



Australian
Commission on
Safety and Quality
in Health Care

D14-25360

Disclosure of Interests Policy

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Document Control

Version History

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v3.1	Oct 2017	Stan Ahn	Mike Wallace, Chief Operating Officer	Inserted requirement for disclosure of interest to be refreshed every two years.
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Ownership

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Document Location

An electronic copy of this document is stored in the Commission's electronic document management system at TRIM **D14-25360**

Date for Next Review

This plan will be reviewed annually or as required

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Purpose

To ensure that the Australian Commission on Safety and Quality in Health Care (the Commission) complies with statutory obligations relating to disclosure of interests under the Commonwealth legislation by appropriately disclosing any material personal interests in a prescribed way.

Scope

This policy applies to all employees, contractors and consultants who have duties related to the operations and functions of the Commission. The policy also includes guidance for members of the Commission's Board, committees and working groups.

This policy outlines individuals' responsibilities under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), *National Health Reform Act 2011* (NHR Act), *Public Service Act 1999* (PS Act) and the Australian Public Service (APS) Code of Conduct.

Principles

The policy aims to protect the integrity of the Commission, promote confidence in the work of the Commission and protect the reputation of the individuals and groups that contribute to the work of the Commission and to provide a mechanism that will allow all individuals to disclose any and all interests that may conflict with the work of the Commission by ensuring that:

- interests can be reported, assessed and managed appropriately by the relevant reporting authority
- transparency and openness exist among those involved in the work undertaken by the Commission's representatives.

What is a material personal interest?

A personal interest will be a material personal interest where it has the capacity to influence, or appear to influence, proper consideration or decision-making within the Commission on a matter or proposed matter.

A material personal interest arises when an individual is unable, or perceived to be unable, to bring an independent mind to bear on a matter or if an interest of duty is so significant as to divide their loyalties.

Material personal interests could arise, for example, if the individual is:

- a member of an employment selection panel and a friend or family member is being interviewed for a position within the Commission
- assessing a company as part of a Commission tender process and owns shares in the company or has a family member in that company
- a member of an industry related company
- the director of a family company that may be affected by policy changes being considered as part of their work at or for the Commission

- running a business or doing paid or voluntary work that could conflict with their functions at the Commission.

When is a material interest disclosed?

The Commission requires its staff and committee members to declare their conflicts of interest under the following circumstances:

- At the time of engagement (for staff) or appointment (for committee members)
- When their circumstances change that would require disclosure of interest
- Every 2 years for staff upon request from the Business Unit or at each committee meeting for committee members.

In addition, staff must disclose their conflicts of interest when undertaking certain activities that would require disclosure, such as when evaluating tenders or seeking secondary employment.

Financial interests

Financial interests are where there are financial relationships or prospects of financial gain that have the potential to conflict, or perception of a conflict, with the capacity of an individual to contribute without bias to the work of the Commission.

This may include financial relationships with relevant industry groups such as employment, consultancies or support for research where the member is an investor. Examples of other financial interests include business interests, receiving royalties, intellectual property rights, consulting fees, honoraria, support for conference attendance, ownership interest (e.g. stocks, excluding diversified pension funds), or other financial or non-financial benefit from an entity that has a commercial interest in an area that may be covered by the work of the Commission.

Organisational interests

Organisational interests relate to situations where individuals are representing organisations, holding managerial positions, or are officeholders in organisations that may have income, links or affiliations with relevant industry groups or other entities that have a commercial or other interest in a subject that may be covered by the work undertaken by the Commission.

Failure to disclose interests

Failure to disclose and manage a material personal interest may, amongst other things, result in:

- damage to the good reputation of the Commission and the individual
- loss of confidence in the Commission and its ability to perform its legislated functions
- resentment when others are perceived to be gaining an unfair advantage.

In some cases, a failure to disclose an interest could result in termination of an individual's appointment or some other sanction. Sections 29 and 30 of the PGPA Act outline the duties of individuals to disclose and provide further information about termination and sanctions. The NHR Act additionally includes termination provisions in sections 26 and 45.

The consequences of failing to disclose material interests are outlined in **Table 1** below.

Table 1 - Consequences for failure to disclose interests

Type of individual	Consequence	Relevant obligation
Board member	Termination of appointment	PGPA Act s29 PGPA Rule s13 NHR Act s26
CEO	Termination of appointment	PGPA Act s29 PGPA Rule s13 NHR Act s45(c)
Employees	Sanctions (including employment related sanctions)	PGPA Act s29 PGPA Rule s16 PS Act s13 (7)
Consultant/Contractor	Termination of engagement	Commission Policy
Other Committee Chair	Termination of appointment	Commission Policy
Other Committee Member	Termination of appointment	Commission Policy

Management of material personal interests

Individuals must actively endeavour, where possible, to avoid any conflict of interests on their work related to the Commission. Commission staff should also refer to sections 4.11 and 4.13 of the APS Code of Conduct for further information.

Where a conflict interest cannot be avoided, staff must:

- take reasonable steps to restrict the extent to which the interest could compromise, or be seen to compromise, their impartiality when carrying out their official duties
- abstain from involvement in official decisions that could be seen to be compromised by their personal interest.

It is difficult for any policy to cover all possible circumstances and individuals should bear in mind the purpose and of spirit their work in deciding which matters should be disclosed. Individuals should opt on the side of greater disclosure, rather than less.

Circumstances in which material personal interests may need to be disclosed

There are two main circumstances in which material personal interests may need to be disclosed:

- when an interest conflicts with the proper performance of an individual's functions within or for the Commission (this arises when the individual is appointed to a certain position or given responsibility for certain functions, or when they acquire an interest that could conflict with those functions or responsibilities), or
- an interest relating to a matter being considered by the Board or a Committee.

The duty and reporting requirements differ depending on the circumstances in which the interest arises. They are specified below.

Disclosure of interests that may conflict with the proper performance of the individual's functions

If a material personal interest arises, the interest must be disclosed as soon as possible after the relevant facts have come to the individual's attention. The report must include the nature and extent of the interest and how it relates to the Commission's affairs or operations.

Disclosures are required on appointment or during an appointment (or employment relationship) if a change in circumstances gives rise to real or perceived material personal interest.

The action an individual must take and the authority to whom they report will depend upon their role within the Commission. Table 2 below specifies the reporting authority and disclosure action for different types of individuals.

Table 2 - Reporting of material personal interests which may affect the proper performance of an individual

Type of individual	Reporting Authority	Disclosure action
Board member	Minister of Health	Written notice
CEO	Commission Board	Written notice
Staff	Chief Operating Officer	Disclosure of interest form
Consultant/Contractor	Manager (within the Commission)	Disclosure of interest form
Other Committee Chair	CEO and Committee members	Disclosure of interest form or written notice
Other Committee members	Committee Chair	Disclosure of interest form or written notice

Operation of Board or Committee meetings

Interests that may conflict with the operation of a meeting

Interests must be disclosed prior to a matter discussed at a meeting that will trigger a real or perceived material personal interest. An example includes an agenda item at a meeting that contains a subject which a committee member has an interest through employment, directorships or memberships of another organisation.

Disclosure of interests that may conflict with the operation of a meeting

Disclosure of interests is to be a standing item for all committee meetings. At the commencement of each meeting, the Chair will invite members to declare or discuss any

relevant interests. The Chair shall consider all disclosures of interest and determine whether any action should be taken.

When a material personal interest arises relating to a matter to be considered by a committee, the individual must disclose the interest at a committee meeting and be recorded in the minutes. If outside of meeting times, the interest must be disclosed to the committee chair (or deputy chair, if the member is the chair) and be recorded in the minutes of the next meeting.

Unless the committee otherwise determines, the individual:

- must not be present during deliberation by the committee on the matter relating to the disclosed interest
- must not take part in any decision of the committee with respect to the matter.

For the purposes of making the determination about the disclosed interest, the individual:

- must not be present while the committee deliberates
- must not take part in the determination.

The determination must be recorded in the minutes of the meeting of the committee.

Table 3 below specifies the reporting requirements for interests that arise at meetings.

Table 3 – Disclosure of interests that may conflict with the operation of a meeting

Type of individual	Reporting Authority	Disclosure action
Board member	Disclose to the meeting	Record in minutes
CEO		
Employees		
Consultant/Contractor		
Other Committee Chair		
Other Committee Members		

Jurisdictional and organisational representatives

The Commission's policy does not require members of committees representing a jurisdiction, health providers, non-government organisation or national/state health organisation to disclose this association as a conflict of interest.

Process for assessing and managing conflict of interests

Upon receiving a written disclosure of interest, the reporting authority (See Table 2) and the relevant Director will assess the interests declared to consider whether or not there are interests that could, or could be perceived to, affect a person's judgement or erode the integrity of their work for the Commission and determine whether or not the disclosed interests can be managed.

Management strategies may include restricting participation through exclusion from discussion or decision making for specific issues where there may be an actual, potential or perceived conflict of interest. The member may also need to stand down from other roles or refrain from contact with certain entities whilst engaged by the committee.

The reporting authority and Director may seek additional information on the interests from an individual or may consult with the Chief Operating Officer to determine the most appropriate management measures to put in place.

Based on the assessment, the reporting authority will determine whether or not:

- engagement with that individual continue without any management strategies
- engagement with that individual continue with strategies put in place to manage all actual, potential or perceived conflicts of interests
- the individual will be precluded from participating in a particular activity, sanctions applied or participation terminated.

The reporting authority will advise the individual in writing of the decision and any strategies or sanctions that maybe implemented to manage the interest. The individual must comply with the reporting authority's determination.

Process for recording and managing conflict of interests

The Commission will maintain registers of the interests disclosed by individuals, any conflict of interests identified during the assessment and the outcomes of the assessment in relation to committees. These registers will be maintained by the relevant program areas. A template register is available on D14-29938.

Board and other committee members will be provided with information on the interests disclosed by other members and the strategies or sanctions in place to manage any conflicts of interest.

Prior to the commencement of each committee meetings, the Chair will review the conflicts of interest and ensure the implementation of any approved management strategies or sanctions. The Chair will also ask all members to declare any new interests that may need to be recorded and assessed.

The consequences of an individual failing to disclose a conflict or material personal interest and/or failing to comply with a management strategies or sanctions are outlined in Table 1.

Appendix 1 – Disclosure of Interests Form

This Disclosure of Interests Form is a **sample** only. See **D14-29910** for a working copy of the form.

Disclosure of Interests Form

Adapted from the National Health Medical and Research Council

This *Disclosure of Interests Form* is intended to be read in conjunction with the Commission's *Disclosure of Interests Policy* (TRIM D14-25360).

Under the policy, Commission staff and committee members are required to disclose conflicts of interest under the following circumstances:

- At the time of engagement (for employees) or appointment (for committee members)
- When their circumstances change that would require disclosure of interest
- Every 2 years for employees or at each committee meeting for committee members.

In addition, staff must disclose their conflicts of interest when undertaking activities that would require disclosure, such as when evaluating tenders or seeking secondary employment.

Only material interests that relate to the work of the Commission or its committees should be disclosed.

Part A – Relevant Financial Interests

Relevant Financial Activities				
Type	No	Yes: Benefits to you (received or expected)	Yes: Benefits to immediately family (received or expected)	Relevant attachment number (if applicable)
In relation to Item 1 below: Over the past 3 years, have you been employed by an entity having a commercial or other interest in a subject that may be covered by the work of the Commission or its committee(s)?				
1. Employer	<input type="checkbox"/>			
In relation to Items 2 and 3 below: As far as you are aware, do you or any immediate family members have any ownership interests in, or act as a principal or officer of any entity which has a commercial interest in any of the subjects that may be covered by the work of the Commission or its committee(s) (including where stock in the entity is not publically traded)?				
2. Ownership Interests (name)*	<input type="checkbox"/>			
3. Board Membership/ Principal (name)	<input type="checkbox"/>			

*Ownership interests include stock options but exclude indirect investments through mutual funds and the like.