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Conflict of Interest Management

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## What is a conflict of interest?

A conflict of interest arises when an employee is in a position to be influenced or appear to be influenced by his or her private interests (financial, personal or business) when doing their job.

Conflicts of interest of those involved in any decision making process for the Project result in a lesser standard of independence than that required to maintain the integrity of the process. Interests may also be categorised as financial or non-financial depending on whether there is a financial advantage involved.

A non-financial interest exists if an employee has a personal interest in aspects of the Project as a result of a relationship based on common interest such as sporting, social or cultural activities as well as family and other (e.g. friendships) relationships.

For example, a non-financial conflict of interest specific to the Project would include an employee involved in the Project having a friend or family member working for a company or organisation who could become a supplier to the Project or respondent to the RFP process.

In relation to the above example, it is noted that this interest could become a financial conflict of interest in the following circumstances:

- If it was known that the relative or friend worked on the proposal for the supplier relationship and the company had a performance related bonus system in place.
- If the relative or friend was a shareholder in the potential supplier to the Project and there is the potential to benefit financially from decision-making associated with the Project.

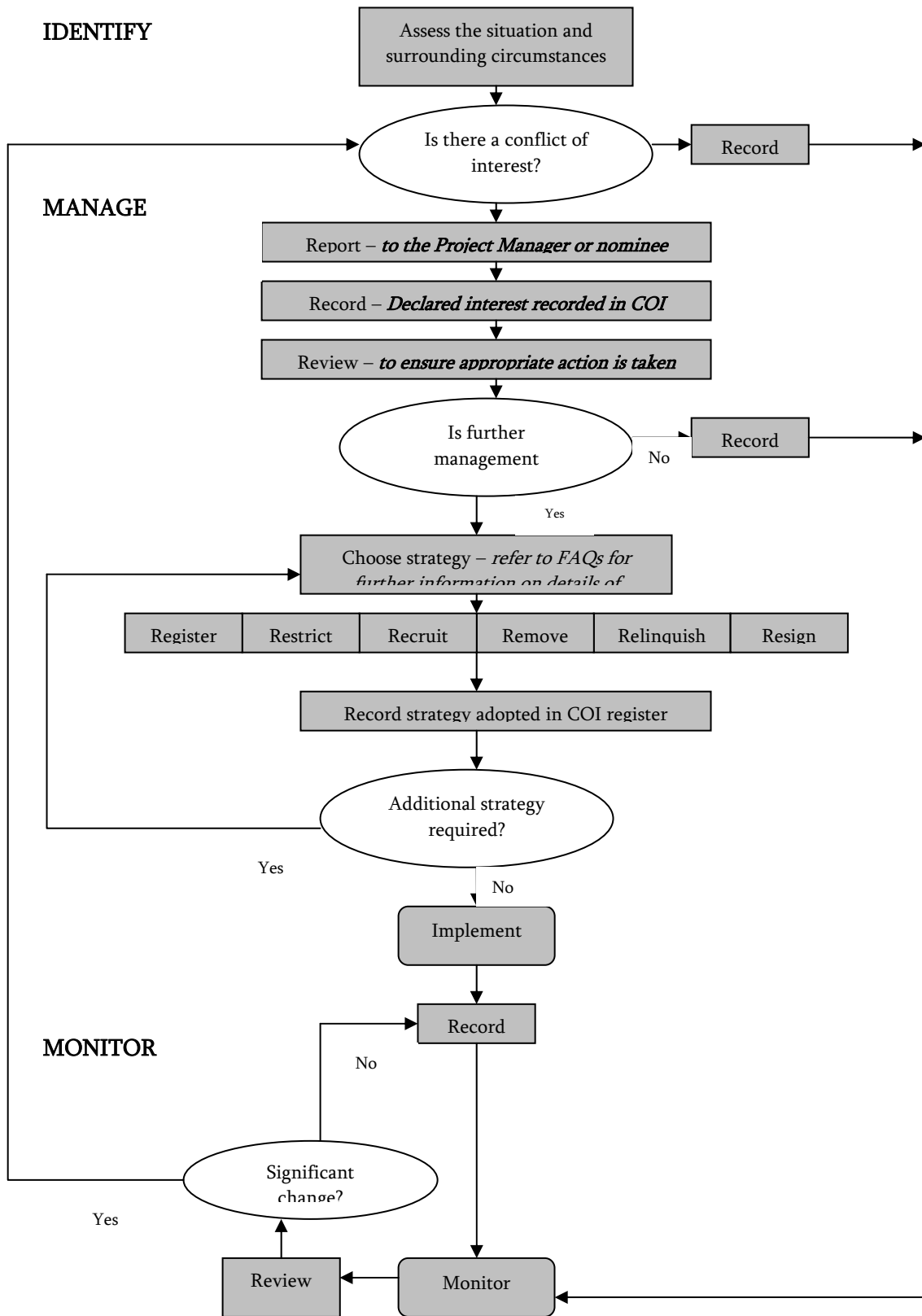
Thus, a financial conflict of interest is any interest where an employee or related party could benefit financially from any decision making processes associated with the Project.

For an overview of how conflicts of interest management within the Project refer to Table 1.

A conflict of interest may either be actual, perceived or potential which are differentiated in the table below:

Actual conflict of interest	Perceived conflict of interest	Potential conflict of interest
An employee <i>is in a position to be influenced</i> by their private interests when doing their job.	An employee <i>is in a position to <b>appear</b> to be</i> <i>influenced</i> by their private interests when doing their job.	An employee <i>is in a position where they <b>may</b></i> <i><b>be influenced in the future</b></i> by their private interests when doing their job.

**Table 1: Conflict of Interest Management Flowchart**



## Frequently Asked Questions

### *How do I know if I have a conflict of interest?*

The first step is to recognise what situations could give rise to conflicts of interest. To achieve this you should:

- Assess the situation you find yourself in and the surrounding circumstances that could affect any decisions or actions in the matter and identify whether a related interest exists.
- Determine what type of conflicts you are dealing with.

A good test to help you decide if you have a conflict of interest is to ask yourself:

- *Would I be happy if my colleagues became aware of my involvement?*
- *Would I be happy if my involvement appeared in the newspaper?*

The checklist in section 3.1.1 can be used to determine if a conflict of interest exists. If you answer 'Yes' to any of the questions asked then you may have a conflict of interest and you will need to seek advice from your supervisor and/or the Project Manager or nominee in relation to what further action should be taken in relation to the identified interest.

It is important to note that the strategies that will be implemented to manage the conflict of interest will vary depending on the nature and type of the conflict of interest. For example, some interests which are only minor may only need to be documented without the need for further action to be taken to manage the conflict whereas other conflicts may create a need for the employee to be removed from aspects of the Project.

## Conflict of interest checklist

	YES	NO
• Would I or anyone associated with me 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 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 in some covert or unexpected way?	<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 in a private capacity in any way to the matter [agency] is dealing with?	<input type="checkbox"/>	<input type="checkbox"/>
• Have I made any promises or commitments in relation to the matter?	<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"/>
• Do I still have any doubts about my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
• Will the matter affect my earning capacity or financial situation?	<input type="checkbox"/>	<input type="checkbox"/>
• Will it have an impact on the value of any shares or property that I own?	<input type="checkbox"/>	<input type="checkbox"/>
• Do I have a second job or private business that may be affected by the matter?	<input type="checkbox"/>	<input type="checkbox"/>
• Do I have any debts owing to a person who will be affected by the matter?	<input type="checkbox"/>	<input type="checkbox"/>
• Have I accepted hospitality, sponsored travel or other benefits from a person who will be affected by the matter?	<input type="checkbox"/>	<input type="checkbox"/>
• Is there a realistic expectation that someone in a personal or business relationship with me will, directly or indirectly, gain a financial or other material benefit or suffer a financial or other material loss?	<input type="checkbox"/>	<input type="checkbox"/>
• By nature of my relationship with this individual, would any benefit or loss they receive be expected, under normal circumstances, to flow through to me?	<input type="checkbox"/>	<input type="checkbox"/>

### ***Why do I need to register my interests?***

Managing conflicts of interest is important because [agency] has entrusted you and others with powers and resources and expect you to carry out your work without bias.

Interests need to be declared to ensure transparency of the processes associated with the Project and to manage public perception. Public perception is what a fair and reasonable member of the public would believe to be observing or being made aware of a situation and your involvement.

### ***Isn't it better to keep quiet about conflicts of interest?***

No. Conflicts of interest are better if they are managed transparently. If a conflict of interest is kept behind closed doors it is more likely to attract suspicion and allegations of possible misconduct.

### ***What do I do if I suspect I have a conflict of interest?***

A Project team member may identify a conflict of interest in a number of situations throughout their involvement with the Project, including:

- In a Board meeting;
- From receiving a telephone call/enquiry from an individual independent from the Project who may have a supplier relationship with a Board member or Trustee; or
- From holding conversations with external suppliers who are also potential suppliers to the Project.

Once you have assessed the situation using the checklist above, you should discuss your related interest with the Project Manager or nominee. Further information in relation to conflicts of interests can be obtained from the [agency] Code of Conduct or the Probity Auditor.

You may need to consider if you need further advice/assistance in relation to your situation in order to determine if a conflict of interest, financial or non-financial, exists.

### ***How do I register or declare my interests?***

All Project team members will be required to sign a Confidentiality/Declaration of Conflict of Interest Agreement which identifies all related interests. In addition, a conflict of interest register is being maintained by the Project Manager which details declared interests and the action taken to manage such interests.

There may be instances in which you will need to declare a conflict of interest verbally, such as in a meeting. In such instances, ensure that any minutes kept of the meeting accurately reflect the declaration of the interest, the nature of the interest (i.e. financial or non-financial and the extent of the related interest) and any decisions made on action to be taken in relation to the interest.

### ***Do I still need to declare an interest if there is no financial benefit or loss involved?***

Yes. Non-financial conflicts of interest are just as important as financial conflicts of interests as there the potential for an individual to be influenced or appear to be influenced by personal interests, whether they are financial or non-financial in nature. Conflicts of interest cover a range of activities that is wider than financial concerns. Therefore, your personal relationships, emotions and associations should also be taken into account.

### ***Who will be told about my conflict of interest?***

Declared interests will be brought to the attention of the Project Manager and other officers who are considered to have a need to know this information. Generally, details of declared interests will not be made publicly available outside the Project.

### ***What if I am offered a gift or inducement?***

Any gifts or offers or gifts should be brought to the attention of the Project Manager and the Probity Auditor immediately and dealt with in accordance with [agency] Code of Conduct. Gifts can take the form of moneys, credits, discounts, seasonal or special occasion presents, edibles, drinks, appliances or furnishings, clothing, loans of goods or money, tickets to events or theatres, dinners, parties, transportation, vacation travel or hotel expenses and any other form of entertainment.

The acceptance of gifts by potential suppliers to the Project can create a financial conflict of interest for the individual accepting the gift. Project Team members should seek guidance from their supervisor and/or the Project Manager if they have any concerns in relation to offers of gifts from potential suppliers to the Project.

In addition, if you are offered employment by a company which has any interest in a supply matter or confidential material being handled by the Project, you must inform the Project Manager.

### ***Once I have declared a conflict of interest, do I need to do anything else?***

Yes. Project team members need to ensure that they regularly identify conflicts of interest as they arise during the performance of their official functions associated with the Project. For example, if you are associated with procurement activities throughout the Project it is possible that additional organisations or companies will be identified with which you have a related interest. It is important to continually monitor your related interests and inform the Project Manager or nominee of any changes to the status of your related interests.

The appropriate management of conflicts of interests involves the ongoing monitoring of the interests and requires Confidentiality/Declaration of Conflict of Interest Agreements and the conflict of interest register to be updated on an ongoing basis.

### ***Where do I go for more information/help if I am not sure?***

Initially, it is best to seek advice from the Project Manager or probity Auditor for more information in relation to conflicts of interest.

### ***What happens if I don't declare?***

The [agency] Code of Conduct requires that an employee should not participate in decisions or discussions that relate to a person with whom they have a personal relationship.

Given the size and significance of the Project there is the potential for the Project to generate public and media interest. The effectiveness of the [agency] in relation to this Project depends on public confidence in the integrity of its staff. If the public has real doubts, your reputation will be damaged.

### ***Will I be removed from the Project if I declare an interest?***

Not necessarily.

There is nothing unusual or necessarily wrong in having a related interest. How it is dealt with is the important thing. There are six major strategies for managing related interests:

- Register- where details of the existence of a possible or potential related interests are formally registered
- Restrict- where restrictions are placed on the employee's involvement in the matter
- Recruit- where a disinterested third party is used to oversee part or all of the process that deals with the matter
- Remove- where a employee chooses to be removed from the matter by precluding them from performing any project duties regarding the matter in which he or she has the interest
- Relinquish- where the employee relinquishes the private interest that is creating the conflict
- Resign- where the employee resigns from their position with the Project

### *What if my interests change – can I update my interests?*

Yes. It is recommended that conflict of interest registers are updated on a regular basis in order to ensure that they reflect the current status of all individuals' related interests. If you become aware that the status of a related interest changes or an additional related interest is identified during the course of the Project it is your responsibility to ensure that this is appropriately declared and that the conflict of interest register is updated in a timely manner.

### *What if I know of an interest another Project team member has that has not been declared?*

Depending on your role within the Project, you may not be provided with all information in relation to declared conflicts of interests. Information regarding conflicts of interest will be made available to staff on a need to know basis. As such, if there is not a need for you to know about another team member's conflict of interest you may not be made aware that it has been declared and of the action that has been taken to manage the conflict.

Depending on the circumstances and the severity of the issue you could consider discussing the conflict of interest with the Project Manager and direct them towards this guidance material to assist them in making a decision as to whether a conflict of interest exists.

This topic was the subject of the monthly VGSO lunchtime seminar held on 30 April 2009.

These notes are published with the permission of the presenter, **Andrea Hassett**.

The notes are not to be regarded as legal advice.