

# Community Housing Practice Guide

## Conflict of Interest

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## Purpose of this practice guide

This practice guide has been developed to assist registered providers conform to requirements established under the *Housing Regulation 2003* for managing conflicts of interest.

The guide provides information to assist providers develop a conflict of interest policy and should be used in conjunction with requirements specified under Assistance Agreements.

## Requirements

Section 16 of the *Housing Regulation 2003* (the Regulation) establishes requirements relating to conflicts of interest for registered providers. They are as follows:

1. The provider must keep and implement a policy about conflicts of interest of its officers, employees and volunteer workers.
2. The policy must:
  - a. include guiding principles and procedures for identifying, declaring and dealing with conflicts of interest; and
  - b. be consistent with the requirements in the document titled 'Practice Guide: Conflict of Interest' published by the department in January 2007.
3. The provider must keep a record of each instance of a conflict of interest arising in the provision of the service and how the matter was dealt with.
4. In this section, conflict of interest of an officer, employee or volunteer worker includes -
  - a. any interest that conflicts with the discharge of the officer's, employee's or volunteer worker's responsibilities in an officer, employee or volunteer worker; and
  - b. a potential conflict of interest.

## Policy and procedures

### Definition

A conflict of interest may occur when a person has a private (including a pecuniary or non-pecuniary) interest in a matter in which the provider has an interest or which is under consideration by the provider. A conflict of interest means any conflict between the discharge of an officer's, employee's or volunteer's duties and their own private interests.

*Conflicts of interest cannot always be avoided or prohibited. Unavoidable conflicts of interest need to be identified, disclosed and effectively managed.<sup>1</sup>*

Conflicts of interest may be actual, perceived or apparent, or potential.

- An actual conflict of interest involves a direct conflict between the officer's, employee's or volunteer's duties and their own private interests.

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<sup>1</sup> Managing Conflicts of interest in the Public Sector – Guidelines, Independent Commission Against Corruption & Crime and Misconduct Commission, November 2004, Page 7.

- A perceived or apparent conflict of interest exists where it could be perceived or it appears that the person's private interests could improperly influence the performance of their duties - whether or not this has actually occurred.
- A potential conflict of interest arises where the person has private interests that could, in future, conflict with their duties.

Non-exhaustive examples of a conflict of interest include:

- a member of a recruitment selection panel has a close personal friendship with an applicant for a position with the Provider;
- decisions regarding tenant selection (allocation) made by an officer, employee or volunteer who is a close relative of an applicant for a tenancy by the Provider;
- selection of contractors made on the basis of gifts given to a member of the committee or staff member of the Provider;
- decisions about which properties have priority for maintenance or upgrades being influenced by friendships or favours bestowed by tenants of the Provider;
- the provider purchasing or leasing property owned by committee members and employees, or their families;
- selling or leasing properties to community members, their employees or their families; and
- decisions made by the provider benefiting the private or business interests of management committee members, employees, or their respective families.

## Guiding Principles

Four principles have been identified that will guide the management of conflicts of interest.

### **Protecting the interests of the provider**

In order to meet officers', employees' or volunteers' obligations to the provider and under the Housing Act 2003 these persons must act within the law and apply broader values such as impartiality and integrity.

### **Supporting transparency and accountability**

The processes for managing conflicts of interest must be transparent, open to scrutiny and accountable.

### **Promoting individual responsibility**

Managing conflicts of interest demonstrates the integrity and professionalism of the officer, employee or volunteer as well as the provider.

### **Building a supportive organisational culture**

The provision of guidance and training to staff and volunteers and effective leadership in the management of conflicts of interest builds a supportive organisational culture.

A provider's Conflict of Interest Policy should include guiding principles consistent with the following:

- Conflicts of interest, actual, perceived or apparent, or potential, will be declared by committee members, employees and volunteers and a written record maintained by the provider.
- Decisions will not be made on the basis of gain, pecuniary or otherwise, for board or committee members, employees or volunteers.
- All decisions will be free of bias or apparent bias.
- Board and committee members, employees and volunteers will be accountable to the provider and the public for decisions made.
- All processes are transparent and documented.
- All board and committee members, employees and volunteers will be advised of the policy and aware of the documentation required.
- Board and committee members, employees and volunteers declare all their private interests (including pecuniary and non-pecuniary) that conflict or may conflict with the discharge of their responsibilities to the provider.

## Procedures

Procedures for implementing the Conflict of Interest Policy must be established and documented. These may include the following:

- The criteria for determining whether a conflict of interest exists
- Ensuring that all officers, employees and volunteer works are made aware of the requirements of the Conflict of Interest Policy and of any actions they should take in accordance with the Policy.
- Where a conflict or potential conflict of interest is identified the person who has a conflict of interest should advise the board or management committee in writing and seek guidance as to how the conflict is to be resolved. This correspondence should be recorded for future reference.
- Each case of conflict of interest that arises will be recorded in minutes of board or management committee meetings.
- The board or management committee, (including by a sub-committee or independent external party) must manage the process of resolving all conflicts of interest (including those that have not been disclosed).
- Records are to be kept detailing all conflicts of interest including:
  - all conflict of interest notifications;
  - any reported cases of failure to disclose;
  - disclosure by others (e.g. colleague or member of the public);
  - vexatious or trivial claims;
  - assessment of the matter and how it was considered ;
  - any action taken (e.g. resolution); and
  - any reviews of the assessment process.
- The notification for conflicts of interest should include:
  - the person's name, position (committee member, employee), contact phone number and address;
  - details of the nature of the conflict of interest, (perceived or apparent, potential, or actual);
  - date of notification; and
  - course of action to deal with and resolve the conflict of interest.

- When determining the best option to address the conflict of interest, the test will be that which ensures impartiality, fairness and protection of the Provider's interest. Actions to be taken may include:
  - limited the person's involvement in the matter (eg. participation in discussion but not decision-making);
  - the person having no involvement in the matter; and /or
  - removing the source of conflict.
  - creating a physical delineation where premises are cohabited.

The principles of natural justice should be observed when considering and resolving the conflict of interest.

*The primary goal of systems to manage conflicts of interest is to ensure that decisions are made – and are seen to be made – on proper grounds, for legitimate reasons and without bias.<sup>2</sup>*

## Form for declaring and recording conflicts of interest

Appendix A provides sample forms that should be used for committee members, employees and volunteers to:

- confirm they are aware of the requirements of the Conflict of Interest Policy; and
- declare a conflict of interest.

## Enquiries

For queries about conflicts of interest, please contact the Department of Housing and Public Works.

<b>BNCR – 3007 4377</b>	HS ODCM Brisbane North Coast <a href="mailto:HSODCMBrisbaneNorthCoast@hpw.qld.gov.au">HSODCMBrisbaneNorthCoast@hpw.qld.gov.au</a>
<b>Central – 4848 7054</b>	HS CDM ODCM Central Region <a href="mailto:HSCDMODCMCentralRegion@hpw.qld.gov.au">HSCDMODCMCentralRegion@hpw.qld.gov.au</a>
<b>Northern – 4036 5538</b>	HS ODCM Northern <a href="mailto:HSMailboxODCMNorthern@hpw.qld.gov.au">HSMailboxODCMNorthern@hpw.qld.gov.au</a>
<b>Southern – 3437 6047</b>	HS ODCM Southern <a href="mailto:HSODCMSouthernregion@hpw.qld.gov.au">HSODCMSouthernregion@hpw.qld.gov.au</a>

<sup>2</sup> Managing Conflicts of Interest in the Public Sector – Guidelines, Independent Commission Against Corruption & Crime and Misconduct Commission, November 2004, Page 11.

## Appendix A – Sample Forms regarding Conflicts of Interest

### Acknowledgement Form regarding Conflicts of Interest

I have read and understood the Conflict of Interest Policy. I acknowledge that my conduct must at all material times be consistent with this document in carrying out my duties on behalf of *(insert name of organisation)*.

In order to avoid actual, perceived or apparent and potential conflicts of interest, I will:

- Declare in writing to the Board/management committee any private (including a pecuniary or non-pecuniary) interest that conflicts with the discharge of my responsibilities as an officer, employee or volunteer worker in a matter in which the organisation has an interest or which is under consideration by the organisation; and
- Act as directed by the Board management committee in resolving any conflict of interest, which may include being excluded from receiving papers and documents in all forms or taking part in discussions and decisions in matters where an actual, perceived or apparent, or potential conflict of interest exists.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Full Name of Declarant:

\_\_\_\_\_

### Declaration of Conflict of Interest

I wish to declare the following private interest that conflicts or may conflict with the discharge of my responsibilities as an officer, employee or volunteer worker in a matter in which the organisation has an interest or which is under consideration by the organisation.

\_\_\_\_\_

\_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Full Name of Declarant:

\_\_\_\_\_

This declaration was tabled and minuted at the

*(insert name of organisation)* meeting at ... (place) and ... (day) of ... (month) ... (year).

Course of action directed by Board/management committee to resolve conflict of interest:

\_\_\_\_\_

\_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Chairperson: \_\_\_\_\_