



Conflicts of Interest

Scenario 6

Gifts, benefits and hospitality

“The receipt of gifts, or other non-monetary benefits, including rewards or offers of hospitality, can place a public officer in a position of actual, perceived or potential conflict of interest.”

“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 receipt of gifts, or other non-monetary benefits, including rewards or offers of hospitality, can place a public officer in a position of actual, perceived or potential conflict of interest. Public authorities should develop clear and consistent protocols for all employees to follow in the event that a gift or benefit is offered to them or their employer. This is particularly important where employees are involved in procurement functions, sponsorship or commercial dealings with the private sector.

Public sector employees should not believe that accepting a gift will go undetected, or that it would not affect their relationship with the supplier. Preferably, gifts should be politely declined unless this would cause offence. When gifts are received during the course of employment they must be declared to the employing authority. It is advisable to record receipt of the gift.

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

As the contracts manager for a State Government agency, Rebecca is in the process of tendering for the design of a new corporate identity for her organisation. The tender process has not been completed and no final decision has been made.

Rebecca and a team member, Veronica, have been invited by one of the companies tendering, to a Melbourne Cup luncheon. For the past few years, in her own time, Veronica has been regularly attending design workshops offered by the company. Veronica is not on the tender panel, nor will she be involved in the decision-making process for that tender. Rebecca, however, will be.

How to identify conflicts of interest

Even though Veronica is not involved in the tender process, she may be perceived to have influence as she has an association with one of the companies tendering, and works in the department that will be determining the outcome of the tender.

Rebecca is in a decision-making position and acceptance of hospitality from one company, and not others, may influence her ability to be impartial in carrying out her public duty to award the tender.

How to manage conflicts of interest

Rebecca and Veronica must choose to accept the hospitality or not. To avoid any perception of a conflict of interest, it would be wise for Veronica to disclose her association with the company to Rebecca.

Regardless of whether Rebecca continues to be involved in the tendering process, both she and Veronica should register the invitation to the Melbourne Cup lunch.

If Rebecca accepts the hospitality, she should restrict her involvement by refraining from being part of the decision-making in the tender process. Alternatively, the organisation may engage or recruit an independent person to oversee the process. It is recommended that if a suitable replacement is available, Rebecca remove herself from this particular tender process altogether if she accepts the invitation.

The 6 Ps

Public duty versus private interests

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

Potentialities

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

Perception

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

Proportionality

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

Presence of mind

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

Promises

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.

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*
- 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

- 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 (2004) Integrity, ethics and probity policy
- State Supply Commission (2001) Sponsorship in Government: a handbook to assist public authorities

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: enquiries@ssc.wa.gov.au
 Web: www.ssc.wa.gov.au

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: info@dlg.wa.gov.au
 Web: www.dlg.wa.gov.au

Where can I get more information?

More information is available at www.publicsector.wa.gov.au/icg

Some other titles in this series

Available at 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

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Disclaimer

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