

# Conflict of Interests Policy

Version 2.0

## Approval



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**Electoral Commissioner**

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## Version history

| Version | Notes          | Author                                  | Date of Change |
|---------|----------------|---|----------------|
| 1.0 A   | Draft          | Team Leader (HR), Corporate Services    | February 2019  |
| 1.0 B   | Issued for use | Electoral Commissioner                  | February 2019  |
| 2.0     | Reviewed       | A/Senior HR Officer, Corporate Services | October 2021   |
| 2.0     | Issued for use |   | February 2022  |

## Review

This policy will be reviewed **every two (2) years** from the approval date, or if the relevant regulatory frameworks change in a way that means this policy is no longer contemporary.

## Purpose

The purpose of this policy is to make all employees (and relevant persons) of the Electoral Commission of Queensland aware of the principles, procedures, and obligations to declare any interest that conflicts or may conflict with the performance of official duties.

## Rationale

Chief executives, senior executives (and equivalents), and public service employees are responsible for fully disclosing any of 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. This requirement is outlined under:

- [Directive 3/10 – Declaration of Interests – Public Service Employees \(other than departmental Chief Executives\)](#)
- [Directive 1/15, Declaration of Interests – Chief Executives of Government Departments](#)
- [Public Sector Ethics Act 1994](#)
- Section 1.2 of the [Code of Conduct for the Queensland Public Service](#), public servants must manage conflicts of interests appropriately, transparently, consistently and in favour of the public's interest.

The consideration, assessment and management (including management plans) of any possible conflict of interest must also be conducted in accordance with the [Human Rights Act 2019](#), which requires the Electoral Commission of Queensland (ECQ) to give proper consideration to whether or not a decision or action would be compatible with human rights under section 13 of that Act.

All records relevant to all types of conflict of interest and its management are to be stored and maintained in line with the departmental records management policy.

## Guiding Principles

A conflict of interest involves a conflict between our duty, as public service employees, to serve the public interest and our own personal interests.

Conflicts of interest fall into three categories.

- **Actual** – there is a direct conflict between your current public duties and your existing private interests
- **Potential** – your public duties and private interests could conflict in the future
- **Perceived** – it could appear that your private interests could improperly influence the performance of your public duties.

Conflicts of interest can arise inside or outside of the workplace. They may be:

- **Pecuniary** – where there is a reasonable likelihood of financial loss or gain or may result from an employee (or a relative or close associate) owning property, holding shares or being in a position in a company, bidding for government work or accepting gifts or benefits.
- **Non-pecuniary** – where there is no financial component, but may involve self-interest, personal or family relationships or other affiliations. It includes any tendency toward favour or prejudice resulting from friendship, animosity or other personal involvement that could bias your judgement or decisions you must make in your public duties.

As outlined under s 5.1.3: of Directive (3/10) Declaration of Interest – Public Service Employees (other than departmental Chief Executives), employees are also responsible for disclosing the interests of their partner and/or dependents only if those interests have a bearing, or may be perceived to have a bearing, on their ability to properly and impartially discharge the duties of their office.

Having a conflict of interest is not unusual and is not wrongdoing. However, failing to disclose and appropriately manage the conflict is likely to be wrongdoing.

A Conflict of Interest Declaration must be submitted for all conflicts of interests and possible conflicts of interests. All employees are responsible for identifying and declaring any conflict of interest or possible conflict of interest. Failure to make a Conflict of Interest Declaration and have the matter managed in the public interest may amount to misconduct or corrupt conduct and could result in disciplinary action.

## 1. Policy

This policy discusses situations in which ECQ employees (and relevant persons) may have an actual, perceived, or potential conflict of interest between their public role and their personal interests.

A conflict of interest occurs when private interests interfere or appear to interfere with the performance of official duties. Private interests include personal, professional, or business interests, as well as the interests of individuals that you associate with, such as family, dependants, and friends.

### **Examples of conflict of interests**

- Employing, or being involved in the selection of an employee who is a close relative or friend, even on a casual basis.
- Being involved in the assessment of a tender, when holding shares in the company.
- Having interests outside of work that affect your ability to perform your work role properly or to appear to perform it impartially.
- Having interests in a company over which you exercise discretionary power in your role as public service employee.

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

For more examples, please refer to <https://www.forgov.qld.gov.au/declarations-interest>.

The ECQ is dedicated to conducting business and delivering services in a fair, accountable, and impartial manner. Therefore, all employees must perform their duties in a fair and unbiased way, ensuring that decisions made are not impacted by self-interest, private affiliations, or the likelihood of gain or loss for them or others that they may wish to benefit or disadvantage.

While it is best to avoid conflicts of interest, this is not always possible. Having a conflict of interest alone is not considered misconduct or a breach of the Code of Conduct. However, what is important is that:

- you promptly disclose the conflict of interest.
- the conflict of interest is managed; and
- any conflict of interest is resolved in the public interest.

ECQ is committed to operating under the [Public Sector Ethics Act 1994](#), in recognition that public office involves a public trust, and that public officials seek to promote public confidence in the integrity of the public sector and should:

1. be committed to the highest ethical standards;
2. accept and value their duty to provide advice, which is objective, independent, apolitical and impartial;
3. show respect towards all persons, including employees, clients and the general public;
4. acknowledge the primacy of the public interest and undertake that any conflict of interest issue will be resolved or appropriately managed in favour of the public interest; and
5. be committed to honest, fair and respectful engagement with the community.

## 2. Manage the conflict of interest

Once a conflict of interest has been identified by an employee (see section 3.1 below), a decision will be made by the Delegate of the Commissioner, in consultation with the Director of Corporate Services, about how the conflict of interest will be managed or resolved.

Importantly, an assessment must be made of whether the way the conflict of interest is being managed is compatible with human rights in accordance with section 13 of the *Human Rights Act*. Decisions made under this Policy may limit the right to taking part in public life (section 23), property rights (section 24) and the right to privacy and reputation (section 25). Therefore, such decisions must take human rights into account and must be compatible with human rights, as required by section 58 of the *Human Rights Act*.

Employees and their supervisor/manager are responsible for managing a declared conflict of interest appropriately. It is recommended that all strategies implemented to manage the conflict of interests are documented and continually reviewed as to their effectiveness.

It is vital to hold regular meetings with your supervisor/manager to discuss the situation to ensure that the management and monitoring strategies implemented are working effectively. It is important to report any issues or concerns about the management and monitoring strategies to your manager.

The existence of a Conflict of Interests Declaration is a management strategy and how the conflict of interests is dealt with will vary depending on its nature and may include:

- scheduled reviews of any unplanned leave;
- reallocation of certain work due to a conflict of interest;
- monitoring trends at intervals for the duration that a conflict of interest exists;
- stepping down from a selection panel where a relative /friend is an applicant;
- stepping down from a role that affects your ability to properly and impartially perform your work role; and
- If the conflict of interest is made and deemed by the employer to present no ongoing conflict to the performance of the employee's official work duties, the management strategy may be limited to noting the declaration only.

## 3. Employee Obligations

### 3.1 Identify and declare any conflict of interest

To allow ECQ to effectively assess and manage each possible conflict of interest, employees are responsible for identifying and disclosing any actual, perceived, or potential conflict of interest. To identify a conflict, consideration is to be given as to whether in performing their role, an employee could be influenced, or appear to be influenced, by personal interests. Employees need to consider:

- if they, or someone associated with them, would benefit, or be disadvantaged directly or indirectly, now or in the future, from a decision they may be involved in making in their public employment capacity
- whether they, or someone associated with them, has received a gift or benefit from another person or business who stands to benefit from a decision the employee makes or can influence
- whether a member of the public would view the employee's decision as being or potentially being influenced by their personal interests or associations with other persons/entities.

Employees are also responsible for:

- disclosing the interests of your partner and/or dependents if those interests have a bearing, or may be perceived to have a bearing, on your ability to properly and impartially discharge the duties of your office; and
- report on any suspicion of misconduct relating to conflicts of interest to your supervisor.

For a more information please refer to the Code of Conduct for the Queensland Public Service and the regulatory framework outlined in Appendix 2.

### 3.2 Manage the conflict of interest

Managing conflict of interest is an ongoing responsibility of both, the declaring employee and their supervisor/manager. A management plan must be fair, transparent, accountable, and free from bias or discrimination. Please refer to Section 2 of this policy.

### 3.3 Update as required

Should circumstances change, all employees must consider whether this brings about any new conflict of interest, or changes to an existing conflict of interest.

When interests change to the extent that the potential for a conflict of interest is altered, a public service employee must submit a revised Declaration of Interests within one (1) month after the relevant facts of the change come to the knowledge of the person.

Change in interests may include:

- a) any significant change in the interests about which information is required including acquisition, divestment, or an altered relationship in the interest; or
- b) a significant change in the official responsibilities of the public service employee.

### 3.4 Records Management

Once the delegate has considered and made a decision on the declared conflict of interest, employees are responsible for storing and maintaining all appropriate documents in line with the ECQ's [records management policy](#).

Declarations are to be maintained in the strictest confidence. Unless required by law, access to Declarations of Interests is limited to the employee and the Chief Executive or delegate.

## 4. Supervisor/Manager Obligations

### 4.1 Assessment of conflict of interest

Once an employee declares a possible conflict of interest, you must discuss with the employee (if required) and add your assessment of the issues and any other issues that might emerge.

ECQ understands that every employee's circumstances are unique. Therefore, all declarations must be considered on a case-by-case basis using an approach that considers fairness, public service regulatory framework and legislative and operational requirements.

### 4.2 Manage the conflict of interest

In addition to the Section 2 of this policy, assessment, and management of conflict of interest is an ongoing responsibility of both, the declaring employee and their supervisor/manager. A management plan must be fair, transparent, accountable and free from bias. Where conflict of interest declarations present difficult or complex questions, consideration should be given to consulting with the Assistant Commissioner about the matter and whether General Counsel or the Commissioner should review the proposed management plan.

### 4.3 Records management

Once the delegate has considered and decided on the declared conflict of interest, you are responsible for appropriately storing and maintaining all appropriate documents in line with the department's records management policy.

## 5. Additional obligations applicable to Chief Executives

- Within one month of their appointment to a government department or agency, the Chief Executive is required to make a declaration of interests. If relevant interests of a Chief Executive change, they should notify the portfolio Minister/s.
- Chief Executives are required to review their Declaration of Interests at the end of each financial year.
- Under the [Integrity Act 2009](#), the Electoral Commissioner may seek advice about conflict of interest issues from the Integrity Commissioner. Further information can be found on the [Queensland Integrity Commissioner](#) website.

## 6. Process

To declare and manage any actual, perceived or potential conflicts of interest (whether pecuniary or non-pecuniary), please refer to **Appendix 3** - conflict of interest declaration process map.

## 7. Delegations

Refer to the [ECQ Human Resource Management Delegations](#) for the appropriate delegate.

## Appendix 1 — Definitions

### Definitions

| Term                        | Definition  | Reference                                       |
|-----------------------------|---|---|
| <b>Employee</b>             | ECQ Public Service Employees as well as; Returning Officers, Assistant Returning Officers, Contact Officers and election staff  |   |
| <b>Executives</b>           | An executive appointed as a SES officer under section 110 of the <i>Public Service Act 2008</i> ; or an executive appointed on a fixed term contract of employment with remuneration at the equivalent SES level or above under section 122 of the <i>Public Service Act 2008</i> ; or person remunerated at the equivalent SES level or above employed in a government entity under any Act as defined by section 24 of the <i>Public Service Act 2008</i> . | <i>Public Sector Act 2008</i><br>Directive 1/15 |
| <b>Conflict of Interest</b> | A conflict of interest occurs when private interests interfere or appear to interfere with the performance of official duties.<br><br>Private interests include personal, professional or business interests, as well as the interests of individuals that you associate with, such as family, dependants and friends.  | <i>Public Service Act 2008</i>                  |
| <b>Relevant Persons</b>     | Includes, but not limited to, consultants, contractors, agency staff, work experience and volunteers  |   |
| <b>Misconduct</b>           | Misconduct is an inappropriate or improper conduct in an official capacity; or inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the public service.   |   |



| Term                        | Definition   | Reference                                   |
|-----------------------------|--|---|
| <b>Corrupt Conduct</b>      | <p>Conduct by any person, regardless of whether they are a public sector employee, which meets all four elements:</p> <ol style="list-style-type: none"> <li>1. Adversely affects, or could adversely affect, the performance of functions or the exercise of powers of- <ul style="list-style-type: none"> <li>•A unit of public administration; or</li> <li>•A person holding an appointment; AND</li> </ul> </li> <li>2. Results, or could result in conduct which – <ul style="list-style-type: none"> <li>•Is not honest or is not impartial; or</li> <li>•Involves a breach of trust; or</li> <li>•Involves a misuse of information or material acquired; AND</li> </ul> </li> <li>3. Is for the purpose of providing a benefit to the person or another person or causing a detriment to another person; AND</li> <li>4. If proved, would be – <ul style="list-style-type: none"> <li>•A criminal offence; or</li> <li>•A disciplinary breach providing reasonable grounds for terminating the person’s services.</li> </ul> </li> </ol> <p>Please note: Each case needs to be assessed on its own merits as to whether it constitutes Corrupt Conduct. The Electoral Commission Queensland has an obligation to notify the Crime and Corruption Commission if Corrupt Conduct is reasonably suspected.</p> |   |
| <b>Secondary Employment</b> | <p>A person is in secondary employment when they engage in paid work for another organisation while employed by a public sector organisation. Secondary employment includes self-employment, involvement in a private business or partnership, provision of paid consultancy services, or service as a company director. As a general principle, unpaid or volunteer work is not covered by this advisory, however employees may be as motivated by nonpaid or voluntary work as they are by paid secondary employment. Consequently, the guidance provided below may equally apply to nonpaid or voluntary work. The Public Service Commission’s Directive No. 3/07, Public service employees engaging in other employment puts limitations on secondary employment to ensure that the public receives effective and impartial service.</p>   | Criminal Code Act 1899 (Part 3, Chapter 13) |

## Appendix 2 — Regulatory Framework

- [Public Service Act 2008](#)
- [Public Sector Ethics Act 1994](#)
- [Financial Accountability Act 2009](#)
- [Integrity Act 2009](#)
- [Directive 1/15 Declaration of Interests – Chief Executives of Government Departments](#)
- [Directive 3/10 Declaration of Interests – Public Service Employees \(other than chief executives\)](#)
- [Code of Conduct for the Queensland Public Service](#)
- [Electoral Act 1992](#)
- [Declaration of Interests Policy](#)
- [Human Rights Act 2009](#)
- [Information Privacy Act 2009](#)
- [Right to Information Act 2009](#)
- [Directive 11/20 – Individual Employee Grievances.](#)
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### Appendix 3. Conflict of Interest Declaration Process Map

To declare an actual, perceived or potential conflict of interest (whether pecuniary or non-pecuniary), please follow the steps outlined below.

