responsibilities

The **OIC/IC** must:

- establish a clear policy and procedure to manage conflicts of interest
- ensure employees are aware of their obligations and have access to relevant resources
- provide clear direction so individuals can seek assistance where unsure about a possible conflict of interest.

Immediate Supervisors must:

- instruct employees to complete a conflict of interest form when applicable
- refer employees to this policy
- ensure employees are aware of their obligations relating to conflicts of interest disclosure under this policy, the Queensland Public Service Code of Conduct and the PSA
- receive, evaluate and approve conflicts of interest forms and any amendments
- discuss with employees, plan and make recommendations about approval of risk management plans to either manage or resolve a conflict of interest, including monitoring and reviewing risk management plans as an employee's circumstances change;
- consult with the Director, Engagement and Corporate Services on issues relevant to corporate matters including procurement, finance and human resource management; and
- make and keep records in accordance with this policy and the *Public Records Act 2002*, including providing copies of all relevant documentation to unit heads for recordkeeping.

Unit heads must:

- make decisions about approval of risk management plans
- maintain records of conflicts of interest pertaining to the functions of their unit
- regularly review the risk management plans in place to manage conflicts, in consultation with the immediate supervisor and employee, as necessary.

All staff must:

- identify and disclose in accordance with this policy any conflicts of interests they identify
- actively participate in the conflicts of interest management and resolution process, and adhere to all agreed resolution strategies
- identify and disclose any actual, perceived or potential conflicts of interests as soon as practicable after becoming aware of a conflicts of interest (and within 5 business days)
- be aware of their obligation to avoid, where possible, conflicts of interests and manage conflicts of interests that cannot be avoided
- assess their private and personal interests to identify whether they conflict, or have the potential to conflict, with their official duties
- comply with any other requirement of this policy.

6. Definitions

<i>Conflict of Interest</i>	<p>A conflict of interest involves a conflict between official public duty and personal interests of a public service employee, in which the employee's personal capacity interest could improperly influence the performance of their official duties and responsibilities.</p> <p>Actual conflict of interest involves a direct conflict between a public service employee's current duties and responsibilities and existing personal interest.</p> <p>Perceived conflict of interest can exist where it could be perceived or appears that a public service employee's personal interest could improperly influence the performance of their duties – whether or not this is in fact the case.</p>
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	Potential conflict of interest arises where a public service employee has personal interests that could conflict with their official duties in the future.
<i>Pecuniary Interest</i>	Involve actual or potential financial gain or loss. Money does not need to change hands for an interest to be pecuniary.
<i>Nonpecuniary Interest</i>	Do not have financial components and arise from personal relationships, involvement in sporting, social or community activities.
<i>Public Interest</i>	The interest of the community as a whole. It is <i>not</i> the sum of individual interests nor the interest of a particular group, but the collective interest of the entire community.
<i>Personal Interest</i>	Include our own interests and the personal, professional or business interests of the individuals or groups we associate with. Personal interests are those interests that can bring benefit or disadvantage to us as individuals, or to others whom we may wish to benefit or disadvantage.
<i>Public Duty</i>	Public sector officials have a duty to always put the public interest above their own personal or private interests when carrying out their official duties.

7. Authority

This policy must be read in conjunction with the below or any documents that supersede those listed.

- [Public Service Act 2008 \(Qld\)](#), sections 102 and 186
- [Code of Conduct, Queensland Public Service](#)
- [Declaration of Interests - Public Service Employees \(Other than chief executives\) \(Directive 03/10\)](#)
- [Declaration of Interests Senior Executives and Equivalent](#)
- [COI in Recruitment and Selection](#)
- [Gifts and Benefits Directive 22/09](#)

8. Related OIC policies

- [Gifts Benefits and Hospitality Policy](#)

9. Approval

Approved by the Information Commissioner on 8 September 2022.

10. Document history

Date	Action	Notes
08/09/2022	Version 1 Approved	Supersedes <i>Employees engaging in other employment</i> policy

Last updated: 8 September 2022



Appendix

Considering Directive No. 3/10 of the Public Service Commission, some examples of personal interests, pecuniary and non-pecuniary include:

- shareholdings in public and private companies
- family and business trusts and nominee companies
- bonds, debentures and like investments involving placement of money for a specified period which attracts interest
- savings and investment accounts with banks, building societies and like organisations
- partnerships
- real estate including private residential property
- directorships on boards or employment by a public or private company
- where you, your partner and/or your dependents are beneficiaries of a deceased estate, shareholdings, real estate and beneficial interests
- other substantial sources of income from employment (except as an employee of the Crown), business undertakings or investments
- other interests that may result in, or be seen to result in, a conflict of interest (**conflicts of interest**), including indirect pecuniary interests and contingent pecuniary interests.
- other relevant assets
- liabilities including mortgages, hire purchase arrangements, personal loans and overdrafts in your name, and/or your partner's and/or your dependents
- memberships of professional groups and association. For example, community organisation, charity, volunteering
- gifts, benefits and hospitality
- previous or secondary employment
- lobbying activities
- family and friends as colleagues/co-workers
- staff, family and friends as complainants or other stakeholders. For example, a review officer's partner works for agency involved in an external review, child attends school in questions, friend involved in matters recorded in documents in issue or related to a privacy complaint
- political and trade union activities; and
- Membership of professional groups and associations.

These are not considered personal interests:

- income as an employee of the Crown
- ordinary non-interest bearing cheque accounts
- credit card accounts
- credit accounts held with department stores
- personal use motor vehicles
- collections (e.g. stamp collections)
- household and personal effects
- where you, your partner and/or your dependents have trustee responsibilities as executor or trustee but are not beneficiaries, of a deceased estate, shareholdings, real estate and beneficial interests; or
- memberships of industrial organisations and/or political parties.