



# **Conflicts of Interest**

## **Scenario 7**

### **Recruitment, selection and appointment**

**“The appointment of individuals to positions within the public sector is considered a high-risk area for conflict of interest situations.”**

**“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.

The appointment of individuals to positions within the public sector is considered a high-risk area for conflict of interest situations. The *Public Sector Management (Breaches of Public Sector Standards) Regulations 2005*, *Public Sector Management Act 1994* and the Public Sector Commissioner's Instructions provide guidelines on recruitment, appointment and selection processes but do not specifically address conflicts of interest, how to identify or manage them. In any recruitment process, a conflict of interest (perceived or actual) should be declared and appropriate action taken. Panel members should not be part of a process where they have a conflict of interest, or where there could be a reasonable perception that it exists.

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

A large State Government agency with regional departments advertised a vacancy in one of the regions. As Regional Director, Kylie was appointed chair of the selection panel. Two other Regional Directors were panel members.

Kylie's brother-in-law, Phil, was an applicant for the position. Kylie did not register this as a conflict of interest as her relationship to Phil was well known in the region. She discussed the matter with the other panel members who assured her they were confident she would not let the relationship influence her.

The recruitment process continued and Phil was declared the recommended applicant. A breach of standards claim was lodged by one of the unsuccessful applicants, on the basis that the recommended applicant had been chosen not from a merit-based process, but rather because of nepotism/patronage.

## How to identify conflicts of interest

Kylie was in a decision-making position and hence was in a situation of conflict between her family relationship with Phil and her public duty to select the best person to fill the vacancy.

## How to manage conflicts of interest

In this situation it was not sufficient for Kylie to declare her relationship to Phil to panel members. She needed to formally register the relationship as a conflict of interest and remove herself from the panel.

## Relevant legislation

- *Public Sector Management Act 1994*
- *Public Sector Management (Breaches of Public Sector Standards) Regulations 2005*
- 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

- The Public Sector Commission Western Australian Public Sector Standards in Human Resource Management
- The Public Sector Commission Western Australian Questions and answers - HR principles in human resource management

## 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.

## 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
- Wearing two hats—dual roles as a public officer
- Getting on Board—representative members on Boards and Committees
- Gifts, benefits and hospitality
- Recruitment, selection and appointment
- Secondary employment

## 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)

## Acknowledgements

ICG is grateful for the support of Queensland's Crime and Misconduct Commission (CMC) and the New South Wales Independent Commission Against Corruption (ICAC), and acknowledges that much of the content developed by CMC/ICAC in Managing Conflicts of Interest in the Public Sector: Toolkit has been adopted by ICG, with some modification and adaptation for the Western Australian environment.

## Disclaimer

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