

One page guide to conflicts of interest conversations



Te Kawa Mataaho
Public Service Commission



Discussing interests

- We all have interests and conflicts of interest are normal
- Having a conflict of interest does not mean you have done anything wrong and is not a problem if the conflict is identified and managed properly
- We need to identify and manage conflicts of interest as it helps to build and maintain public trust
- Conflict management keeps both the individual public servant and the agency safe from undue criticism

Identifying conflicts of interest

- Rule out interests that are not relevant
- Identify interests that may intersect with work responsibilities and therefore could be or become a conflict
- Think about things like:
 - What are the duties and responsibilities of your work role that could intersect with your interests outside of work?
 - Do you have any financial interests or roles that could be relevant in some way to your role as a public servant?
 - Do you have personal interests or roles that could be relevant in some way to your role as a public servant?
 - Do you have family members or friends with personal or financial interests or roles that could be relevant in some way to your role as a public servant?

Assessing conflicts of interest

- It is important to understand the nature and extent of the conflict *before* thinking about how to manage it
- Some questions to help assess the nature and extent of the conflict:
 - How could the identified interest impact how you do your job?
 - Could a reasonable person think that the identified interest could influence how you do your job? How could you demonstrate that that is not the case?
 - In the foreseeable future, could the identified interest effect, or be seen to effect, how you do your job? If so, when might this occur? What is the triggering event that you (and others) should be watching out for?
 - Would you act differently if you did not have the other interest? Do the two interests pull in different directions, or are the interests aligned? Could this impact how you do your job and, if so, how?
 - What would the possible consequences be if you ignored the conflict of interest?

Managing conflicts of interest

- Start with the premise that most conflicts are manageable and work backwards from there
- It's about demonstrating that a robust and proper process has been followed. This includes considering practical ways the conflict could be managed (such as reallocation of work or limiting access to certain information).
- Document the risks identified and the controls that will be put in place to mitigate each of them
- Escalate when required
- Conflict management is an active process which includes revisiting the discussion at regular intervals

Explanatory notes

The one-page guide is designed to assist managers to have conversations with staff about their duties and responsibilities at work, and how those may intersect with other interests that they have. Managers need to feel prepared and confident to lead regular discussions about conflicts of interests to keep both their staff and their agency safe.

While it is an individual's responsibility to declare their interests, it is a **shared responsibility** between the individual and their agency to assess declared interests and to identify and manage any actual, potential, or perceived conflicts.

To complement agency policies, this one page guide and notes aim to help managers to frame and facilitate collaborative discussions to identify and manage conflicts of interest.

Discussing interests

From the outset, these conversations should be open and encouraging. Having interests outside of work is a normal part of life and, even if there is a conflict of interest, most conflicts can be managed. Conflicts of interest in our working lives are natural and unavoidable, especially in a small country like New Zealand.

Setting the tone

- We all have interests –this includes having personal, professional, and/or financial relationships outside of work
- Conflicts of interest are normal – a conflict of interest is where your duties or responsibilities as a public servant conflict, or could be seen to conflict, with some other interest you might have
- Having a conflict of interest does not mean you have done anything wrong and is not a problem if the conflict is identified and managed properly

Explaining the why

- Public servants are paid with public funds. We also often make decisions (big or small) that have an impact on how public resources are used and public funds are spent. So, the public need to be confident that our decisions are made for the right reasons and are not influenced by personal interests or ulterior motives
- We need to identify and manage conflicts of interest as it helps to build and maintain public trust
- Conflict management also keeps both the individual public servant and the agency safe from undue criticism

Identifying conflicts of interest

This is about ensuring all relevant interests have been declared. It is normal for interests to be identified through discussion – in fact, this should be encouraged. The next step is to then work together to rule out interests that are not relevant and identify interests that may intersect with work responsibilities and therefore could be, or become, a conflict.

Here are some examples of the types of questions you may ask to explore possible conflicts of interest:

- What are the duties and responsibilities of your work role that could intersect with your interests outside of work? (i.e. what information do you have access to, what decisions do you make or advise on, what professional obligations do you have (e.g. confidentiality, political neutrality etc), what

interactions do you have with the public and/or other agencies, what are the time commitments for both interests)

- Do you have any financial interests or roles that could be relevant in some way to your role as a public servant? (Consider things such as: company directorships, holding a public office, owning land/assets/shares, other employment, board membership etc)
- Do you have personal interests or roles that could be relevant in some way to your role as a public servant? (Consider things such as: services you receive, advocacy roles, advisory roles, community roles, political activity, international citizenship or cultural affiliation, club membership, gifts, hospitality, or benefits)
- Do you have family members or friends with personal or financial interests or roles (in New Zealand or abroad) that could be relevant in some way to your role as a public servant?

Assessing conflicts of interest

This stage is about making sure the nature and extent of the conflict are fully understood *before* thinking about how to manage the conflict. The nature of the conflict refers to whether there is an actual, perceived, or potential conflict of interest; the extent refers to how material the conflict is. Both of these factors will inform how you mitigate the risks.

Some questions to help assess nature and extent of the conflict:

- How could the identified interest impact how you do your job? (This helps to identify actual conflicts)
- Could a reasonable person think that the identified interest could influence how you do your job? (This helps to identify perceived conflicts)
- In the foreseeable future, could the identified interest affect, or be seen to affect, how you do your job? If so, when might this occur? What is the triggering event that you should be watching out for? (This helps to identify potential conflicts)
- Would you act differently if you did not have the other interest? Do the two interests pull in different directions, or are the interests aligned? Could this impact how you do your job and, if so, how?
- What would the possible consequences be if you ignored the conflict of interest?

Managing conflicts of interest

Conflict of interest management is context dependent and is inherently connected to your assessment of the nature and extent of the conflict. However, you should start with the premise that most conflicts are manageable and work backwards from there - saying 'no' is a last resort.

It is not about whether or not you trust the individual, it's about demonstrating that a robust and proper process has been followed which includes considering practical ways the conflict could be managed. Some possible ways to manage conflicts of interest include arranging for a third party to oversee part or all of matter that is conflicted; reassigning certain tasks or roles to another person; restricting access to systems, information, or decisions; reorganising work allocation so the individual does not work on the matter that is conflicted at all.¹

¹ For more examples of possible mitigation options, see 4.36-4.45 in [Part 4: Dealing with conflicts of interest when they arise — Office of the Auditor-General New Zealand \(oag.parliament.nz\)](#)

Document the risks that have been identified (for the individual and/or the agency) and the controls that will be put in place to mitigate each of them. This process of creating a management plan should involve asking 'what if' questions to ascertain the ways the conflict could manifest and how it would be managed.

Managers can escalate matters when they require further support (escalation options include to their Integrity Champion, their agency's legal team or HR team, or to their senior leaders). Some examples of potential conflict management approaches that are likely to require escalation include situations where the individual may be asked to transfer role, give up a personal interest, or take a leave of absence in order to mitigate the identified risks.

Conflict management is an active process which includes keeping good records and monitoring changing circumstances. This provides clarity for all parties and can enable a quick and detailed response if concerns are ever raised. Regular check-ins are helpful (at a minimum annually), as is revisiting the conversation at the start of any big project. How conflict management is documented will differ based on individual circumstances, but at a minimum should summarise what was discussed and record what the parties agreed to.