



# **Conflicts of Interest**

## **Scenario 2**

### **Sponsorship from the private sector**

**“With increased competition for scarce government funds...such as sponsorships...there is emerging greater potential for conflicts of interest between public duty and private interests.”**

**“It isn’t wrong or unethical to have a conflict of interest, what is important is that it is identified and appropriately managed”**

## The Integrity Coordinating Group

The Integrity Coordinating Group (ICG) was formed to promote and strengthen integrity in Western Australian public authorities. ICG members support integrity through their independent roles under their own legislation, and also work collaboratively across the public sector.

## Integrity in decision making

Decision makers need to demonstrate integrity by:

- serving the public interest
- using powers responsibly
- acting with honesty and transparency
- addressing improper conduct.

## The Integrity in Decision Making guidelines

ICG supports building the capacity of public authorities, and their employees, to demonstrate integrity when making decisions.

These guidelines provide public authorities with information and practical tools about integrity in decision making, which can be used to strengthen and sustain their decision making processes.

## Introduction

Almost all functions performed in the public sector can potentially lead to conflict of interest situations. A conflict of interest in itself is not necessarily wrong or unethical, however, identifying and managing the situation is important. Managing conflicts of interest is all about risk management. Identifying at-risk functions in the organisation is the first step to managing the risks conflicts of interest present.

With increased competition for scarce government funds, many public sector agencies are seeking additional external sources of funding such as sponsorships. New forms of relationship have thus developed between the public sector and the business and not-for-profit sectors, with close forms of collaboration such as public/private partnerships and sponsorship. In consequence, there is emerging greater potential for conflicts of interest between public duty and private interests.

Effective risk management involves developing strategies for managing potential conflicts of interest that may occur within the context of sponsorship arrangements. An important point to remember is that any sponsorship relationship is a business arrangement for the benefit of the parties, not for the benefit of individuals, whether or not they are involved in the transactions.

The following scenario illustrates one example of how conflicts of interest may be identified and what strategies may be employed to manage them. The choice of strategies may vary across the sector, and will be dependent on the operating environment, legislative requirements and practical solutions.

### Scenario

Rumila is the public relations manager of a State Government agency responsible for Arts policy. Jake, her CEO, suggests she approach a major mining company to sponsor one of the prizes in an annual 'emerging artists' award. The awards are for new Western Australian artists and are largely funded by Government. However, new award categories have been established over the years and additional external funding is required.

Bruno, the marketing manager of the mining company, is Jake's brother-in-law and is supportive of the awards. Rumila successfully negotiates sponsorship for a period of five years and company naming rights are agreed to for the award.

Jake and Rumila subsequently receive complimentary tickets to the race final of Cruising, a major national yachting regatta to be held on the Swan River, partially sponsored by the mining company.

## How to identify conflicts of interest

The CEO of the agency is a close relative of a key player in the public/private sector sponsorship negotiations. Even though Jake may not be involved directly in the negotiations for sponsorship of the artists' award, there could be a perception that the particular mining company is being targeted by his agency above others, for some personal or private gain.

The complimentary tickets to *Cruising* could be perceived as a conflict of interest for both Jake and Rumila given that the offer is outside of the sponsorship agreement, and the event is unconnected to the responsibilities of the agency. On the other hand, the relationship between the agency and mining company is an important one to both parties given the sponsorship agreed to for five years.

Proportionality needs to be considered here. The public duty of officers of the agency is to develop and implement Arts policy for the Government. The acceptance of tickets to a popular sporting event, even in their own time, could be perceived as taking advantage of the private sector relationship for personal interest and is unlikely to stand up to public scrutiny.

## How to manage conflicts of interest

Jake, as CEO, should declare and register his conflict of interest and preferably not participate directly in the sponsorship negotiations. It would be wise for a range of companies to be approached as potential sponsors by the marketing manager to avoid the perception of preferential treatment.

Careful consideration needs to be given to conflicts of interest (actual or perceived) through public/private sector relationships. In this case it would be wise for the CEO and Rumila to record the 'gift' of tickets to the race final of *Cruising* and relinquish the invitation, to avoid any perceived conflict of interest.

## Relevant legislation

- *Public Sector Management Act 1994*
- *Financial Administration and Audit Act 1985* and Treasurer's Instructions
- *State Supply Commission Act 1991*
- *Local Government Act 1995* and associated regulations
- *Members of Parliament (Financial Interests) Act 1992*

## The 6 Ps

### **P**ublic duty versus private interests

Do I have personal or private interests that may conflict, or be perceived to conflict with my public duty?

### **P**otentialities

Could there be benefits for me now, or in the future, that could cast doubt on my objectivity?

### **P**erception

Remember, perception is important. How will my involvement in the decision/action be viewed by others?

### **P**roportionality

Does my involvement in the decision appear fair and reasonable in all the circumstances?

### **P**resence of mind

What are the consequences if I ignore a conflict of interest?  
What if my involvement was questioned publicly?

### **P**romises

Have I made any promises or commitments in relation to the matter? Do I stand to gain or lose from the proposed action/decision?

## The 6 Rs

### Record/Register

Recording the disclosure of a conflict of interest in a register is an important first step, however this does not necessarily resolve the conflict. It may be necessary to assess the situation and determine whether one or more of the following strategies is also required:

### Restrict

It may be appropriate to restrict your involvement in the matter, for example, refrain from taking part in debate about a specific issue, abstain from voting on decisions, and/or restrict access to information relating to the conflict of interest. If this situation occurs frequently, and an ongoing conflict of interest is likely, other options may need to be considered.

### Recruit

If it is not practical to restrict your involvement, an independent third party may need to be engaged to participate in, oversee, or review the integrity of the decision-making process.

### Remove

Removal from involvement in the matter altogether is the best option when ad hoc or recruitment strategies are not feasible, or appropriate.

### Relinquish

Relinquishing the personal or private interests may be a valid strategy for ensuring there is no conflict with your public duty. This may be the relinquishment of shares, or membership of a club or association.

### Resign

Resignation may be an option if the conflict of interest cannot be resolved in any other way, particularly where conflicting private interests cannot be relinquished.

## Codes of Ethics and Conduct

- The Public Sector Commission Western Australian Public Sector Code of Ethics (reprinted December 2010)
- Agency Codes of Conduct
- Policies and Guidelines
- Crime and Misconduct Commission (2002) Preventing corruption in sponsorship
- Department of Local Government (1999) Financial interests handbook: for local governments in Western Australia
- Department of Local Government and Regional Development (2000) Disclosure of interests affecting impartiality (Local Government Operational Guidelines, No. 1)
- State Supply Commission (2001) Sponsorship in Government: a handbook to assist public authorities

## Where can I get more information?

More information is available from ICG website at [www.publicsector.wa.gov.au/icg](http://www.publicsector.wa.gov.au/icg)

## Where can I seek further advice?

It is important to first discuss the situation with a supervisor or senior colleague. You may also contact:

State Supply Commission 4th Floor, Optima Centre 16 Parkland Road OSBORNE PARK WA 6017 Telephone: (08) 6551 1500 Freecall: 1800 806 599 (Country only) Email: <a href="mailto:enquiries@ssc.wa.gov.au">enquiries@ssc.wa.gov.au</a> Web: <a href="http://www.ssc.wa.gov.au">www.ssc.wa.gov.au</a>	Department of Local Government PO Box R1250 PERTH WA 6844 Telephone: (08) 9217 1500 Facsimile: (08) 9217 1555 Freecall: 1800 620 511 (Country only) Email: <a href="mailto:info@dlg.wa.gov.au">info@dlg.wa.gov.au</a> Web: <a href="http://www.dlg.wa.gov.a">www.dlg.wa.gov.a</a>
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## Some other titles in this series

Available at [www.publicsector.wa.gov.au/icg](http://www.publicsector.wa.gov.au/icg):

- Managing procurement processes, tenders and contracts
- Wearing two hats—dual roles as a public officer
- Getting on Board—representative members on Boards and Committees
- Allocation of grants for community-based services
- Gifts, benefits and hospitality
- Recruitment, selection and appointment
- Secondary employment

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## Disclaimer

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