

Conflict of interest policy and procedure

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Overview

Purpose

Ahpra operates in a transparent, accountable, efficient, effective and fair way. To achieve this, Ahpra is committed to ensuring its staff work in a fair and unbiased way without being influenced by improper considerations.

This means that in the course of performing their duties, staff at every level must ensure that their work and their decisions are not affected by self-interest, private affiliations or the likelihood of personal gain or loss.

This conflict of interest policy and procedures will enable staff to:

- identify an actual, perceived or potential conflict of interest
- understand the steps to be taken to manage a conflict of interest, and
- monitor the effectiveness of the steps put in place to manage the conflict of interest.

Policy and procedure

What is a conflict of interest?

The term 'conflict of interest' refers to the situation when a conflict arises between a staff member's public duty to properly perform their functions under the National Law and their private interests.

What steps should be taken if a conflict of interest is identified?

Whenever a possible conflict of interest is identified:

- the staff member must immediately notify their manager of the conflict of interest by completing and submitting the Conflict of interest disclosure form
- after carefully considering all relevant considerations, the manager will:
 - develop an appropriate strategy to manage the conflict of interest
 - record that strategy on the Disclosure form
 - advise the staff member of the strategy, and
 - submit the Disclosure form to the Director Corporate Risk and Compliance and the relevant Executive Director¹, and
- the Director Corporate Risk and Compliance will record the details of the conflict of interest and management strategy in the Conflict of Interest Register.

How is the effectiveness of the management strategy monitored?

The relevant manager will continuously monitor the effectiveness of the management strategy. The Director Corporate Risk and Compliance will review the Conflict of Interest Register entry on the review date set out in the Disclosure Form and confirm with the relevant manager that the management strategy is still required and that it is operating effectively to address the conflict of interest. If the strategy is no longer required (for example, the conflict may no longer exist), the Conflict of Interest Register will note that the strategy is inactive and no longer required.

This document provides more detail about each of these areas.

Policy and procedure

General principle

The Conflict of interest policy and procedure is designed to ensure that all conflicts of interest are managed transparently. This contributes to Ahpra achieving its broad objectives under the National Law.

¹ Should an Executive Director be disclosing a possible conflict of interest, the Disclosure form will be submitted to the Chief Executive Officer.

The effective management of conflicts of interest depends on the joint participation of staff, managers and the organisation itself. The information contained in this document sets out the individual responsibilities of each of those parties and provides guidance to ensure that they are able to understand and fulfil their responsibilities.

Conflict of interest

The term 'conflict of interest' refers to the situation when a conflict arises between a staff member's public duty to properly perform their functions under the National Law and their private interests.

A related but separate concept is bias. Bias arises when a person lacks impartiality and makes a decision other than on a legal or factual basis.

Public duty

Public duty is the duty expected of all Ahpra staff members to carry out their duties fully and effectively in accordance with the National Law and any relevant policy.

Private interests

Private interests are those interests that can bring benefits or disadvantages to staff members as individuals, or to others whom staff members may wish to benefit or disadvantage. Private interests are not limited to pecuniary interests or to interests that can bring direct personal gain or help avoid personal loss. They also include many social and professional activities and interests.

A private interest in the context of conflict of interest means anything that can have an impact on an individual or group and includes not only an employee's own personal, professional or business interests, but also the personal, professional or business interests of individuals or groups with whom he or she is closely associated. This can include relatives or friends.

Private interests can be divided into two types: **pecuniary** and **non-pecuniary**.

Pecuniary interests involve an actual, potential or perceived financial gain or loss. Money does not need to change hands for an interest to be pecuniary. People have pecuniary interests if they (or relatives, or close associates) own property, hold shares, have positions in a company providing health services, or receive benefits such as concessions, discounts, gifts or hospitality from a particular source.

Non-pecuniary interests do not have a financial component. They may arise from personal or family relationships, or involvement in sporting, social or cultural activities. They include any tendency toward favour or prejudice resulting from friendship, animosity, or other personal involvement with another person or group.

If personal values are likely to impact on the proper performance of public duty, then these can also lead to a conflict of interest. Enmity as well as friendship can give rise to a conflict of interest.

Some examples of private interests

Example 1

An Ahpra staff member has a patient/practitioner relationship with a dentist who has been treating the staff member for many years.

The staff member therefore has a non-pecuniary personal interest in that the staff member may have a tendency toward favouring the dentist.

If the staff member was asked to handle a notification about the dentist, a conflict of interest arises because this private interest comes into conflict with that staff member's public duty.

Example 2

An Ahpra staff member holds shares in a company which provides optometry services. This is a pecuniary private interest and if the staff member is carrying out their public duty by handling an advertising complaint about the company, a conflict of interest may arise.

Example 3

An Ahpra hiring manager receives an application for employment from a family member. The staff member has both a non-pecuniary private interest and potentially a pecuniary private interest (if the family member will contribute to the family finances). The hiring manager will have a conflict of interest that will need to be managed.

Example 4

An Ahpra manager is asked to recommend or decide whether a family member, also employed at Ahpra, should have their contract of employment extended or re-classified to a higher level. The Ahpra manager has a conflict of interest that must be declared and managed.

An **actual conflict** of interest involves a direct conflict between a staff member's current duties and responsibilities and existing private interests.

A **perceived or apparent conflict** of interest can exist where it could be perceived, or it appears, that a staff member's private interests could improperly influence the performance of his/her duties – whether or not this is in fact the case.

A **potential conflict** of interest arises where a staff member has private interests that could conflict with his/her official duties in the future.

Avoiding actual, potential and perceived conflicts of interest is fundamental to ensuring the highest levels of integrity and public trust.

The scenarios in the table below highlight the different types of conflicts:

Scenario	Type of conflict	Why this is so
<p>You are a staff member in Notifications and you investigate the conduct of registered practitioners as part of your normal duties.</p>	<p>No conflict</p>	<p>You are fulfilling your public duty under the National Law and you have no relevant private interests that may impact on you carrying out those duties.</p>
<p style="text-align: center;">↓</p> <p>You meet and marry a medical practitioner.</p>	<p>Potential conflict</p>	<p>Your private interests are not currently relevant to your official duties but they could be in the future if your spouse is the subject of a notification.</p>
<p style="text-align: center;">↓</p> <p>Your spouse is the subject of a notification which is being investigated by your colleague.</p>	<p>Perceived conflict</p>	<p>Although you are not investigating the notification, some may consider that as an investigator in a team handling the notification your own private interests are relevant to and may affect the consideration of the notification</p>
<p style="text-align: center;">↓</p> <p>Your manager re-assigns the notification concerning your spouse to you to investigate.</p>	<p>Actual conflict</p>	<p>As an investigator your private interests are relevant to your public duty and could improperly influence your assessment</p>

Managing a conflict of interest

Every conflict of interest, regardless of the type, must be properly managed.

There are a number of options available for managing a conflict of interest. These range from simply disclosing relevant details, to relinquishing the private interest or stepping down from the position held. Commonly accepted methods are:

Management strategy	When most suitable
<p>Registration</p> <p>Details of the existence of a possible or potential conflict of interest are formally advised and noted.</p>	<ul style="list-style-type: none"> for very low-risk conflicts of interest and potential conflicts of interest where the act of recording the conflict of interest is sufficient
<p>Restriction</p> <p>Restrictions are placed on the employee's involvement in the matter.</p>	<ul style="list-style-type: none"> the employee can be effectively separated from parts of the activity or process the conflict of interest is not likely to arise frequently
<p>Recruitment</p> <p>A disinterested third party is appointed to oversee part or all of the process that deals with the matter.</p>	<ul style="list-style-type: none"> it is not feasible or desirable for the employee to be removed themselves from the decision-making process in small or isolated communities where the particular expertise of the employee is necessary and genuinely not easily replaced
<p>Removal</p> <p>The employee does not participate at all in the matter.</p>	<ul style="list-style-type: none"> for ongoing serious conflicts of interest where <i>ad hoc</i> restriction or recruitment of others is not appropriate
<p>Relinquishment</p> <p>The private interest concerned is relinquished.</p>	<ul style="list-style-type: none"> the employee's commitment to public duty outweighs his or her attachment to the private interest
<p>Resignation</p> <p>The employee steps down from the position he or she holds on a temporary or permanent basis.</p>	<ul style="list-style-type: none"> no other options are workable - the employee cannot or will not relinquish his or her conflicting private interest and changes to the work responsibilities or environment are not feasible the employee prefers this course as a matter of personal principle.

The method selected for managing the conflict of interest will depend upon a number of factors. It will be decided by the relevant manager taking into account the:

- nature of the conflict
- complexity of the situation, and
- subtlety and severity of the case.

The procedure for declaring and managing a conflict of interest is as follows:

Action	By whom	How
Disclosure of possible conflict of interest	Any staff member who believes they have a conflict of interest	The staff member must complete section 1 of the Conflict of Interest Disclosure form and submit it to their line manager.
Determine if conflict of interest exists	The relevant manager	The manager should consider all relevant circumstances and, if necessary, seek further advice from the Director Corporate Risk and Compliance.
Selection and communication of appropriate strategy to manage conflict	The relevant manager of the affected staff member	<p>The manager should consider the various options available to manage conflicts of interest (as set out in this document) and determine the most suitable response. If necessary, the manager should discuss their proposed approach with their own manager or the Director Corporate Risk and Compliance so as to ensure that the most appropriate strategy is selected.</p> <p>Once the strategy has been developed, it should be explained to the affected staff member and agreement sought as to steps to be taken.</p> <p>The manager should complete section 2 of the Conflict of interest disclosure form and both the staff member and manager should sign it.</p> <p>The relevant manager should forward the completed Conflict of interest disclosure form to the relevant Executive Director.</p>
Review of management strategy	The relevant Executive Director	<p>The relevant Executive Director should review the completed Conflict of interest disclosure form and satisfy themselves that the management strategy is appropriate. If satisfied, the form should be referred to the Director Corporate Risk and Compliance to be registered.</p> <p>If the Executive Director believes a different strategy ought to be adopted, the relevant manager will complete a new Conflict of Interest Disclosure form, explain it to the affected staff member and forward on to the Director Corporate Risk and Compliance to be registered.</p>
Recording of the conflict of interest and management strategy	The relevant manager of the affected staff member and the Director Corporate Risk and Compliance	The Director Corporate Risk and Compliance will record the conflict of interest and the management strategy in the Conflict of Interest Register.
Monitoring of the management strategy	The relevant manager and the Director Corporate Risk and Compliance	<p>The relevant manager will keep the operation of the management strategy under constant review.</p> <p>The Director Corporate Risk and Compliance will review the current management strategy on the date specified in the Disclosure Form to ensure that the management strategy is still required and is effective to manage the conflict of interest.</p>

Roles and responsibilities

Managing conflict of interest risks is the shared responsibility of the Agency Management Committee, National Executive, managers and staff members.

Agency Management Committee (through the Finance, Audit and Risk Management Committee)

The overriding objective of any conflict of interest management strategy is to ensure that the public interest is not compromised. The Agency Management Committee is responsible for:

- prescribing a system for identifying and managing conflicts of interest in the form of detailed policies and procedures
- building an organisational culture that supports implementation of all relevant policies through appropriate education, training and enforcement activities
- reviewing relevant policies and procedures on a regular basis to ensure they are effective
- receiving and investigating complaints regarding possible breaches of conflict of interest policies, and
- monitoring compliance with conflict of interest policies, including responses to alleged breaches.

It will perform this role through the Chief Executive Officer and evaluate its effectiveness through the Finance, Audit and Risk Management Committee.

Managers

Managers are responsible for complying with conflict of interest policies with respect to their own conflicts and potential conflicts of interest and facilitating the compliance of those they supervise by:

- being aware of the risks of conflicts inherent in the work of the staff they manage
- making staff aware of relevant policies and procedures
- advising staff about appropriate ways to manage conflicts
- recording the receipt of disclosures of conflicts of interest reported to them by staff
- assisting with preparation of management strategies for staff who disclose conflicts of interest
- forwarding the completed Conflict of interest disclosure form to the Executive Director and the Director Corporate Risk and Compliance to be registered
- monitoring the work of staff and the risks to which they are exposed, and
- monitoring compliance with, and the effectiveness of, agreed management strategies.

Staff members

Staff members subject to these general procedures must:

- take reasonable steps to restrict the extent to which a private interest could compromise, or be seen to compromise, their impartiality when carrying out their official duties
- declare possible conflicts of interest accurately and promptly
- abstain from involvement in official decisions and actions that could reasonably be seen to be compromised by their private interests and affiliations
- avoid private action in which they could be seen to have an improper advantage from inside information they might have access to because of their official duties
- not use their official position or Ahpra resources for private gain
- ensure that there can be no perception that they have received an improper benefit that may influence the performance of their official duties, and
- not take improper advantage of their official position or privileged information gained in that position when seeking employment outside Ahpra.

Executive Directors

Executive Directors will be responsible for:

- satisfying themselves that the proposed management strategy is appropriate and is being correctly implemented, and
- reviewing any identified undeclared conflict of interest that may have affected the handling of a matter or the making of a decision to determine what action should be taken.

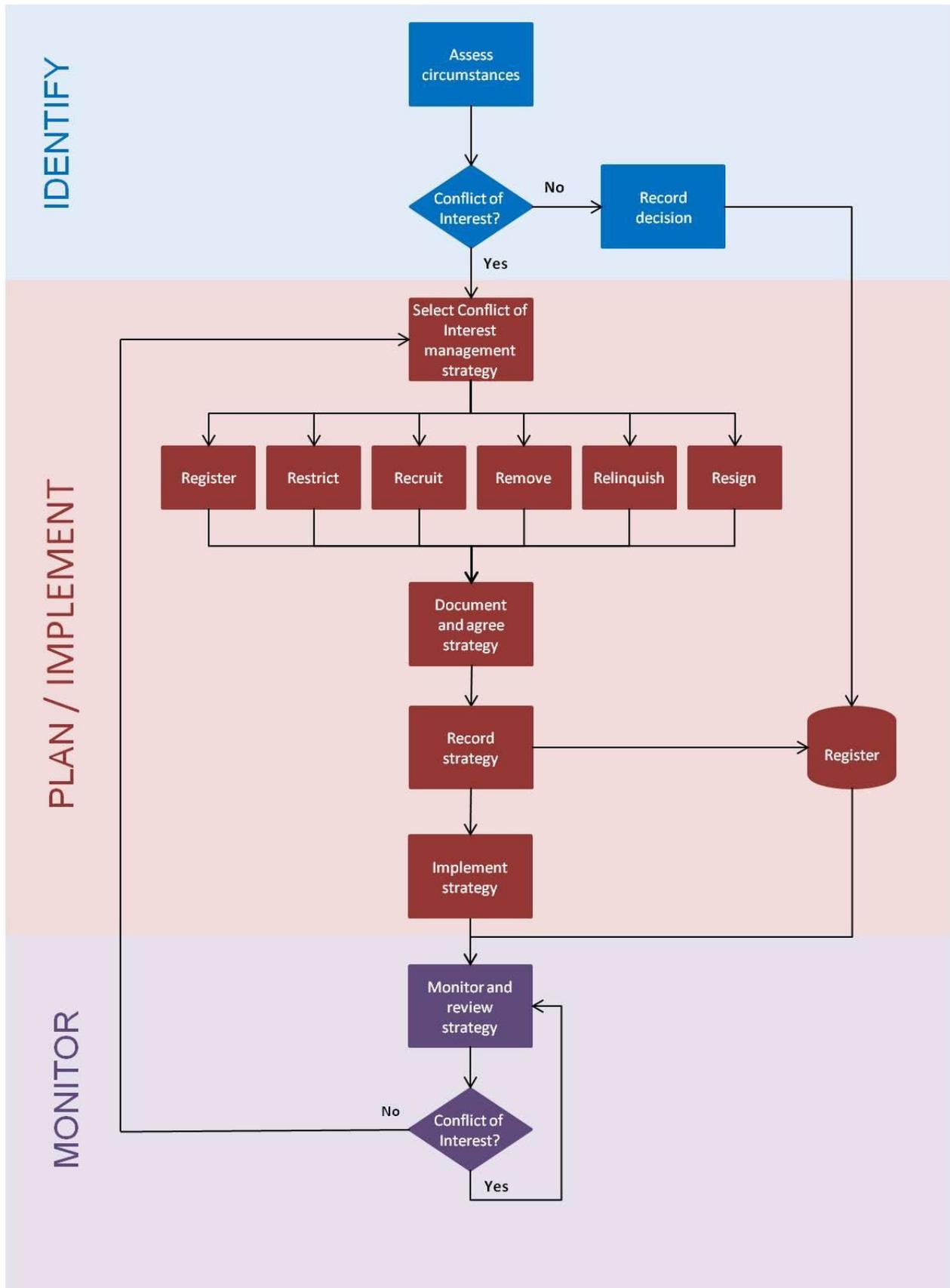
The Director Corporate Risk and Compliance

The Director Corporate Risk and Compliance will be responsible for:

- developing and maintaining the Conflict of interest policy and procedures for all Ahpra employees
- providing regular reports in relation to conflict of interest issues
- developing and maintaining a Conflicts of interest register to record all conflicts of interest
- undertaking reviews of all registered conflicts of interest to ensure that the management strategy is still required and working effectively
- development and delivery of Conflict of interest training and awareness programs for all employees, stakeholders, third party providers and the public
- reporting annually to the National Executive and the Finance Audit and Risk Management Committee on the conflict of interest register, and
- referring to the relevant Executive Director any identified undeclared conflict of Interest that may have affected the handling of a matter or the making of a decision.

Conflict of interest management process

Conflict of Interest Management Decision Model



Document control

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