



# **CORRECTIVE SERVICES NSW**

## ***Conflicts of Interest Policy***

<b><i>Issued by</i></b>	<b><i>Probity and Staff Development Division</i></b>
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<b><i>Review Date</i></b>	<b><i>Aug 2012</i></b>

## 1. THE POLICY

Corrective Services NSW (CSNSW) recognises that the personal interests of employees may at times come into conflict with the impartial fulfilment of their official duties and the public interest. Employees are provided with the knowledge, procedures and tools to identify and disclose conflicts of interest, and/or what could be perceived as conflicts of interest or as potential conflicts of interest. It is the responsibility of employees to identify and disclose such conflicts of interest.

CSNSW requires that:

- all conflicts of interest must be reported;
- management action must be taken to reduce the risk to CSNSW and to employees;
- all action taken to resolve conflicts of interest must be transparent, accountable and properly documented.

## 2. PURPOSE/RATIONALE

A conflict of interest exists, is perceived to exist or has the potential to exist where an employee has personal interests which could improperly influence the performance of their official duties.

The purpose of this policy is to provide direction and guidance in identifying, reporting and managing conflicts of interest and, if necessary, in monitoring and reviewing them. Public confidence can then be maintained and integrity promoted through the core principles of:

- serving the public interest;
- supporting transparency and scrutiny;
- promoting individual responsibility and personal example;
- engendering an organisational culture which appropriately and transparently manages conflicts of interest.

### 2.1 Reporting a conflict of interest

Once a situation is identified that could give rise to a conflict of interest, ***the employee must report*** the situation in writing to a manager or supervisor immediately as per the procedures outlined in section 9 of this policy.

### 2.2 Managing a conflict of interest

To ensure probity, transparency and public confidence, the conflict of interest must be appropriately managed as per the procedures outlined in section 9 of this policy.

## 3. SCOPE

This policy applies to all full-time, part-time, temporary and casual employees of CSNSW as well as Official Visitors and Contractors.

#### **4. STRATEGIC FOCUS**

CSNSW's [Guide to Conduct and Ethics](#) – Section 2.5 “Conflicts of Interest”.

#### **5. RELEVANT LEGISLATION**

[Crimes \(Administration of Sentences\) Act 1999](#)

[Independent Commission Against Corruption Act 1988](#)

[Anti-Discrimination Act \(NSW\) 1977](#)

[Protected Disclosures Act 1994 \(NSW\)](#)

[Public Finance and Audit Act 1983](#)

[Public Sector Employment and Management Act 2002 \(PSEM Act\)](#)

#### **6. RELATED POLICIES/DOCUMENTS**

[Merit Selection](#)

[Other Paid Employment](#)

[The Management of Professional Conduct in the Department of Corrective Services](#)

[Gifts and Benefits Policy](#)

[Contact with Offender Policy](#)

[Working Where Close Personal Relationships Exist](#)

[Protected Disclosure Policy](#)

Toolkit and guidelines on Managing Conflicts of Interest in the Public Sector found at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)

#### **7. RELATED MEMORANDA / INSTRUCTIONS**

[Commissioner's Instruction 2010/02](#) “Conflicts of Interest”

#### **8. DEFINITIONS**

##### **Conflict of Interest**

A conflict of interest exists, is perceived to exist or has the potential to exist where an employee has personal interests which could improperly influence the performance of their official duties.

For the purposes of defining a conflict of interest, an employee's ‘personal interests’ include not only their own personal, professional or business interests but also those of their family, friends and associates.

A conflict of interest could be a precursor to corrupt conduct as it may adversely affect, or could adversely affect, either directly or indirectly, the honest or impartial exercise of official duties by an employee of Corrective Services NSW.

## **Misconduct**

In relation to conflicts of interest, 'misconduct' includes but is not limited to:

- failure to identify a conflict of interest when the employee could have reasonably been expected to do so;
- failure to report a conflict of interest;
- failure to avoid a conflict of interest when it was possible to do so;
- failure to comply with any agreed upon strategy to manage a conflict of interest cooperatively with CSNSW;
- failure to comply with policies governing conflicts of interest.

## **Perceived, potential or apparent conflict of interest**

A perceived, potential or apparent conflict of interest could exist when an employee is in a position where they may **appear** to be capable of being influenced by their personal interests when doing their job.

## **Personal interest**

Examples of a 'personal interest' which could conflict with an employee's obligation to serve the public interest include, but are not limited to the following:

- where an employee has a financial interest or is aware that a family member, relative, friend or associate has a financial interest in anything that the employee is dealing with in the course of their work;
- where an employee has a personal relationship that could be seen to improperly affect the employee's decision, for instance, when conducting a job selection or disciplining a member of their staff;
- having a close personal relationship with another employee or an offender, particularly if it involves direct supervision;
- having personal beliefs or attitudes that could influence, or may be perceived to influence, the impartial carrying out of the employee's job;
- entering into other paid or non-paid employment which conflicts with the employee's public duty;
- being the person responsible for approving or authorising an action in which they have a personal interest;
- using offender labour for private purposes; and
- accepting a gift or benefit from an offender, offender's family, external service provider or contractor.

## 9 PROCEDURAL INSTRUCTIONS

Once a conflict of interest, a perceived conflict of interest or a potential conflict of interest, is identified all employees are required to report it in writing to their manager immediately, or on the next occasion they attend duty, as per the procedures outlined below:

### 9.1 Identifying a conflict of interest

A simple way to help employees decide whether or not they have a conflict of interest is to use the attached self-assessment [Guidelines for Identifying a Conflict of Interest](#) (Attachment 1) to help them decide if there could be a conflict, perception of conflict or the potential for a conflict of interest with their public duty.

If employees are unsure whether a conflict of interest exists, the matter should be discussed with their manager, supervisor or other senior person who can provide advice on ethical and professional conduct. However, it is always the employee's responsibility to decide whether or not they have a conflict of interest and declare it.

### 9.2 Reporting a conflict of interest

Once a conflict of interest is identified, an employee **must**:

- report the conflict of interest in writing to their immediate supervisor, manager or to another manager by completing the attached [Declaration of a Conflict of Interest](#) form (Attachment 2); and
- follow the directions of their manager and take appropriate steps to manage the conflict of interest, avoid it or reduce risk of the conflict of interest.

Some situations that give rise to a conflict of interest may need to be reported or may have already been reported under other CSNSW policies. For example:

#### 9.2.1 Other Paid Employment

In accordance with the [Other Paid Employment Policy and Commissioner's Instruction 2010/02](#), an employee is required to seek written approval if they propose to undertake other paid employment. A conflict of interest would occur if the other paid employment subsequently impacted upon the employee's role with CSNSW and must be disclosed.

#### 9.2.2 Offers of Gifts or Benefits

Any **offer** of a gift or a benefit, whether or not it is accepted, must be declared in accordance with [Commissioner's Instruction --/2010](#). Acceptance of a gift or a benefit, although seemingly innocuous at the time, could subsequently give rise to a conflict of interest and must be reported.

#### 9.2.3 Contact with Offenders

Contact with offenders must be reported to comply with [Commissioner's Instruction 2010/02](#). Although there may have been no conflict of interest at the time of reporting, situations can change. If it does, it must be reported.

### **9.3 Managing a conflict of interest**

Upon receipt of the Declaration the manager or supervisor to whom the conflict of interest has been reported to must immediately assess the risk to CSNSW and to the employee and make a decision as to what action is required and if the matter needs to be monitored and periodically reviewed. They may manage the situation in one of the ways outlined in the attached [Options for Managing a Conflict of Interest](#) (Attachment 3).

Management action must be clearly endorsed on the attached [Declaration of a Conflict of Interest](#) form and, once completed by the manager, the completed form must be placed on the employee's personal ("P") file. A copy of the Declaration must be given to the employee.

Managers and supervisors must also take the initiative in identifying actual, perceived and potential conflicts of interest.

### **9.4 Monitoring and reviewing a conflict of interest**

If the manager/supervisor determines that the matter needs to be monitored or reviewed, this should be identified in consultation with the employee. Mutually agreed dates and times should be recorded on the Declaration form. The manager/supervisor and the employee must work together to manage the risks arising from the conflict of interest and work cooperatively to implement directions given or decisions agreed during the review or monitoring.

### **9.5 Confidentiality**

Information disclosed to managers/supervisors regarding conflicts of interest is to be treated as confidential and disclosed only to those employees who need to have access for official purposes or to manage or reduce risk.

### **9.6 Reviewing a decision**

Employees who disagree with the proposed management of a conflict of interest should request a review by the manager who made the decision in the first instance. If resolution cannot be achieved, the employee may request a more senior manager/supervisor to review the decision.

### **9.7 Sanctions for breach of this policy**

Remedial or disciplinary action will be taken against any employee for a breach of this policy.

## **10. REVIEW DATE**

**Review date:** August 2012

**Ownership:** Assistant Commissioner, Probity and Staff Development is assigned ownership to ensure the policy is maintained and updated.

**Contact:** Ethics Officer (02) 4824 2260 or 8346 1769

## **11 ATTACHMENTS**

- 1** Guidelines for identifying a conflict of interest
- 2** Declaration of a conflict of interest
- 3** Options for managing a conflict of interest

## Guidelines for identifying a conflict of interest

(Employees should use these guidelines for their own assessment of the situation to decide whether or not they need to make a disclosure)

Describe the matter or issue being considered and the situation in which you are involved:

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What is your role?

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Could my role conflict with my duty to serve the public interest?

Examine the situation and ask yourself:	YES	NO
Would I or anyone associated with me benefit from or be detrimentally affected by my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
Have I received or may I receive a benefit that could cast doubt on my impartiality?	<input type="checkbox"/>	<input type="checkbox"/>
Do I have a current or previous personal, professional or financial relationship or association of any significance with an interested party?	<input type="checkbox"/>	<input type="checkbox"/>
As a supervisor, do I have a role or interest or am I personally involved in the action I am being asked to approve/authorise?	<input type="checkbox"/>	<input type="checkbox"/>
Do I hold any personal or professional views or biases that may lead others to reasonably conclude that I am not an appropriate person to deal with the matter?	<input type="checkbox"/>	<input type="checkbox"/>
Have I contributed in a personal capacity in any way to the matter CSNSW is dealing with?	<input type="checkbox"/>	<input type="checkbox"/>
Have I made any promises or commitments in relation to the matter?	<input type="checkbox"/>	<input type="checkbox"/>
Am I a member of an association, club or professional organisation or do I have particular ties and affiliations with organisations or individuals who stand to gain or lose by my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
Could this situation have an influence on any future employment opportunities outside my current official duties?	<input type="checkbox"/>	<input type="checkbox"/>
Do I still have any doubts about my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>

**What perceptions could others have?**

- What assessment would a fair-minded member of the public make of the circumstances?
- Could my involvement in this matter cast doubt on my integrity or that of CSNSW?
- If I saw someone else doing this, would I suspect that they might have a conflict of interest?
- If I did participate in this action or decision, would I be happy if my colleagues and the public became aware of my involvement and any association or connection?
- How would I feel if my actions were highlighted in the media?
- Is the matter or issue one of great public interest or controversy where my proposed decision or action could attract greater scrutiny by others?

<b>Should I seek advice?</b>	<b>YES</b>	<b>NO</b>
Am I confident of my ability to act impartially and in the public interest?	<input type="checkbox"/>	<input type="checkbox"/>
Do I feel a need to seek advice or discuss the matter with my manager/supervisor?	<input type="checkbox"/>	<input type="checkbox"/>
Does this person know more about these things than I do?	<input type="checkbox"/>	<input type="checkbox"/>
Is all the relevant information available to ensure a proper assessment?	<input type="checkbox"/>	<input type="checkbox"/>
Do I know what CSNSW's Guide to Conduct and Ethics requires in relation to conflicts of interest?	<input type="checkbox"/>	<input type="checkbox"/>
Do I understand that disciplinary action may apply if I proceed with an action or decision with an unresolved conflict of interest?	<input type="checkbox"/>	<input type="checkbox"/>

<b>Can I now make a decision?</b>	<b>YES</b>	<b>NO</b>
Have I assessed whether I need to obtain impartial advice?	<input type="checkbox"/>	<input type="checkbox"/>
If I do not follow any advice given, am I able to say why I did not do so?	<input type="checkbox"/>	<input type="checkbox"/>
Can I identify the best option to ensure impartiality, fairness and protect the public interest?	<input type="checkbox"/>	<input type="checkbox"/>
Is there openness and transparency about my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
Have I identified and documented the facts and circumstances governing my evaluation and decision?	<input type="checkbox"/>	<input type="checkbox"/>
Does my decision allow me to act <b>and be seen to act</b> in a fair, impartial and objective manner?	<input type="checkbox"/>	<input type="checkbox"/>



**Declaration of a conflict of interest**

Employee: \_\_\_\_\_ S/No \_\_\_\_\_

Position: \_\_\_\_\_

Location: \_\_\_\_\_

Manager/Supervisor: \_\_\_\_\_

**Describe the circumstances which may give rise to a conflict, perceived or potential conflict of interest:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Describe the role/duties you are to perform:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Identify the conflict, or the potential or perceived conflict of interest:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RESOLUTION OR MANAGEMENT ACTION**

The following action is proposed to be taken to resolve or manage this conflict of interest :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I acknowledge that the above action has been agreed/directed to resolve the conflict of interest.

Employee's signature: \_\_\_\_\_ Date: \_\_ / \_\_ / \_\_\_\_

Manager/Supervisor's signature: \_\_\_\_\_ Date: \_\_ / \_\_ / \_\_\_\_

**MONITORING/REVIEW (if required)**

I agree that the conflict of interest will be regularly monitored and reviewed on:

\_\_ / \_\_ / \_\_\_\_ at \_\_\_\_: \_\_\_\_ hours

\_\_ / \_\_ / \_\_\_\_ at \_\_\_\_: \_\_\_\_ hours

\_\_ / \_\_ / \_\_\_\_ at \_\_\_\_: \_\_\_\_ hours

Employee's signature: \_\_\_\_\_ Date: \_\_ / \_\_ / \_\_\_\_

Manager/Supervisor's signature: \_\_\_\_\_ Date: \_\_ / \_\_ / \_\_\_\_

**FINALISATION OF CONFLICT OF INTEREST**

The conflict of interest declared by \_\_\_\_\_ on \_\_ / \_\_ / \_\_\_\_ has now been resolved and no further action is required. This form will be sent to Payroll and Personnel Services Unit for placement on the employee's "P" file.

Employee's signature: \_\_\_\_\_ Date: \_\_ / \_\_ / \_\_\_\_

Manager/Supervisor's signature: \_\_\_\_\_ Date: \_\_ / \_\_ / \_\_\_\_

## Options for managing a conflict of interest

Management Strategy	When most suitable	When least suitable
<b>Register</b> <i>Where details of the existence of a possible or potential conflict of interest are formally registered.</i>	<ul style="list-style-type: none"> <li>For very low-risk conflicts of interest and potential conflicts of interest</li> <li>Where the act of transparency through recording the conflict of interest is sufficient</li> </ul>	<ul style="list-style-type: none"> <li>The conflict of interest is more significant or of higher risk</li> <li>The potential or perceived effects of a conflict of interest on the proper performance of the employee's duties require more proactive management</li> </ul>
<b>Restrict</b> <i>Where restrictions are placed on the employee's involvement in the matter.</i>	<ul style="list-style-type: none"> <li>The employee can be effectively separated from parts of the activity or process</li> <li>The conflict of interest is not likely to arise frequently</li> </ul>	<ul style="list-style-type: none"> <li>The conflict is likely to arise more frequently</li> <li>The employee is constantly unable to perform a number of their regular duties because of conflict of interest issues</li> </ul>
<b>Recruit</b> <i>Where a neutral third party is used to oversee part or all of the process that deals with the matter.</i>	<ul style="list-style-type: none"> <li>If it is not feasible or desirable for the employee to remove themselves from the decision-making process</li> <li>In small or isolated communities where the particular expertise of the employee is necessary and not easily replaced</li> </ul>	<ul style="list-style-type: none"> <li>The conflict is serious and ongoing rendering ad hoc recruitment of others unworkable</li> <li>Recruitment of a third party is not appropriate for the proper handling of the matter</li> <li>A suitable third party is unable to be sourced</li> </ul>
<b>Remove</b> <i>Where an employee chooses to be removed from the matter.</i>	<ul style="list-style-type: none"> <li>For ongoing serious conflicts of interest where ad hoc restriction or recruitment of others is not appropriate</li> </ul>	<ul style="list-style-type: none"> <li>The conflict of interest and its perceived or potential effects are of low risk or low significance</li> <li>The employee is prepared to relinquish the relevant personal interest rather than radically change their work responsibilities or environment</li> </ul>
<b>Relinquish</b> <i>Where the employee relinquishes the personal interest that is creating the conflict.</i>	<ul style="list-style-type: none"> <li>The employee's commitment to public duties outweighs their attachment to their personal interest</li> </ul>	<ul style="list-style-type: none"> <li>The employee is unable or unwilling for various reasons, to relinquish the relevant personal interest</li> </ul>
<b>Resign</b> <i>Where the employee resigns from their position with CSNSW.</i>	<ul style="list-style-type: none"> <li>No other options are workable</li> <li>The employee can not or will not relinquish their conflicting personal interest and changes to their work responsibilities or environment are not feasible</li> <li>The employee prefers this course as a matter of personal principle.</li> </ul>	<ul style="list-style-type: none"> <li>The conflict of interest and its potential or perceived effects are of low risk or low significance</li> <li>Other options exist that are workable for the employee and CSNSW.</li> </ul>