



# **Conflicts of Interest**

## **Scenario 3**

**Wearing two hats-dual roles as a  
public officer**

**“A conflict can arise where competing interests exist between an officer’s public duties.”**

**“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.

A conflict can arise where competing interests exist between an officer's public duties. For example, it is not unusual for public officers to be appointed to Government boards or committees, representing their employer. There is no general prohibition preventing public sector employees serving on boards, however, this can place the officer with potentially competing interests between those of the employer, and the board or committee. If a public sector employee is appointed to a board, the reasons should be documented and made public.

Board members should always act in the best interest of the agency. This means that a public servant's duty as a board member prevails if a conflict arises with his or her other public duties<sup>1</sup>. It is important that the officer is clear about the differing responsibilities, and how these will be discharged.

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

Juanita is the Director General of a State Government department with responsibility for developing and delivering cultural tourism in Western Australia. The Director General is responsible for allocation of funds to the statutory authorities comprising the cultural tourism portfolio, each with a specific and unique role in the industry.

As a voting member of several boards within the portfolio, Juanita is well aware of the competing demands for funding. During a heated Board meeting, one of the members proposes a motion to cease a key regional program if funding cannot be guaranteed for the next three years.

## How to identify conflicts of interest

Although there is no conflict of interest between her public duty and private interests, as the public officer responsible for allocation of Government funds across the portfolio, Juanita has competing interests between her role as Director General, and as a Board member. This makes it difficult for Juanita to always be seen to be impartial, and acting in the best interests of the agency with regard to decisions about allocation of funds for cultural tourism.

## How to manage conflicts of interest

The potential for competing interests between Juanita's two public roles would appear to be high. If it is not possible for Juanita, as Director General, to resign from the Board/s, it may be necessary to restrict her involvement in certain Board discussions such as those surrounding budget strategies. For example, the Director General could offer the Board information on the overall cultural tourism portfolio budget and advise members on matters of government policy, but remove herself from participating in any budget decisions made by the Board.

Given the potential for conflict, it would be wise for the Board, in conjunction with the Director General, to develop specific protocols in a Code of Conduct for how such competing situations will be handled.

## Relevant legislation

- *Public Sector Management Act 1994*
- Codes of Ethics and Conduct
- The Public Sector Commission Western Australian Public Sector Code of Ethics (reprinted December 2010)
- The Public Sector Commission Code of Conduct Guide for Government Boards and Committees (December 2010)
- Agency Codes of Conduct

## 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.

## Policies and Guidelines

- Australian National Audit Office (2003) Conflicts of interest and conflicts of role (Better Practice Guide: Guidance Paper No. 6)
- Department of the Premier and Cabinet (2001) Getting on board
- Ministry of the Premier and Cabinet (1999) Better management: corporate governance guidelines for Western Australian public sector board members
- Ministry of the Premier and Cabinet (1999) Better management: corporate governance guidelines for Western Australian public sector CEOs
- Office of the Auditor General (1998) Report on public sector boards (Report No.9)

## 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:

The Public Sector Commission  
 Governor Stirling Tower  
 197 St George's Terrace  
 PERTH WA 6000  
 Telephone: (08) 9219 6600  
 Facsimile: (08) 9219 6001  
 Email: [admin@psc.wa.gov.au](mailto:admin@psc.wa.gov.au)  
 Web: [www.publicsector.wa.gov.au](http://www.publicsector.wa.gov.au)

## 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
- Sponsorship from the private sector
- 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

## References

<sup>1</sup>Ministry of the Premier and Cabinet (1999) Better management: corporate governance guidelines for Western Australian public sector board members

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## Disclaimer

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