

Conflicts of Interest in the Public Health System

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Summary Details managing conflicts of interest in an effective manner in the Public Health System.

Author Branch Corporate Government and Risk Management

Branch contact Michelle Stonehouse 9391 9404

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Contact	Michelle Stonehouse (02) 9391 9404 Audit Branch

Personnel – Conduct - Managing Conflicts of Interest in the Public Health System.

The NSW Department of Health is committed to ensuring that the public health system manages conflicts of interest in an effective manner. The attached policy directive is required to be implemented in the Department of Health, Ambulance Service of NSW and public health organisations as defined under the Health Services Act 1997.

The policy applies to all employees and other persons who operate within the public health system.

This document has been developed to assist management to implement a system to satisfactorily and reasonably deal with conflicts of interest and help employees and others develop an awareness of possible conflicts of interest and how to deal with them.

Enquiries regarding this policy should be directed to Audit Branch (02) 9391 9404

Robyn Kruk
Director-General

Distributed in accordance with circular list(s):

A 4	B	C 3	D	E	73 Miller Street North Sydney NSW 2060
F 1	G	H 2	I	J 2	Locked Mail Bag 961 North Sydney NSW 2059
K	L	M	N	P	Telephone (02) 9391 9000 Facsimile (02) 9391 9101

In accordance with the provisions incorporated in the Accounts and Audit Determination, the Board of Directors, Chief Executive Officers and their equivalents, within a public health organisation, shall be held responsible for ensuring the observance of Departmental policy (including circulars and procedure manuals) as issued by the Minister and the Director-General of the Department of Health.

Managing conflicts of interest in the NSW health system

December 2004

NSW  **HEALTH**

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1 Introduction

NSW Health is committed to providing a fair, ethical and accountable environment for the conduct of health system operations. All staff are expected to perform duties in a fair and unbiased way and not to make decisions which are affected by self-interest or personal gain. The integrity and fairness of the decisions and actions taken by staff could be undermined if, when performing their duties, a conflict between work and private interest exists or appears to exist. To protect the integrity of the public health system and its staff, conflicts of interest need to be properly managed.

Everyone has interests that are personal to them or someone close to them and it is inevitable that sometimes these interests may conflict with the decisions they make or the actions they take at work. Having these interests is not necessarily a problem - it is how they are dealt with that is important.

The issue of conflict between public duty and private interest has been the subject of much attention for some years now. The generally accepted rule is that where such conflict exists, matters must be resolved in the public interest.

1.1 Application and aim

The policy and procedures as contained in this document apply to all employees and other persons who operate within the public health system.

The aim of the document is to:

- assist management to implement a system to satisfactorily and reasonably deal with conflicts of interest;
- help employees develop an awareness of possible conflicts of interest and how to deal with them.

1.2 Related policies and relevant legislation

NSW Health Codes of Conduct incorporate principles in respect of the following activities:

- Conflict of interest (an overview of the issues outlined in this policy)
- Personal and professional behaviour
- Acceptance of gifts or benefits
- Outside employment
- Political participation
- Public comment
- Use of official resources
- Fairness and equity
- Procedural fairness
- Discrimination and Harassment

All of the above activities in one way or another may involve a conflict of interest where, if real, may be a breach of or involve the undermentioned policies/legislation:

- Equal Employment Opportunity
- Anti-Discrimination Act 1977
- Corrupt Conduct (Independent Commission Against Corruption Act 1988)

Where employees do not perform their duties in the public interest and take action for private gain or advantage for themselves or other individuals it may be considered “corrupt conduct” under the provisions of the Independent Commission Against Corruption Act 1988 and can be subject to disciplinary action.

1.3 Policy review

This policy will be subject to review at least every (3) three years and will be amended/reissued as required.

2 Responsibilities

2.1 NSW Department of Health

The NSW Department of Health is committed to ensuring that the public health system manages conflicts of interest in an effective manner.

2.2 Chief Executive Officers and the Director-General

The Chief Executive Officers of health services and the Director-General are responsible for ensuring that:

- this policy is brought to the attention of staff;
- any local policies or specific procedures are developed and promulgated in accordance with NSW Health Policy;
- appropriate training and education is provided for staff, at a level that is appropriate to their roles and responsibilities;
- information on conflict of interest is routinely disseminated to staff. For example:
 - to new staff at orientation
 - to existing staff in the staff newsletters
- the systems and records as outlined in this document are implemented.

2.3 Employees

Employees have a responsibility in respect of their public duty to:

- be aware of their obligation to avoid, where possible, conflicts of interest and manage those conflicts of interest that cannot be avoided.
- treat all persons equally and fairly and not show preference to any individual or organisation.
- declare any conflict of interest or potential conflict of interest to their immediate supervisor and/or the Chief Executive Officer, Director General or authorised delegate[s].
- not accept gifts, rewards, travel or meals from suppliers or individuals. *(If refusal to accept a gift would offend or upset the giver, employees are expected to accept the gift, indicating that you are accepting the gift on behalf of the unit or Health Service for which you work and then follow procedures to report receiving the gift.)*

Information on gifts and benefits is covered in **Appendix 1 – Gifts and benefits**.

3 What is a conflict of interest?

The NSW Health “Codes of Conduct” which apply to all employees of the public health system, include:

Conflict of interest exists when it is likely that an employee could be influenced or could be perceived to be influenced, by a personal interest in carrying out their public duty. Conflicts of interest that lead to partial decision making may constitute corrupt conduct.

A **personal** or **private interest** are those interests that can bring benefit or disadvantage to an employee as an individual, or to others whom the employee may wish to benefit or disadvantage. This not only includes the personal, professional or business interest that an employee has, but also the personal, professional or business interests of the individuals or groups an employee associate with. This might include relatives, friends or even rivals and enemies.

An “interest” can either be **pecuniary** or **non-pecuniary**.

A **pecuniary interest** is defined as an interest that a person has in a matter because of a reasonable likelihood (or expectation) of appreciable financial gain (or loss) to that person [or to another person with whom that person is associated eg relative(s), friend(s), partner(s) or other employee(s)].

A **non-pecuniary interest** is defined as any private interest, which does not pertain (or relate) to money. Examples of non-pecuniary interests might include kinship, friendship, membership of an association, society or trade union or involvement (or interest) in an activity.

Basically, a conflict of interest may arise when an employee, due to external and/or internal influences, did not (or could not) act:

- equally;
- fairly;
- with integrity and honesty.

The influences which may affect decision-making are often private interests that may confer an advantage on the person making the decision. A conflict of interest can arise from avoiding personal losses as well as gaining personal advantage – whether financial or otherwise.

Conflicts of interest can be **actual**, **perceived** or **potential**.

An **actual conflict of interest** involves a direct conflict between an employee’s current duties and responsibilities and existing private interests.

A **perceived** or **apparent conflict of interest** can exist where it could be perceived, or appears, that an employee’s private interests could improperly influence the performance of their duties – whether or not this is in fact the case.

A **potential conflict of interest** arises where an employee has private interests that could conflict with other official duties in the future.

What is a conflict of interest?

Conflicts of interest can also arise where an individual has official roles in more than one public organisation. In these situations it may be difficult for a public official to keep the roles separate and this can lead to poor performance of one of the roles, at least, and unlawful or improper decision making at worst, or improper use of information to give advantage to the second organisation etc. These types of conflicts are not always recognised because no private interest is involved or apparent. These situations are usually described as one of **competing interests** or a **conflict of duty** – such situations can be managed on the same basis as conflicts of interest.

Appendix 2 – Conflict of interest examples and recommended actions lists examples of situations where conflict of interest may occur.

4 Does a conflict of interest exist?

4.1 Employee awareness

In the everyday work environment employees at all levels are exposed to possible conflict of interest. This can involve the more obvious aspects such as accepting gifts etc where there is a material reward. However, conflicts of a non-material nature can at times be obscure but have far reaching consequences for the individual subject to the action eg preference in employment of a family member over another individual.

Every employee must apply the following rules in their work environment:

- treat everyone fairly and equally;
- do not accept gifts or rewards for personal use or gain.

Employees should ask themselves the following questions to help decide if a conflict of interest exists or could be perceived by any person to exist:

- Do I, a relative, friend or associate stand to gain/lose financially from a health organisation's decision or action on this matter?
- Do I, a relative, friend or associate stand to gain/lose in any way from the health organisation's decision/action?
- Am I in a position to influence decision making about a matter related to a potential personal interest?
- Have I made any promises or commitments in relation to the matter?
- Have I received a benefit or hospitality from someone who stands to lose or gain from the health organisation's decision/action?
- 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 lose or gain from the health organisation's consideration of the matter?
- Could there be benefits for me in the future that could cast doubt on my objectivity?
- If I do participate in assessment or decision-making, would I be happy for my colleagues and the public to be aware of any association or connection?
- Would a fair and reasonable person perceive that I was influenced by personal interest in performing my public duty?
- Do I need to seek advice or discuss the matter with an objective party?
- Am I confident of my ability to act impartially and in the public interest?
- Do I need to declare a matter to a senior officer?

4.2 Declaring a conflict of interest

Employees must declare any actual or potential conflict of interest (whether pecuniary or non-pecuniary). Employees are also expected to declare any circumstances that could result in a third party reasonably perceiving a conflict of interest to exist.

Disclosure must be made at the first available opportunity, preferably in writing, for a decision as to what action should be taken to avoid or to deal with the conflict. Disclosures are to be treated as confidential where ever possible.

a) Employees reporting their own potential conflict of interest

In the first instance if an employee has a potential conflict of interest it should be reported in writing to their immediate supervisor and/or the Chief Executive Officer, Director General or authorised delegate[s].

Does a conflict of interest exist?

Prior to being advised of the outcome of the assessment (see section 5), employees should exercise caution and not participate in decision-making or discussion regarding the disclosed conflict.

b) Employees who become aware of another employee's possible conflict of interest.

Employees have an obligation to report possible conflicts of interest that will have the potential to bring the health service into disrepute. If employees are aware that another employee has a potential conflict of interest they should report the matter to their immediate supervisor and/or the Chief Executive Officer, Director General or authorised delegate[s].

If the report of a possible conflict of interest involves corrupt conduct, maladministration and/or serious and substantial waste of public resources then the Protected Disclosures Act 1994 provides certain protections against reprisals. See the Department's Protected Disclosures policy (circular 02/95) or Public Health Organisations Protected Disclosure Policy (circular 98/101).

Members of the general public should also be able to make a complaint if they have reason to believe that management or an employee has a conflict of interest. The procedures as contained in DoH Circular 94/74 *Management of complaints about health services and the health system* should be followed.

5 Managing conflict of interest

Ultimately the responsibility for assessing possible conflict of interest rests with the Chief Executive Officer, Director General or authorised delegate[s].

Once declared, the employee involved is given feedback within five working days:

- If a decision is not reached promptly the employee concerned is to be kept informed of progress.
- If the employee disagrees with the outcome the matter is to be discussed between the employee and the assessment officer to seek resolution. If still unresolved local grievance procedures are to be followed.

Reporting potential or actual conflicts may involve disclosing personal information. This information is to be handled in such a way that privacy is appropriately managed having regard to the circumstances.

5.1 Assessing a potential conflict of interest

Employees should not assess a possible conflict of interest if it relates to themselves or someone with whom they have a close personal relationship.

Matters are to be assessed against established criteria by the delegated officers who are to be experienced, objective, senior and have sound judgement.

Criteria for assessment should include:

- Does the matter fall within the definition of a non-pecuniary or pecuniary interest?
- Has appropriate legal and other advice been obtained?
- Is all the relevant information available to ensure a proper assessment?
- What is the nature of the relationship/association that could give rise to the conflict?
- Is the matter/issue one of great public interest? Is it controversial?
- Could the individual's involvement in this matter cast doubt on his/her integrity?
- Could the individual's involvement cast doubt on the health service?
- How would it look to a member of the public?
- What is the best option to ensure impartiality, fairness and protection of the public interest?

Where a delegated officer is not able to resolve a particular issue, then such should be referred to the Director/Manager of Internal Audit for resolution. If still not resolved it is to be referred to:

- the CEO or Director General who is to assess the options (eg further internal investigation, referral to a suitably qualified independent person), or
- the Board or a relevant Board sub-committee, as appropriate/relevant.

5.2 Options for dealing with a conflict of interest

Generally, if a pecuniary interest is disclosed, the individual with the interest must not be involved in consideration or discussion of the matter in which he or she has the interest and must not vote on any question relating to the matter. In rare situations this may not be possible, for example, if a conflict of interest is identified at or near the conclusion of a process. Appointing an independent person to be involved in decision-making would minimize the actual or perceived influence or involvement of the person with the actual or reasonably perceived conflict.

However, a broader range of options exists for dealing with conflicts of interest that do not have a pecuniary component. Choosing the right option to deal with the conflict will depend on the circumstances of the matter and an objective assessment of it. Options can include:

- take no action because the conflict is assessed as being minor in nature or is eliminated by disclosure or effective supervision;
- allow limited involvement (eg. participate in discussion, but not in decision making);
- prohibit any involvement;
- request the individual concerned relinquish or divest the personal interest which creates the conflict;
- appoint an independent in the process to provide assurances of probity (eg. for tendering or recruitment selection panels).

The following case study highlights how these options can be used:

The Director of Corporate Services, Ms X, needs to hire an Information Technology consultant, which is the business her husband is in. It is a small country town and there are not many IT consultancy firms in the area. Ms X is aware that her involvement in the process could create problems and is keen to ensure that the best person for the job is selected. Ms X declares the potential conflict of interest to the Chief Executive Officer (or authorised delegate[s]).

The Chief Executive Officer (or authorised delegate[s]) decides that he will oversee the process, including convening the selection panel, and that the Ms X will have no involvement at all. He advertises the consultancy in the metropolitan, regional and local press and ensures that a comprehensive information package is provided to all potential bidders. He also involves the Director of Corporate Services from a neighbouring health service on the selection panel to ensure independence. He keeps full records of the process adopted and decisions made.

While the above example does not completely remove the potential conflict of interest it at least reduces the likelihood of an unfair process and biased outcome. If an accusation of conflict of interest is raised externally to question or discredit the decision made, the health service has evidence available to refute it.

5.3 Access to Objective Advice

Managers are responsible for dealing with conflicts of interest, however, it may be necessary for health services to nominate a senior officer or engage the services of a suitably qualified person, to provide objective advice to staff and management on conflict of interest matters. Where the matter involves a potential pecuniary interest, legal advice may be needed. Those with the potential conflict should make recommendations about how the matter should be handled in consultation with the nominated person and/or legal adviser.

Other points where objective advice could be obtained are the internal audit unit, Audit Branch of the Department of Health or ICAC's Corruption Prevention Unit.

5.4 Breaches

If a conflict of interest exists and is not declared or if a conflict of interest has been disclosed and it is proven that the employee was biased in decision-making or processes, and/or received financial gain, the matter will be reported to the Chief Executive Officer, Director General or authorised delegate(s) of the health service recommending a course of action such as:

- disciplinary action, transfer or dismissal;
- support and counselling;
- criminal action and report to Police

depending on the level of seriousness and/or if there is repeated and deliberate concealment or failure to disclose.

In circumstances that involve corrupt conduct, a report under section 11 of the Independent Commission Against Corruption Act 1988 must be made to the ICAC.

6 Training and education

Health Services and the Department of Health are to:

- incorporate the provisions of this policy into their respective Human Resources Manuals;
- present information hand outs at orientation programs for new staff (see **Appendix 2 – Conflict of interest examples and recommended actions** for an example)
- provide ongoing training programs/staff development on corruption prevention, fraud control and conflict of interest (See the Training Resource section of the *ICAC Managing Conflicts of Interest in the Public Section Toolkit*)
- issue information to re-enforce policy eg organisational newsletters with “edited” examples of possible conflicts of interest
- provide staff with a copy of **Appendix 3 – Conflict of interest – Information sheet**
- include conflict of interest/corruption prevention as an agenda item for specified meetings eg Tender Review meetings;
- include examples of conflict of interest in the fraud control policy and corruption prevention plans.

7 Record keeping

The assessment process should be fully documented. Once a matter is resolved details must be submitted to Internal Audit for inclusion in either or both the Conflict of Interest Register and Gifts and Benefits Register. (Both are described at 7.1 and 7.2.)

The Manager, Internal Audit Unit is to review and sign off both Registers on a quarterly basis to ensure all actions have been completed and identify any trends and/or instances that require further action eg. one firm offering gifts to a number of employees.

7.1 Conflict of Interest Register

A Conflict of Interest Register is to be maintained by the Manager of the Health Service Internal Audit Unit or delegate to record all conflicts of interest (actual or potential).

The Register is to incorporate as a minimum the undermentioned information:

- name of the person declaring the conflict of interest;
- to whom was the conflict declared;
- date of declaration;
- organisation or individual involved;
- brief description of matter;
- action taken/comments.

7.2 Gifts and Benefits Register

A Gifts and Benefits Register is to be maintained by the Manager of the Health Service Internal Audit Unit or delegate to record the details of when gifts or benefits have been offered and/or accepted. The Register is to record as a minimum, details of:

- name of employee concerned;
- from who/whom was the gift/benefit offered;
- type of gift/benefit;
- estimated value of gift/benefit;
- date offered;
- was gift/benefit accepted;
- to whom reported;
- action taken and general comments as to why a particular course of action was taken.

8 Reference documents

- Independent Commission Against Corruption - *Managing Conflicts of Interest in the Public Sector - Guidelines and Toolkit*
- Premier's Circular 2004-07 - *Conflict of Interests*
- NSW Ombudsman fact sheet - *Pre-requisites to Avoid or Manage Conflict of Interests*
- NSW Ombudsman - Public Sector Agencies fact sheet No. 3 – *Conflict of Interests*
- NSW Ombudsman publication – *Good Conduct and Administrative Practice (2nd edition)*
- DoH Circular 2001/46 - *Department of Health Code of Conduct*
- DoH Circular 98/79 - *Principles and Minimum Standards for the Development of Health Service Codes of Conduct*
- *Independent Commission Against Corruption Act 1998*

Appendix 1 – Gifts and benefits

Perceptions

Staff should not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence the staff member:

- to act in a particular way (including making a particular decision);
- to fail to act in a particular circumstance; or
- to otherwise deviate from the proper exercise of their official duties.

Staff should avoid all situations in which the appearance may be created that any person or body (companies), through the provision of hospitality or benefits of any kind, is securing or attempting to secure the influence or favour of the individual staff member or the Health Service. For example:

- A medical equipment company offers a doctor a donation towards the staff Christmas party
- A pharmaceutical company offers to meet the expenses of a pharmacist in attending a professional conference
- An invitation is made to staff to attend a supplier's Christmas party where gifts of a substantial nature are distributed.

Public officials should also take all reasonable steps to ensure that their immediate family members are not the recipients of gifts or benefits, which could give the appearance to an impartial observer of an indirect attempt to secure their influence or favour.

Things that could influence the perception of a gift or benefit would include:

- the scale, lavishness or expense/cost/value;
- the frequency of occurrence; and
- the degree of openness surrounding the occasion or gift.

It should be recognised that gifts or benefits are rarely offered by commercial organisations, where the giver would not expect to receive or to have received some advantage or reward and staff should be wary of accepting any such offers and the inherent debt can result.

As a general rule no payments, gifts or benefits are to be accepted by staff members.

Types of gifts

Gifts or benefits include, but are not limited to, free (or less than market value) accommodation, entertainment (e.g. tickets to major sporting events, concerts, etc), hospitality (e.g. meals, alcohol, invitations to use a corporate box at a major event) or travel. Generally speaking, **token** gifts and moderate acts of hospitality would include:

- Gifts of single bottles of reasonably priced alcohol to individual public officials at end-of-year functions, public occasions or in recognition of a presentation
- Free or subsidised meals and/or beverages provided infrequently (and/or reciprocally) by representatives of other public sector agencies or Federal Government departments or agencies, and
- Free meals and/or beverages provided to public officials who formally represent their agency at government-related functions
- Box of chocolates or flowers from a grateful patient/client.

Token gifts

Token Gifts may be accepted and retained by staff members however they are required to report the matter to their supervisor and gain their agreement to retention of the token gift.

Non token gifts

Gifts or other benefits not essentially token or inconsequential in kind (including moderate acts of hospitality) should only be accepted:

- where they are not obtained by virtue of a staff member's office or position;
- where a gift is given to a staff member in a public forum in appreciation for the work, assistance or involvement of the staff member or health service, and refusal to accept the gift would cause embarrassment or affront;
- if there is no possibility that the recipient might be, or might appear to be, compromised in the process; or
- in circumstances generally approved by the CEO or delegate of the health service, or on any other occasion with the formal written approval of the CEO or delegate, preferably obtained beforehand.

Approval of the CEO or delegate should only be given where the acceptance of the gift is unlikely to be seen by a reasonable 'impartial observer' to create a conflict of interest, or influence the performance of duties or functions. Staff members if accepting gifts in these circumstances should indicate that they are accepting the gift on behalf of the health service for which they work. The CEO or delegate is to determine what use the gift is to be put to, which could include retention by the staff member.

Gifts and benefits register

A Gifts and Benefits Register will be maintained by the Manager of the Health Service Internal Audit Unit. Supervisors and managers are to ensure that **non token gifts** received are entered into the Register.

Corrupt conduct

If any offer or suggestion of a bribe is made directly or indirectly to a staff member, the facts should be reported to a senior officer at the first opportunity. The senior officer should immediately inform the principal officer of the agency who is under a duty to report to the ICAC any matter that he or she suspects, on reasonable grounds, concerns or may concern corrupt conduct (*see s. 112, Independent Commission Against Corruption Act 1988*). If staff are dealing with, or having access to, sensitive investigations or sensitive information, they should be particularly alert to inappropriate attempts to influence them.

Appendix 2 – Conflict of interest examples and recommended actions

Listed below, under various classifications, are situations where conflicts of interest may potentially occur and a recommended action to avoid or deal with the conflict.

Some classifications have additional information under the title **Improper actions**, which are examples of conflict of interest or possible corruption considered to be in breach of the NSW Health Code of Conduct:

Purchasing Goods and Services or Letting of Contracts

Situation	Recommended action
<p>Accepting gifts or benefits from suppliers, or other individuals, involved in the provision of goods and/or services could present a conflict of interest or obligation. Gifts and benefits can take many forms eg lucky door prizes, raffles, travel, meals, opportunities to attend educational meetings etc.</p>	<p>Do not accept gifts. However there may be occasions when refusing a gift would offend or upset the giver. On these occasions indicate that you are accepting the gift on behalf of the unit or Health Service for which you work and report that you received the gift to your supervisor and Internal Audit to record the details in the Gifts and Benefits Register.</p>
<p>Having a relationship with a potential supplier (eg. socially or through a family member etc.) could present a conflict of interest.</p>	<p>Withdraw from any part of the tendering/ purchasing process or declare the conflict and refrain from voting (if acceptable to other personnel involved).</p>
<p>Having a financial or other interest (eg. through a family member/friend) in a company that is a potential supplier to the health organisation is a conflict of interest.</p>	<p>Withdraw from any part of the tendering/ purchasing process or declare the conflict and refrain from voting (if acceptable to other personnel involved).</p>

If gifts or other benefits are accepted and/or preferential treatment is given to one supplier or person then this is **corrupt conduct** and depending on the degree of the situation, may be a case for dismissal.

Improper actions

- Recommending or approving quotes/tenders without undertaking a full assessment of all tenderers.
- Inviting quotes/tenders without open competition and knowingly not obtaining best value for money.
- Preferentially selecting individual suppliers.
- Evaluating new products and being biased towards a supplier.
- Inviting quotes/tenders and then informing a particular supplier of the quote price they have to better.
- Providing information etc that gives a supplier an advantage over there suppliers either at that time or later on.
- Going to a supplier, who is a relative, without ensuring competitive prices are being obtained.
- Developing specifications that are directed at a particular supplier's product because of a personal association.
- Receiving short supply of goods and paying full cost from a firm in which the employee has a financial interest.
- Accepting an invitation from a supplier to a social engagement which could lead you to being feeling obligated to that supplier.

Recruitment

Situation	Recommended action
<p>Sitting as a member on selection panels where applicants for the position are known to the member personally, as either family, friend or close associate, to an extent that could be considered to be a conflict of interest. Selections are to be conducted equally, fairly and based on merit in accordance with the principles of EEO and affirmative action.</p>	<p>Declare the interest and withdraw from any part of the recruitment process is the preferred option, however in some situations it may be necessary to include the person with the conflict on the panel (for example in cases where they have specific expertise that is required). In these cases it may be an option to involve an independent in the recruitment process.</p>
<p>Being in a position to influence the selection, or non-selection, of an applicant for a position where the applicant is known personally and involvement could be perceived to be a conflict of interest.</p>	<p>Declare the interest and do not offer advice or get involved in the recruitment process.</p>

Improper actions

- Knowingly not selecting the most appropriate applicant.
- Manipulating/coercing selection panels to select or not select a particular applicant.
- Withholding information that would affect the selection or non-selection of the most appropriate applicant.

Staff administration

Situation	Recommended action
<p>Having a close personal and/or family relationship with another employee over whom control is exercised.</p>	<p>All employees are to be treated equally and fairly and any relationships that could be perceived to be of possible concern should be brought to the attention of a more senior officer. If employees are being given preferential treatment the person responsible should be disciplined.</p>

Improper actions

- Promoting friends or relatives where other employees are more deserving.
- Preferentially rostering staff to the advantage of particular individuals due to personal association with those persons. This can have financial (penalty rates etc) advantage to the favoured individuals to the disadvantage of other employees.
- Allocation of overtime regularly to particular individuals to the disadvantage of other persons equally entitled and equally efficient.
- Assessment and/or inappropriate recommendation of particular individuals over others because of personal associations, for such things as:
 - training courses;
 - attending conferences;
 - job or advancement opportunities.
- Recommending incremental progression, or non-progression, of particular officers due to personal interests, or attitudes, that are not aligned to the work situation.
- Giving preference for the taking of leave by individuals to the detriment of others due to personal association.
- Not applying the same rules equally to all employees because of personal association eg. failure to address issues of late attendance, non-performance, etc.

Secondary employment

Situation	Recommended action
Being privately employed in a second job where the second position could affect the performance of the duties in the health organisation and/or give the impression that favouritism was being given to the private employer.	Employees are to seek approval for any secondary employment. Depending on the circumstances the Chief Executive Officer, Director General or authorised delegate[s] can request the employee to cease the secondary employment or resign, if an arrangement cannot be realised.

Client/Patient Relationship

Situation	Recommended action
Providing information or making recommendations to client/patient re service providers where one of the service providers is a close friend/relative , etc.	Staff are not to give preferential treatment to personal associates at the expense of others. Staff are not to recommend any one service provider or firm. They should provide "lists" of available service providers/firms. If a staff member is found to have received a financial return for recommending one service provider, or firm, it may be a case for dismissal. Employees who recommend particular service providers, or firms, due to personal preference should be subject to appropriate management counselling. (See DoH Circular 96/2.)

Improper actions

- Recommending service providers or firms to patients/clients, relatives or other individuals due to personal relationships, or preferences, whether for financial gain or not.
- Receiving a financial or other form of gain in recommending a particular service provider.
- Giving preferential treatment to patients/clients due to personal association at the expense of others.

Membership of Associations, Clubs, Professional Organisations, Political Parties

Situation	Recommended action
Being involved in decision-making processes of the Health Service that could have an effect on the method of operation of an association, club, professional organisation etc that the employee is a member of, or has an interest in.	Declare the interest and allow management to determine the extent of involvement. If an employee is found to have made or influenced a decision of the Health Service to the detriment of the Health Service then that employee could be subject to at least disciplinary action and possible dismissal depending on the extent of the breach of conduct.

Improper actions

- Using the position in the health organisation to favour the private organisation, or a member of the private organisation.
- Being involved in an association, club or professional organisation and making decisions which impact adversely on the Health Service.
- Making known confidential information from the Health Service, without approval, to the advantage of the private/outside organisation and to the detriment of the Health Service.

Note: Release of confidential information without appropriate approval is at least a disciplinary offence and depending on the extent and nature of the information could be a case for dismissal.

Clinicians and Other Health Professionals

Health professionals encounter a variety of circumstances in their day-to-day work, which could give rise to potential conflicts of interest.

Situation	Recommended action
<p>Establishing a relationship with a pharmaceutical company or medical equipment supplier where it could be perceived that preference was given to that particular company during a procurement/tendering process.</p>	<p>Declare any potential conflict of interest to the Chief Executive Officer, Director General or authorised delegate[s].</p>
<p>Accepting travel and accommodation fees to present research findings.</p>	<p>Obtain approval from Chief Executive Officer, Director General or authorised delegate[s] for accepting travel and accommodation fees and releasing of possible confidential information.</p>
<p>Accepting payment of fees and/or honorariums for sitting on committees.</p>	<p>If a fee-for-service is received and the service is provided during working hours, then the income must be declared and provided to the organisation for inclusion in "Other Revenue". (This includes payment for jury duty, unless the employee does not receive their usual salaries and wages during the course of the trial.)</p>
<p>Participating on professional boards, committees, societies, etc. which could constitute a conflict of interest with position held in health organisation.</p>	<p>Obtain approval from Chief Executive Officer, Director General or authorised delegate[s] to participate in external boards etc where there is any or could be a perception of a conflict with the duties or functions performed in the health organisation.</p>
<p>Having directorships and share holdings in private companies, associations, etc which deal with the health organisation.</p>	<p>Declare the interest to the Chief Executive Officer, Director General or authorised delegate[s] who would then decide whether a conflict of interest existed and possibly restrict the person's involvement in health organisation processes or request resignation from external involvement.</p>
<p>Management of allegations of sexual assault, physical or emotional abuse of a child where the alleged offender is a NSW Health Employee. (DoH Circular 97/80)</p>	<p>Where an incident has been identified at a particular health organisation it is to be reported to the Chief Executive Officer, Director General or authorised delegate[s] who is to arrange medical and/or counselling for the alleged victim and family to be undertaken by a health service/hospital not connected with the alleged incident. This action is to be taken due to the possible conflict of interest by a health professional in providing services that could affect another person who is an associate or known to the health professional. In addition, appropriate reporting to the authorities is required eg. NSW Police, DOCS, NSW Health.</p>
<p>Evaluating new products/drugs where decisions may be influenced by personal associations/offers of samples or equipment, whether to the individual or the organisation</p>	<p>Declare any potential conflict of interest to the Chief Executive Officer, Director General or authorised delegate[s].</p>
<p>Making referrals to an aged care facility, group home or boarding house in which the person making the referral (or a family member or associate) has an interest.</p>	<p>Declare any potential conflict of interest to the Chief Executive Officer (or authorised delegate[s])</p>

Composition of a Medical Credentials Committee

Situation	Recommended action
<p>Composition of a Credentials Committee is to take into account potential conflicts of interest that may arise, eg where a medical practitioner is a significant competitor in economic terms to an applicant. (DoH Circular 95/24)</p>	<p>The member of the Credentials Committee should report the possible conflict of interest to the Chief Executive Officer (or authorised delegate[s]) who will assess if the possible conflict warrants the medical practitioner not being involved in the credentialing. If it is found a medical practitioner has not reported a conflict and has influenced the non-selection of a person who otherwise would have been accepted then that person's contract should be terminated or if a staff member at least disciplined and not permitted to be involved in future Credentials Committee actions.</p>

Appendix 3 – Conflict of interest – Information sheet

Conflict of interest may arise when an employee could be influenced or could be perceived to be influenced, by a personal interest whilst carrying out their public duty.

Employees have a responsibility to:

- not accept gifts, rewards, travel, meals from suppliers or individuals. (If refusal to accept a gift would offend or upset the giver, employees are expected to accept the gift, indicating that you are accepting the gift on behalf of the unit or Health Service for which you work and then follow procedures to report receiving the gift.)
- treat all persons equally and fairly and not show preference to any individual or organisation.
- declare a conflict of interest or potential conflict of interest to their immediate supervisor and/or the Chief Executive Officer, Director General or authorised delegate[s].

Examples of improper actions:

- Going to the one supplier, who is a relative, without ensuring competitive prices are being obtained
- Developing specifications that are directed at a particular suppliers product due to a personal association.
- Receiving short supply of goods and paying full cost from a firm you have a financial interest in.
- Rostering friends or relatives favourably to the disadvantage of other employees.
- Promoting friends or relatives where other employees are more deserving.
- Employing an applicant because of a personal association, where there are more deserving applicants.
- Having directorships and share holdings in private companies, associations, etc which deal with the health organisation.
- Giving preferential treatment to patients/clients due to personal association at the expense of others.

Questions Employees should ask themselves:

- Do I, a relative, friend or associate stand to gain/lose in any way financially from a health organisation's decision or action on this matter?
- Have I received a benefit or hospitality from someone who stands to gain or lose from the health organisation's decision or action?
- Am I in a position to influence decision making about a matter related to a potential interest?
- 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 lose or gain from the health organisation's consideration of the matter?
- Could there be benefits for me in the future that could cast doubt on my objectivity?
- If I do participate in the assessment/decision making, would I be happy for my colleagues and the public to be aware of any association or connection?
- Would a fair and reasonable person perceive that I was influenced by personal interest in performing my public duty?
- Do I need to seek advice or discuss the matter with an objective party?
- Am I confident of my ability to act impartially and in the public interest?
- Do I need to declare a matter to a senior officer?