

Pages Conflicts of interest CEI

1. Who is covered by these guidelines?

These guidelines apply to all employees and contracted individuals (subject to the terms of the individual's contract) in the ATO, ACNC and TPB, including SES employees. Contracted individuals are to declare any conflict of interest as outlined in their contract, and in accordance with the principles set out in the Conflicts of interest CEI and these guidelines.

Conflicts of interest are not uncommon, and in many cases, they are inevitable. Declaring a conflict does not indicate wrongdoing or misconduct; it is for your protection, as well as the protection of the ATO and the APS. What is most important is how you, your manager and/or decision maker manage conflicts that determines the effect it will have on our organisation.

While you may believe there is no risk of you making a decision that relates to your own interests, this does not mean it can be disregarded, nor does it mean there is no conflict of interest. Perception is just as important as your intention because it affects your reputation and that of the ATO and APS. All conflicts of interest should be taken seriously.

If a conflict of interest exists, and approval to continue with your duties is granted, a documented conflict management plan must be put in place and carefully adhered to. Managing a conflict of interest should be seen as an opportunity to demonstrate and strengthen our pro-integrity culture.

If there is any doubt or disagreement as to whether a conflict of interest exists it is always better to declare the situation.

3. Types of conflicts of interest

The three types of conflicts of interest that must be declared are:

- **Real** – a current situation that exists that creates tension between your own interests, including your private interests and your duty to the ATO/APS

*For example: You are a selection panel member in a recruitment process, and your niece is one of the candidates. This is a real conflict of interest because **you are confronted with a dilemma** between your professional duty to be objective and your duty to your family.*

- **Potential** – a situation that could exist that creates tension between your own interests and your duty to the ATO/APS

*For example: You are a procurement panel member acquiring IT services for the ATO, and your close friend works for an IT services firm that is likely to bid for the contract. This is a potential conflict of interest because **there is a possibility that a dilemma could arise over time** between your professional duty to be objective and your duty to your friend.*

- **Perceived** – a situation that may or may not exist where it could be perceived that your own interests and duty to the ATO/APS conflict

*For example: You educate taxpayers on their individual taxation obligations; however, your own personal taxation affairs are outstanding. This is a perceived conflict of interest because **it could be perceived** that you are not willing to participate in the tax and superannuation system that you support in your work, which may bring into question the reputation of the ATO and its employees.*

Conflicts may be ongoing or temporary and can change as you change roles or undertake particular tasks, such as procurement activities, recruitment, or as you develop relationships with employees, stakeholders or external suppliers.

Personal conflicts of interest

Personal conflicts of interest could occur when a person's affairs conflict with their ATO duties, including but not limited to:

- a situation that involves, or may create a perception of, patronage, favouritism, cronyism or nepotism
- working on tax returns or records of a company in which your partner, relative or close personal friend holds a significant position
- being involved with, or having a prior association with a client who is a former colleague or in your professional, social or sporting circles
- being a member of a selection panel when you have a close personal relationship with an applicant for the position
- having direct supervisory responsibility or reporting line relationships with your spouse, family member, close personal friend or where there is a close personal relationship, regardless of APS classification and the degree of separation that exists between the two positions (**noting**; a spouse includes husband or wife by marriage, domestic and de facto partners).

The APSC Values and Code of Conduct in Practice guidelines note that while it is not uncommon or wrong for couples or other family members to be working in the same agency it is not usually appropriate for one to have any line responsibility over another.

Employees cannot be recruited, promoted, or transferred inside a reporting line relationship with a spouse, family member or relative. If two employees in a reporting line relationship become relatives in the course of their employment, one of the two must be transferred.

Exception

Subject to strict protocols, additional integrity controls and decision maker approval, a supervisory or reporting line relationship may be considered to be shared between a spouse, family member or relative under rare and exceptional circumstances only. Such requests must be made by submitting a [conflict of interest form via the People Connect Integrity Register](#) that outlines the exceptional circumstances that may support the commencement (or continuation) of the reporting relationship in the ATO. The decision maker for determining the appropriateness of such reporting line relationships is the relevant Assistant Commissioner of Workplace Relations, ATO People or the Assistant Commissioner of Working Well, ATO People.

Transitional period

A transition period of 12 months from the date of publication of the updated Conflict of Interest CEI, has been granted for supervisory or reporting line relationship conflicts of interest. The transitional period requires that such conflicts of interest are declared no later than 6 months from the date of publication of the updated Conflicts of interest CEI and must be relinquished in full no later than 6 months from the date the conflict of interest was declared.

This transitional period clause will be removed at 12 months from the date of publication.

Close personal relationships

A close personal relationship is one in which there is, or was, a regular and ongoing relationship of a familial, romantic or financial nature between you and another person, organisation, association or group. Close personal relationships between staff members and third parties (current or potential) may give rise to perceptions of favouritism or nepotism.

A personal relationship that shares similar characteristics and qualities you would observe between family, despite not actually being related would also be defined as a close personal relationship. It is up to you to assess your personal relationships and determine whether the closeness, actual or perceived, may present a conflict of interest.

For the purposes of declaring a conflict of interest, a **close personal relationship** always includes:

- relatives by birth or marriage including (but not limited to) current and former spouses, domestic and de facto partners, and parents, grandparents, uncles, aunts, children, siblings, cousins, nieces, or nephews, whether by blood, adoption, or marriage
- current and former intimate partner/s
- relationships where you are financially linked, associated, or dependent on another
- a societal, cultural or kinship relationship which may include an implicit or explicit obligation
- household members.

Whilst not exhaustive, close personal relationships may also exist where there are:

- personal links between friends and clients or contractors
- friendships with personal links outside of the workplace (this may include social connections with clubs, religious groups, sporting teams)
- relationships with a history of conflict between parties
- incidental contacts with a client, such as at a social function.

Financial conflicts of interest

Financial conflicts of interest could occur when a person's financial interests conflict with their ATO duties, including but not limited to:

- buying or selling shares based on information obtained as a result of official duties carried out by you or other ATO employees
- holding shares in a company you are auditing
- assessing tenders from companies or other entities in which you have an interest
- accepting or soliciting a gift, hospitality or other benefits from an ATO client or supplier (refer to the policy on [Gifts, Hospitality or other Benefits](#))
- being a director of a family company that may impact your ATO duties.

Securities, derivatives or shares

Where holding securities, derivatives, or shares may present a conflict of interest you are to disclose the situation to your manager and notify using the conflict of interest form where any conflict of interest (real, perceived or potential) is determined to exist.

Where a conflict of interest arises from an immediate family member's share holdings, you are to declare this with the family member's consent. If consent cannot be obtained then discuss with the decision maker, in general terms, your understanding of the conflict of interest. This will allow the decision maker to decide what action may need to be taken.

While all shareholdings that may present a conflict of interest must be disclosed to your manager, if a shareholding is more than 5% of your total assets or more than 5% of a listed company's market capitalisation, or both, you must avoid dealing with the company in the course of your work.

This does not prevent a decision maker from deciding you must avoid dealing with a company in the course of your work if your shareholding is less than the 5% threshold, in circumstances that warrant such action. For example, your shareholding is still of significant value and it would be difficult to demonstrate your duties at work will not be influenced by your financial interest.

Tax agents

Ensure you avoid any real, perceived or potential conflicts of interest with your official duties when dealing with tax agents. This includes not discussing cases with tax agents in social settings and separating personal and business interests when managing relationships with tax agents.

Criminals, suspected criminals, or persons of interest

Conflicts of interest can arise through your personal associations, particularly with persons or groups who are or may be perceived to be engaging in criminal or unlawful activity.

Association includes, but is not limited to, any involvement with any person, group or organisation within the community unrelated to your official work duties, and includes any association that:

- may compromise or could be perceived to compromise your role or duties as an ATO employee
- may give rise to a perception in the mind of a reasonable person that you are not upholding your obligations as an ATO officer

- could reflect adversely on you or the ATO
- could lead to a real, potential or perceived conflict of interest (including financial conflict)
- could compromise the operational effectiveness of the ATO.

Procurement

Carefully consider conflicts of interest when involved in procurement decisions, irrespective of the value of the procurement. You should also consider conflicts of interest when deciding whether to engage with a supplier or potential supplier and, where you do engage with a supplier or potential supplier, the nature and scope of that engagement. Where you are involved in a procurement and the circumstances may give rise to a conflict of interest (real, perceived or potential), discuss with your procurement advisor and notify using the [conflict of interest form via the ATO Integrity Register](#).

Decisions about conflicts of interest for a particular procurement are to be made by the relevant *Public Governance, Performance and Accountability Act 2013* (PGPA Act) procurement delegate. For further guidance refer to the [Procurement CEI](#).

Recruitment and selection processes

Where you are involved in a recruitment and selection process (for example, as a vacancy manager, selection panel member, assessor, contact officer, administrative support or delegate) and the circumstances may give rise to a conflict of interest (real, perceived or potential), notify using the [conflict of interest form via the People Connect Integrity Register](#).

Selection panel members are required to advise other panel members of any personal relationships they have with applicants.

The selection process delegate is the decision maker for these types of conflicts of interest. For large-scale selection processes, the decision maker is either the selection process delegate or the selection campaign leader. If you are unsure who the decision maker is, you can seek advice from Talent Acquisition.

For more information on recruitment obligations, refer to the [Recruitment, selection and mobility CEI](#).

Inappropriate public comment

You can make public comment as a private individual, however you should avoid making public comments that could be viewed as inappropriate or giving rise to a conflict of interest. Refer to '[Inappropriate public comment](#)' in the Conflicts of interest supporting information and the [Social media CEI](#).

Post-separation employment

As soon as you are aware you will be taking a role in the private sector where a possible conflict of interest may arise, notify using the [conflict of interest form via the People Connect Integrity Register](#).

During post-separation employment, former ATO employees must be mindful of the following:

- knowledge acquired during the course of their work at the ATO must not

be disclosed without authority

- work performed in the course of employment with the ATO is the intellectual property of the Australian Government.

Lobbying Code of Conduct

If you are involved in lobbying you are required to adhere to specific disclosure requirements as outlined in the [Lobbying Code of Conduct](#) and are required to register on the online [Register of Lobbyists](#).

Lobbying activities that may conflict with your duties and create a conflict of interest (real, perceived or potential) must be discussed with your manager and reported via the [conflict of interest form via the People Connect Integrity Register](#).

4. Outside employment

Outside employment is any work, service or employment, paid or unpaid, other than your ATO employment. Related to outside employment:

- Outside employment in or supporting the tax or superannuation industry is likely to be considered inappropriate.
- A new notice must be submitted if circumstances change, or if continued beyond 12 months.
- A notice is not required for service in the Defence Force Reserves or working as a polling official at government elections.
- A notice is generally not required for volunteer work, however if the volunteer activity could have an adverse impact on your ATO employment, you may need to declare a conflict of interest. For further information about volunteer work, refer to the [Outside employment](#) supporting information.
- If you work in the **Australian Charities and Not-for-profits Commission (ACNC)**, all instances of paid employment, voluntary or unpaid work with an ACNC registered charity must be declared. This extends to an organisation that intends or is likely to apply for charitable status with the ACNC, which must be declared as outside employment. This is to ensure transparency and to ensure any conflicts of interest are managed given the ACNC's role as the national regulator of charities. Refer to [ACNC Tier 3 guidance](#) for more information on your obligations for volunteer or paid work in the charity sector.
- If you are an **SES officer**, all instances of outside employment, including voluntary or unpaid work, even if in the community or with a charity or non-profit organisation, must be declared as soon as any real, perceived or potential conflict of interest arises. See below for SES officer declaration requirements.
- A notice is required for all other unpaid work (e.g. work within a commercial organisation, family business or work in or supporting the tax and/or superannuation industry).

5. SES officer declaration

SES officers are required to:

- complete and sign a declaration form at least annually and when their circumstances change, declaring their financial and other personal interests that could involve a real or perceived conflict of interest using the SES Declaration of Private Interests [form](#)
- declare close family members' interests to the extent they are aware and with family members' consent
- discuss any conflicts with their manager and record what action is being taken to address the conflict
- re-declare any conflicts if you move to a different role or have a new manager
- update the declaration upon any material change in circumstances.

The Commissioner, an ATO Executive member or a Deputy Commissioner may apply the requirement to declare financial and other personal interests, to a non-SES employee if their role warrants particular transparency about private interests.

SES officers proposing to undertake outside employment or who receive offers of gifts, benefits or hospitality must notify using the by selecting the appropriate option in the form (either 'notify outside employment' or 'report and offer of a gift, hospitality or other benefit').

6. Decision Makers

The relevant **Assistant Commissioner, Workplace Relations in ATO People or Assistant Commissioner, Working Well in ATOP** are the decision makers for:

- exception requests relating to spouses, family members or relatives having any supervisory or reporting line relationships over one another.

The relevant **Assistant Commissioner in your BSL** is the decision maker for:

- tax and/or superannuation related outside employment declarations
- post-separation employment
- conflicts of interested relating to contact with criminals, suspected criminals, or persons of interest.

The **PGPA Act delegate** for a particular procurement is the decision maker for:

- procurement related conflict of interest declarations.

The PGPA Act delegate may seek input from a Probity Advisor, where appropriate. Check the procurement Probity Plan for contact details, or email [Strategic Procurement and Contracts](#) for assistance.

The **selection process delegate** or **selection campaign leader** is the

decision maker for:

- recruitment and selection related conflicts of interest.

Your **manager** is the decision maker for all other types of conflict of interest declarations or outside employment declarations not specified above. Where a decision making power, responsibility or function has been given to a manager in a reporting line, then it has also been given to all higher roles in that same reporting line.

In situations where a decision would directly affect a person with whom you have a personal relationship, the ideal approach would be for another non-conflicted employee to act as the decision maker.

7. More information

For more information go to [Conflicts of interest](#) and/or [Outside employment](#) supporting information on myATO, talk to your manager, contact the [People Helpline](#) or send an email to the [ATO Integrity Unit](#) for assistance

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