

Conflict of Interest Framework

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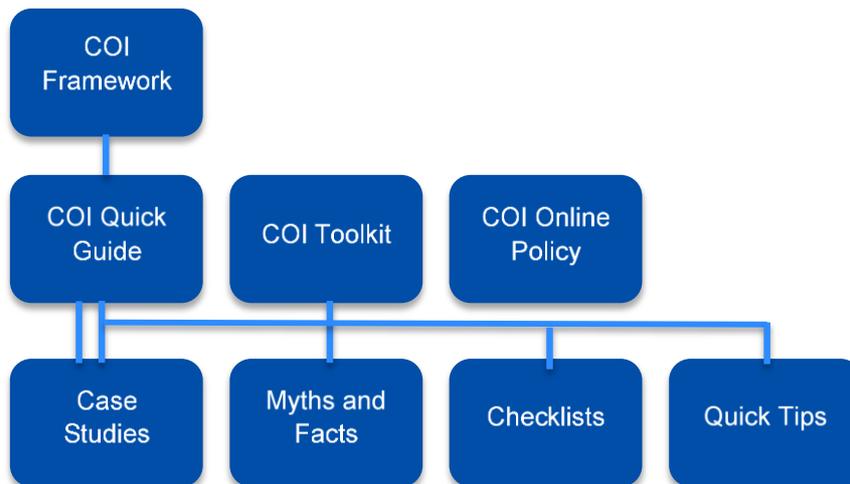
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Overview

Conflicts of interest (COI) are an inevitable fact of organisational life, and can arise without anyone being at fault. However, when the risks associated with COI are not appropriately managed, the effects can be serious for the Department and for the individuals concerned.

The management of risks associated with any actual, potential or perceived COI situation is fundamental to ensuring the highest levels of integrity and public trust are achieved and maintained.

This COI Framework provides centralised and consolidated information about the management of COI by the Department and it gives effect to the recommendations of an Internal Audit and Review (2012) into the Department's management of COI.



Objectives

The purpose of the COI Framework is to provide for effective management of risks of COI by:

- Demonstrating the Department's commitment to managing risks of COI
- Identifying the key principles guiding the responsible management of COI risks in the Department
- Identifying the responsibilities of all Department employees and managers for the management of risks of COI
- Consolidating information about how risks relating to COI are addressed across the Department to assist in monitoring the Department's effectiveness in meeting its commitment to managing risks of COI.

Many potentially adverse consequences may result from the improper or inadequate identification, management or monitoring of COI. Some key risks include:

- Poor substantive outcomes arising from decisions in which merit is compromised
- Poor strategic outcomes arising from a loss of stakeholder confidence and the erosion of proper processes
- Considerable expense and loss of efficiency to remedy action which is tainted by undisclosed or improperly managed COI
- Loss of employee confidence in management
- Loss of public confidence in government.

Context

This Framework gives effect to obligations which arise under the following instruments.

CODE OF CONDUCT FOR VICTORIAN PUBLIC SECTOR EMPLOYEES

The **Code of Conduct for Victorian Public Sector Employees** (the Code) is binding on all public sector employees, which includes members of the Teaching Service and the Victorian Public Service (VPS). School Council employees are also considered public sector employees by virtue of the fact that they are employed by the School Council, which is a public entity for the purposes of the *Public Administration Act 2004*.

Clause 3.7 of the Code prescribes the principal obligations in relation to COI.

Public sector employees declare and avoid conflicts of interest to help maintain community trust and confidence.

A conflict of interest can be actual, potential or perceived. This relates to circumstances where the employee is or could be directly influenced or where it is perceived the employee might be influenced.

Public sector employees ensure their personal or financial interests do not influence or interfere with the performance of their role. They seek to ensure the interests of family members, friends, or associates do not influence or could not be perceived to influence their performance in the job.

If an employee is unsure about a possible conflict of interest they seek advice from their manager

Other sections of the Code also relate directly to the management of risks of COI.

Public sector employees:

- Remain apolitical when carrying out their duties (clause 2.2)
- Are open and transparent when making decisions (clause 3.1)
- Do not use their power at work to provide a private benefit to themselves, their family, friends or associates. They exercise their power in a way that is fair and reasonable, and family or other personal relationships do not improperly influence their decisions (clause 3.2)
- Maintain a strict separation between work-related and personal financial matters and only use or authorise the use of public financial resources or facilities for work-related purposes (clause 3.3)
- When making a public comment in a private capacity, public sector employees ensure their comments are not related to any government activity that they are involved in or connected with as a public sector employee and make it clear they are expressing their own view. They ensure personal comments do not compromise their capacity to perform their public sector role in an unbiased manner, and that their comments are not seen or perceived to be an official comment (clause 3.5)
- Only engage in other employment where the activity does not conflict with their role as a public sector employee. Employment includes a second job, conducting a business, trade or profession, or active involvement with other organisations (paid employment or voluntary work). Managers or supervisors can assist public sector employees to determine if such activities will cause an actual or perceived conflict of interest (clause 3.8)
- Make decisions and provide advice that is free of prejudice or favouritism, and is based on sound judgment. Their decisions are not affected by personal influences (clause 4.1)
- Do not, for themselves or others, seek or accept gifts or benefits that could be reasonably perceived as influencing them (clause 4.2).

PUBLIC ADMINISTRATION ACT 2004

Section 7 of the *Public Administration Act 2004* (the Act) identifies seven public sector values in which all public sector employees are required to act in accordance: responsiveness, integrity, impartiality, accountability, respect, leadership, human rights.

COI can arise where a private interest undermines an employee's capacity to perform their duties in accordance with these values. Section 7(b)(iv) of the Act also requires all public sector employees and other public officials to avoid any real or apparent COI.

MINISTERIAL ORDER 1038

Members of the Teaching Service are bound by Teaching Service (Employment Conditions, Salaries, Allowances, Selection and Conduct) Order 1038, also known as Ministerial Order 1038, made under the Education and Training Reform Act 2006. Two clauses contain proscriptions on conduct related to the management of COI risks:

Clause 11.1.7(2) provides that “an employee must avoid any conflict of interest, financial or otherwise, that might affect, or may be seen to affect, the performance of the employee’s official duties.”

Clause 11.1.7(3) provides that “an employee must not seek, accept or obtain any financial or other advantage (including gifts, rewards or benefits) for himself/herself, his/her family or any other person or organisation if that advantage does or might compromise the employee’s integrity.”

MINISTERIAL ORDER 1039

Employees of School Councils are bound by School Council Employees (Employment Conditions, Salaries, Allowances and Selection) Order 1039, also known as Ministerial Order 1039, made under the Education and Training Reform Act 2006. One clause contains a proscription on conduct related to the management of COI risks:

Clause 3.7.1(2) provides that “except with the express permission of the council [...] a part-time employee must not engage in any other paid employment or carry on any business, profession or trade that, in the opinion of the Council, conflicts with the proper performance of the employee’s duties”.

DISCIPLINARY PROCESSES

Failures to take reasonable steps in managing risks related to COI may constitute grounds for disciplinary action under the relevant instruments:

Education and Training Reform Act 2006, Division 10, Part 2.4, for members of the Teaching Service.

Victorian Public Service Enterprise Agreement 2016, Clause 21, for members of the Victorian Public Service.

DECLARATION OF PRIVATE INTERESTS - FINANCIAL REPORTING DIRECTION (FRD) 22H

Financial Reporting Direction 22H requires the Secretary, as Accountable Officer, to attest to the completion of declarations of private interest.

Pursuant to this annual reporting requirement, the Department is required to collect Declarations of Private Interests from all relevant officers. This declaration must be made annually or whenever there is a change of circumstances relating to a relevant officer.

Employees are required to make full disclosures of all relevant shareholdings, employment of relatives, friends and associates, and also scrutinise and disclose any links between the interests of relatives, friends and associates that supply goods and services to the Department.

In addition to disclosure of private interests through the Declaration of Private Interests process being required for compliance with Financial Reporting Direction 22H, disclosure of private interests is also required to enable employees to identify and address any conflict of interest created by the private interest.

Should any private interest give rise to an actual, potential or perceived conflict of interest, employees must, in addition to completing the Declaration of Private Interests form, declare and manage the conflict of interest in compliance with this Framework and the COI Policy.

Application

The COI Framework applies to all employees of the Department (members of the Teaching Service and the VPS) and School Council employees.

AT-RISK FUNCTIONS WARRANT SPECIAL CONSIDERATION

COI risks may arise in the performance of any public duty. This Framework provides general principles which apply to management of all risk of COI and it outlines the obligations on all Department employees in identifying, managing and monitoring risks of COI responsibly. However, some roles such as Principals and Business Managers and certain work functions such as procurement and recruitment carry a higher risk of COI. Business Units throughout the Department should conduct assessments of COI risk in relation to particular duties and roles in order to develop additional guidelines, where appropriate, to assist in responsible management of these risks.

Risks of COI across the Department are typically significant in relation to three types of activity:

- Recruitment and selection
- Procurement (tendering, purchasing, contracting)
- Funding allocation or licensing.

Other areas of high risk include:

- Contractor management
- Other employment (including conducting private business or trade)
- Gifts, benefits, hospitality
- Complaints management and disciplinary processes
- Private/Public partnerships.

NON-PUBLIC SECTOR EMPLOYEES – SCHOOL COUNCIL MEMBERS

School Council members who are not employees of the Department are not bound by the *Code of Conduct for Victorian Public Service Employees*. However, they are bound by the *Directors' Code of Conduct and Guidance Notes* (also called the *Victorian Public Entity Directors' Code of Conduct 2006*) issued by the Public Sector Standards Commissioner. Relevant duties under this Code are to:

- Act with honesty and integrity
- Act in good faith in the best interests of the public entity
- Act fairly and impartially
- Use information appropriately
- Use the position appropriately
- Act in a financially responsible manner
- Exercise due care, diligence and skills
- Comply with the establishing legislation
- Demonstrate leadership and stewardship.

The Principal, acting as the School Council's executive officer, also has a responsibility for ensuring that the Council and its members take reasonable steps to identify and address actual, potential and perceived COI.

In addition, regulation 21 of the *Education and Training Reform Regulations 2007* requires that if a member of the school council or a member of his or her immediate family has any direct COI (including a pecuniary interest) in a subject or matter under discussion at a school council meeting, that member:

- must not be present during the discussion unless invited to do so by the person presiding at the meeting
- must not be present when a vote is taken on the matter
- may be included in the quorum for that meeting.

EXPECTATIONS OF CONTRACTORS AND EXTERNAL STAKEHOLDERS

The Department expects organisations with which it partners and contractors it engages to comply with responsible practices in relation to managing COI. Where possible, this expectation should be incorporated into the instruments which determine or influence mutual expectations, such as memoranda of understanding and contracts for services.

It is for individual units throughout the Department to take steps to put into effect these expectations in the management of relationships with organisations.

Definitions

COI arises in circumstances where an employee's public duty is influenced, or can be seen to be influenced, by a private interest. While such situations can lead to corruption and fraud, they mostly arise innocently and independently of any fraudulent intent. Even in the absence of fraud, however, COI can have a detrimental effect on

organisational performance and reputation. Therefore, COI is a problem for the Department when it is not addressed in a reasonable, consistent and transparent manner.

COI refers to situations where private interests can be seen to unreasonably influence public duties. The test in any given circumstance is whether reasonable and fair minded people would consider that the private interest is likely to influence the exercise of the public duty such that it would undermine public sector values unless appropriate mitigating steps were taken.

COI can be actual, potential or perceived.

- An actual COI refers to the situation where an employee's private interest is capable of unduly influencing their exercise of a current public duty.
- A potential COI describes circumstances where an actual conflict of interest may arise in future if a certain condition is fulfilled.
- A perceived COI occurs where a reasonable person might suspect that an employee is subject to a real COI, whether or not one actually exists.
- Actual and potential COI are also known as real COI.
- Perceived COI is also known as apparent COI.

PRIVATE INTERESTS

The term 'private interests' includes not only an employee's own interests, but also the personal, professional or business interests of individuals or groups with whom they are closely associated, such as relatives, friends, or even rivals and enemies.

Pecuniary interests involve an actual, potential or perceived financial gain or loss. Money does not need to change hands for an interest to be pecuniary. People have a pecuniary interest if they (or a relative or close associate) own property, hold shares, have a position in a company bidding for government work, or receive benefits such as concessions, discounts, gifts or hospitality from a particular source.

Both pecuniary and non-pecuniary private interests can conflict with an employee's public duties.

It is particularly important to identify situations where an employee's public duties may conflict with pecuniary interests since these situations could give rise to legal consequences if they are not appropriately managed.

Non-pecuniary interests include professional or personal affiliations, such as membership of a club or religious or ethnic group. Personal values may also lead to a COI where they are likely to impact on the proper performance of public duty, or be reasonably seen to do so.

Principles

The following four principles underpin the Department's management of risks of COI:

- Protecting the public interest through upholding public sector values
- Supporting transparency and accountability
- Promoting individual responsibility for integrity and impartiality
- Developing an organisational culture which encourages effective management of COI.

PROTECTING THE PUBLIC INTEREST BY UPHOLDING PUBLIC SECTOR VALUES

Protecting the public interest is central to the public duty of all Department employees. To meet their public duty obligations, employees must not only act within the law but must also apply the public sector values set out in the Public Administration Act 2004: responsiveness, integrity, impartiality, accountability, respect, leadership and human rights.

Each of the seven public sector values reinforces the need to avoid COI. For example, "impartiality" includes providing advice without bias, favouritism or self-interest, while "respect" includes treating others fairly and objectively.

The Department's COI Policy and other specific Department policies related to the management of COI are intended to support the application of these values to the circumstances and functions relevant to all of the work of the Department.

SUPPORTING TRANSPARENCY AND ACCOUNTABILITY

COI must be seen to be managed fairly and effectively.

To achieve this, the processes for identifying, disclosing and managing COI must be transparent (open to scrutiny) and adapted to maintaining accountability for all decisions and actions taken.

Where private interests or affiliations could compromise or be seen to compromise the unbiased performance of an employee's work, reporting and recording those interests is the first step towards effectively managing the COI.

Any further steps to manage the COI which are reasonably necessary to protect the public interest must also be reported and recorded to maintain transparency and accountability throughout the process.

The Department's approach to managing COI is consistent and open in order to encourage all employees to follow policy and procedures.

To ensure public confidence in the Department's management of risks of COI, the Department's relevant policies and procedures are to be available to members of the public, stakeholders, partner agencies and client groups.

PROMOTING INDIVIDUAL RESPONSIBILITY FOR INTEGRITY AND IMPARTIALITY

Resolving or managing COI in favour of the public interest demonstrates the integrity and professionalism of individuals and of the Department in general.

Department employees are individually responsible for arranging their private affairs as far as reasonably possible to prevent COI arising and to protect their impartiality.

Managers have an additional role in setting an example for their staff by demonstrating commitment to COI principles, policies and procedures. Nothing will undermine the credibility of the Department's commitment to COI policy more quickly than a manager who does not appear to manage their private affairs or public duties responsibly.

DEVELOPING AN ORGANISATIONAL CULTURE THAT ENCOURAGES EFFECTIVE MANAGEMENT OF CONFLICTS OF INTEREST

Managers in the Department are responsible for implementing and maintaining a policy environment that helps and encourages effective decision making when COI arises.

The purpose of systems to manage COI is to maintain the integrity of official policy and administrative decisions, and support public confidence in government.

The Department takes the following steps to sustain a culture of integrity:

- Having clear policy and procedures for managing COI
- Having an electronic form in Edupay available for all employees to record COI declarations and management plans
- Assisting staff with guidance and training to promote understanding of the established rules and practices, and their application to the working environment
- Encouraging open communication and dialogue so that staff are comfortable reporting and discussing COI in the workplace
- Protecting information about disclosed COI from misuse
- Including staff in any development or change in relevant organisational policies and procedures to encourage ownership and adherence
- Developing specific standards for promoting integrity, such as codes of conduct or guidelines for expected responses to certain situations
- Instituting processes for identifying risk and dealing with emerging COI
- Maintaining appropriate external and internal accountability mechanisms
- Reinforcing management approaches, including sanctions where appropriate, that aim to ensure that employees take personal responsibility for complying with both the letter and spirit of such standards.

Responsibility

All employees have a responsibility to manage risks of COI which may affect their public duty. Managers and Executive officers have additional responsibilities.

The Department, its Executive team and managers play an essential role in supporting all employees to identify and manage COI appropriately.

The Department is responsible for:

- Providing a sound framework, policies and procedures, to guide employees in the exercise of their obligations to address the risks associated with COI
- Building an organisational culture that supports implementation of COI policy through appropriate communication, training and enforcement activities
- Reviewing this Framework regularly to ensure that it meets the needs of its employees and public in effectively managing COI
- Implementing appropriate disciplinary procedures in relation to alleged breaches of COI policy
- Monitoring compliance with COI policies and responses to alleged breaches of the policies.

The Executive team is responsible for:

- Identifying the principles for the Department's identification, management and monitoring of COI
- Periodically reviewing those principles
- Including the management of COI in its terms of reference
- Including the identification and management of COI as a standing agenda item at meetings
- Modelling a commitment to the key principles in managing COI by—
 - Identifying and managing COI affecting the members of the Executive team in accordance with the COI Policy
 - Seeking and considering periodic reports on the effectiveness of the COI Framework, COI Policy, and related areas such as the Annual Declarations of Private Interest
 - Taking opportunities to reinforce a commitment to the key principles in the management of COI.

Managers are responsible for:

Facilitating the compliance of those they supervise by—

- Being aware of the risks of conflicts inherent in the work of the staff they manage
- Making staff they manage aware of relevant policies and procedures
- Identifying training needs of their staff in relation to COI policy and practice
- Advising staff about appropriate ways to manage COI
- Ensuring that staff record their COI appropriately
- Assisting staff to select and implement appropriate management strategies
- Continually monitoring the work of staff they manage and assessing the risks to which they might reasonably be exposed
- Taking appropriate disciplinary action in relation to employees who fail to meet their obligations under the COI Policy.

All employees (including managers and Executive officers) are responsible for:

- Being aware of their obligations under COI policy
- Continually assessing their private interests and public duties in order and identify whenever they are subject to a COI
- Reporting identified COI to their manager, or relevant Panel, Committee or Board, in accordance with Department policy

- Assessing the risks related to identified conflicts and taking reasonable steps to address these risks in accordance with Department policy and procedures so that the public interest is protected.

Controls

BUSINESS UNIT ASSESSMENTS OF COI RISK

COI may arise in many different situations. This framework and the COI policy do not attempt to be prescriptive or restrictive about certain activities; instead, they outline an overall process for risk assessment and management and identify the principles which should guide identifying and reporting COI and determining appropriate management strategies for mitigating risks.

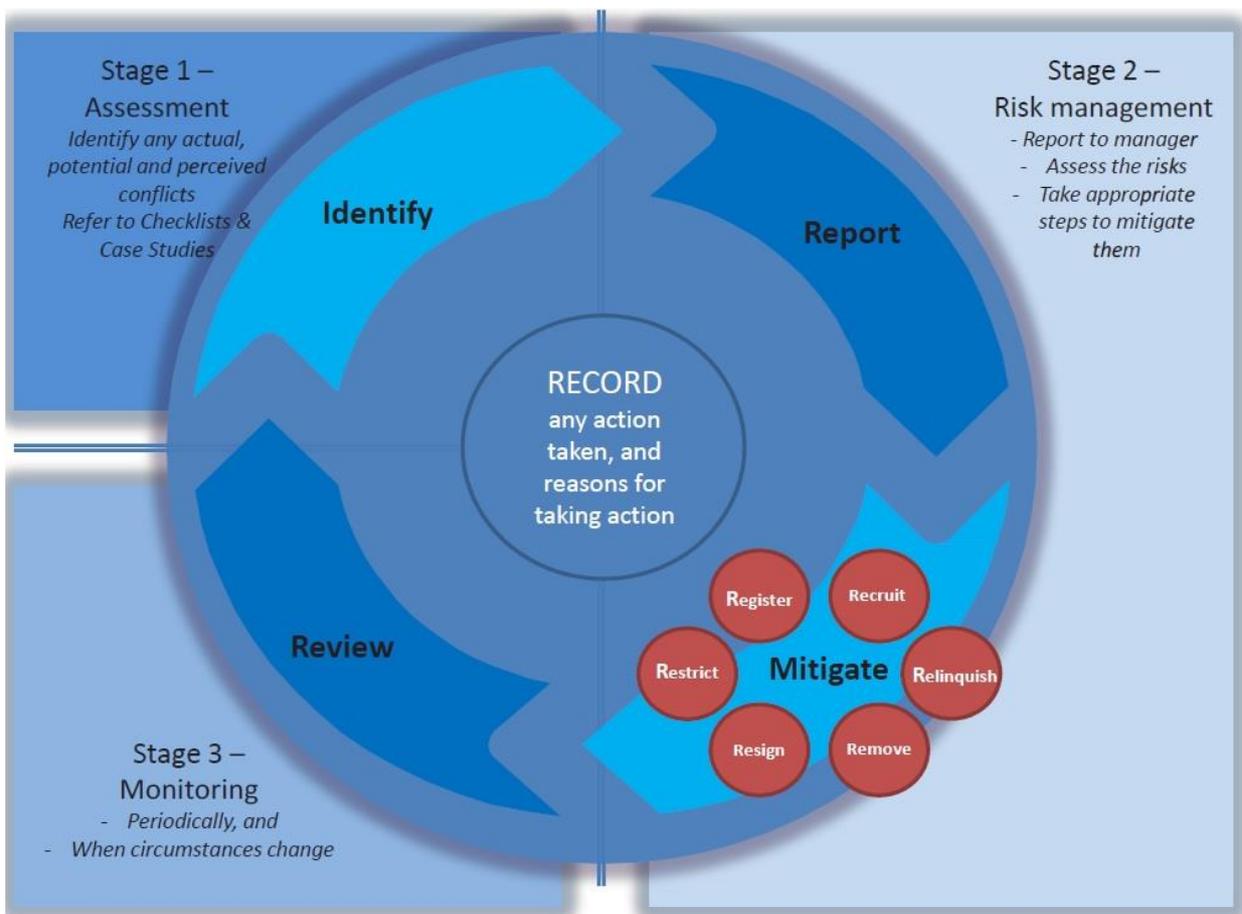
Because of the inherently subjective nature of COI issues, it is recognised that the application of generic principles to real-life situations by individuals is prone to variable and imperfect outcomes in the absence of clear and explicit guidance. The resources developed in the COI Toolkit may be of some assistance in applying the COI management principles to typical situations. See Other Resources, below.

Schools, Regions and business units throughout the Department are also encouraged to undertake periodic assessments of the risks of COI in relation to their areas of work in order to inform the development of explicit, tailored advice to employees about resolving COI in their areas of responsibility.

PROCESS FOR MANAGING RISKS OF COI

The following flowchart outlines the process for managing risks associated with COI:

Fig 1 – Conflict of interest wheel



Stage 1 – Assessment: identify COI

- Scrutinise private interests and public duties to identify actual, potential or perceived COI. Use relevant checklists or guidelines established for particular activities or those available in the COI Toolkit.
- Managers can be consulted for advice.

Stage 2 – Risk management: report and address the risks of identified COI

- **Report** identified COI (actual, potential or perceived) to a senior authority, usually the line-manager. In certain circumstances conflicts can be reported to a relevant committee or board. However, it would rarely be sufficient for reports only to be made to peers or subordinates.
- Assess the risks to the public interest arising from any identified conflict. Consider in particular risks to stakeholder confidence, public confidence: cf. public sector values, Code of Conduct for the Victorian Public Sector.
- Take reasonable steps to address the risks of identified COI to protect the public interest. These steps may include the following:
 - **Register** the details of the actual, potential or perceived COI
 - **Restrict** the employee's involvement in the public duty subject to the conflict
 - **Recruit** a disinterested third party to oversee part or all of the public duty
 - **Remove** the employee from all responsibilities in relation to the public duty
 - The employee **relinquishes** the private interest
 - The employee **resigns** their public office temporarily or permanently
- **Record** the declaration and any decisions in relation to the management of COI (including decisions not to take any action). Some Department employees are required to record COI declarations and management plans in the Declaration of Conflict of Interest form in Edupay. See below.
- Maintain confidentiality in managing private information obtained in the assessment and management of COI.

Stage 3 – Monitoring

- The identification and management of COI should be subject to regular review—periodically and in response to any changes in circumstances (such as changes in line-management).

RECORDING – DECLARATION OF CONFLICTS OF INTEREST FORM IN EDUPAY

All employees are required to record COI declarations and agreed management actions. The following classes of employee are required to use the Declaration of Conflict of Interest form in eduPay to do so:

- a. Regional and Central staff
- b. Executive employees
- c. School Principals and Assistant Principals
- d. School Business Managers and other school staff whose roles involve procurement

Other employees (such as teachers and other Education Support staff) can choose to use the form on eduPay or record their declaration by some other appropriate means (for example, have their manager place a paper record on their personnel file).

LINE-MANAGER'S ROLE

Identified conflicts must be reported to the employee's line-manager. It is rarely sufficient for conflicts to be disclosed only to subordinates or peers. Employees may also consult with their manager for assistance in identifying conflicts, or with any conflict of interest matters.

School principals who have COI are to report them to their Regional Director. Regions may develop processes to facilitate the reporting of conflicts in relation to certain circumstances (such as recruitment) which do not involve direct contact with the Regional Director.

Line-managers can provide guidance to employees about taking appropriate action to mitigate identified COI. This ensures both integrity and parity in the protection of the public interest.

WHOSE RESPONSIBILITY IS IT TO TAKE ACTION?

While it is an employee's responsibility to take appropriate action to resolve an identified COI in the public interest, line-managers play a critical role in moderating these decisions and adding perspective to the options available.

In some circumstances, however, line-managers may consider it necessary to direct an employee to take action they do not wish to take to mitigate a COI. For example, they might direct the employee to relinquish a private interest while the employee does not consider this to be reasonably necessary. In such circumstances, the line-manager's direction may be a lawful and reasonable direction which the employee must follow or face disciplinary action.

If, however, the employee feels that their manager's direction is unreasonable or otherwise flawed, they can lodge a grievance with the Merit Protection Boards to challenge its validity.

COI OFFICER

The Department's COI Officer is responsible for providing advice to managers and members of the Principal Class on applying COI policy to situations where COI have been reported to them, or where they anticipate situations of conflict involving their staff.

All employees (including managers) who seek advice in relation to managing their own COI are encouraged to consult with their line-manager.

In some circumstances, an employee might want to seek advice before going to their manager to disclose a COI issue. In these circumstances, advice can be sought from the Employee Conduct Branch. However, it is consistent with the promotion of personal responsibility and the development of an organisational culture which promotes open and transparent management of COI that employees are encouraged to seek primary advice and assistance from their line-manager.

The Manager, Employee Conduct Branch, is the designated COI Officer.

Contact: 03 7022 1018

Email: employee.conduct@edumail.vic.gov.au

OTHER SOURCES OF ADVICE ON COI

Particular Business Groups in the Department may identify other sources of advice on managing COI risks inherent to certain roles or functions such as procurement, grant allocation and licensing.

PANELS, BOARDS TO INCORPORATE COI MANAGEMENT INTO PROCESSES

Business Units throughout the Department are encouraged to establish specific guidelines or standards which identify steps required for the responsible management of particular COI risks.

Formal steps for the management of COI in accordance with the Department policy must be incorporated in the work of the following groups which are formed in the Department from time to time:

- Recruitment selection and evaluation panels
- Panels dealing with the procurement of goods or services
- Internal project boards and committees
- Panels dealing with the evaluation of grants.

This obligation rests with those responsible for the relevant process. The management of COI in the work of these groups should include the following steps:

- An assessment of risks of COI to be incorporated into the Board/Panel/Committees' terms of reference
- Reporting and management of members' COI to be a standing agenda item at each meeting
- Steps taken to manage all reported COI to be recorded in the Board/Panel/Committee's proceedings.

DISTINGUISHING BETWEEN DECLARATIONS OF PRIVATE INTEREST AND DECLARATIONS OF CONFLICT OF INTEREST

All Executive Officers, any staff members with delegations over \$50,000, and all principals are required to make declarations of private interest (DPI) on appointment and then annually thereafter. This process is managed and monitored by Human Resource Division.

As the Accountable Officer, the Secretary attests to the status (completed or not) of declarations of private interests annually, in accordance with Financial Reporting Direction 22H. The completion of a DPI for relevant officers satisfies this requirement.

If a private interest could reasonably raise an expectation of a conflict of interest, in addition to completing the DPI form you must separately declare the conflict of interest to your line manager.

All employees are required to record COI declarations and agreed management actions.

For all VPS employees, school principals and school business managers must record COI declarations by completing the Declaration of Conflict of Interest form in Edupay.

The Declaration of Conflict of Interest form must be completed whenever a conflict of interest arises (not only on annual completion of the DPI form), and can be reviewed and updated regularly.

TRAINING

The COI Policy is incorporated into induction training for all employees.

COI management is also addressed in training provided on related topics such as Procurement and Fraud and Corruption Control. The COI page on the Department intranet aggregates information about related training options.

Managers are to identify the training needs of the staff they manage in relation to managing risks of COI and to take reasonable steps to meet these needs.

Enforcement

Employees' failure to identify or manage COI appropriately may have serious consequences for the Department. It is the responsibility of all managers to monitor compliance with COI Policy. Where a failure to act in accordance with the policy is identified, managers and principals must take appropriate action in accordance with the Department's Guidelines for Managing Complaints, Misconduct and Unsatisfactory Performance.

As part of ongoing detection and prevention, Declaration of Private Interest and Declaration of Conflict of Interest data may be accessed and monitored.

DISCIPLINARY ACTION FOR BREACH OF COI POLICY

Teaching Service

A failure to take reasonable steps to identify, report and/or manage a COI in accordance with Department Policy may constitute a breach of prescriptions in the *Code of Conduct for Victorian Public Sector Employees*, which is binding on all Department employees including members of the Teaching Service.

In addition, members of the Teaching Service are bound by *Ministerial Order 199* which includes the following proscriptions:

Clause 11.1.7(3) provides that—

an employee must not seek, accept or obtain any financial or other advantage (including gifts, rewards or benefits) for himself/herself, his/her family or any other person or organisation if that advantage does or might compromise the employee's integrity.

Clause 11.1.10(2) provides that—

an employee must not use his/her official position, the resources of the Department, school or students of the school to produce and/or distribute material that is not in connection with his/her official duties as an employee of the Teaching Service.

A breach of the *Code of Conduct for Victorian Public Sector Employees* or *Ministerial Order 199* may constitute misconduct and give rise to action under Division 10, Part 2.4 *Education and Training Reform Act 2006*. Disciplinary

action may include a reprimand, a fine, a reduction in classification, or termination of employment; it must be proportionate with the seriousness of the misconduct.

Victorian Public Service

A failure by a VPS employee to take reasonable steps to identify, report and/or address a COI in accordance with Department policy may constitute a breach the *Code of Conduct for Victorian Public Sector Employees*.

It may also constitute:

- improper conduct in an official capacity
- making improper use of his or her position for personal gain
- making improper use of information acquired by virtue of his or her position to gain personally or for the benefit of others, or to cause detriment to the public service or the public sector.

As such it may constitute grounds for action under Clause 19 (Management of Misconduct) of the *Workplace Determination 2012*. The possible discipline outcomes are:

- no action
- performance management
- formal counselling
- formal warning
- final warning
- assignment of the employee with or without their agreement to a role at a classification level or value range lower than the employee's current classification level or value range
- transfer of the employee with or without their agreement to a different work location at the employee's current classification level
- termination of employment.

The discipline outcome must not be disproportionate to the seriousness of the misconduct.

Continual Improvement

This Framework and the COI Policy and management tools are to be reviewed every two years at a minimum in order to ensure continual improvement and adaptation to changing circumstances. The review should consider all available information, including results of enforcement activities and data from inquiries to the COI Officer.

Additional resources

Induction Training

All new employees are inducted into the COI Policy. See Things You Need to Know in the online Induction program.

COI Policy

The policy identifies relevant definitions, responsibilities, examples of activities and roles subject to high risk of COI, and step by step guidelines on how COI risks should be managed. All employees are expected to be familiar with the responsibilities and processes set out in the COI policy.

Related Policies

COI arising in certain circumstances may be subject to specific policies, including:

- *Fraud Control Framework*
- *Gifts, Benefits and Hospitality Policy*
- *Other employment*
- Merit Protection Boards Guidelines.

COI Toolkit

The COI Toolkit is produced under this Framework and incorporates resources to assist employees and managers in applying COI policy. It contains *Myths and Facts about COI*, *COI Wheel*, *Identification and Management Checklists*, *Case Studies*.

The COI E-learning module

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Victorian Public Sector Commission

[Managing Conflicts of Interest](http://vpvc.vic.gov.au/ethics-behaviours-culture/conflict-of-interest/) guidance: <http://vpvc.vic.gov.au/ethics-behaviours-culture/conflict-of-interest/>