



Health Professional Councils Authority

## CONFLICT OF INTEREST POLICY

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<b>Version:</b>	Final				
<b>Summary:</b>	<p>The Code of Conduct requires that staff will avoid and resolve any conflict of interest and be open and honest in all activities where personal interest may clash with work requirements. HPCA staff are expected to avoid actual or perceived conflicts of interest in carrying out their duties.</p> <p>This Policy provides guidance for staff on conflicts of interest and how to manage them.</p>				
<b>Applies to:</b>	All HPCA staff				
<b>Author:</b>	Bronwyn Coop, Manager, Corporate Governance				
<b>Related legislation, Awards, Policy and Agreements:</b>	<ul style="list-style-type: none"><li>• Independent Commission Against Corruption Act 1988</li><li>• NSW Health, Conflicts of Interest and Gifts and Benefits Policy Directive (<a href="#">PD2010_010</a>)</li><li>• NSW Health, Code of Conduct (<a href="#">PD2012_018</a>)</li><li>• NSW Health, Corrupt Conduct – Reporting to ICAC (<a href="#">PD2011_070</a>)</li><li>• NSW Health, Fraud Control Strategy (<a href="#">PD2007_070</a>)</li></ul>				
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Health Professional Councils Authority

## CONFLICT OF INTEREST POLICY AND PROCEDURES

### INTRODUCTION

The community has a right to expect that HPCA staff will perform their duties as public officials in a fair and impartial way (putting the public interest first) and that decision-making is not affected by self-interest, private affiliations, or the likelihood of personal gain or loss. For this reason it is crucial that staff act to protect the public interest by ensuring that conflict of interest matters are identified and managed effectively.

A conflict of interest exists when it is likely that a staff member could be influenced, or perceived to be influenced, by a personal interest when carrying out their public duty. Conflicts of interest that lead to partial decision-making may constitute corrupt conduct.

The HPCA has adopted the NSW Health Policy Directive *Conflicts of Interest and Gifts and Benefits* (PD2010\_010) which prescribes the management of conflicts of interest and gifts and benefits by NSW Health agencies. It also provides further information with extensive examples and should be read in conjunction with this Policy.

### BACKGROUND

#### About this document

This document outlines the HPCA's policy and procedures for managing a conflict of interest. The NSW Health *Policy Statement* and *Managing Conflicts of Interest Procedures* of PD2010\_010 are on the NSW Health website at [www.health.nsw.gov.au](http://www.health.nsw.gov.au) and should be read in conjunction with this Policy.

Conflict of interest matters related to members of Councils and related bodies are managed by individual Councils.

#### Key Definitions

##### Conflict of interest

The term **conflict of interest** refers to situations where a conflict arises between the public duty and private interests of a public official, which could improperly influence the performance of their official duties and responsibilities.

Conflicts of interest can be **actual, perceived or potential**.

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 appears, that a staff member's private interests could improperly influence the performance of their 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 other official duties in the future.

### **Private interests**

A **private** or **personal interest** includes not only the personal, professional or business interests that each of us has, but also the personal, professional or business interests of the individuals with whom we associate. This might include relatives, friends or even rivals and enemies. Such interests may be those that can bring benefit or advantage to a person as an individual or to others whom the person may wish to benefit, advantage or disadvantage.

An “interest” can either be **pecuniary** or **non-pecuniary**.

A **pecuniary interest** involves an actual or potential financial gain or loss. Money does not need to change hands for an interest to be pecuniary. People have a pecuniary interest if they (or a relative, partner, friend or other associate) own property, hold shares, have a position in a company bidding for government work, or receive benefits (such as concessions, discounts, gifts or hospitality) from a particular source.

A **non-pecuniary interest** is defined as any private interest, which does not have a financial component. It includes any tendency towards favour or prejudice resulting from friendship, animosity, or other personal involvement with another person or group. Examples of non-pecuniary interests might include kinship, friendship, membership of an association, society or trade union or involvement (or interest) in an activity.

### **Public duty**

All staff have a duty to always put the public interest above your own personal or private interests when carrying out your official duties. Determining public interest in a particular situation can be complex, but on a practical level you can best fulfil your public duty by carrying out your prescribed official duties fully and effectively; operating within established ethical standards such as the Code of Conduct; and identifying any form of conflict of interest that you have and ensuring that it is managed effectively.

### **Conflict of duties/Competing interests**

At times staff may have multiple roles, where in addition to your principal job, you may have another public sector or community-based role, such as being a member of a committee or statutory body.

In these roles you may have access to confidential information in one role which may be useful or of benefit to your work in the other role. The corruption risk in this situation is that there may be a temptation to use the information improperly, or to give advantage to the second public organisation, or create bias or prejudicial treatment of another group or person.

These conflicts are described as **competing interests** or a **conflict of duty** and are not always recognised because no private interest is involved or apparent. These situations should be treated in the same way as potential conflicts of interest, that is, to ensure that decisions are made, and are seen to be made, on proper grounds, for legitimate reasons and without bias.

## **Responsibilities**

**Director, HPCA** is responsible for ensuring implementation of this Policy, including that appropriate education and training is provided and information is regularly disseminated to staff; and that the systems and records outlined in the Policy are implemented.

**Manager, Corporate Governance** is the nominated officer responsible for maintaining the HPCA Conflict of Interest Register and file.

**Executive Officers and business unit managers/supervisors**, in addition to their responsibilities as a staff member, must make staff aware of this Policy; document the receipt and outcome of disclosures of conflicts of interest reported to them and provide this advice to the Manager, Corporate Governance; determine and document an appropriate strategy for managing any reported conflict of interest; provide advice and assist staff with appropriate ways to manage such situations, and monitor the work of staff and risk they are exposed to.

**Staff** have a responsibility in respect of their public duty to be aware of their obligation to identify and assess private and personal interests and whether they conflict or have the potential to conflict with their official duties; declare immediately any conflict of interest or potential conflict of interest to their immediate supervisor and/or the Manager, Corporate Governance, the Director, HPCA or other senior staff member.

Staff includes permanent, temporary and casual employees, contractors or consultants, working in a full-time or part-time capacity, at all levels of the HPCA.

## **Executive and secretariat support to Councils**

Staff need to be mindful of conflict of interest issues when providing executive and secretariat support to Councils. For example, a conflict of interest may arise in relation to Council business, a professional issue or deliberations regarding a practitioner whom you may know.

If the matter arises during a Council or Committee meeting, it should be recorded in accordance with the relevant Council's practice. If appropriate a conflict of interest declaration form should also be completed and submitted to the Manager, Corporate Governance for inclusion on the HPCA Conflict of Interest Register and file.

## **IDENTIFYING CONFLICTS OF INTEREST**

Just because a staff member has a personal interest outside of work doesn't automatically mean that there is going to be a conflict of interest. The key test is whether an individual public official could be influenced, or appear to be influenced, by a private interest in carrying out their public duty.

All staff are exposed to possible conflicts of interest. It is not always easy to decide when private interests and public duty are, or might be, in conflict with each other.

Private interests are usually known only to an individual and it is important for staff to take responsibility for identifying and declaring their own conflicts of interest.

Understanding and defining the differences between actual, perceived or potential conflicts of interest can assist in identifying when a conflict exists and determining which type of management approach may be the most appropriate.

## **DECLARING CONFLICTS OF INTEREST**

You must declare any actual or potential conflict of interest (whether pecuniary or non-pecuniary). You are also expected to declare any circumstances that could result in a third party reasonably perceiving a conflict of interest to exist.

A disclosure must be made at the first available opportunity, preferably in writing, where possible using the conflict of interest declaration form. Disclosures should be treated as confidential.

The declaration may be submitted to your manager/supervisor, the Manager, Corporate Governance, or any HPCA Executive member unless the conflict relates to one of these people. In that instance the declaration should be submitted to the next most senior person or another HPCA manager.

Refer to the attached *Managing Conflicts of Interest Procedures* from PD2010\_010 for further information and a checklist of questions to consider.

### **Secondary employment**

You must seek approval from the Director, HPCA to engage in secondary employment.<sup>1</sup> Approval is dependent on there being no identified conflict of interest, that the secondary employment is not conducted during hours for which you are paid to work at the HPCA and that you do not use HPCA resources for any activity associated with secondary employment. The approval will be recorded in the Secondary Employment Register. You must advise the Director of any change to your secondary employment arrangements.

## **MANAGING CONFLICTS OF INTEREST**

It is important to recognise that a poorly managed perceived or apparent conflict of interest can be as damaging as a poorly managed actual conflict of interest. The critical factor is that staff must not only behave ethically, you must also be seen to behave ethically.

The way in which conflicts of interest are resolved or managed depend on an assessment of the nature of the conflict; complexity of the situation, and the subtleties and severity of the case.

Declaration forms are used to record the processes and decisions made and are recorded in the Conflict of Interest Register. Managers and supervisors may manage conflicts of interest within their Council or business unit, and should liaise with the Manager, Corporate Governance regarding the Conflict of Interest Register.

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<sup>1</sup> NSW Health, Code of Conduct, 4.3.6, page 7

## **Councils managing Conflicts of Interest**

Individual health professional Councils and their related Committees manage conflicts of interest according to the requirements of the Law, NSW Health and Department of Premier & Cabinet guidelines and the Council's Conflict of Interest Policy.

## **Breaches**

There are a number of ways in which staff can breach this policy and depending on the nature and seriousness of the breach, there are a range of actions or penalties that may result. In circumstances that involve corrupt conduct a report must be made to the Independent Commission Against Corruption (ICAC). Refer to the NSW Health *Managing Conflicts of Interest Procedures* from the HPCA Reporting Corrupt Conduct Policy for further information.

## **TRAINING AND EDUCATION**

HPCA staff attend the Ministry of Health Orientation Program, which includes a session on ethical decision-making and corruption prevention. Reference to this Policy is made in the Staff Induction Handbook is accessible on the HPCA website.

All staff sign the NSW Health *Code of Conduct*, which includes undertakings regarding conflict of interest.

Information from the NSW Ombudsman and the ICAC is also readily available. Staff are periodically reminded of their responsibilities regarding conflict of interest, this Policy and the availability of additional information.

## **RECORD KEEPING**

All conflict of interest declarations are to be properly recorded, included in the Conflict of Interest Register and placed on the TRIM file (11/77). The Manager, Corporate Governance maintains these records and is responsible for ensuring disclosures are promptly registered and filed.

Records relating to conflict of interest are kept confidential but are accessible by those responsible for managing the conflict. Privacy principles will be implemented where a disclosure involves the reporting of personal information.

## **Conflict of Interest Declaration Form**

The declaration form is accessible on the HPCA website, and is attached to this Policy.

## **Conflict of Interest Register**

The HPCA Conflict of Interest Register records disclosures and the actions and decisions made. The Register will be referred to the Audit and Risk Committee for review every three years.

## **Secondary Employment Register (HP12/2264)**

The HPCA Secondary Employment Register records the Director, HPCA's approval of individual staff to undertake secondary employment.

## REFERENCES AND RESOURCES

1. NSW Health, *Managing Conflicts of Interest and Gifts and Benefits* Policy Directive PD2010\_010.
2. NSW Health, *Corrupt Conduct - Reporting to the ICAC* PD2011\_070.
3. Independent Commission Against Corruption (ICAC) website ([www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)):
  - Managing conflicts of interest in the public sector – guidelines and toolkit
4. NSW Ombudsman, [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au):
  - Public Sector Agencies fact sheet no.3: Conflict of interests
5. HPCA, *Conflicts of interest- Legal Issues Paper for Council Members*, 2011

## ATTACHMENTS

1. HPCA Conflict of Interest Declaration Form
2. HPCA Conflict of Interest Register template



## Conflict of Interest Declaration Form

This form is to be completed by any HPCA staff member who has an actual, perceived or potential conflict of interest in undertaking their duties and obligations in compliance with HPCA and NSW Health policy requirements. Completed Conflict of Interest Declaration forms must be forwarded to the Manager, Corporate Governance at the time of declaration. Unless immediately resolved the disclosure should be monitored, and reviewed annually. Updated actions and resolutions should be forwarded to the Manager, Corporate Governance as they are made.

A copy of the completed and signed form is to be stored on the conflict of interest file (11/77). For further information refer to the HPCA Conflict of Interest Policy and PD2010\_010 on the website ([www.hpca.nsw.gov.au](http://www.hpca.nsw.gov.au)) or speak to your manager/supervisor.

Name:

Position:

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**Matter under consideration:** Please provide a brief outline of the nature of the conflict. Include the details of any organisation or individual concerned. Details may be included privately in a separate confidential envelope if appropriate or preferred.

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**Expected role/duties to be performed by the staff member in relation to this matter:** Describe the function or decision that is affected by the interest

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**Private or personal interests identified which have the potential to impact on the staff member's ability to carry out, or be seen to carry out, their official duties impartially and in the public interest:**

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**The conflict of interest has been identified as:** (**Note:** Tick all applicable boxes)

ACTUAL                       PERCEIVED                       POTENTIAL   
 PECUNIARY INTEREST                       NON-PECUNIARY INTEREST

I hereby declare that the above details are correct to the best of my knowledge and I make this conflict of interest declaration in good faith.

I hereby declare that I have received and appropriately noted this conflict of interest declaration.

\_\_\_\_\_  
 Signature (staff member)

\_\_\_\_\_  
 Signature (manager/supervisor)

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Date: \_\_\_\_\_



# Conflict of Interest Declaration Form

## STATEMENT OF CONFLICT OF INTEREST RESOLUTION OR MANAGEMENT

**Proposed action to be taken to resolve or manage conflict of interest:**

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The above action has been agreed on to resolve the conflict of interest declared by [insert staff member's name] on [insert date].

\_\_\_\_\_  
Signature (staff member)

\_\_\_\_\_  
Signature (manager/supervisor)

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Date: \_\_\_\_\_

## STATEMENT OF ADJUSTMENT TO CONFLICT OF INTEREST RESOLUTION OR MANAGEMENT (if applicable)

**Adjustment to action taken to resolve or manage conflict of interest:**

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The above adjustment action has been agreed on to resolve the conflict of interest declared by [insert staff member's name] on [insert date].

\_\_\_\_\_  
Signature (staff member)

\_\_\_\_\_  
Signature (manager/supervisor)

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Date: \_\_\_\_\_

## STATEMENT OF FINALISATION OF CONFLICT OF INTEREST

The conflict of interest declared by [insert staff member's name] on [insert date] has now been resolved and no further action is required.

\_\_\_\_\_  
Signature (staff member)

\_\_\_\_\_  
Signature (manager/supervisor)

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Received and included in the Conflict of Interest Register

\_\_\_\_\_  
Signature (Manager, Corporate Governance)

\_\_\_\_\_  
Name: \_\_\_\_\_ Date: \_\_\_\_\_



Health Professional Councils Authority

## Conflict of Interest Register

No.	Staff Name	To whom Conflict of Interest declared [Name, Position]	Date of declaration	Organisation/Individual Involved [Name, Position, Organisation]	Brief Description of Matter	Action Taken/Comments	Signature & Date [Officer determining action]