

Conflicts of Interest Procedure

Applicable to:

This Procedure applies to Transport for NSW (TfNSW) staff and Senior Service.

The term ‘staff’ is used in this Procedure to cover all ongoing and temporary staff.

This Procedure also applies to labour hire workers and staff seconded to TfNSW.

Professional services contractors and consultants are covered by the Statement of Business Ethics.

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1 Background

1.1 About this document

This Procedure expands on the [Transport Conflicts of Interest Policy – Personal Interests, Secondary Employment, Gifts and Benefits](#) by providing a framework to identify, disclose and manage actual, potential or perceived conflicts of interest comprehensively and in a transparent manner that promotes confidence in the integrity, legitimacy, impartiality and fairness of decisions made by, and the behaviour of, TfNSW staff.

Some forms of secondary employment and/or gifts and benefits may also result in actual, potential or perceived conflicts of interest. Relevant procedures must be referred to for further information.

2 Procedure

2.1 Identifying conflicts of interest

Everyone to whom this Procedure applies is responsible for identifying and avoiding potential or actual conflicts of interest to mitigate situations where decisions are made, or perceived to be made, for self-interest or personal gain. Personal interests are usually known only to an individual. It is therefore mandatory to take personal responsibility for identifying and declaring conflicts of interest.

Deciding if personal interests and public duty are, or might be, in conflict with each other can be challenging. Where there are personal interests outside of work, there may not be a conflict of interest. Determining whether a conflict of interest is actual or potential is based on how, and if, the personal interests could influence, or appear to influence the staff member in carrying out their public duty.

Staff including labour hire and seconded staff in areas of contracts and procurement, investigative roles, and/or who have access to sensitive commercial information must be particularly careful of any potential, actual or perceived conflicts of interest.

The checklist in this Procedure enables individuals to self-assess if a conflict of interest exists, or could be perceived by another person to exist.

If individuals remain unsure on whether a conflict of interest does or could exist, they must contact their manager, the Fraud and Corruption Prevention Unit, or HR Advisory for further advice.

2.2 Declaring conflicts of interest

Conflicts of interest are best managed transparently. Things kept concealed are more likely to attract suspicion and/or allegations of misconduct. Declarations aim to protect the staff member as well as the organisation.

Individuals are responsible for declaring any relationships or personal interests including financial, that actually have the potential to, or could be perceived as, impacting upon decisions or advice provided in the course of their official duty. It is advisable that individuals disclose conflicts of interest, even if it may be thought of as trivial. All declarations will be considered and dealt with appropriately.

Individuals must notify their manager by submitting a declaration of actual, potential or perceived conflicts of interest.

A declaration should be made by using the '[Gifts and Benefits/Conflicts of Interest declaration portal](#)'.

Senior Executives and Senior Managers (including staff acting in these roles) should use the [Declaration of Private Interests Portal](#) to declare any conflicts of interest.

The declaration should cover any interests or shares that staff have, for example in incorporated associations, proprietary companies, companies limited by guarantee, business partnerships, and industry and manufacturing associations that could compromise, or be perceived to compromise, the impartial performance of their duties. It should also cover any personal interests or shares that their immediate family (i.e. spouse, partner, or dependent children), relatives, friends or close associates have that staff are aware of that could compromise, or be perceived to compromise, the impartial performance of their duties.

Such declarations must be made at the time of employment and at any time during the course of employment when a conflict arises. New staff will be sent information asking them to declare any conflicts of interest through the recruitment process. Existing staff must provide information regarding any update to their conflict of interest status as soon as possible.

A *Conflict of Interest Declaration* must also be used to disclose conflicts of interest in relation to tendering and procurement activities.

Conflicts of interest in relation to recruitment processes are recorded on the *Selection Panel Declaration Form*. These forms must be retained on the file which relates to the specific process.

If a conflict of interest concerns secondary employment, in addition to completing a *Conflict of Interest Declaration*, a *Secondary Employment Application and Renewal Form* must also be completed.

If the conflict impacts on the individual's manager, the declaration must be submitted to the next line manager.

Failure to disclose a conflict of interest may lead to disciplinary action and may constitute corrupt conduct as defined in the *Independent Commission Against Corruption Act 1988*.

2.3 Management of conflicts of interest

On receipt of a *Conflict of Interest Declaration* managers must have a discussion with the individuals to:

- assess the situation and circumstances for example, look at any decisions that may affect how the matter is managed;
- identify any conflicts of interests that may exist; and
- determine if the conflicts are actual, perceived or potential conflicts of interest, or if they are pecuniary or non-pecuniary conflicts.

The declaration of a conflict of interest does not in itself resolve the conflict. It is the responsibility of the manager to determine how the conflict will be managed, and ensure the implementation of agreed actions.

If an actual conflict, or potential for a conflict has been determined, the manager in conjunction with the individual, will determine the actions to be taken to address the conflict.

When developing these actions, the manager and individuals must consider the risk to Transport agencies and the individual in allowing the conflicts of interest to continue. These risks may include, but are not limited to:

- the inappropriate release of confidential information to favour particular parties;

- manipulation of systems or processes to provide unfair advantage to particular parties; and/or
- a perception that a process is not completely fair.

Actions to manage conflicts of interest may include, but are not limited to:

- recording the details of the disclosure on the Conflicts of Interest Register and taking no further action;
- determining that the potential or actual conflict is minimal or can be eliminated by disclosure and/or effective supervision;
- the staff member relinquishing the interest;
- the staff member relinquishing their role in TfNSW;
- reallocation of duties or responsibilities relating to the conflict;
- move the staff member to a different role;
- the staff member withdrawing from the TfNSW activities or duties that create the potential or actual conflict;
- restricting the staff member's access to specific sensitive information;
- authorise in writing continuation of the involvement of the staff member in the matter;
- restricting the staff member's involvement in certain activities;
- Code of Conduct training; and/or
- Implementing other appropriate processes to ensure the impartiality of the staff member in the performance of their duties.

The *Options for Managing Conflicts of Interest* table in section 5 of this Procedure provides a brief description of the types of situation in which certain options would be considered most suitable, and when such options might be considered least suitable.

Staff and managers may consult with the Fraud and Corruption Prevention Unit for advice and assistance on managing conflicts of interest.

After the actions to manage the conflicts of interest have been identified, they must be recorded on the *Conflicts of Interest Declaration* by the manager.

For non-executive staff, once approved by the manager, the declaration will workflow through the 'Gifts and Benefits/Conflicts of Interest declaration portal' to the Fraud and Corruption Prevention Unit and will be held in a secure database.

For Senior Executives and Senior Managers, once approved by a manager, the [Declaration of Private Interests](#) will workflow to the Fraud and Corruption Prevention Unit for inclusion on the Conflicts of Interest Register.

2.4 Monitoring disclosed conflicts of interest

The manager must monitor the outcome of their decision/agreed actions for compliance.

Individuals who have been authorised to continue performing their normal duties must immediately report to their manager any change in circumstances that could affect the manager's decision.

Managers and individuals must review declarations when an individual's responsibilities, duties or delegations change, or when there is a change in their personal circumstances which may give rise to a conflict of interest.

To ensure the chosen management strategy remains relevant, until the conflicts of interest are resolved, it is important for the manager and staff member to regularly review and assess the situation. This may include, but is not limited to, reviewing and assessing:

- the original situation that gave rise to declaring the conflict of interest;
- initial determinations and management decisions/agreed actions;
- strategies put in place to manage the conflict of interest;
- actions taken in implementing the management strategies;
- changes in the situation that may have an impact on the management strategies;
- perceptions held by others that the conflict of interest is having an improper influence on the matter;
- reassessments and management decisions made about the continued management of the conflict of interest; and/or
- changes made to the management strategy and its implementation.

If changes to the situation are significant, the manager must reassess the risks and consider alternative actions to manage the conflict of interest before adopting a revised management strategy. Formal records should be kept of all reassessments and decisions made and actions taken

2.5 Personal relationships

In carrying out their duties, individuals must not allow themselves to be improperly influenced by family or personal relationships. Personal relationships with work colleagues include those that are more than purely professional or business related. Situations may arise where a decision has to be made which would directly affect a person who has a relationship with the staff member. In these cases, individuals should declare the conflict and refer the matter to their manager.

In the case of a personal relationship within a work group, it may be necessary for one party to move to another work area or a different role in order to minimise actual, potential or perceived conflicts of interest. While it is not uncommon or wrong for couples or other family members to be working in the same organisation, it is not appropriate for one family member to have any line management, delegation and/or decision making responsibility over another without formal management of such a conflict.

Individuals should disclose personal relationships they have with media, lobbyists or people who have business dealings with Transport agencies, where these relationships could, or could be seen to, impact on the individuals responsibilities.

Where an immediate family member's personal interests could, or could be seen to, influence the decisions and advice of an individual, these interests must be declared by the individual, using the *Conflicts of Interest Declaration* and the personal relationships managed in accordance with this Procedure.

2.6 Complaints management

If staff have concerns about the application of this Procedure to determine the way in which the conflict should be managed, they are able to raise the matter in accordance with the [Grievance Management Policy](#). If applicable to the circumstances and the staff member concerned, the staff member may seek to have the matter addressed in accordance with the Dispute Settlement Procedure of the [Transport Service of New South Wales Salaries and Conditions of Employment Award](#).

3 Responsibilities

[The Conflicts of Interest Policy – Personal Interests, Secondary Employment, Gifts and Benefits](#) provides information on responsibilities. The following are additional responsibilities applicable to TfNSW staff.

	Responsibilities
Fraud and Corruption Prevention Unit	<ul style="list-style-type: none"> Maintain a centralised register of declared conflicts of interest. Restrict access to the register to the Secretary of TfNSW, organisationally nominated delegates, and any other individual permitted by law. Undertake an annual review of the register to identify and manage any emerging risks and report the finding to the Director Audit and Risk. Provide a point of contact for anyone wanting information or advice about the meaning or application of this Procedure, or in identifying a conflict of interest. Include conflicts of interest as a risk to be assessed in TfNSW's corruption risk management processes. Investigate complaints and allegations relating to breaches of the Policy. As required, take appropriate action in terms of compliance. Routinely disseminate information on conflict of interest to staff, for example in staff newsletters or other communication documents.
Transport Shared Services (Workforce Selection and Supply)	<ul style="list-style-type: none"> Send information relating to conflicts of interest to new staff members through the recruitment process prior to joining TfNSW. Maintain records of all <i>Selection Panel Declaration Forms</i>.
Managers	<ul style="list-style-type: none"> action the <i>Declaration of Private Interests Portal</i> and/or a conflict declaration to workflow to the Fraud and Corruption Prevention Unit to be included on the Conflicts of Interest Register.
HR Advisory	<ul style="list-style-type: none"> Respond to staff enquires in relation to this Procedure and/or associated policies.

4 Document History

Date & PD No	Approved by	Amendment Notes
27 October 2014 CPr14010	Executive Director PaCS	Approved

Date & PD No	Approved by	Amendment Notes
25 November 2015 CPr14010.1	n/a	Amended to reflect Transport Senior Service title changes and new TfNSW structure
22 February 2016 CPr14010.2	Deputy Secretary PaCS	Approved
12 October 2016 CPr14010.3	Deputy Secretary People and Corporate Services	Amended to include the Declarations of Private Interests Portal for Senior Service staff
3 July 2017 CPr14010.4	Executive Director Group Human Resources	Amended for GSELA Amendments to Sections 2.3,2.5 and 3
29 July 2019 CPr14010.5	Director Industrial and Workplace Relations	Updates to obsolete job titles, Division/Branch name and template changes to front page.

5 Attachments

1. Checklist for identifying a conflict of interest (See Next Page)
2. Options for managing conflicts of interest
3. [Code of Conduct](#)
4. [Conflicts of Interest Policy](#)
5. [Secondary Employment Procedure](#)
6. [Recruitment, Selection and Appointment Procedure](#)
7. Procurement Standard
8. [Gifts and Benefits/Conflicts of Interest declaration portal](#)
9. Senior Service [Declaration of Private Interests Form](#)
10. Selection Panel Declaration Form
11. [Secondary Employment Application and Renewal Form](#)

Checklist for identifying a conflict of interest

In assessing whether staff have an actual, perceived or potential conflicts of interest, it may be helpful to staff to complete this checklist. If staff have answered 'yes' to any of the questions below, they must complete a *Conflicts of Interest Declaration* and have a discussion with their manager on strategies to manage actual, perceived or potential conflicts.

	Yes	No
Would I or anyone associated with me (family, friend or relative) benefit from or be detrimentally affected by my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
Could there be benefits for me in the future, arising from my decision or action that could cast doubt on my objectivity?	<input type="checkbox"/>	<input type="checkbox"/>
Do I have a current or previous personal, professional or financial relationship or association of any significance with an interested party?	<input type="checkbox"/>	<input type="checkbox"/>
Would my reputation or that of a relative, friend or associate stand to be enhanced or damaged because of the proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
Do I or a relative, friend or associate stand to gain or lose financially directly or indirectly from my decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
Do I hold any personal or professional views or biases that may lead others to reasonably conclude that I am not an appropriate person to deal with the matter?	<input type="checkbox"/>	<input type="checkbox"/>
Have I contributed, directly or indirectly, to a matter in which TfNSW is dealing with?	<input type="checkbox"/>	<input type="checkbox"/>
Have I made any promises or commitments to someone who stands to gain or lose from my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
Have I received a benefit or hospitality from someone who stands to gain or lose from my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
Am I a member of an association, club or professional organisation or do I have particular ties and affiliations with organisations or individuals who stand to gain or lose by my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
Could this situation have an influence on any future employment opportunities outside my current official duties?	<input type="checkbox"/>	<input type="checkbox"/>
Could there be any other benefits or factors that could cast doubts on my objectivity?	<input type="checkbox"/>	<input type="checkbox"/>
Do I still have any doubts about my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>

Options for managing conflicts of interest

Management Strategy	When most suitable	When least suitable
<p>Register Where details of the existence of a possible or potential conflict of interest are formally registered</p>	<ul style="list-style-type: none"> for very low-risk conflicts of interest and potential conflicts of interest where the act of transparency through recording the conflict of interest is sufficient 	<ul style="list-style-type: none"> the conflict of interest is more significant or of higher risk the potential or perceived effects of a conflict of interest on the proper performance of the staff member's duties require more proactive management
<p>Restrict Where restrictions are placed on the staff member's involvement in the matter</p>	<ul style="list-style-type: none"> the staff member can be effectively separated from parts of the activity or process the conflict of interest is not likely to arise frequently 	<ul style="list-style-type: none"> the conflict is likely to arise more frequently the staff member is constantly unable to perform a number of their regular duties because of the conflict of interest
<p>Recruit Where a disinterested third party is used to oversee part or all of the process that deals with the matter</p>	<ul style="list-style-type: none"> it is not feasible or desirable for the staff member to remove themselves from the decision-making process in small or isolated communities where the particular expertise of the staff member is necessary and genuinely not easily replaced 	<ul style="list-style-type: none"> the conflict is serious and ongoing rendering ad hoc recruitment of others unworkable recruitment of a third party is not appropriate for the proper handling of the matter a suitable third party is unable to be sourced
<p>Remove Where the staff member chooses to be removed from the matter</p>	<ul style="list-style-type: none"> for ongoing serious conflicts of interest where ad hoc restriction or recruitment of others is not appropriate 	<ul style="list-style-type: none"> the conflict of interest and its perceived or potential effects are of low risk or low significance the staff member is prepared to relinquish the relevant private interest rather than radically change their work responsibilities or environment
<p>Relinquish Where the staff member relinquishes the private interest that is creating the conflict</p>	<ul style="list-style-type: none"> the staff member's commitment to public duty outweighs their attachment to their private interest 	<ul style="list-style-type: none"> the staff member is unable or unwilling, for various reasons, to relinquish the relevant private interest
<p>Resign Where the staff member resigns from TfNSW</p>	<ul style="list-style-type: none"> no other option is workable the staff member cannot or will not relinquish their conflicting private interest and changes to their work responsibilities or environment are not feasible the staff member prefers this course as a matter of personal principle. 	<ul style="list-style-type: none"> the conflict of interest and its potential or perceived effects are of low risk or low significance other options exist that are workable for the staff member and TfNSW