



NSW Police Force

NSW Police Force

Procedures for Managing Conflicts of Interest

Professional Standards Command

Procedures for managing conflicts of interest

Essential Summary

A conflict of interest occurs when the private interests of an individual within the NSW Police Force interferes with or influences, or appears to interfere with or influence, their official duties and responsibilities or where an individual uses their official status to influence private interests.

The NSW Police Force is committed to resolving conflicts of interests in the public interest.

This commitment requires that all individuals engaged in activity on behalf of the NSW Police Force:

- identify actual, potential, and perceived conflicts of interests
- take all reasonable steps to avoid conflicts of interest where possible
- seek advice if uncertain whether a conflict of interest exists
- report any conflicts of interest if they cannot be avoided
- put the public interest before private interest
- cooperate in the management and resolution of conflicts of interest
- report any noticeable change in circumstances relating to conflicts of interest being managed.

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Commander's Foreword

Conflicts of interest arise when an individual within the NSW Police Force is influenced or appears to be influenced by personal interests when doing their job.

Conflicts of Interest can be damaging to the NSW Police Force because the community has a right to expect that individuals within the NSW Police Force will perform their duties fairly and impartially and decisions are not affected by self-interest and/or personal gain.

Policing is only truly effective when police personnel are respected and trusted by the community. Conflicts of interest may impair decision-making, erode trust, and diminish the authority, reputation and effectiveness of the NSW Police Force.

You are expected to report all conflicts of interests you cannot avoid and participate in their resolution or management. The NSW Police Force expects all personnel to take personal responsibility for their actions.

Having a conflict of interest is sometimes unavoidable. You will not be criticised for having a conflict of interest, unless your conduct in dealing with it is corrupt, criminal, or otherwise demonstrates your lack of integrity.

The community should never be disadvantaged because you have resolved a conflict in favour of yourself.

As a result, you must never hide or ignore a conflict of interest or gain personally from an opportunity encountered while undertaking duties within the NSW Police Force.

Such conduct will bring into question your suitability to be employed by the NSW Police Force, regardless of your employment status.

These *Procedures for Managing Conflicts of Interest* makes the expectations of the NSW Police Force clear and will help you to appropriately resolve conflicts between your personal interests and public duty.

Commander
Professional Standards Command

1. Purpose

This document provides all individuals within the NSW Police Force with direction and guidance to identify, report, manage and resolve conflicts of interest.

Conflicts of interest must be managed according to the *Conflicts of Interest Policy* and this document.

This enables the NSW Police Force to:

- provide fair and impartial services to the community
- maintain public confidence in policing
- implement misconduct prevention strategies
- effectively deal with allegations of bias / misconduct.

2. Scope

This document applies to any individual engaged in activity on behalf of the NSW Police Force, whether on or off duty, and all commanders, managers and supervisors who manage individuals that engage in activity on behalf of the NSW Police Force.

For the purposes of these Procedures and the associated *Policy Statement* the term '**individual**' includes members of the NSW Police Force (sworn officers and administrative employees), volunteers in policing (**VIP**) and temporary employees.

This document also applies to individuals who are suspended or on any type of leave. Failure to comply with this policy and related procedures will be considered a breach of the NSW Police Force *Code of Conduct & Ethics* and may result in management action.

3. Introduction

There is a shared responsibility between individuals and commanders / managers and supervisors to manage all reported conflicts of interest. Conflicts of interest require open and honest consultation by all parties involved so they can be managed adequately and effectively.

The risks associated with conflicts of interest cannot always be eliminated. Management strategies are intended to minimise the risks to an acceptable level.

Conflicts of interest can be unavoidable and their existence may not be misconduct on the part of the individual involved. Management action should only be considered where an individual:

- fails to identify a conflict they could reasonably be expected to identify
- fails to avoid a conflict that could have been avoided
- fails to report an unavoidable conflict
- takes action on a conflict to benefit their personal or private interests
- fails to cooperate in the management of a conflict
- fails to comply with policy.

4. Definitions

4.1 What is a conflict of interest?

Conflicts of interest occur when the private interest of an individual interferes with, or influences, or appears to interfere with, or influence, their official duties and responsibilities.

A conflict of interest can involve gaining a personal advantage as well as avoiding or minimising personal disadvantage. That is, a conflict of interest may allow you to avoid a loss, expense, or something else that has a negative impact on your personal or private interests.

Where a conflict of interest arises, you are required to put the public interest before your private interests, whether on or off duty.

4.2 Public interest

As a member of the NSW Police Force, VIP or temporary employee, you have a public duty to always put the public interest above your own personal or private interests when carrying out your official duties and responsibilities, or when a conflict that is related to your employment arises when you are on or off duty.

Acting in the public interest means you must carry out official duties and responsibilities for the benefit of the public, in a fair and unbiased way, make decisions that are not affected by self-interest, personal values, private opinions, private affiliations or the likelihood of personal gain or loss.



To ensure your actions are always in the public interest you are required to maintain an awareness and knowledge of legislation, values, policies and procedures.

4.3 Private interest

Private interest is broadly defined as anything personal in your private life that impacts on you. It is only relevant to this policy where there is a connection to your official duties.

Private interests can include your social, community, professional and business interests and those of the people and groups with which you associate (including friends, relatives, associations / businesses, community groups, rivals and enemies).



It is only those private interests that conflict (or can be perceived, or have the potential to conflict) with your official duties and responsibilities that need to be declared and managed.

Private interests that may give rise to a conflict of interest are often broken into two groups, pecuniary and non pecuniary.

4.4 Pecuniary (financial) interests

Pecuniary interests involve any situation where there is the potential for you or your associates to benefit financially, or to be seen to potentially benefit financial (potential and/or perceived conflict). Pecuniary interests do not necessarily involve an exchange of money. Pecuniary interests exist where a person (or their relative or associate) owns property, holds shares, or has a position in a company which interacts or may interact with the NSW Police Force (and where your decisions may benefit you or them).

NB Where a pecuniary (financial) interest is held in an investment in a high-risk industry, further action is required. See the section *Additional requirements for Financial Interests* for further information.

4.5 Non-pecuniary (non-financial) interests

A non-pecuniary interest does not have a financial component. A non-pecuniary interest can involve personal or family relationships, or involvement in social, political, religious, sporting or cultural activities that could influence, or be perceived to influence, your judgment or decisions in your duties within the NSW Police Force.

Personal opinions, prejudices and attitudes can also represent a non-pecuniary interest. If you are unable to set these aside in the conduct of your public duty, then these can lead to a conflict of interest. Even when you can set them aside, such personal viewpoints might be seen to be a conflict of interest by others.

4.6 Official duties and responsibilities

These include what you are required to do in your job, as well as what is required by the NSW Police Force as outlined in the *Statement of Values*, the *Code of Conduct & Ethics* and other policies and guidelines. Remember, the *Statement of Values* and the *Code of Conduct & Ethics* apply to you while you are on and off duty.

4.7 Inter-personal relationships

Inter-personal relationships include but are not limited to:

- Family relationships – these include married/de facto partners, partners in same sex relationships, and near relatives (near relatives include children, parents, brothers and sisters of both the person and their partner)
- Ongoing or past intimate relationship - these include an interpersonal relationship that involves physical or emotional intimacy of a sexual nature regardless of duration
- Significant business relationships – these include business/financial relationships, partnerships or interest in private companies, in particular where the member of the NSW Police Force enters into procurement arrangements
- Damaged or broken relationships – Where the relationship between parties has been damaged due to previous disagreement or other cause.

NOTE: These relationships need to be declared **only** when one party is in direct line control and the relationship influences or can be reasonably perceived to influence your decision making in a supervisory capacity, particularly when such decision can benefit or disadvantage the other party in the relationship.

4.8 Gifts and Benefits

Gifts and Benefits are defined by the Public Service Commission as any item, service, prize, hospitality, or travel provided by a customer, client, applicant, supplier, potential supplier or external organisation which has an intrinsic value and/or a value to the recipient, a member of their family, relation, friend or associate.

4.9 Types of conflicts of interest

There are three main types of conflicts of interest: actual, perceived and potential. Each of these presents the same personal and organisational risks and therefore need to be managed appropriately. If you are unsure if a conflict exists, you should discuss the matter with your commander / manager.

Actual conflict of interest	Perceived conflict of interest	Potential conflict of interest
Where a conflict exists between your official duties or responsibilities and your private interests.	Where it could be seen by others that your private interests could improperly interfere with or influence you in the performance of your official duties or responsibilities, whether this is in fact the case.	Where your private interests could interfere with or be perceived to influence your official duties or responsibilities in the future.



You must not only behave ethically but be seen to behave ethically

5. Specific types of conflicts of interest

5.1 Political affiliations

Political interests must always be undertaken in a strictly private capacity and must not conflict with your duties within the NSW Police Force. It is your duty to serve the community and the Government in an impartial and politically neutral manner.

Individuals have the same right to freedom of political expression and association as other members of the community. However, you must not exercise your right to political expression and association in such a way you knowingly place yourself in a position that creates, or is likely to create, a conflict of interest with your position within the NSW Police Force, or where such comment may be interpreted as that of the NSW Police Force.



Conflicts of interest that lead to biased decision making may constitute corrupt conduct

5.2 Declarable Associations

A declarable association exists when an individual is associated (to varying degrees) with a person, group or organisation that is involved in (or perceived to be involved) in activities that are incompatible with the NSW Police Force. These associations create a conflict of interest between the individual's responsibility to the NSW Police Force and their personal relationships/private interests.

Declarable associations must be reported according to the requirements of the *Declarable Associations Policy* and the *Procedures to Manage Declarable Associations – Individual Responsibilities* and must be managed according to the requirements of the *Procedures to Manage Declarable Associations – Commanders, Managers and Supervisors Responsibilities*.

6. Examples of conflicts of interest

The range and extent of NSW Police Force activity, individual roles of its members and the significant diversity of personal interests makes it impossible to list every potential conflict of interest. Some well-known situations which are subject to policies and guidelines include:

- receipt of gifts and benefits
- secondary employment
- financial interests
- relationship between Commander/Manager and junior officer
- media comment
- public comment
- endorsements
- sponsorships
- release of information
- source management
- character references
- use of resources
- procurement
- recruitment
- investigation
- declarable associations
- use of social media

7. High risk situations which may result in conflicts of interest

- Exercising police discretionary powers (eg. when attending incidents involving family members, friends or off duty police members)
- Performing regulatory roles (eg. licensing police)
- Collecting, retaining, accessing and using confidential information on COPS, IAPro and other police systems (eg. using police information for personal reasons such as finding out personal details of a victim to pursue a relationship or use information inappropriately without authority)
- Maintaining contact or relationships with the media which could result in inappropriate release of information (eg. release of confidential methods of police operations)
- Operating in isolated and small communities (eg. having or developing personal relationships with community members)
- Investigating individuals known to you (eg. investigating a friend)
- Inter-personal relationships as defined in paragraph 5.7 - these relationships need to be declared **only** when one party is in direct line control and the relationship influences or can be reasonably perceived to influence your decision making in a supervisory capacity, particularly when such decision can benefit or disadvantage the other party in the relationship (*Refer also to paragraph 10.9. Managing the conflict* which provides examples of situations where a conflict of interest is likely to exist.)
- Receipt of gifts and benefits of any value that may have the potential to influence, or could be perceived to influence, decisions made or advice given by you.

8. Individual Responsibilities

To deal with conflicts of interest effectively you must be able to:

1. **identify** the conflict
2. **avoid** the conflict (where practical)
3. **report** the conflict
4. cooperate in the **management** of the conflict
5. **monitor** the conflict until it is resolved with your supervisor.

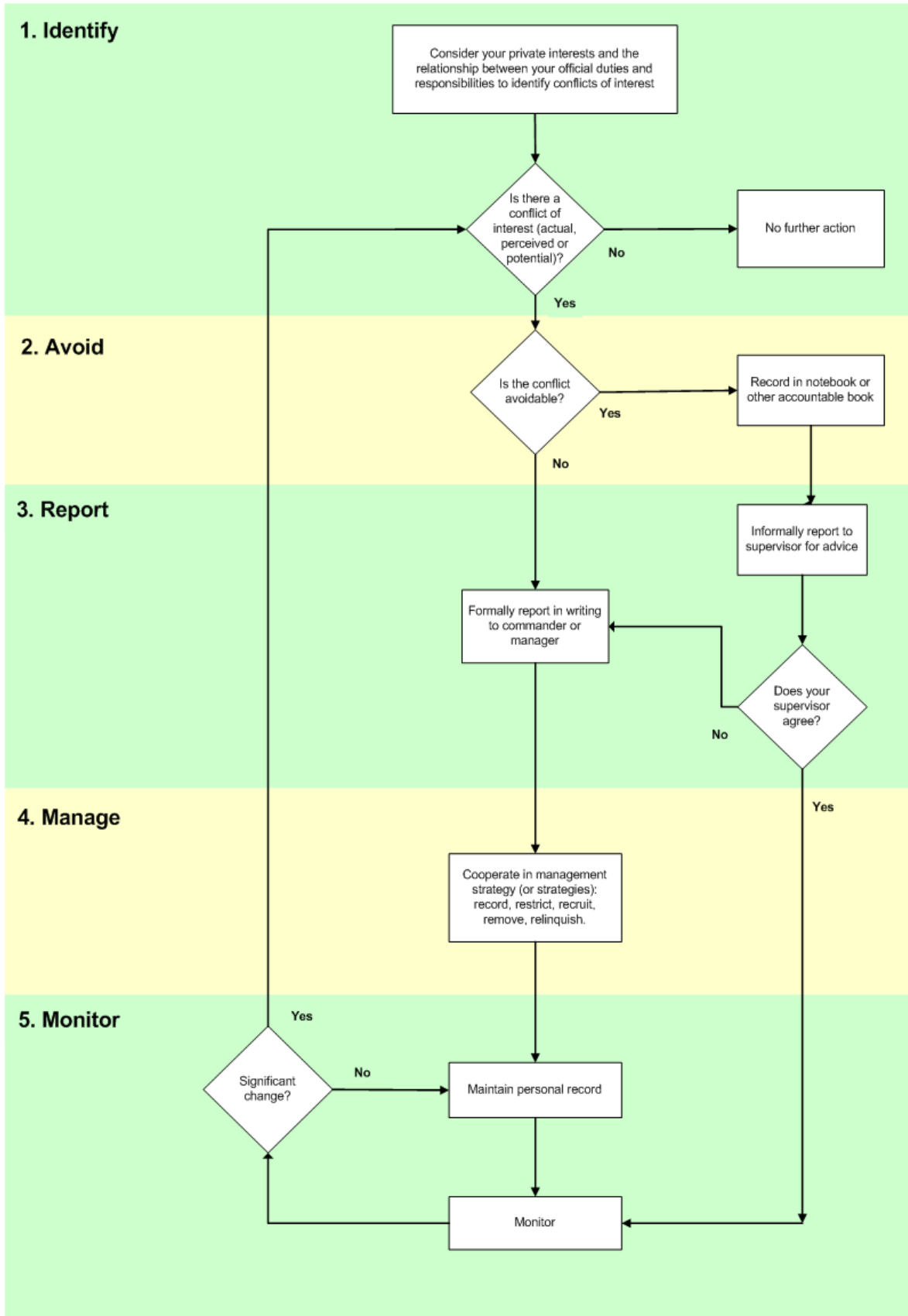
In each of these stages there is a responsibility on you (as the person with the conflict of interest) to take appropriate action to deal with the conflict in the public interest.



A failure by you to act appropriately on a conflict of interest is a breach of the NSW Police Force Code of Conduct and Ethics and may result in management action, including possible removal / dismissal from the NSW Police Force.

A flowchart illustrating the process for dealing with a conflict of interest is provided on the following page.

Flowchart for individual responsibilities



8.1 Identify the conflict



You and other NSW Police Force members are best placed to recognise the potential for conflicts of interest in your workplace.

8.2 Consider the perceptions of others

The hardest conflict of interest to recognise is often your own and therefore you might not find it easy to identify. You might make the mistake of assuming you do not have a conflict of interest unless you have an **actual** conflict of interest. This could mean the conflict of interest will not be managed until it has become a problem.

Perceived and **potential** conflicts of interest are often characterised by other people's opinions or perceptions. If a conflict of interest is not identified and managed, the perceptions of others can cast doubt on the integrity of individuals and the NSW Police Force **even if there has not been any misconduct**. Such situations are more difficult to manage in crisis (for example, where there is high media interest). It is necessary for the NSW Police Force to implement strategies for dealing with the conflict of interest in advance.

To identify conflicts of interest, ask yourself the following questions:

- Could a member of the public reasonably consider / perceive a conflict in the circumstances?
- Given my personal interests, could my involvement cast doubt on my integrity / duties / decision making or impact in any way on the reputation of the NSW Police Force?
- Could my decision appear to have been biased in favour of another person?
- If I participate, would I be happy if other members of the NSW Police Force and the public became aware of my involvement and any associations / connections I have?
- Could I justify my actions if they were criticised in the media?
- Do I benefit, or appear to benefit, personally or on behalf of others from my decisions or actions?
- Can I remove myself from this incident as the officer in charge and have another officer investigate it?

8.3 Assessing your situation

In assessing whether you have a private interest that conflicts with your work obligation, there are a number of factors about your private interests you need to consider.

These factors include whether you have:

- financial and economic interests, such as debts or assets
- an interest in a family or private business
- a secondary employment commitment
- associations with, or obligations to, for-profit and non-profit organisations, sporting bodies, clubs and associations in a personal or professional capacity or through relationships with people living in the same household
- associations with, or obligations to, political, trade union or professional organisations or other groups and individuals in a personal or professional capacity or through relationships with people living in the same household
- associations with, or obligations to, professional, community, ethnic, family or religious groups in a personal or professional capacity or through relationships with people living in the same household eg: being part of an extremist group that regularly clashes with police
- dislike of or competition with, another individual or group
- significant family or other relationships with clients, contractors or other employees working in the same (or related) organisation or high-risk industries
- highly specialised skills which are in demand by external organisations
- future employment prospects or plans (i.e. post separation employment)
- to review or investigate the correctness of a previous decision / action in which you have been involved
- a relationship with a person you have to investigate.

8.4 Avoiding the conflict



It is your responsibility to avoid conflicts of interest where possible.

If a conflict of interest is identified and you have avoided it, you must record the details of the conflict in your notebook or diary (or other appropriate place). You must then informally advise your supervisor at the next possible opportunity.

You are required to protect the public interest by taking reasonable steps to identify and avoid any conflicts of interest (actual, potential or perceived) in connection with your NSW Police Force employment. You are also required to manage them appropriately in cooperation with the NSW Police Force.

This includes:

- abstaining from involvement in official decisions and actions that could be compromised by your personal interests, affiliations and associations
- avoiding activities where you could be seen to accrue an advantage from inside information because of your official duties
- not using your official position or diverting government resources for your own personal gain or the gain of others close to you
- ensuring that there can be no real or perceived benefit that may influence the performance of your official duties
- not taking advantage of your official position or access to privileged information gained in that position when seeking employment outside the NSW Police Force.

8.5 Report the conflict

Where a conflict of interest cannot be avoided you must report the conflict:

- in writing – if it is an emergency and it is not practical to report in writing, report it to your supervisor verbally and consult on appropriate management
- promptly
- in detail
- to your commander or manager.

It is highly recommended that you keep a copy of the report.

8.6 Manage the conflict

Once you have reported a conflict of interest, the risk is shared with the NSW Police Force. Your commander or manager should work with you to identify and implement an appropriate management strategy (or strategies) for dealing with the conflict and you are required to cooperate in the strategy. A failure to comply will be considered as misconduct.

8.7 Alternative resolution

Resign

Resignation is an extreme option that members might request / seek to use to resolve a high-risk conflict of interest.

The NSW Police Force does not encourage this method of managing a conflict of interest. All other methods of managing or resolving a conflict of interest should be exhausted before considering resignation.

8.8 Monitor the conflict

Monitoring the conflict is essential to ensure any changes are accounted for and dealt with. Even if you have already reported a conflict of interest and think it was resolved you might find circumstances where the conflict arises again or affects you in another way. If there are any changes or the conflict arises again you must report the conflict again to ensure that it is resolved appropriately.

8.9 Additional requirements for financial interests

Due to the nature of high-risk industries having the potential to cause conflicts with your role as a member of the NSWPF and/or bring the NSWPF into disrepute, you must seek approval where you are considering acquiring a financial interest involving a High-Risk Industry (see [High-Risk Industries Definition](#) document). For all members of the NSWPF who are not members of the Senior Executive, no acquisition of a financial interest involving a High-Risk Industry can occur without the approval of your Assistant Commissioner. The process of seeking approval for members of the Senior Executives of the NSWPF is outlined in section 8.10 below.

You are required to seek approval (via the [Financial Interest Declaration Form](#)) before this occurs where you are considering a financial interest in a high-risk industry:

- Via indirect ownership in a company (including as a beneficiary of a family trust/shareholder in a family company)
- Via direct ownership of a company, whether public or private
- Ownership by any means of a Racing Animal (thoroughbred, greyhound, or harness horse, used for racing)

Companies listed on a securities exchange

If your ownership is via owning shares on the ASX or Cboe, you are only required to make this declaration if you reach the major shareholder threshold for the exchange (usually a shareholding of 5% or more).

Example: Holding shares in a company

Coles Group (ASX:COL) has a liquor division, making it a high-risk industry investment. If you own shares in Coles Group Ltd, whether in your personal name, a trust/company name, or as part of your superannuation, you are only required to disclose your holdings if the total ownership across all entities is 5% or greater.

Racing Animals

If you are looking to own a Racing Animal, regardless of the ownership structure, you must seek approval prior to doing so. This includes ownership via a syndicate.

Public syndicate for Racing Animals

Due to the nature of a public syndicate, there is no requirement to list or obtain the names of other public syndicate members in your Financial Interest Declaration Form.

Additional requirements for private syndicates for Racing Animals

If you are seeking to join a private syndicate (with less than 20 members), you will be required to provide the names of all other syndicate members. Where you are unable to identify the names of the syndicate members, conditional approval may be granted.

Other considerations

Conflicts of Interest and Declarable Associations

In completing the Financial Interest Declaration Form to seek approval, you must consider:

- Is there any conflict of interest specific to you that you need to declare?
- As a result of this ownership/financial interest, do you have a declarable association to declare?

When considering the above, the view you should take is based on a 'reasonable person test' – that is, would someone else in the same position believe they had a Declarable Association and/or Conflict of Interest to declare?

GALA Act

If you are deemed a Key Official under the GALA Act (or have been a Key Official in the preceding 24 months), there are further restrictions and considerations for you. Please refer to the Secondary Employment Policy for further guidance.

8.10 Additional requirements for Senior Executives (in addition to the financial interest declaration at 8.9)

The NSW Public Service Commission has issued a direction to all NSW government sector agencies that senior executives must make a written declaration to their agency heads about any private financial, business, personal and other interests or relationships that have the potential to influence, or could be perceived to influence, decisions made or advice given by the senior executive. The requirement for Senior Executives within the NSWPF includes seeking approval for financial interests in high-risk industries.

Senior executives are also required to attest to their understanding of, and compliance with, the *Receipt of Gifts and Benefits Policy* on an annual basis. This annual declaration will require that the senior executive has recorded receipt of a gift within the centralised register, including details of how the gift was dealt with.¹

A "**senior executive**" means a person to whom Part 5 of the *Police Act 1990* applies. As such any declaration made under the *NSW Police Force Conflicts of Interest Policy* by a senior executive must be provided to the Commissioner as the agency head for information and perusal. Once the declarations have been noted by the Commissioner they should be filed as per requirements of paragraph 10.4 of this policy.

- The Commissioner² and all senior executive members, including those acting in senior executive roles for more than three months, are required to make a declaration of interests under these guidelines

The management and recording of the conflict will be the responsibility of the relevant Deputy Commissioner / Managing Executive of the relevant senior executive.

As per Public Service Commissioner's direction a declaration must be made at the following times:

- On appointment to a senior officer role or when relieving in a senior officer role for more than three months;
- as soon as practicable, following the senior executive's assignment to a new role or responsibility;
- as soon as practicable, following any relevant change in the senior executive's private interests; and
- at a minimum on an annual basis.

¹ As per recommendation from the NSW Auditor General

² The Commissioner of Police is required to make a declaration to the Secretary, Department of Premier and Cabinet in accordance with these Guidelines. References to "senior executives" in the Guidelines apply to the Commissioner unless the requirement is irrelevant to the office of Commissioner.

Where the senior executive determines they have no such interests he/she must complete the declaration but may declare a 'nil return'.

- The completion of this obligation is monitored annually, when reviewing their performance agreement. The [Senior Executive Performance Agreement and Review](#) form incorporates verification that the mandatory declaration has been completed or that there has been no change to their circumstances.
- Where the senior executive advises there is no change to their initial Declaration of Private Interests their existing declaration carries forward for the reporting period.
- Where the senior executive advises there are changes to be disclosed, a Declaration of Private Interests form (P1154/P1155) is to be completed.

Important considerations for senior executives making a declaration include:

- the role and responsibilities of the senior executive; and
- the work of the NSW Police Force and whether any of the senior executive's personal interests may cause public concern if a conflict arose.

These requirements are imposed on senior executives as they:

- exercise police powers
- are responsible for commands and for members undertaking an investigatory, enforcement or regulatory role
- administer procurement of infrastructure, goods and services
- manage sensitive policy, commercial or personal information; and
- who have a significant public profile e.g. through spokesperson roles or media appearances.

Senior officers are expected to closely consider whether they have personal interests that have a connection or perceived connection with their duties. If so, they should be declared. If in doubt, it is recommended the interest or relationship should be disclosed on the declaration form (See Appendices).

The following list is a guide to senior executives which will assist in identifying the types of interests that could, or could be perceived to, impact upon their work roles. This is not an exhaustive list and is only designed to provide guidance to senior executives on the types of interests that should be considered.

- shareholdings
- trusts or nominee companies
- company directorships or partnerships
- other significant sources of income
- self-managed superannuation funds and investments made by those funds
- significant liabilities

- gifts and benefits
- financial interests as per section 8.9
- details of paid, unpaid or voluntary outside employment.

Senior executives may have relationships with people who could have a personal or professional interest in their work. Examples could include personal relationships with registered lobbyists, representatives of media outlets, individuals working at oversight agencies or other people who have business or operational dealings with the NSW Police Force.

Senior executives are required to identify these relationships as per *Declarable Associations Policy* when completing the declaration.

9. Commander and Manager Responsibilities

Managing conflicts of interest is a shared responsibility that requires the NSW Police Force and affected individuals to work together to identify and implement strategies to resolve the conflict.

A failure of either party to appropriately contribute to the management of a conflict of interest is a potential misconduct issue that may result in management action, including removal / dismissal from the NSW Police Force.

To manage conflicts of interest effectively commanders/managers/supervisors must:

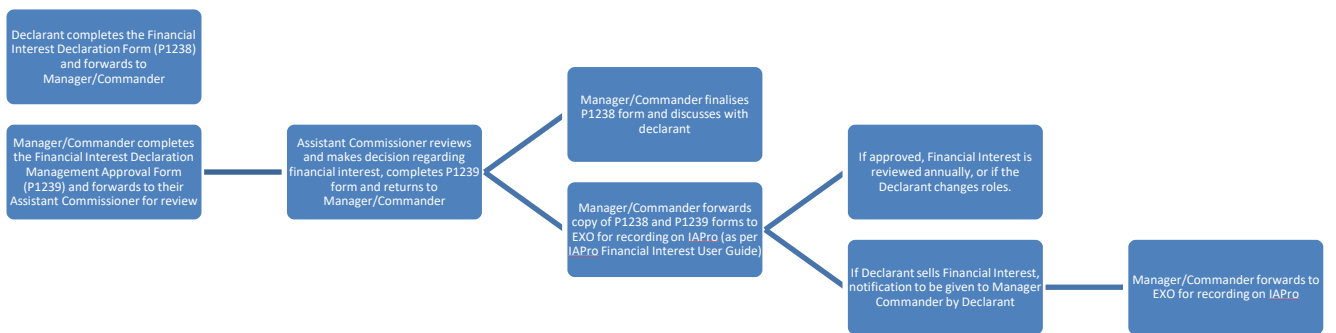
- provide advice and guidance when a conflict of interest is identified
- on receiving a report of a conflict of interest, **record** the conflict of interest and make appropriate enquiries to allow a thorough risk assessment to occur
- **assess** the risks associated with the conflict of interest
- consult with the individual involved and **identify** strategies appropriate to the risk level
- **manage** the conflict of interest with the cooperation of the individual involved
- **monitor** the conflict of interest while they have management responsibility for the individual, or until it is resolved.

9.1 Process for reviewing a Financial Interest Declaration

Upon receiving a Financial Interest Declaration Form, a Manager/Commander must follow the process on the following page.



Commanders, managers, and supervisors must ensure all necessary steps in the management process are properly recorded, implemented and monitored.



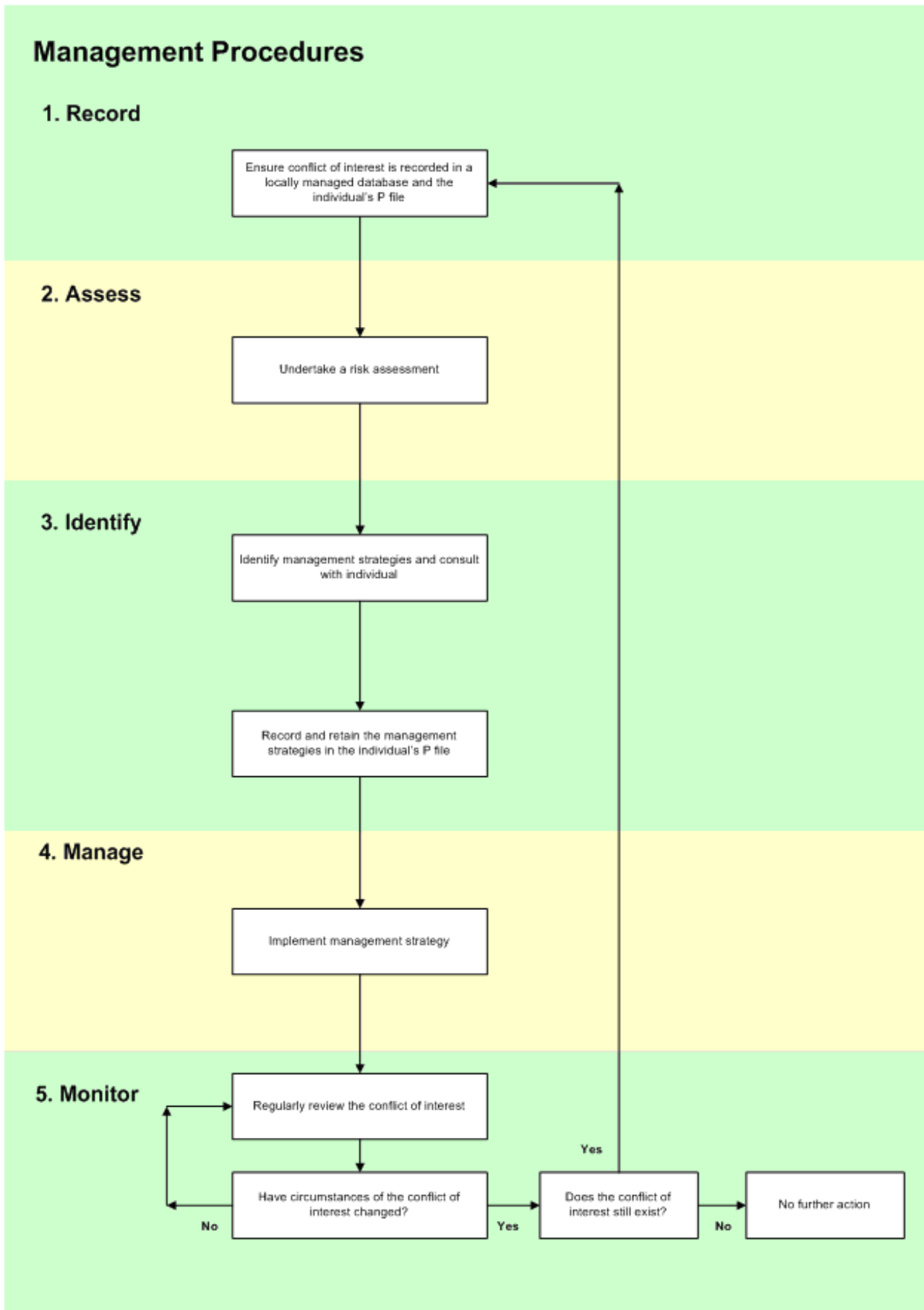
9.2 Process of reviewing a conflict of interest

A flowchart illustrating the process for NSW Police Force commanders/managers/supervisors to deal with conflicts of interest is provided on the following page.



Commanders, managers, and supervisors must ensure all necessary steps in the management process are properly recorded, implemented and monitored.

Flowchart for commander and manager responsibilities



9.3 Command strategies

Local command strategies should promote proactive awareness of conflicts of interest. Ongoing educational awareness, induction information and inclusion into Command Management Framework and misconduct resistance processes are ways to acknowledge the importance of conflicts of interests. Specific work locations, such as rural locations often require more specific and detailed strategies to manage conflicts of interest.

9.4 Identifying conflicts of interest

While it remains the responsibility of the individual to identify conflicts of interest, other circumstances may lead to the identification of a conflict of interest including:

- complaint investigations
- information from colleagues
- other intelligence holdings and investigations
- corruption prevention strategies.

If a conflict of interest is not self reported by an individual and comes to the attention of the commander / manager or supervisor by other means, consideration should be given as to why they did not self-report and whether it is reasonable to expect that they should have.

9.5 Avoiding conflicts of interest

Where a conflict of interest is identified and avoided by the individual, the individual must record the details of the conflict in their notebook or diary (or other appropriate place) and report the conflict to their supervisor. The supervisor must record the details of the conflict in their notebook or diary (or other appropriate place) and confirm the conflict is one which can be avoided.

9.6 Record conflicts of interest that cannot be avoided

On receiving a report of a conflict of interest, the commander / manager or supervisor should make appropriate enquires to be fully aware of the circumstances.

Commanders / managers or supervisors must record the details of the conflict of interest and any additional information. If the conflict is an inter-personal relationship of a private nature, the details do not need to be recorded. Commanders/ managers are only required to record how they will manage the conflict. They should also record:

- any subsequent declaration
- an assessment of the conflict
- decisions and agreements of action taken or to be taken
- reviews of ongoing conflicts and status changes.

Any relevant documents should be recorded on a locally managed database and retained in the individual's personnel file.

9.7 Maintaining confidentiality

Information relating to conflicts of interest must be managed so confidentiality is maintained at all times. All documents must be secured within the relevant individual's personnel file.

Any person to whom an individual reports a conflict of interest to, or seeks advice from, in an official capacity, must treat the information as strictly confidential. This is supported by Clause 76 of the *Police Regulation 2015*, which requires all officers to treat all information that comes to his or her knowledge in an official capacity as strictly confidential and not divulge it to anyone without proper authority.



If conflicts of interest cannot be managed and kept confidential at the same time, then the appropriate management of the conflict must take priority.

The inability to maintain confidentiality should be discussed with the individual prior to the conflict of interest being made public. All alternative management options should be considered prior to making the conflict public.

9.8 Assess the risks

Commanders/managers or supervisors must assess the risks. The *Procedures to Manage Declarable Associations* is a resource that may be of assistance in assessing and managing the risks.

In doing so, they should consider the likelihood and consequence of the:

- reliability of the source and validity of information
- recency of contact or involvement with the conflict of interest
- personal safety of the individual
- personal safety of people associated with the individual
- personal safety of other police and colleagues
- safety of the community
- location and nature of duties and investigations the individual undertakes
- previous issues regarding integrity and conduct of the individual
- expectations of the community and those of the NSW Police Force
- reputation of the NSW Police Force
- frequency, method and type of contact
- physical distances involved
- willingness of the individual to report and acknowledge the conflict of interest
- attitude of the individual in regard to undertaking proposed management strategies
- ability to manage and supervise the individual adequately in the workplace.

9.9 Identify management strategies

While the responsibility is best placed with the individual to identify conflicts of interest, you might consider whether local management arrangements (for example, the Command Management Framework or misconduct prevention strategies can assist in identifying potential areas for command specific conflicts of interest). These local arrangements could include strategies for avoiding conflicts and/or managing conflicts if they arise.

Commanders and managers are required to identify and implement strategies to resolve or manage conflicts of interest for affected individuals.

It is important to discuss the management option with the individual who has the conflict. The effective management of conflicts of interest requires the cooperation of the individual(s) involved.

Where an individual refuses to cooperate in developing an appropriate management strategy or fails to comply with a developed strategy, commanders and managers should issue a management direction.

Failure to comply with a management strategy will be considered misconduct.

There are a number of practical approaches available to manage conflicts of interest which aim to manage or resolve the conflict in favour of the public interest.

Depending on the nature of the conflict, and the risk to the organisation, the following management options can be used independently or in combination.

9.10 Record



All conflicts of interest that cannot be avoided must be recorded regardless of the other management strategies implemented.

Recording the reported conflict of interest is an appropriate strategy for dealing with very low risk and potential conflicts of interest. All reported conflicts of interest should be recorded in the Personnel (P) file of the affected Individual(s). Commanders and managers are also responsible for recording conflicts of interest in a locally managed spreadsheet.

Recording does not resolve the conflict and other measures to manage or resolve the conflict should be considered. For example:

- continued monitoring
- ensuring appropriate supervision
- informing affected people of the disclosure and NSW Police Force action to manage the conflict
- ensuring the affected individual is aware of the requirement to provide further declarations if the circumstances surrounding the conflict change.

9.11 Restrict involvement

Restrictions are to be appropriately applied when the individual can be effectively separated from parts of an activity or process and the conflict is not likely to arise. Strategies include restricting the individual's:

- involvement in decision making
- involvement in debate on related issues
- involvement in discussion of affected proposals or operational plans
- involvement in operations
- access to information, including complete denial of access to sensitive documents and confidential information.

All affected parties and involved commanders, managers and supervisors should be aware of these arrangements.

This option is not workable if the restrictions result in the affected individual being unable to do their job. This makes this option less appropriate for ongoing management of the conflict.

9.12 Recruit others to assist

Through this management option an independent third party is allocated to oversee, audit / or review the decision making processes and / or duties affected by the conflict of interest.

This strategy works well when the effects (or perceived effects) of the conflict are significant but it is not appropriate to withdraw the affected person from the relevant duties or decision making process. For example, in cases where the workgroup is small and isolated and / or the expertise of the affected person cannot readily be replaced.

This option is not suited to a serious ongoing conflict where the continued recruitment and use of a third party is not practical and workable.

9.13 Remove the person from the situation

This management option involves the complete removal of the affected individual from the matter or duty affected by the conflict of interest. Removal is most suited to ongoing serious conflicts where other strategies are not feasible, practical or appropriate.

This option might involve:

- ensuring the Individual removes themselves from any involvement or influence
- re-arranging the duties and responsibilities of the individual
- transferring the individual to a different command, project or duties
- ensuring the affected duties are removed from the influence of the Individual (eg. not transferred to a subordinate).

This option is not suitable where the conflict of interest and its potential or perceived effects are of low risk or significance.

9.14 Relinquish the personal interest

This is a very effective management technique that involves the affected Individual relinquishing the personal interest(s) that gives rise to the conflict. The affected individual should always be involved in the decision making process for this option and, in effect, it will ultimately be the individual's decision to adopt this option.

Depending on the nature of the conflict, this option might involve:

- ending a relationship with a person, organisation or group
- terminating secondary employment
- divestment of a personal interest.

Where the personal interest is irreconcilable with the public interest and the individual's role within the NSW Police Force (and the individual refuses to cooperate in resolving the conflict), the member should be advised their decision will be viewed as making the employee / employer relationship untenable. The member should also be advised that management action processes will commence.



You must relinquish any personal interest that leads to a conflict of interest if it cannot be managed cooperatively, effectively and appropriately through other means.

Failure to do so may lead to management action, including removal / dismissal from the NSW Police Force if a suitable compromise, that serves the public interest, cannot be reached.

9.15 Alternative resolution

Resign

Resignation is an extreme option that individuals might request or seek to use to resolve a high risk conflict of interest.

The NSW Police Force does not encourage this method of managing a conflict of interest. Commanders and managers should exhaust all other methods of managing or resolving a conflict of interest with the Individual. To avoid the possibility of "constructive dismissal", a resignation in response to a conflict of interest should not be accepted without first seeking legal advice from the Office of General Counsel.



Commanders and managers should work with individuals to identify and implement appropriate management options to minimise risk while keeping Individuals productively at work.

9.16 Managing conflict

Effective management of conflicts of interest requires the cooperation of the individual(s) involved. Commanders and managers should work with Individuals to identify and implement appropriate management options to minimise risk while keeping individuals productively at work.

In cases where an inter-personal relationship (as defined in paragraph 5.7) exists between two people, especially where one is the line manager or supervisor of the other, it is important that the individual in the supervisory capacity is conscious of situations that may lead to conflicts of interest.

A report must be made by the individual who is in the supervisory position within the personal relationship whenever he / she is required to make a decision that can be perceived to be one that is not free from personal bias or favouritism.

As some relationships are private matters, the individual does not need to provide details of the relationship but can state he / she has a conflict and request the decision be made by a suitable alternative officer (See Appendix 3).

These circumstances include but are not limited to:

- Recruitment and selection panels
- Confirmation of probation and promotion
- Performance appraisal under My Performance and Management Performance Review
- Funding for conferences and external training
- Decisions regarding termination of employment, discipline, counselling or reprimand
- Decisions associated with workplace injury claims
- Awards and honours
- Overtime or user pay events

9.17 Monitor the conflict

Monitoring the conflict is essential to ensure any changes are accounted for and dealt with. Even if a conflict of interest is reported by an individual and you have implemented a strategy to address the conflict the individual may find circumstances where the conflict arises again or affects them in another way.

If there are any changes or the conflict arises again you must reassess the conflict to ensure it is resolved appropriately. This includes making necessary amendments to any documents.



Commanders and managers must ensure all necessary steps in the selected management strategy or strategies are properly implemented, monitored and recorded.

Appendix 1 – Conflicts of Interest Declaration

Individual to complete	
Date of report:	Unit / command:
Details of person making the report	
Name:	Rank / position:
	Registered / employee no:
Describe the role / duties / decision that is the subject of the conflict of interest	
Action by Manager	
(Describe any proposed action to mitigate the actual / potential / perceived conflict which has been disclosed.)	
The above action has been discussed with the individual making this report and is appropriate to resolve the actual / potential / perceived conflict of interest disclosed above.	
Signed	
Date	
Endorsement by individual making the report	
Signed	
Date	
When completed this form must be forwarded to the PAM/DM/GAO or specialist equivalent for retention on the individual's 'P' file.	