

# Conflicts of Interest Policy

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TIPP 5.13

April 2024

## Acknowledgment of Country

We acknowledge that Aboriginal and Torres Strait Islander peoples are the First Peoples and Traditional Custodians of Australia, and the oldest continuing culture in human history.

We pay respect to Elders past and present and commit to respecting the lands we walk on, and the communities we walk with.

We celebrate the deep and enduring connection of Aboriginal and Torres Strait Islander peoples to Country and acknowledge their continuing custodianship of the land, seas, and sky.

We acknowledge the ongoing stewardship of Aboriginal and Torres Strait Islander peoples, and the important contribution they make to our communities and economies.

We reflect on the continuing impact of government policies and practices and recognise our responsibility to work together with and for Aboriginal and Torres Strait Islander peoples, families and communities, towards improved economic, social and cultural outcomes.

Artwork:

*Regeneration* by Josie Rose



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Contact details	
Name: Sajiv De Silva	Position: Director Risk, Compliance and Audit
Business unit: Risk, Compliance and Audit	Division: Office Of General Counsel
	Email: risk@treasury.nsw.gov.au

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# Preface

NSW Treasury (Treasury) is committed to being a professional and ethical workplace. All Treasury staff are required to declare any conflict of interest. The ongoing disclosure of all actual, potential, or perceived conflict of interests ensures that we operate in a way that is transparent, ethical, and always in the public interest. It is also a critical component in ensuring we abide by the Public Sector Code of Conduct.

Irrespective of whether an actual, potential, or perceived conflict of interest exists, Treasury staff must complete a declaration. The public perception of the integrity and independence of Treasury and its staff is of the utmost importance and Treasury staff must be able to demonstrate that they are not influenced in the performance of their role by any connection or overlap between interests and duties.

## Note

General inquiries concerning this document should be initially directed to:

Risk, Compliance and Audit, NSW Treasury; [risk@treasury.nsw.gov.au](mailto:risk@treasury.nsw.gov.au)

This publication can be accessed from the Treasury's website ([www.treasury.nsw.gov.au](http://www.treasury.nsw.gov.au)).

This is an internal Treasury policy, published to support our commitment to transparency and accountability. As such, it may contain URLs to internal Treasury resources that may not be externally available at this time. Requests made under the *Government Information (Public Access) Act 2009* will be assessed through standard processes.

# 1 Overview

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## 1.1 Objectives

This policy provides guidance on how to manage and document conflicts of interest in a professional and ethical manner. It intends to supplement the guidance available in Treasury's [Code of Ethics and Conduct](#). Adherence to both the Code of Ethics and Conduct and in turn, this document, is critical in abiding by the public sector's key values (as defined by the [Government Sector Employment Act](#)) and meeting the expectations of the public to be transparent and prioritise their interests at all times.

This document has been developed based on the Independent Commission Against Corruption (ICAC)'s Publication, [Managing Conflicts of Interest in the NSW Public Sector](#)

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## 1.2 Scope

This policy must be always complied with and applies to all employees, contractors, and volunteers engaged by or performing work for Treasury.

All new starters are required to complete a conflict-of-interest declaration irrespective of whether there is a conflict to disclose.

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## 1.3 Policy in brief

In summary, this policy requires those outlined in the scope to:

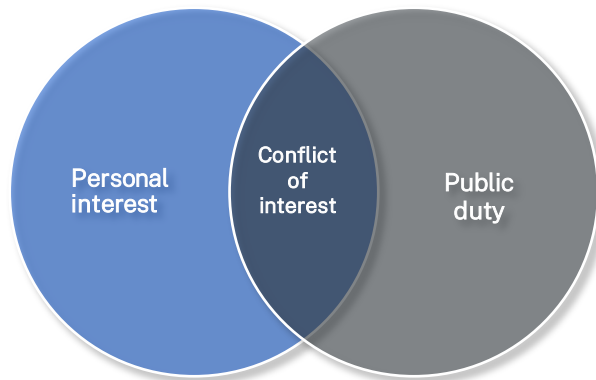
- Complete a conflict of interest declaration in Protecht (Treasury's Risk Management System) when staff join Treasury irrespective of whether there is a perceived, potential or actual conflict;
- Disclose all perceived, potential, or actual conflicts in line with this policy;
- Cooperate with your manager and adhere to any agreed plans in order to properly manage the identified conflict;
- Protect the reputation of Treasury and all government agencies in the management of your own, or others' reported conflicts of interest; and,
- Always prioritise the interest of the public above your own in your role.

# 2 Policy

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## 2.1 Definition

A conflict of interest exists when a reasonable person might perceive that your personal interests intersects with your public duties. This requires a connection or overlap between those interests and duties, as shown below.



A conflict of interest may be actual, potential, or perceived:

- An *actual conflict* is where there is a direct conflict between current duties and responsibilities, and your private interests,
- A *potential conflict* is where your interests could conflict with your duties; and
- A *perceived conflict* is where your private interests may be perceived to influence your professional duties.

In determining whether there is a conflict of interest, one must assess the situation from the perspective of a fair-minded and informed observer.

[Appendix A](#) provides examples to help you identify whether a conflict of interest exists. Additional guidance can be found in [What is a conflict of interest?](#) video from ICAC.

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## 2.2 Avoiding Conflicts of Interest

It is important to avoid placing yourself in conflicting situations where it is practical to do so. You should discuss this with your manager, this may involve avoiding:

- Assignments and tasks that could conflict with your private interests.
- Investments or financial arrangements that may affect or relate to your duties.
- Commercial dealings with suppliers or other stakeholders that are not at an arm's length basis.
- Situations where professional relationships could develop into personal relationships.
- Social media activity that may be perceived as compromising your impartiality.

The public expect all NSW Treasury employees to refrain from situations where they may obtain undue personal benefit. Therefore, in addition to identifying and declaring conflicts of interest in line with this policy, please note the following additional responsibilities of staff:

- In instances where you are unsure if you have a conflict, you should speak with your manager, or the Risk, Compliance & Audit team for guidance. For full transparency items can be declared even if there are no current conflicts.
- If you believe that any person may have a conflict that has not been declared, you should speak to your manager or the Risk, Compliance & Audit team. Alternatively, if you believe that a person is currently or has directly benefited from an undisclosed conflict of interest, you may wish to make a [Public Interest Disclosure](#)

## 2.3 Disclosing Conflicts of Interest

As soon as you become aware of an actual, potential, or perceived conflict, you must complete a declaration in [Protecht](#) as soon as practical. This includes conflicts that may arise as part of the daily duties you complete in your role, or additional duties where a conflict may develop.

An ongoing assessment of status of your conflict must be done if there is a change in your private interests, or assignment to a new role or responsibilities. This includes the following instances:

- Onboarding;
- Internal promotions (all staff);
- Internal transfers to another team (all staff);
- Acting positions (Directors and above (SES levels) when acting for more than 90 days);
- As new conflicts arise or become known to you.

In instances where you are unable to independently manage your conflict, or your conflict cannot be avoided, you must consult with your manager to agree to alternative [management strategies](#) prior to entering these details into Protecht. Once a submission is made in Protecht, this must then be approved by your Director or for SES, your reporting manager, and then the Director of Risk, Compliance and Audit.

Any failure to disclose a conflict of interest, or conduct which favours a personal interest, is a breach of this policy and [Treasury's Code of Ethics and Conduct](#).

Processes where conflicts of interests more commonly exist	
Procurement including contract management	Grants administration
Provision of advice to other agencies	Provision of advice to customers of the public
Secondary employment	The creation of partnerships with other organisations

Certain specific activities at Treasury, for example procurement, banking or transaction based teams may require additional conflict of interest declarations to be collected. If this is the case, the relevant Division, will work with the individuals to make sure these conflicts of interests are appropriately recorded and retained.

If a supplier / vendor discloses a conflict of interest:

- Direct them to the [Supplier Code of Conduct](#) to determine the appropriateness and next steps;
- Discuss an appropriate management mitigation plan. This can also be discussed with the procurement team and / or risk team;
- Direct them to the [Statement of Ethics](#) available on the Treasury's website, and where relevant notify the relevant contact if it is believed that the conflict has not been properly disclosed to them.



Public officer should also be mindful of conflicts arising from grants administration, such as internal processes and panels. The person must avoid this conflict by removing themselves from the process.

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## 2.4 Options for managing Conflicts of Interest

The ICAC has four strategies to manage conflicts of interests. Examples of each of these has been provided in [Appendix B](#). These four options are:

1. Take no further action:

Where you can remove yourself from the situation. Disclosure in Protecht should also be made.

2. Change the employee's relevant activities:

This may require removing or reducing the employees involvement in the matter creating the conflict, or removing or reducing their influence in the matter creating the conflict **(e.g. ability to make decision, or influence other people's opinions)**.

3. Change the employee's personal interest:

It may be appropriate for the conflicted official to modify the nature of their personal interest e.g., disposal of a pecuniary (financial) interest such as selling shares.

4. Change the system / process:

If changing the interest or the activities of the conflicted official is not feasible, a change in the system may be necessary. This may often be stronger recordkeeping, or additional monitoring and assurance.

These are not mutually exclusive, and a combination of options 2, 3, and 4 may be deemed appropriate to properly manage an identified conflict.

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## 2.5 After disclosure

From the point of your disclosure being approved, it is your responsibility to adhere to the agreed management plan you have reported into Protecht. It is considered in breach of this policy if you do not.

If the nature of your conflict changes, or you are unable to complete the agreed conflict management strategy, you must notify your manager, and create a new conflict of interest disclosure in Protecht. If you change roles or report to a different manager, you should tell your new manager of the details of your conflict of interest and any plan of management.

Note: Should you wish to make amendments to your open Protecht form please email [risk@treasury.nsw.gov.au](mailto:risk@treasury.nsw.gov.au). Once the declaration is reviewed and closed no amendments can be made. A new declaration needs to be noted.

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## 2.6 Managing privacy

Disclosing conflicts of interests may result in personal information being provided, such as details of personal finances, or relationships. Information that is currently entered into Protecht can only be seen by the Risk, Compliance & Audit team, and your line manager (Director). These stakeholders are responsible for keeping this information confidential, with this only being shared on an "as needs" basis. For more information on Privacy management, refer to [NSW Treasury Privacy Management Plan and Guidelines policy](#).

Refer to appendix C for flowchart summary of the above COI process.

# 3 Further Policy Requirements

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## 3.1 Dealings with yourself or your family

You must not process transactions, make decisions, or partake in workplace duties that involve your personal affairs as a citizen interacting with Treasury. This also applies to matters involving your family. Please refer to Attachment A for [People who are more than acquaintances](#).

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## 3.2 Personal dealings with suppliers and service providers

You should not make personal purchases from the suppliers and service providers engaged by Treasury unless they are on an arm's length basis. Discounts or favourable terms should not be sought based on your employment with the Treasury, as this could create a conflict of interest (i.e. Treasury employees cannot purchase from suppliers using the provisions and/or discount terms of a NSW Government arrangement, unless it explicitly relates to approved employee entitlements).

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## 3.3 Secondary employment or business

You can engage in other employment outside of official Treasury duties **only with prior approval**, and after confirming that doing so would not create a conflict of interest. Employees should ensure that they prioritise their role in the Treasury ahead of any other employment commitments they may have. A declaration via Protecht ([Conflict of Interest Form](#) - Option C) must be approved prior to accepting any additional role.

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## 3.4 Official and personal comment

Employees should be aware that they are responsible for official comment/s made as a Treasury employee, and also for personal comments on political and social issues made as a member of the community.

### 3.4.1 Official comment

Official comment includes public speaking engagements (as spokespeople, presenter or speakers at conferences or events), expressing views in books, journals, or notices or in any other circumstances where it is expected that the comments will spread to the community at large. Prior to making higher profile official comments, i.e., speaking engagements or television event as a Treasury employee, refer to [Representing NSW Treasury Policy](#) for responsibilities and obligations that needs to be followed.

### 3.4.2 Personal comment

When making personal comments, including posting or commenting on a personal social media account, in letters to newspaper, comments on radio and television as a member of the community, employees should be reminded that they are personally responsible for the contents.

Employee should not imply that their private and personal comment is an official public comment on behalf of Treasury or the NSW Government. Employees must make it clear that their comments are made in a private capacity and do not represent the official view of NSW Treasury, the government sector, or the NSW Government. Employees must not comment publicly on matters where such comment could give rise to a real or perceived conflict of interest between your work and personal interests.

Refer to [NSW Treasury Social Media Policy](#) for more information.

### 3.4.3 Political participation

As noted in Treasury's Code of Ethics and Conduct, an employee who is active in any political party, cause or movement, must be especially careful about the possibility of conflicts of interests with the duties of their position in Treasury.

In all instances a [Conflict of Interest Declaration](#) needs to be completed in Protecht when you become aware of a potential conflict. You must immediately inform your Director, Executive Director, or Deputy Secretary to determine appropriate next steps which may include ceasing this activity or withdrawing from certain elements of your work.

Additionally, employees should not be required to perform duties that are of a political rather than public sector nature. If an employee considers that a duty is substantially political, they should discuss it with their Director, Executive Director, or Deputy Secretary.

The [M2019-02-NSW Lobbyists Code of Conduct](#), also describe requirements for all NSW Government officials, to do not have lobbying contact with unregistered third-party lobbyists; and to observe special precautions when meeting with any lobbyist who has been placed on the Lobbyists Watch List.

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## 3.5 Disclosure of personal interests by senior executives

NSW Public Service Commission Circular 2015-08, and Treasury requires senior executives to provide annual declarations of their own private financial, business, personal or other interests that have the potential to influence, or could be perceived to influence, their decision-making processes. [Senior executives - private interest disclosure](#).

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## 3.6 Policy breaches

Alleged breaches of this policy will be investigated by the Risk, Compliance & Audit team, and appropriate action will be taken.

Breaches suspected to amount to corrupt conduct will be reported to the NSW ICAC. Breaches that amount to criminal conduct will be reported to the police.

You must report any reasonably suspected breaches of this policy to the Risk, Compliance and Audit Team. Alternatively, you can report breaches that may be misconduct using the [Public Interest Disclosure Reporting Policy](#).

# 4 Roles and Responsibilities

The below table outlines the requirements for each role in administering the policy.

Role	Responsibility
Secretary	<ul style="list-style-type: none"><li>Has ultimate ownership over the proper management of conflicts of interest;</li><li>Reporting reasonably suspected corrupt conduct to the NSW ICAC.</li></ul>
Broader Leadership Team/ Extended	<ul style="list-style-type: none"><li>Ensuring that employees, including contractors and volunteers comply with this policy;</li><li>Annually declaring private interests, or more frequently if these interests change, in line with this policy and the <a href="#">Code of Ethics and Conduct</a>;</li></ul>

Role	Responsibility
Leadership Team	<ul style="list-style-type: none"> <li>• Provide leadership and support to employees when dealing with conflicts;</li> <li>• Investigating reasonably suspected breaches of this policy, and determining an appropriate course of action.</li> </ul> <p>If an employee or person this policy applies discloses a Conflict of Interest:</p> <ul style="list-style-type: none"> <li>• Discuss a management or mitigation plan that reduces that person’s ability to benefit from the conflict, or reduces the negative impact that may result from the conflict and ensure it is recorded in <a href="#">Protecht</a>,</li> <li>• Monitor the management plan to ensure that it is being implemented and is effective in managing the conflict reported. Update where necessary and update in Protecht.</li> </ul> <p>Managers should always consider whether the circumstances warrant removing an employee from the duties that conflict with their personal interests. While not always practical, this approach can remove or reduce the conflict.</p> <p>If a supplier / vendor discloses a conflict of interest:</p> <ul style="list-style-type: none"> <li>• Direct them to the <a href="#">Supplier Code of Conduct</a> to determine the appropriateness and next steps;</li> <li>• Discuss an appropriate management mitigation plan. This can also be discussed with the procurement team and / or risk team;</li> <li>• Direct them to the <a href="#">Statement of Ethics</a> available on the Treasury’s website, and where relevant notify the relevant contact if it is believed that the conflict has not been properly disclosed to them.</li> </ul>
Employees and Contractors	<ul style="list-style-type: none"> <li>• Placing the interests of the public, and the reputation of Treasury ahead of their own interests;</li> <li>• Disclosing all conflicts of interest through Protecht and discussing ways to manage the conflict with their manager and noting the agreed mitigation plan on their declaration;</li> <li>• Adhering to the documented approach to managing conflicts of interest agreed with their managers, should a conflict arise;</li> <li>• Reporting reasonably suspected breaches of this policy to management, or the Director of Risk, Compliance and Audit or Office of General Counsel for misconduct.</li> </ul>
Director of Risk, Compliance & Audit	<ul style="list-style-type: none"> <li>• Responsible for overseeing compliance with this policy;</li> <li>• Investigating reports of conflicts of interest that have not been managed in line with this policy;</li> <li>• Reviewing and approving conflicts of interest disclosure submitted in Protecht once assessing that the management strategy is appropriate;</li> <li>• Escalating any serious breaches of this policy to the General Counsel, Chief People Officer or the Secretary.</li> </ul>
Risk, Compliance & Audit Team	<ul style="list-style-type: none"> <li>• Maintaining and reviewing entries into the Conflicts of Interest register maintained in Protecht;</li> <li>• Providing guidance and support to staff and their managers on this policy where required;</li> <li>• Updating this policy every two years or earlier as required.</li> </ul>

# 5 Further Information

## 5.1 Additional Information

For additional information or support regarding this policy contact the Risk, Compliance & Audit Team at [risk@treasury.nsw.gov.au](mailto:risk@treasury.nsw.gov.au)

Additional resources are:

- [NSW Independent Commission Against Corruption \(ICAC\)](#)
- [Public Service Commission \(PSC\)](#)

## 5.2 Related policies and documents

Relevant Contacts	Reference	Document Name
Director of Audit & Risk	TIPP5.01	<a href="#">Treasury Risk Management Framework</a>
Treasury Records & Information management	[No 17 1998]	<a href="#">State Records Act 1998 No 17</a>
Director, Business Partnering and Talent Acquisition	TIPP2.05	<a href="#">Treasury Code of Ethics and Conduct</a>
Treasury Governance, Ethics and Integrity	TIPP5.04	<a href="#">Public Interest Disclosures Internal Reporting Policy</a>
Director of Audit & Risk	TIPP5.10	<a href="#">Fraud and Corruption Prevention Framework</a>
Director of Audit & Risk	TIPP5.08	<a href="#">Gifts &amp; Benefits Policy</a>
Department of Premier and Cabinet	M2019-02	<a href="#">NSW Lobbyists Code of Conduct</a>

## 5.3 Version control

Version	Reviewer	Date of Review	Comments
1.0	Rachelle El Hage	February 2020	Creation of policy
1.1	Chami Burki	June 2021	Minor updates of policy including consistency with Treasury Code of Ethics and Conduct
1.2	RC&A Team	December 2022	Revision to ensure alignment to ICAC and PSC. Added Appendix B - Flowchart.
1.3	RC&A Team	April 2024	Align with social media policy and general updates.

## Appendix A: Examples of Private Interests that could conflict with public duties

Financial interests	
<p>These can be direct or indirect, short, or long term, and stem from gains and losses. The financial interests of any member of your family economic unit are generally deemed as your interests.</p>	<ul style="list-style-type: none"> <li>• Sources of income, including secondary employment;</li> <li>• Ownership or lease of land and property;</li> <li>• Shares or investments in companies, partnerships, or other entities;</li> <li>• Beneficial interests in a trust or deceased estate;</li> <li>• Loans or debts;</li> <li>• An option to buy or sell an asset or any other anticipated future financial benefit.</li> </ul>
People who are more than acquaintances	
<p>Any relationship with a person, who is more than an acquaintance, could be a personal interest.</p> <p>Relationships with the following people may be considered as ‘people who are more than acquaintances’:</p>	<ul style="list-style-type: none"> <li>• Spouses or partners;</li> <li>• Relatives, including relatives by marriage;</li> <li>• Friends;</li> <li>• Close colleagues current and previous;</li> <li>• Social connections;</li> <li>• People with whom you previously had a close relationship. (e.g. old friend, previous spouse, mentor, etc)</li> </ul>
Connections to people who have provided income or may provide income	
<p>Other sources of income are also financial interests. However, people and entities associated with that income are also likely to be personal interests.</p>	<ul style="list-style-type: none"> <li>• Any current provider of secondary or other employment;</li> <li>• Current or former business partners;</li> <li>• Customers, significant suppliers or contractors of a private business or other employer;</li> <li>• Providers of future employment or business opportunities;</li> <li>• Relationships with former employees and colleagues, especially if there is ongoing social contact;</li> </ul>
Organisations and clubs, and people connected to them	
<p>A personal interest may arise from a regular basis engagement into volunteering or connection with organisations or clubs that may be professional, sporting, recreational, community, arts, social, or other. Hobbies about which you are passionate could also be classed as a personal interest.</p>	
Connections to people and entities who have given benefits or favours	
<p>Officials may have a personal interest if they have been indebted or obligated to anyone who has provided gifts, benefits, hospitality, or favours. It is not necessarily the gift or benefit itself that causes the conflict of interest, but the potential relationship and sense of obligation or expectation that could arise.</p>	

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## Appendix B: Further Information Regarding Options for Managing Conflicts of Interests

### Change the official's relevant activities

#### Reduce or amend involvement

- removal from the relevant assignment or task;
- limiting involvement to certain aspects of the process, including segregating, or reducing duties;
- temporary placement in a less senior role;
- closer supervision or adding members to the team;
- exclusion from certain discussions or meetings;
- confinement to an advisory role with no decision-making authority or financial delegations;
- exclusion from critical recordkeeping roles;
- preventing dealings with external parties (such as tenderers);
- having an independent person involved which could include an equal or senior colleague or independent subject matter expert;
- changing reporting lines; and,
- limiting access to certain systems, information, and assets.

#### Reduce or amend influence

- transferring the matter to another unit or team that is unconnected with the conflicted official;
- transferring the conflicted person to another project, branch, or unit (temporarily or permanently);
- creating a physical separation between the conflicted person and decision-makers;
- removing access to electronic and physical records;
- informing relevant colleagues that there is a conflict of interest and instructing them on how to meet probity requirements.

### Change the official's personal interest

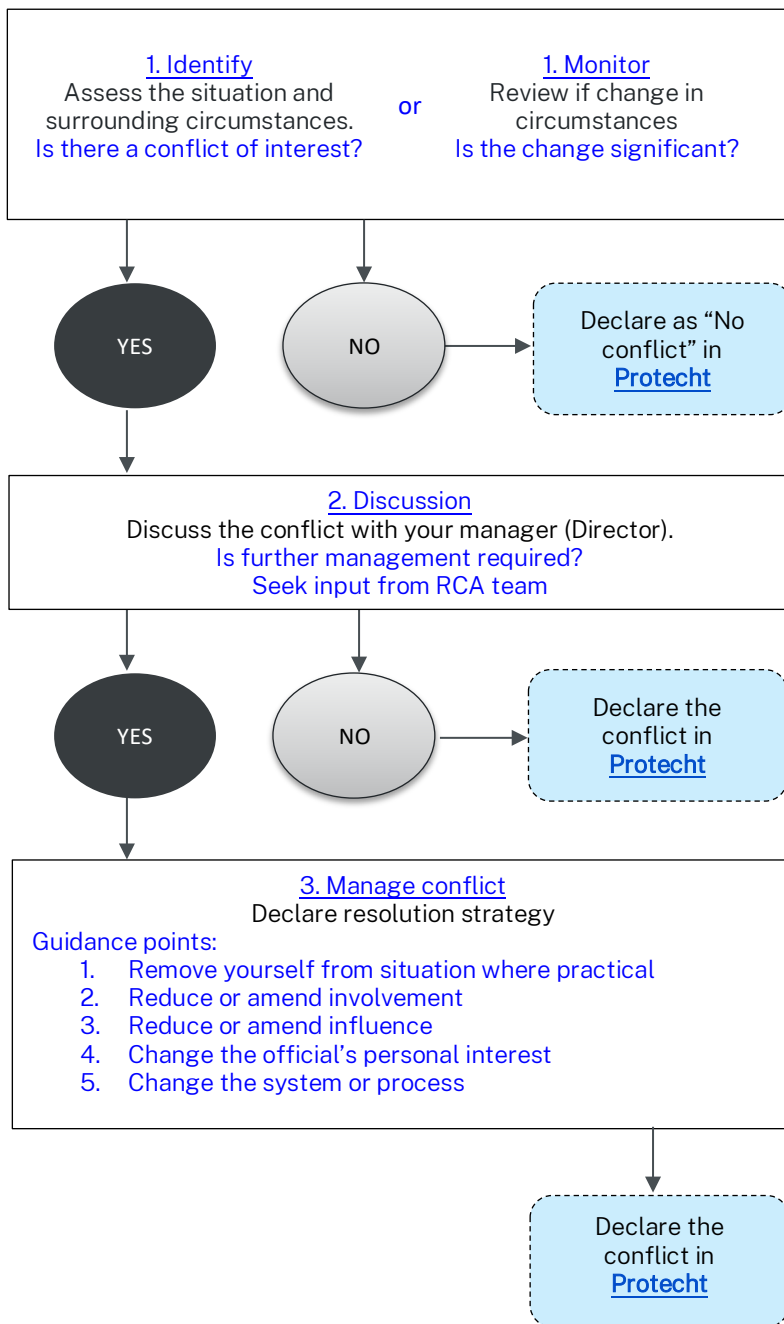
- obtaining agreement to relinquish ownership or control of a financial interest, such as shares or land;
- prohibiting secondary employment;
- obtaining an undertaking from the conflicted person to refrain from communicating with a particular person during a process, such as a recruitment exercise or a tender.

### Change the system or process

- requiring more detailed documentation;
- designing the decision-making process to reduce the level of subjectivity and discretion;
- documenting and publishing reasons for the decisions taken;
- providing reminders to relevant employee about reporting alleged misconduct;
- creating audio or video recordings of key decisions or meetings;
- conducting a post-completion audit or review;
- ensuring relevant audit and access logs in key IT systems are turned on and reviewed;
- enhancing measures to protect information from unauthorised access, use or disclosure;
- establishing internal controls to identify deviations from the established process;
- appointing probity checkers, probity advisors or probity auditors; and,
- providing additional training and awareness raising sessions.



## Appendix C: Flowchart





52 Martin Place  
Sydney NSW 2000

GPO Box 5469  
Sydney NSW 2001

W: [treasury.nsw.gov.au](https://treasury.nsw.gov.au)

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