

CONFLICT OF INTEREST

What is a conflict of interest?

A conflict of interest is where someone is compromised when their personal interests or obligations conflict with the responsibilities of their job or position. It means that their independence, objectivity or impartiality can be called into question.

A conflict of interest can be:

- actual: where the conflict already exists
- potential: where the conflict is about to happen, or could happen
- perceived: where other people might reasonably think that a person has been compromised.

A poorly managed 'perceived' conflict of interest can be just as damaging as a poorly managed 'actual' conflict of interest.

A conflict of interest can also be positive or negative. You could be seen to favour or benefit someone, or be against them and disadvantage them. While conflicts of interest should be avoided wherever possible, they often happen innocently. It's how they're managed that counts. In the context of a procurement activity, a conflict of interest that's not properly managed could seriously undermine its integrity and lead to complaints, challenges and, in some cases, an agency's decision being overturned. It's important that everyone in your agency not only behaves ethically, but is seen to behave ethically.

When can a conflict of interest happen?

A conflict of interest can arise in a number of ways: through a relationship, an activity or strong personal views. For example, a person could be compromised if, in carrying out their work duties, they're required to deal with:

- a relative or close personal friend
- an organisation, club, society or association of which they're a member
- a person who's their community or church leader.
- a person or organisation:
 - to which they have a professional or legal obligation
 - with which they have a business interest or own property
 - to whom they owe money
 - for whom they've previously worked, or currently work (secondary employment).

A Council employee could also be compromised if they're given something from a person who stands to benefit from their decision.

They could, for example accept:

- a gift
- an invitation to lunch, dinner or a sporting event
- free or subsidised travel or accommodation
- any other sort of benefit, including money.

In addition, a conflict can arise if a person holds strong personal views on an issue their agency is considering, for example political views or religious or cultural beliefs.

Public duty to serve the public interest

The 'public interest' is the collective interest of the entire community. All agency staff have a public duty to put the public interest above their personal or private interests when carrying out their official duties. This principle applies to anyone engaged to deliver government programmes and services, whether they are full-time, part-time or temporary employees, casual or contract staff, secondees, consultants, board members or volunteers.

When interests conflict

Conflicts of interest are not wrong in themselves, but they should be properly identified and effectively and transparently managed. When a conflict of interest has been ignored, improperly acted on or influenced actions or decision-making, the conduct (not the conflict itself) can be seen as misconduct, abuse of office or even corruption.

Managing conflicts of interest – a declaration

It's essential that all agency staff involved in a procurement activity complete and sign a Conflict of Interest Declaration and a Confidentiality Agreement. This includes.

- all members of the procurement team (staff, contractors and consultants)
- all members of the evaluation panel
- any consultant asked to advise the team
- anyone involved in making a recommendation
- anyone involved in approving a recommendation or making an important decision
- anyone making a financial approval for the procurement.

The Declaration requires the person to identify any actual, perceived or potential conflicts of interest. If they have none, they can take part in the project. The Declaration also needs to be revisited regularly and checked once the supplier has been chosen. Everyone who has signed one needs to check whether they have a conflict of interest in relation to the supplier or any of the named personnel in the supplier's tender.

Managing an identified conflict of interest

Conflicts that are identified must be reported to the manager in charge of the activity. They – and the process for managing them – must then be recorded in writing.

The options for managing a conflict of interest include:

- **restricting:** imposing restrictions on the person's further involvement in the matter
- **recruiting:** engaging an independent third party to oversee all or part of the process and verify its integrity
- **removing:** where the person chooses, or is asked, to be removed completely from the matter
- **relinquishing:** where the person relinquishes the private interest that created the conflict
- **resigning:** where the person resigns from their position with the agency. (This should only be considered if the conflict of interest can't be resolved in any other workable way.)