

Conflict of interest - procedure

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1. Procedure

This procedure is to be read in conjunction with the Department of Education and Training (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 declare the conflict as soon as possible. .

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

- i. executive contract officers
- ii. school principals
- iii. school business and administration managers
- iv. employees engaged as members on a board or committee that receives 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 e.g. **they are required to declare nil conflicts**. In addition, they are required to declare any new conflicts that may occur during the year.
- 2) Other employees are not required to declare nil conflict of interests.

Please note:

Children should only be declared if an employee is in a position that makes financial or operational decisions for the school where the child/ren is attending or if the employee is a teacher and the child/ren attend the same class as the employee.

2. Identify

Employees and school body employees 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 body employee 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 refer to examples of conflicts under appendix A, or seek assistance from their line manager, principal, panel chair or contact Quality Assurance Services (QAS).

3. Declare

It is important to ensure transparency and compliance with Employment Instruction 12 – Code of Conduct 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 the declarant must discuss the conflict with their line manager.

4. Manage

Once an actual, potential, or perceived conflict of interest has been identified and declared, employees 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 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 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.

For further questions on managing a conflict of interest contact QAS, 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 form. If the conflict of interest relates to a recruitment or procurement activity or school bodies, the relevant conflict of interest declaration form must be used.

For further questions on management strategies contact QAS, 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 Conflict of interest form on the intranet or on eLearn.

Where a disclosure involves outside employment, an **approved** outside employment form must accompany the conflict of interest declaration throughout the process. Line managers or principals are not to endorse any conflict of interest application which involves outside employment, that is not accompanied with the approved outside employment form. If the form is not provided, the conflict of interest declaration will be rejected, and the employee will need to re-submit their conflict of interest declaration form accompanied with a copy of their **approved** outside employment application.

Outside employment applications are recorded in the Northern Territory Government's (NTG) [online portal](#)¹, which can be accessed through NTG Central under 'Apply for outside employment'.

The employee must follow all the steps as shown in the conflict of interest declaration form.

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, all members of the selection panel, including the Chair must complete a 'Conflict of interest declaration form – for selection panels whether they have a conflict or not prior to the commencement of shortlisting applicants.

Selection panel members must discuss any 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.

Once the declaration form has been completed by all panel members, including the Chair, the form must be provided to the Delegate responsible for the recruitment (i.e., the delegate responsible for approving the composition of the selection panel and that will sign off on the selection report) for endorsement. Refer to the department's Delegations Policy.

The responsibilities of ensuring the declaration form is completed, and the endorsed form is filed in eRecruit, is the responsibility of the selection panel Chair of the recruitment activity.

6.3. Procurement

When undertaking procurement activities, all members of the assessment panel, including the panel chair, and any advisors must complete a Conflict of Interest and Confidentiality Declaration for Procurement prior to commencing the assessment of the responses regardless of whether they have a conflict or not. The form is located within the policy and advisory library.

The assessment panel Chair is responsible for ensuring declarations are completed, managed appropriately, and stored electronically with the procurement documents.

6.4. Approval and outcome of declaration

QAS will receive all conflict of interest declarations for Northern Territory Public Sector (NTPS) employees. Upon receipt QAS will:

- assess and determine the risk and likely impact if there is a 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/not 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
- request that the employee avoid the conflict

¹ <https://ntgcentral.nt.gov.au/my-job/my-responsibilities/outside-employment>

- 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 to the employee including any amendments to the proposed strategies or additional requirements imposed by the CE or delegate.

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

6.5. Recordkeeping

NTPS employee conflict of interest declarations are stored electronically by QAS. Access to this information is via QAS in accordance with the *Information Act 2002*.²

Records are maintained confidentially in accordance with the NTG Records Disposal Schedule for Temporary records that have been digitised³.

Conflict of interest declarations may be examined by:

- the NT Auditor-General in accordance with the functions under the [Audit Act 1995](#)⁴ 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)⁵
- internal auditors—internal resources or contracted—in accordance with s15 *Financial Management Act 1995* and department Internal Audit Charter.

6.6. Grievances

If aggrieved by the outcome of a decision regarding their conflict of interest, an employee may put their grievance/s in writing to qas.doe@education.nt.gov.au for consideration by the CE.

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.

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

² <https://legislation.nt.gov.au/Legislation/INFORMATION-ACT-2002>

³ <https://tfhc.nt.gov.au/heritage,-libraries-and-archives/library-and-archives-nt/government-recordkeeping/general-records-disposal-schedules>

⁴ <https://legislation.nt.gov.au/Legislation/AUDIT-ACT-1995>

⁵ <https://legislation.nt.gov.au/en/Legislation/INDEPENDENT-COMMISSIONER-AGAINST-CORRUPTION-ACT-2017>

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 library⁶ or on the department's internet page.

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.

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 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.

7.4. 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 by 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.

⁶ <https://education.nt.gov.au/policies>

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*.⁷ 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 2018⁸.

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.

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. Mandatory reporting obligations of public officers

All departmental employees have an obligation under the ICAC Act and the ICAC Mandatory Reporting Directions and Guidelines⁹ 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 Framework¹⁰ 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 email¹¹ or directly to the ICAC¹². A failure to identify, report, and manage conflicts of interest in accordance with this policy and

⁷ <https://legislation.nt.gov.au/Legislation/INFORMATION-ACT-2002>

⁸ <https://tfhc.nt.gov.au/heritage,-libraries-and-archives/library-and-archives-nt/government-recordkeeping/general-records-disposal-schedules>

⁹ https://icac.nt.gov.au/__data/assets/pdf_file/0009/1174383/Mandatory_Reporting-Directions_Guidelines_amended-FA.pdf

¹⁰ <http://ed.ntschoools.net/audit/Pages/welcome.aspx>

¹¹ report.misconduct.DoE@education.nt.gov.au

¹² <https://icac.nt.gov.au/>

procedure could constitute misconduct, and lead to disciplinary action, including dismissal or referral to the Northern Territory Police Force for investigation.

10. Contractors and external stakeholders

The department expects contractors 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 goods 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.

11. Privacy

The [Information Act 2002](#) and Information Privacy Principles determine how the department responds to any requests for information. The department's [Information Statement](#)¹³ details how to apply for access to personal information.

¹³ 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 relative or friend 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 an actual, 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 provides goods or services to 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 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.
- 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 a director of a company or 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 event interstate.
- You own or have investments in a building that leases to government.

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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

Acronyms	Full form
NTG	Northern Territory Government
QAS	Quality Assurance Services
TRM	Territory Records Manager