

Conflict of Interest and Professional Independence Policy

June 2020



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1. Policy statement

Managing conflicts of interest and threats to professional independence are central components of the Audit Office of New South Wales's (the Audit Office) Ethical Framework. Managing conflicts and threats appropriately ensures the integrity of the Audit Office is not compromised or called into question. Maintaining independence is a concept fundamental to the Audit Office in two key ways:

1. **Independence of the office** – as an oversight agency, it is vital that the Audit Office and its staff are independent and perceived to be independent.

The Audit Office and its staff must be, and be seen to be, free of any interest that is incompatible with objectivity in performing activities including audit engagements, procurement or recruitment activities.

2. **Professional independence of audit engagement team members** – audit engagement team members are required to be professionally independent which means being independent of mind and independent in appearance.

Audit engagement team members, Audit Service Providers (ASPs) and other Audit Office Staff who can directly influence the outcome of engagements must be aware of their professional independence obligations and the obligations in this Policy and the Conflict of Interest and Professional Independence Procedure (the [Procedure](#)).

Audit Office Staff are required to complete a Conflict of Interest and Professional Independence Declaration (COI Declaration):

- when appointed
- annually
- where there is a change in circumstances throughout the year after the staff member has completed the COI Declaration.

This Policy takes account of the [Independent Commission Against Corruption's](#) (ICAC) guidance (the guidance) on [Managing Conflicts of Interest in the NSW Public Sector](#) (April 2019). The guidance recommends officials and agencies err on the side of caution when considering whether or not a conflict of interest exists. If there is any doubt, staff should first discuss the matter with their people manager and/or the Executive Manager, Governance (Legal), and make a COI Declaration if required.

2. Scope

This Policy is divided into three parts:

- **Part One** – Conflicts of interest and the independence of the Audit Office – applies to all permanent and temporary staff and the contingent workers employed by the Audit Office (Staff).
- **Part Two** – Professional independence of audit engagement team members – applies to audit engagement team members (including Staff, ASPs and other experts who are part of the audit engagement team)¹.
- **Part Three** – General provisions – applies to all Staff.

This Policy should be read in conjunction with the [Procedure](#), the [Code of Conduct](#) and other related policies and procedures including any applicable laws and professional standards.

¹ Certain aspects of the Policy such as the requirement to complete a COI Declaration only apply to Staff.

Part 1 – CONFLICTS OF INTEREST AND THE INDEPENDENCE OF THE AUDIT OFFICE

3. The independence of the Audit Office

Conflicts of interest compromise the independence of the Audit Office and arise where private interests make it difficult for Staff to perform their duties impartially in the public interest. Conflicts of interest may be potential, perceived or actual. Refer to [section 15](#) of this Policy for the definition of a conflict of interest.

Staff must take reasonable steps to avoid or manage potential, perceived or actual conflicts of interest. This is done by:

- identifying and evaluating the circumstances or relationships that may create a conflict of interest, so that it may be avoided or managed
- declaring any conflict of interest found to exist
- managing and acting to address any conflict of interest.

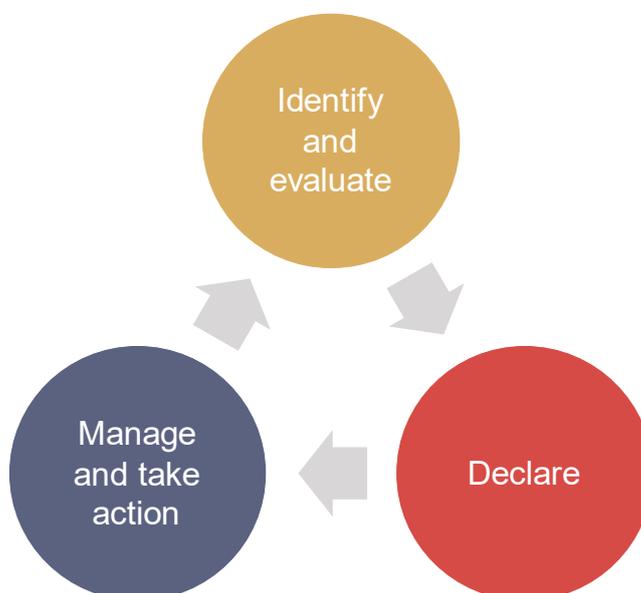


Figure 1

4. Identifying and evaluating conflicts of interest

The Audit Office and its Staff have an obligation to identify and evaluate circumstances and relationships that may create a conflict of interest and take reasonable steps to avoid or manage them. Both qualitative as well as quantitative factors must be considered.

The **key test** in assessing if a conflict of interest exists is whether a reasonable and informed person would perceive that a staff member could be influenced or perceived to be influenced, by any interest that is incompatible with objectivity when carrying out their official duties as a staff member of the Audit Office.

A conflict of interest can arise from several situations. This may involve:

- **personal interests** - personal interests that could create a conflict of interest include:
 - **financial interests** - where there is the potential to gain financially, whether direct or indirect.

- **non-financial interests** - where there is the potential to gain from a decision or action, or to be biased. For example, because of personal beliefs or involvement towards a cause, an individual could be conflicted between duty at the Audit Office and personal views.
- **personal relationships** - they can involve the interests of the individual's immediate or close family members, friends, foes, business partners or associates where these interests are known by the individual. They include any tendency toward favour or prejudice resulting from friendship, animosity, or other personal involvement with another person or group. In assessing whether a personal relationship has created a potential, perceived or actual conflict consider:
 - i) the position, responsibility or delegated authority the individual, related to or associated with the staff member, holds in the auditee or other organisation involved
 - ii) the position, responsibility or delegated authority of the staff member involved including the ability of the staff member to exert direct or significant influence over the audit or internal business decision.
- **political activities** - political expression, association or activity may conflict with the primary duty as a staff member of the Audit Office.
- **secondary employment including voluntary work** - the Audit Office must be the primary employer for all Staff. Any secondary employment, including voluntary work, must be approved by the Executive Director, Professional Services.
- **secondments** - may include Staff secondments to government agencies, ASPs or other external organisations which the Audit Office may have an affiliation with.
- **inducements or intimidation** -
 - **inducements** are an object, situation or action that is used to improperly influence a staff member's behaviour and actions such as the offer of a gift, benefit or hospitality. Inducements can range from minor acts of hospitality between business colleagues to acts that result in non-compliance with laws and regulations. Such influence can be directed either to the staff member or through someone the staff member has personal relationship with. It can create a sense of obligation that may compromise impartial and honest decision making and may be perceived as a bribe. Such inducements are not to be accepted. Refer to the Audit Office's [Gifts, Benefits and Hospitality Policy](#) for further guidance.
 - **intimidation** occurs when a staff member may be deterred from acting objectively because of pressure or threats being made. If a staff member feels intimidated, they must promptly report it to their people manager and the Deputy Auditor-General.

If Staff are unsure if a conflict of interest exists, they should consult with their people manager, their Director, the Executive Manager, Governance (Legal), Quality and Innovation group, professional body or legal advisors where necessary.

Refer to part 1.1 of the [Procedure](#) for details of the process for managing applications for secondary employment and to part 1.2 for managing secondments.

5. Declaring conflicts of interest

5.1 New starter and annual COI Declarations

All Staff must complete a COI Declaration when appointed and annually thereafter. The annual COI Declaration acts as a regular reminder to Staff to identify and report any conflicts of interest or threats to professional independence. Staff must consider the range of entities audited by the Audit Office when making their COI Declarations.

Refer to part 2.1 of the [Procedure](#) for further details.

5.2 Change in circumstances

If circumstances change throughout the year creating a conflict of interest or threat to professional independence, Staff must report the conflict or threat as soon as they become aware of it.

Refer to part 2.3 of the [Procedure](#) for details on how to report a change in circumstances.

5.3 Activity specific declarations

Conflicts of interest and threats to professional independence are particularly relevant:

- in high risk function areas (including recruitment and procurement)
- where Staff have a decision-making role
- where Staff can directly influence a decision.

When assigning Staff to such activities and during the assignment, Staff must evaluate the circumstances or relationships that may identify a conflict of interest or threat to professional independence. Where a potential, perceived or actual conflict of interest or threat to professional independence is found to exist, it must be declared, and suitable action taken to reduce or eliminate it.

Staff must discuss with their people manager and obtain approval from the Deputy Auditor-General or delegated authority, if they are requested by an auditee to participate in a recruitment process for the auditee.

Staff on tender evaluation committees and those on recruitment selection panels must also declare any conflict of interest in relation to those specific activities.

5.4 Committee declarations

Audit Office committee members must declare conflicts of interest. These committees include the:

- Office Executive Committee and its sub committees:
 - Finance and Performance
 - Strategic Technology
- Audit and Risk Committee
- Quality Audit Review Committee
- Remuneration Committee
- Work, Health and Safety Committee
- Learning and Development Committee.

5.5 Conflict of Interest and Professional Independence Register

The Conflict of Interest and Professional Independence Register (the Register) is a central register that records information from the COI Declarations as provided by Staff in the:

- new starter COI Declarations
- annual COI Declarations
- COI Declarations when circumstances change throughout the year.

The Register includes a list of all declared conflicts of interest and threats to professional independence. These COI Declarations must be taken into consideration when allocating Staff to audit teams and auditees.

Refer to part 2.5 of the [Procedure](#) for information on how the Register is used in practice.

5.6 Related parties' disclosures²

The Audit Office is required to comply with [AASB 124 Related Party Disclosures](#) and [Treasury Circular TC 16-12 Related Party Disclosures](#) which require the Audit Office to collect, report and disclose related party transactions in respect of key management personnel (KMP). The Office Executive are the KMP of the Audit Office. They have the authority and responsibility for planning, directing and controlling the activities of the Audit Office.

Related party transactions are transactions between the Audit Office and the related parties of the KMP. Related parties of KMP include:

- close members of the family, e.g. children, spouse, partner, other dependents
- entities controlled by the KMP and/or close members of the family.

6. Managing conflicts of interest

It is important that conflicts of interest are managed or resolved on a timely basis. Staff and their people managers are jointly responsible for taking reasonable steps to resolve the conflict.

For details of how a conflict may be managed refer to part 3 of the [Procedure](#).

Part 2 – PROFESSIONAL INDEPENDENCE OF AUDIT ENGAGEMENT TEAM MEMBERS

7. Professional independence

The Audit Office performs audit, assurance and assurance-related engagements. These are performed in accordance with relevant laws, regulations, professional standards and public-sector frameworks including APES 110, ASQC 1, ASAE 3000, ASAE 3500 and other relevant standards or laws e.g. the *Corporations Act 2001*.

This section contains guidance on the standards of ethical and professional behaviour expected of audit engagement team members which includes professionally qualified auditors, other Staff working on the audit engagement who may not be professionally qualified, and external parties such as ASPs who form part of the audit engagement team.

Professionally qualified audit engagement team members are personally bound to uphold professional standards and ethical pronouncements by virtue of their membership of Australian accounting professional bodies.

Staff members who are not professionally qualified and who are part of an audit engagement team, must also behave ethically and comply with the Audit Office Code of Conduct and associated ethical behaviour policies.

In addition to the obligation to maintain the independence of the Audit Office covered in Part 1 of this Policy, audit engagement team members have an obligation to be professionally independent, which includes being independent of mind and independent in appearance.

Audit engagement team members must act in the public interest and observe and comply with the fundamental principles of independence, which are:

- integrity
- objectivity
- professional competence and due care
- confidentiality
- professional behaviour.

² This section only applies to the Office Executive.

The three stages in avoiding and managing conflicts of interest as set out in [Figure 1](#) on page 2 (identifying and evaluating, declaring, managing and taking action) also apply to threats to professional independence.

8. Identifying and evaluating threats to professional independence

The same principles that apply to identifying and evaluating conflicts of interest in [section 4](#) of this Policy also apply to identifying and evaluating threats to professional independence.

Circumstances and relationships which present threats to independence are described in [APES 110 Code of Ethics for Professional Accountants](#) (including Independence Standards) and include:

- financial interests
- loans and guarantees
- business relationships
- family and personal relationships
- employment with assurance clients
- recent service with an assurance client
- serving as director or officer of an assurance client
- employment with an assurance client
- secondments
- long association with an assurance client
- non-assurance services to assurance client
- dependence on fees
- gifts, benefits and hospitality
- actual or threatened litigation.

Examples of threats to independence in the context of an audit or assurance engagement are provided in the [Independence Guide](#), a joint publication of Chartered Accountants, Australia and New Zealand, CPA Australia, the Institute of Public Accountants and the Accounting Professional & Ethical Standards Board.

When assessing if there is threat to professional independence, audit engagement team members must consider the auditees of the Audit Office and not just their current auditees when identifying a potential, perceived or actual threat to professional independence.

If a member of the audit engagement team identifies multiple threats, which individually might not be significant, they need to aggregate and evaluate the collective significance of those threats and apply any safeguards collectively.

9. Declaring threats to professional independence

As part of the annual declaration process, all audit engagement team members employed by the Audit Office are required to declare whether there are circumstances and relationships that create potential, perceived or actual threats to professional independence so appropriate safeguards can be applied or other action taken. Audit engagement team members employed by the Audit Office are also required to declare if circumstances change after the annual COI Declaration has been made.

Audit engagement team members employed by the Audit Office are reminded that, in accordance with APES 110, there is a requirement to notify the Audit Office when entering into employment negotiations with a current or former auditee. In the first instance this notification should be made to your people manager. If you have concerns about making the notification to your people manager, please discuss with the Executive Manager, Governance (Legal).

The method for declaring a threat to professional independence is set out in part 6 of the [Procedure](#).

Members of the audit engagement team who are not employed by the Audit Office, such as ASPs, are required to immediately declare any conflicts of interest or threats to professional independence to their nominated Engagement Controller.

10. Managing threats to professional independence

The same principles that apply to managing conflicts of interest in [section 6](#) of this Policy also apply to managing threats to professional independence.

Further guidance on managing threats to professional independence is contained in part 7 of the [Procedure](#).

Part 3 – GENERAL PROVISIONS

11. Compliance with this Policy and Procedure

Staff who suspect this Policy or [Procedure](#) are not being complied with or reasonably believe that a conflict of interest or threat to professional independence is not being adequately managed, should raise their concerns with their people manager or the Executive Manager, Governance (Legal). The Audit Office will not tolerate any reprisal action against Staff whose concerns are raised in good faith.

Breaches of this Policy may be subject to disciplinary actions including but not limited to warning letters, suspension, demotion or cessation of employment.

12. Confidentiality and privacy

Reporting conflicts of interest and threats to professional independence may involve disclosing personal and/or sensitive information. The information will be used for the purpose set out in this Policy and [Procedure](#). The information will be held confidentially (subject to the provisions relating to access to the Register as set out in part 2.5 of the [Procedure](#)) and in accordance with the [Privacy and Personal Information Protection Act 1998](#) and the Audit Office's [Privacy Management Plan](#).

13. Roles and responsibilities

Audit engagement team members - an audit engagement team consists of Staff, whether professionally qualified or not, and may include ASPs. It may also include Staff not working directly in the team, but who through significant involvement, directly influence the outcome of an engagement. For example, those who:

- recommend the compensation of the Engagement Controller in connection with the performance of the engagement
- provide direct supervisory, management or other oversight of the Engagement Controller connected to the performance of the engagement
- consult with the team on technical or industry specific issues, transactions or events
- are experts employed by the Audit Office (e.g. actuaries, valuers)
- provide quality control on an assurance engagement.

Deputy Auditor-General - the Deputy Auditor-General assumes ultimate ownership of this Policy. The Deputy Auditor-General either approves or delegates (as per Appendix 1) approval of all actions to resolve or manage a conflict of interests or threat to professional independence, and any exceptional circumstances that fall outside the Policy.

Executive Director, Professional Services - the Executive Director, Professional Services determines applications for secondary employment and provides an oversight and consultative role for all aspects of the Policy and Procedure.

Executive Manager, Governance (Legal) - the Executive Manager, Governance (Legal) maintains this Policy and Procedure, the Conflict of Interest and Professional Independence Register and the Secondary Employment and Volunteering Register.

People managers - all people managers must:

- ensure Staff complete the COI Declaration:
 - when appointed, as part of the induction process
 - annually, as part of the annual process
 - if circumstances change throughout the year after the COI Declaration has been completed
- manage conflicts of interest and threats to professional independence jointly with Staff
- ensure steps are taken to resolve a declared conflict or threat as appropriate.

Staff - all Staff must:

- identify and report any potential, perceived or actual conflicts of interest and threats to professional independence as soon as they arise
- complete the COI Declaration:
 - when appointed, as part of the induction process
 - annually, as part of the annual declaration process
 - if circumstances change throughout the year after the COI Declaration has been completed
- take reasonable steps to avoid conflicts of interest and threats to professional independence
- cooperate in the management of the conflict or threat.

14. Legislative context

This Policy has been developed in line with:

- ICAC's guidance material on [Managing Conflicts of Interest in the NSW Public Sector April 2019](#)
- [Independent Commission Against Corruption Act 1988](#)
- PSC [Behaving Ethically: A guide for NSW government sector employees October 2014](#) – relevant sections pertaining to conflicts of interest
- PSC [Circular 2015-08 Declaration of private interest](#), August 2015 – supplementary information
- relevant [Human Resources](#) and [Governance policies](#) including the Code of Conduct, and Gifts, Benefits and Hospitality Policy
- [ASQC1 'Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, and Other Assurance Engagements'](#)
- [APES 320 'Quality Control for Firms'](#)
- [APES 110 'Code of Ethics for Professional Accountants \(including Independence Standards\)'](#)
- [ASA102 'Compliance with Ethical Requirements when Performing Audits, Reviews and Other Assurance Engagements'](#)
- [ASAE 3500 'Performance Engagements'](#)
- [Corporations Act 2001](#)
- [Public Finance and Audit Act 1983](#)
- [Government Sector Finance Act 2018](#)
- [Australian Charities and Not-for-profits Commission Act 2012](#)
- [Superannuation Industry \(Supervision\) Act 1993](#)
- [Local Government Act 1993](#).

15. Definitions

Conflict of interest: a conflict of interest exists where a staff member could be influenced or perceived to be influenced, by any interest that is incompatible with objectivity when carrying out their official duties. For the purposes of this Policy a conflict of interest includes:

- a potential conflict of interest - arises where a staff member has interests that could conflict with their official duties in the future, for example a staff member has a conflict in relation to an Audit Office auditee that they are not currently auditing.
- a perceived conflict of interest - exists where a reasonable and informed person perceives that a staff member's interests could improperly influence the performance of their duties, whether or not this is in fact the case.
- an actual conflict of interest - involves a direct conflict between a staff member's current official duties and any interest that is incompatible with objectivity, for example where a staff member has a conflict in relation to a current auditee.
- threat to professional independence - see definition below.

Contingent worker: is a person employed by a recruitment organisation who performs the same types of work as permanent Audit Office Staff.

Immediate or close family member includes:

- spouse - married, de facto, civil union partnerships
- children - step, adoptive, dependent, non-dependent, adult children and those not living at home
- parent or sibling
- other close family members who may be influenced by that person in dealing with the entity, e.g. cousin, uncle or aunt, brother or sister in law.

Official duties: the work done by Staff including, as defined by the position description or governing legislation and regulations, lawful directions given by a people manager, or responsibilities or duties reasonably expected of the staff member in his or her capacity as a member of the Audit Office Staff.

Professional independence requires audit engagement team members to be:

- independent of mind - so individuals act with integrity, exercise objectivity and professional scepticism and express conclusions without being affected by influences that compromise professional judgement
- independent in appearance - so that a reasonable and informed third party would not conclude that integrity, objectivity or professional scepticism had been compromised.

Secondary employment: refers to any additional employment or voluntary work, that an individual is engaged in outside of their primary position in the Audit Office, including consulting or contracting work or participating in a business. The activities must be in the nature of employment taking into account such things as the roles and responsibilities, hours or reliance placed on the individual to do the job and any delegated authority or decision-making ability. Involvement in a union, activities as a member of a faith organisation or recreational club, investment activities, hobbies which generate a nominal income are generally not considered secondary employment. Staff should consider whether their involvement in such activity creates a conflict of interest. Contact the Executive Manager, Governance (Legal) for advice on your individual situation if you are unsure.

Threats to professional independence: categories of threats include:

- self-interest threat - the threat that a financial or other interest will inappropriately influence an audit engagement team member's judgement or behaviour;
- self-review threat - the threat that an audit engagement team member will not appropriately evaluate the results of a previous judgement made, or an activity performed by the audit team member, or by another staff member within the Audit Office, on which the audit team member will rely when forming a judgement as part of performing a current activity;

- advocacy threat - the threat that an audit engagement team member will promote an auditee's position to the point that his/her objectivity is compromised;
- familiarity threat - the threat that due to a long or close relationship with an auditee, audit engagement team members will be too sympathetic to their interests or too accepting of their work; and
- intimidation threat - the threat that an audit engagement team member will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the him/her.

16. Contact point

Contact Executive Manager, Governance (Legal) for any questions about this Policy.

17. Review

This Policy will be reviewed at least every two years in the absence of any significant changes or more frequently where required taking into account legislative or organisational changes, risk factors and consistency with other policies. The next review is due in June 2022.

Appendix 1 – Conflict of Interest Delegations from the Deputy Auditor-General

Type of action/approval	Delegated authority
Accept Conflict of Interest and Professional Independence Declarations when no conflict declared	Governance Officer
Accept Conflict of Interest and Professional Independence Declarations when potential or perceived conflict declared	Executive Manager, Governance (Legal)
Accept Conflict of Interest and Professional Independence Declarations when actual conflict or threat to Professional Independence declared	Deputy Auditor-General
Approve actions to resolve a conflict of interest or threat to professional independence	Deputy Auditor-General
Approve secondary employment and volunteering applications	Executive Director, Professional Services
Approve secondments	Deputy Auditor-General
Approve participation in the recruitment process for an auditee	Executive Director, Professional Services
Approval for any exceptional circumstances falling outside of the Policy	Deputy Auditor-General