

# Conflict of Interest Procedure

**Person Responsible for review:** Chief People Officer

## 1.0 Purpose

The purpose of this procedure is to assist all ACSO and McCormack Housing employees effectively identify, disclose and manage any actual, potential or perceived conflicts of interest in order to protect both ACSO and McCormack Housing's integrity and reputation and to manage risk.

## 2.0 Scope

This procedure applies to all ACSO and McCormack Housing employees, except Directors who have express obligations under the Corporations Act and the ACNC Act to manage conflicts of interest. In view of the additional obligations for Company Directors, the ACSO and McCormack Housing Boards have their own conflicts of interest and related party transactions policy.

All employees must be aware that conflicts of interest can exist, the circumstances in which they could arise and the steps to take if an actual, potential or perceived conflict arises.

## 3.0 Definitions

A conflict of interest is the risk that an ACSO or McCormack Housing employee has or will make a work related decision that is based on, or influenced by, the interest, rather than by what is in the best interests of clients. A decision influenced by the conflicting interest means that an employee may not have acted in the best interests of ACSO, McCormack Housing and/or its clients, resulting in a breach of the employee's obligations.

All employees must be aware that a conflict of interest can exist if an employee knows a client, or a client's relatives. If this is the case, the employee must inform their manager or team leader as soon as possible and the organisation will ensure that the employee is not engaged in providing services to that client. (See Paragraph 3.3 below)

A conflict of interest can be actual, potential or perceived.

### 3.1 An actual conflict of interest

An actual conflict of interest occurs when an employee's personal interests' conflict with the interests of ACSO or a client.

**For example**, an employee starts working at a small start-up organisation to which the employee also consistently refers clients. Or, the employee has the authority to determine who supplies the organisational stationary. The employee also owns a share in a business importing stationary and decides that organisation

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will use that stationary. The employee has an actual financial interest in the decision about which stationary will be used, because the employee will profit from that decision.

### 3.2 A potential conflict of interest

A potential conflict of interest occurs where an actual conflict of interests has not arisen but could do so in the future.

*In the example above*, the employee who has authority to make a decision about what stationary will be used also has a part share in the stationary importing business, but the decision on what stationary should be used, will not be made until the current contract with another importer expires.

*For example:* a client's family is very supportive of the role the organisations employee is playing in the client's life and have said they want to buy the employee an expensive gift in appreciation. There is a potential conflict for the employee because the knowledge of the gift could influence them to apply a higher standard of care to the client, which is over and above what is required and to that provided to his/her other clients. If this occurs, this could breach the employee's obligations to act in the interests of the client, not themselves. This could also adversely impact ACSO and/or McCormack Housing's reputation. A potential conflict of interest must be treated in the same way as an actual conflict of interest.

### 3.3 A perceived conflict of interest

A perceived conflict of interest exists where, from a third party or the public's point of view, there is a perception that a conflict of interest exists and has influenced a decision of employees.

*For example*, when an employee has the dual responsibility of providing independent oversight of a client's support plan and to act in the client's best interest and to advocate for ACSO to be the preferred provider to develop and be consulted on the client's support plan. It may be perceived that the employee may not be acting in the client's best interest but in ACSO's interests.

Or *in the example above* the client's family buy the organisations employee an expensive gift (e.g., a gift over \$50.00) in appreciation. Even if the employee's standard of care to the client does not change because of the gift, i.e., the employee is not influenced by the gift and provides the same standard of care to all their clients. However, by accepting the gift, a third party could perceive that the employee will or is providing a higher standard of care to that client. This perception could harm ACSO and/or McCormack Housing's reputation.

Or *in the case of the stationary business* above, if the employee's brother – in - law owns a share in the stationary importing business, although the employee will not profit from a decision for the organisation to supply that stationary, his brother in law would, then a perception of a conflict of interest could arise. This could damage ACSO and/or McCormack Housing's reputation. A perceived conflict of interest must be treated in the same way as an actual or potential conflict of interest.

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### 3.4 Personal interests include direct interests

As well as indirect interests, such as those of an employees' family, friends, or other organisations they may be involved with or have an interest in (for example, as a shareholder). It does not include an interest an employee cannot control, such as an interest in a public superannuation fund, where investment decisions are made by an independent Trustee.

Personal interests may be financial and non-financial.

*For example*, a non-financial interest could be the recruitment of a family member to a position in ACSO and/or McCormack Housing where the employee was part of the recruitment process.

## 4.0 Actions

### 4.1 Identification and disclosure of conflict of interest

It is ACSO and McCormack Housing's policy and a responsibility of employees, that ethical, legal, financial or other conflicts of interest should be avoided where possible. Where any such conflicts arise, such as knowing a client or relatives of a client, it is the responsibility of employees to promptly raise the issue with their team leader or leader with a view to managing it in accordance with this policy. Disclosure of the conflict is one way to appropriately manage a conflict.

The employee and/or their manager or team leader or leader can raise any queries or concerns regarding the conflicts issue with the Manager Quality, Risk and Safety at any time.

If a conflict of interest is discovered/disclosed, and it impacts employment or the ability of an employee to uphold the requirements of their role, then People and Culture team must be notified for further advice

#### 4.1.1 Register of Interests

1. Employees should identify any actual, potential or perceived conflicts of interest at the commencement of their employment and include this in their own Register of Employee Interests. The register must record information related to a conflict of interest, including the nature and extent of the conflict of interest and any steps taken to address it.
2. Subsequently whenever an actual, potential or perceived conflict of interest is identified by the employee, he/she must disclose it to their leader or leader as soon as possible. It should be recorded in the register of employee interests by the employee as soon as possible.
3. Annually, at each professional development planning meeting with their leader, each employee should review and update their register of interests.

#### 4.1.2 Confidentiality of disclosures

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1. Information collected for the register of interests will be treated in accordance with the Australian Privacy Principles, ACSO and McCormack Housing’s Privacy Policy and the Information Security Policy. Access to the register of interests will be on restricted basis.
2. If a conflict of interest that has been identified is required to be confidential, the Program/Business areas leader will determine how confidentiality can be appropriately managed.

## 4.2 Managing conflicts of interest

1. An employee, with support from their leader should manage conflict of interest by:
  - avoiding conflicts of interest where possible
  - identifying and disclosing any conflicts of interest and working with the team leader to determine how best to manage the conflict, under paragraph II below. For example, if avoidance is not possible, disclosing the conflict to an affected person and the person consenting to the conflict is an effective way to manage conflicts following this procedure.

In the examples above, the ACSO employees could avoid a conflict by:

  - excluding themselves from making any decisions regarding stationary supply to the organisation
  - not being involved in the advocacy of the organisation as the preferred provider;
  - advising the family that he/she cannot accept gifts;
  - excluding themselves from the recruitment process of a friend or family member.
2. In deciding what approach to take, the team leader or leader should consider the following:
  - whether the conflict needs to be avoided or simply documented;
  - whether the conflict will realistically impair the disclosing employee’s capacity to impartially perform their role and make decisions;
  - alternative options to avoid the conflict; and
  - the possibility of creating an appearance of improper conduct that might impair confidence in, or the reputation of ACSO.

## 4.3 Managing conflict of interest – Clients

Employees should (within the bounds of legality) always act in the best interests of the client, ensuring that clients are informed, empowered and able to maximise choice and control. Employees will not (by act or omission) constrain, influence or direct decision-making by a client to limit that person’s access to information, opportunities, and choice and control.

A conflict of interest can exist if an employee knows a client, or a client’s relatives. If this is the case, the employee must inform their manager or team leader as soon as possible and the organisation will ensure that the employee is not engaged in providing services to that client.

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If an employee identifies any actual, potential or perceived conflict of interest in relation to a client, he/she is responsible for raising it with their leader.

#### 4.3.1 Receiving gifts/benefits

There may be times when clients wish to give employees gifts or buy them coffee, for example. Employees may accept gifts from clients if they are of low value. Generally, this means any gift under \$20.00 is permitted, provided it's not given by the same client to the same employee on a regular basis, such as weekly or monthly.

Where employees are not sure if the gift constitutes a small token or are concerned that it could be construed as significant, they should discuss this with their manager or team leader.

Employees must neither receive nor give any remuneration for referring clients to or accepting referrals from other professionals for professional services.

Where financial arrangements form part of support for clients, employees must make advance financial arrangements that safeguard the best interests of clients and that are clearly understood by clients. Any arrangements made must be in accordance with program guidelines and the client's funding package.

Employees must avoid financial arrangements that may, currently or subsequently, influence the services provided. Employees must not solicit gifts from clients.

#### 4.4 Failure to disclose a conflict of interest

Employees have an obligation to disclose and manage conflicts of interest. Failing to comply with this procedure, may constitute misconduct or serious misconduct which may result in disciplinary action or termination of employment.

### 5.0 References

- [Board Policy Conflict of interest and related party transactions policy](#)
- [P&C1 People & Culture Policy](#)
- [G8 Protected Disclosure Policy](#)
- [P&Cp1.10 Issue Resolution Procedure](#)
- NDIS Program Manual
- Program Specific Manuals
- National Disability Insurance Scheme (Registered Providers of Supports) Rules 2013

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- Terms of Business for Registered Providers (effective 1 July 2016)

## 6.0 Review

This procedure will be reviewed at a minimum of every two years.

Version	Date	Author	Reason	Sections
1.2	November 2022	Chief People Officer & Manager Quality, Risk and Safety	Due for review	All
1.1	September 2022	Acting Manager Quality, Risk & Safety	Align with McCormack Housing inclusion	All
1	3 September 2020	Company Secretary	Include feedback and align with Board conflicts policy	All
0.D	30 July 2020	Company Secretary	To include feedback from the Policy Review Group	All
0.C	1 July 2020	M. Quality & Risk	To reflect the ACSO Board Conflict of interest Policy	All
0.B	15 June 2020	M. Quality & Risk	To include feedback given by Acting Senior Manager Residential Services	Actions
0.A	10 June 2020	M. Quality & Risk	Identified gap in NDIS Practice Standards and Changes to the P&C policies and procedures	All

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