

# Conflict of interest - procedure

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# 1. Procedure

This procedure is to be read in conjunction with the Department of Education (department) Conflict of Interest Policy.

Where an actual, potential, or perceived conflict of interest has been identified or circumstances change, an employee and school body need to record appropriate management strategies and seek endorsement from their delegate, line manager, or principal.

Annual conflict of interest declarations are required to be completed by 1st March each year for:

- i. executive contract officers
- ii. school principals
- iii. school business and administration managers
- iv. employees undertaking paid outside employment
- v. employees being members on boards of Non-Government Organisations (NGOs), or committees receiving NT Government funding through grants or subsidies.

## 1.1. Annual declarations

- 1) The above positions need to complete annual declarations whether or not they have an actual, potential or perceived conflict of interest. In addition, they need to declare any new conflicts that may occur during the year.
- 2) Other employees do not need to declare nil conflict of interests.

Children should be declared if any financial or operational decisions are required to be made in relation to the children's school. The declaration can be made to a committee, a panel or via the Conflict of interest (COI) portal.

Please note:

- 3) The above positions need to complete annual declarations whether or not they have an actual, potential or perceived conflict of interest. In addition, they need to declare any new conflicts that may occur during the year.
- 4) Other employees do not need to declare nil conflict of interests.
- 5) Children should be declared if any financial or operational decisions are required to be made in relation to the child/children's school. The declaration can be made to a committee, a panel or via the COI portal.

## 2. Identify

Employees and school bodies must identify situations where their private interests could interfere with or may be perceived as interfering with their official duties and responsibilities. This includes consideration of the private interests and associations of their family members.

If an employee or school bodies is in any doubt as to the existence or nature of the conflict of interest, or of appropriate strategies to manage a conflict of interest, they should seek assistance from their line manager, principal, school body chair, panel chair or contact Quality Assurance Services (QAS). Examples of conflicts are contained in appendix A.

## 3. Declaring

It is important to ensure transparency and compliance with Employment Instruction 12 – Code of Conduct<sup>1</sup> and the applicable school or school body code of conduct. Where it is identified that there is an actual, potential, or perceived conflict of interest; or the employee works in a position that is required to declare any conflicts annually, the conflict must be discussed with their line manager, chair of the school body, or the principal in the first instance. The discussion is to include:

- whether the personal interest affects the employee or immediate family member
- where the personal interest belongs to a family member and the nature of the employee's relationship with that person
- how the identified personal interest may result in a potential, perceived or actual conflict of interest situation that affects the employee, department, or school
- strategies the employee may apply to effectively manage the conflict of interest.

## 4. Manage

Once an actual, potential, or perceived conflict of interest has been identified and declared, employees or school bodies must agree on a plan to manage the conflict of interest that is appropriate and tailored to the situation, with their line manager, school body chair, principal, or panel chair. To achieve this, an employee and with agreement of their manager may choose to **avoid** or **control** the conflict of interest.

### 4.1. Avoid

Employees or school bodies avoid the conflict of interest entirely by removing themselves from the situation and decision-making process or by eliminating or relinquishing the identified private interest. For example, you are on a recruitment or employment panel where you identify that your brother is an applicant. You advise the chair of this conflict, record it and the chair removes you from the panel so you are not involved in the recruitment or employment activity. The decision is to be documented.

### 4.2. Control

Employees or school bodies adopt specific strategies to manage the risks associated with an identified conflict of interest. This may include restricting their involvement or removing themselves from decision-making, recruitment or employment activity, or a procurement process. For example, if you or an immediate family member run a business that is contracted to undertake work at the school where you are employed or represent. You may put strategies in place to ensure that you are not involved in engaging contractors for this type of work and where discussions are occurring in the workplace for this specific body of work, you need to identify, to the personnel involved, that you are conflicted and excuse yourself from the discussion and decision making.

All proposed management strategies for employees must be approved by the Chief Executive (CE) or relevant delegate as per the department Delegations Policy. For school bodies, all proposed management strategies must be approved by the principal.

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<sup>1</sup> [https://ocpe.nt.gov.au/\\_\\_data/assets/pdf\\_file/0006/379329/code-of-conduct-for-the-northern-territory-public-sector.pdf](https://ocpe.nt.gov.au/__data/assets/pdf_file/0006/379329/code-of-conduct-for-the-northern-territory-public-sector.pdf)

For further questions on managing a conflict of interest contact QAS, [QAS, QAS.DOE@education.nt.gov.au](mailto:QAS.DOE@education.nt.gov.au).

## 5. Strategies identified

Once a strategy for managing the conflict has been identified and discussed, it is then to be recorded on the employee's conflict of interest declaration via the online portal. If the conflict of interest relates to a recruitment or procurement activity or school bodies, the relevant conflict of interest declaration form should be used.

For further questions on management strategies contact QAS, [QAS, QAS.DOE@education.nt.gov.au](mailto:QAS.DOE@education.nt.gov.au).

## 6. Northern Territory Government Public Sector Officers

This section details the processes for Northern Territory Government (NTG) Public Sector Officers (Employees) to declare a conflict of interest.

### 6.1. Recording a conflict of interest declaration for employees

To record a conflict of interest declaration, access the online portal<sup>2</sup> and complete all relevant fields.

Where a disclosure involves outside employment, an approved outside employment form must be attached to the conflict of interest declaration. Line managers or principals are not to endorse any conflict of interest application which involves outside employment, without the approved outside employment form attached. If the form is not attached, the conflict of interest declaration will not be progressed, and the employee will need to re-submit a new declaration form via the online portal, attach the approved outside employment form and progress to their line manager.

Outside employment applications are recorded in the Northern Territory Government's (NTG) [online portal](#)<sup>3</sup>, which can be accessed through NTG Central under apply for outside employment.

The conflict of interest must be submitted and formally endorsed by the employee's line manager or principal and progressed via the conflict of interest portal to QAS for the CE or relevant delegate for approval.

If employees are having issues with the portal and submitting their declaration, contact QAS on [QAS.DOE@education.nt.gov.au](mailto:QAS.DOE@education.nt.gov.au).

The online portal is not to be used for committee, recruitment, or procurement conflict of interest declarations. For recruitment and procurement activities see sections 6.2 and 6.3 below. For recording committee conflict of interest declarations, this is to be documented in the committee meeting record.

### 6.2. Recruitment

When undertaking a recruitment activity, selection panel members must discuss actual, potential, or perceived conflict of interest before any shortlisting takes place and may be required to remove themselves if a conflict of interest exists.

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<sup>2</sup> <https://educationnt-eserve-prod.powerappsportals.com/>

<sup>3</sup> <https://ntgcentral.nt.gov.au/my-job/my-responsibilities/outside-employment>

All panel members must declare any conflict of interest to the panel chair, regardless of whether they have a conflict or not, by completing a Recruitment Conflict of Interest Declaration Form. The declaration form is to be completed by all panel members, including the chair, and provided to the recruitment delegate for endorsement. Refer to the department's delegations to determine who the appropriate delegate is for employees.

The responsibilities of ensuring the declaration form is completed, and an approved form is filed in eRecruit, is the responsibility of the Panel Chair of the recruitment activity.

## 6.3. Procurement

When undertaking procurement activities, employees and school bodies need to assess if they have any actual, potential, or perceived conflict of interests. Where there is a conflict, a declaration is to be made. The responsibilities of ensuring declarations are made, form completed, managed appropriately, and stored in Territory Records Manager (TRM), is the responsibility of panel chairs.

### 6.3.1. Tier 1 – less than \$15,000

When undertaking a Tier 1 procurement process where the goods or services are being procured outside of the NT, or if any conflict of interest exists, employees are required to complete a declaration of interests and confidentiality form<sup>4</sup> and submit the form to the procurement panel chair. The completed form is then to be stored in TRM - DoE-EDRM-EDRM dataset.

### 6.3.2. Tier 2 and above - \$15,000 and above

For all Tier 2 and above procurement activities—regardless of whether they are being procured inside or outside the territory—a declaration of interest and confidentiality form is to be completed by all panel members, whether a conflict is held or not, and provided to the panel chair.

It is the responsibility of the panel chair to ensure all panel members have completed the declaration of interest and confidentiality form and that the completed form has been added to the procurement file in TRM - NTGPROCURE dataset.

## 6.4. Approval and outcome of declaration

QAS will receive all conflict of interest declarations, with the exception of recruitment, procurement, committee declarations. Upon receipt it will:

- assess and determine the risk and likely impact if there is a conflict identified
- approve conflict of interest declarations where there is no conflict identified
- make recommendations to the CE or delegate for consideration and approval, where required.

The CE or delegate is the ultimate decision maker and can approve the declaration or make amendments to the proposed strategies. The CE or delegate may:

- determine that the employee can continue their duties by managing the identified conflict of interest through implementation of the agreed strategies or be asserting additional strategies.
- re-arrange duties of employees

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<sup>4</sup> <https://ntgcentral.nt.gov.au/services-and-support/buy-goods-and-services/quotes-and-tenders/assessment-panel-responsibilities>

- request that the employee avoid the conflict
- organise to transfer the employee due to the conflict.

Note: If none of the above options are viable, and the employee's private interests are more important to them than their official duties and responsibilities, the employee will be required to resign.

Once a conflict of interest declaration is approved by the CE or delegate, QAS will provide email confirmation, via the online portal, to the employee including any amendments to the proposed strategies or additional requirements imposed by the CE or delegate. Employees can track the progress of their declarations through the portal.

Employees and their manager or principal are responsible for ensuring the management strategies approved by the CE or delegate are implemented and maintained.

## 6.5. Recordkeeping

Employee conflict of interest declarations are stored electronically in the conflict of interest online portal. Access to this information is via QAS in accordance with the *Information Act 2002*.<sup>5</sup> Hard copy forms, if any, are transferred and uploaded into the conflict of interest online Portal by QAS; exception to this is the procurement and recruitment declarations which must be stored in the corresponding activity TRM file or within eRecruit.

Records are maintained confidentially in accordance with the NTG Records Disposal Schedule for Temporary records that have been digitised<sup>6</sup>.

Conflict of interest declarations may be examined by:

- the NT Auditor-General in accordance with the functions under the [Audit Act 1995](#)<sup>7</sup> to ascertain compliance with the Northern Territory Public Sector Principles and [Code of Conduct](#)
- the Independent Commissioner Against Corruption (ICAC) in accordance with the functions under the *Independent Commissioner Against Corruption Act 2017* (ICAC Act)<sup>8</sup>
- internal auditors—internal resources or contracted—in accordance with s15 *Financial Management Act 1995* and department Internal Audit Charter.

## 6.6. Grievances

Where an employee and their manager or principal fail to agree on the existence of a conflict of interest or on management strategies, the matter should be reported to the division head. If the issue is not resolved after involvement of the division head and the CE, the employee may lodge a request for a grievance review with the Commissioner for Public Employment under Section 59 of the *Public Sector Employment and Management Act 1993*.

To ensure that the objectives of this policy are not jeopardised, the employee must cease involvement in the matters involving the area of the conflict of interest until the grievance is resolved.

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<sup>5</sup> <https://legislation.nt.gov.au/Legislation/INFORMATION-ACT-2002>

<sup>6</sup> <https://tfhc.nt.gov.au/heritage,-libraries-and-archives/library-and-archives-nt/government-recordkeeping/general-records-disposal-schedules>

<sup>7</sup> <https://legislation.nt.gov.au/Legislation/AUDIT-ACT-1995>

<sup>8</sup> <https://legislation.nt.gov.au/en/Legislation/INDEPENDENT-COMMISSIONER-AGAINST-CORRUPTION-ACT-2017>

## 7. School Bodies

This section details the processes for School Representative Bodies, School Management Councils, and their employees (School Bodies) to declare a conflict of interest.

### 7.1. Recording a conflict of interest declaration for school bodies

To record a conflict of interest declaration, complete all relevant fields on the Conflict of Interest Declaration Form for school bodies and non-NTPS School-based employees. The form is located within the policy and advisory library<sup>9</sup>.

The conflict of interest form must be submitted and progressed to the school principal for approval and recordkeeping purposes.

If school bodies are having issues with the form, contact QAS on [QAS.DOE@education.nt.gov.au](mailto:QAS.DOE@education.nt.gov.au).

For recruitment and procurement activities see sections 7.2 and 7.3 below.

### 7.2. Employment of school body employees

When undertaking employment activities, the school body members must discuss actual, potential, or perceived conflict of interest before any shortlisting takes place and may be required to remove themselves if a conflict of interest exists.

All school body members must declare any conflict of interest to the principal, regardless of whether they have a conflict or not, and complete the Conflict of Interest Declaration Form for school bodies and non-NTPS School-based employees. The declaration form is to be completed for all panel members, including the chair, and provided to the principal for approval.

For school bodies, employment of persons is in accordance with the *Education Act 2015* Section 107(1)(k) and Section 119(1)(g) and in accordance with the *Commonwealth Fair Work Act 2009*.

The Chair of the employment activity is responsible for ensuring the declaration form is completed and kept on a file.

### 7.3. Procurement

When undertaking procurement activities, employees and school bodies need to assess if they have any actual, potential, or perceived conflict of interests. Where there is a conflict, a declaration is to be made.

The procurement chair is responsible for ensuring declarations are made, the form is completed, managed appropriately, and stored, in an appropriate record keeping system.

#### 7.3.1. Tier 1 – less than \$15,000

When undertaking a Tier 1 procurement process, if any conflict of interest exists, school bodies are required to complete a Conflict of Interest Declaration Form for school bodies and non-NTPS School-based employees and submit the form to the procurement chair.

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<sup>9</sup> <https://education.nt.gov.au/policies>



### 7.3.2. Tier 2 and above - \$15,000 and above

For all Tier 2 and above procurement activities, a Conflict of Interest Declaration Form for school bodies and non-NTPS School-based employees is to be completed by all panel members, regardless of whether a conflict is held or not, and provided to the procurement chair.

## 7.4. Approval and outcome of declaration

The school principal will receive all school body conflict of interest declarations. Upon receipt they will:

- assess and determine the risk level, the likely impact and most appropriate management strategy
- approval the declaration.

The principal is the ultimate decision maker and can approve the declaration or make amendments to the proposed strategies. The principal may:

- determine that the employee can continue their duties by managing the identified conflict of interest through implementation of the agreed strategies or be asserting additional strategies.
- re-arrange to ensure that the school body conflicted is removed from the situation.
- request that the school body avoid the conflict.

Once a conflict of interest declaration is approved by the principal, the individual will be notified and this will be recorded in the school conflict of interest register.

The school body chair and principal are responsible for ensuring the management strategies approved by the principal are implemented and maintained.

## 7.5. Recordkeeping

School body conflict of interest declarations are stored with the principal. Access to this information is via the principal in accordance with the *Information Act 2002*.<sup>10</sup> Hard copy forms are stored on a file within the school with restricted access to this file.

Records are maintained confidentially in accordance with the NTG Records Disposal Schedule for school Management Number 2018/10, November 2018<sup>11</sup>.

Conflict of interest declarations may be examined by:

- the ICAC in accordance with the functions under the [ICAC Act](#)
- internal auditors—internal resources or contracted—in accordance with s15 *Financial Management Act 1995* and department Internal Audit Charter.

## 8. Non-compliance

Conflicts of interest are often unavoidable and not a sign of wrongdoing in the first instance. Problems arise where conflicts of interest are not identified, disclosed, or managed appropriately.

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<sup>10</sup> <https://legislation.nt.gov.au/Legislation/INFORMATION-ACT-2002>

<sup>11</sup> <https://tfhc.nt.gov.au/heritage,-libraries-and-archives/library-and-archives-nt/government-recordkeeping/general-records-disposal-schedules>

Failure to declare actual, potential, or perceived conflicts of interest can result in a breach of the *Public Sector Employment and Management Act 1993*, the Code of Conduct and constitute improper conduct under the ICAC Act.

## 9. Complaints

Complaints made against school bodies regarding actual, potential, or perceived conflicts of interest will be managed in line with the department's Complaint Resolution Framework.

## 10. Mandatory reporting obligations of public officers

All departmental employees have an obligation under the ICAC Act and the ICAC Mandatory Reporting Directions and Guidelines<sup>12</sup> to report a reasonable suspicion or knowledge of improper conduct as soon as possible after becoming aware of the conduct.

Improper conduct may include instances where an employee, public bodies or a family member obtains a benefit due to an undisclosed conflict of interest. The department's Fraud Control Policy and Framework<sup>13</sup> provides further information identifying and responding to instances of fraud and improper conduct.

Where an employee has a reasonable suspicion of a failure by a public sector employee or public body to disclose or appropriately manage a conflict of interest, they have a mandatory obligation to report it to one of the department's nominated recipients, via the department's report misconduct email<sup>14</sup> or directly to the ICAC<sup>15</sup>. A failure to identify, report, and manage conflicts of interest in accordance with this policy and procedure could constitute misconduct, and lead to disciplinary action, including dismissal or referral to the Northern Territory Police Force for investigation.

## 11. Contractors and external stakeholders

The department expects the contractors it engages and external stakeholders, to comply with responsible practices in relation to managing conflicts of interest. This expectation should be incorporated into agreements, such as contracts for good and services.

Contract Managers or school bodies are required to communicate this expectation and ensure all records of any conflict of interest declared by contractors, or third parties are kept in TRM or on a restricted file for school bodies.

Conflict of interest declarations can be requested as part of a response to a services or request for quotation or tender.

## 12. Privacy

The [Information Act 2002](#) and Information Privacy Principles determine how the department responds to any requests for information. The department's [Information Statement](#)<sup>16</sup> details how to apply for access to personal information.

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<sup>12</sup> [https://icac.nt.gov.au/\\_data/assets/pdf\\_file/0009/1174383/Mandatory\\_Reporting-Directions\\_Guidelines\\_amended-FA.pdf](https://icac.nt.gov.au/_data/assets/pdf_file/0009/1174383/Mandatory_Reporting-Directions_Guidelines_amended-FA.pdf)

<sup>13</sup> <http://ed.ntschoools.net/audit/Pages/welcome.aspx>

<sup>14</sup> [report.misconduct.DoE@education.nt.gov.au](mailto:report.misconduct.DoE@education.nt.gov.au)

<sup>15</sup> <https://icac.nt.gov.au/>

<sup>16</sup> [https://education.nt.gov.au/\\_data/assets/pdf\\_file/0008/683270/information-statement.pdf](https://education.nt.gov.au/_data/assets/pdf_file/0008/683270/information-statement.pdf)

## Appendix A – Examples of conflict of interest

The following examples are not an exhaustive list but provide examples of where a conflict of interest may arise.

- A family member works at the school, and you are in a position where you manage and approve timesheets or leave applications for the family member.
- You are on the recruitment panel for a position that a family member or relative has applied for.
- The school wishes to purchase something or use the service of a company owned by a family member or relative.
- You are involved in the procurement of a service where a family member's company has submitted a tender to provide the goods or services.
- You are affiliated with a club or interest group that makes public comment about the department.
- You are affiliated with an organisation, council, or committee where you receive funding from the department or NTG by way of grants, subsidies, or sponsorships.
- You have been offered part-time work as a consultant to undertake work relating to the department.
- You have approval for paid outside employment that may result in a potential or perceived conflict.
- You have been invited to give a lecture at university related to your role in the department.
- You own shares in a company that has a contract with the department.
- You work part-time as a tutor of children that attend the school where you work.
- As a teacher you are assessing your child for the Northern Territory Certificate of Education and Training (NTCET) where the scores contribute to Australian Tertiary Admission Ranks (ATAR).
- You have a personal website or blog and provide comment on educational matters, some that oppose the direction by the department.
- You have a part-time business where students or parents at the school are potential clients, for example, photographic studio, speech therapy and so on.
- You have confidential information about a department decision to purchase a piece of land and are considering purchasing the adjacent property.
- You use the services of a recruitment company to find staff and are considering passing your own resume to the consultant.
- You are invited to lunch by an external contractor who does business with the department. They insist on paying.
- You are offered tickets by an external contractor to a sporting or cultural event.
- A company during the tendering process has indicated to you that if they get a particular contract that they will need to employ someone who has your skills.
- You are a close friend with the Minister for Education or any of their Ministerial advisers.
- You are the sole director of a company or the sole owner of a business and tender for work being advertised by the department.
- You provide NDIS services to children that attend the school where you work.
- You build educational applications for computers and phones and offer to sell the applications to the school where you work.
- You engage (procure) an ex-staff member as a consultant to complete work.
- You're a contract manager for an IT system and accept an all-expenses paid training interstate.
- You own or have investments in a building that leases to government.

<b>Document title</b>	Conflict of interest - procedure
<b>Contact details</b>	Quality Standards and Regulation, Quality Assurance Services <a href="mailto:QAS.DOE@education.nt.gov.au">QAS.DOE@education.nt.gov.au</a> .
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0.1	June 2023	Quality Assurance Services	First Draft
0.2	25 July 2023	Quality Assurance Services	Inclusion of feedback following consultation
0.3	18 September 2023	Quality Assurance Services	Inclusion of School Representative Bodies, School Management Councils and their employees.
1.0	11 December 2023	Quality Assurance Services	Approved version by A/CE.
1.1	15 February 2023	QSR - Operational policy	Minor change to section 1.

Acronyms	Full form
ATAR	Australian Tertiary Admission Rank
CE	Chief Executive
EEB	Education Executive Board
ICAC	Independent Commissioner Against Corruption
NGO	Non-Government Organisation
NT	Northern Territory
NTCET	Northern Territory Certificate of Education and Training
NTG	Northern Territory Government
QAS	Quality Assurance Services
TRM	Territory Records Manager