

CONFLICT OF INTEREST POLICY

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OVERVIEW

Conflicts of interest (COIs) can arise for employees in every area of work in the School. They are an inevitable fact of organisational life and they are not in themselves a sign of wrongdoing, but they create risks which should be identified and managed. However, when these risks are not appropriately addressed, organisational performance and reputation can be seriously compromised, and the effects can be significant for the School and for the individuals concerned.

This policy outlines the obligations on all employees to identify, report, and address conflicts of interest (COIs), and to subject them to ongoing monitoring.

WHAT IS A CONFLICT OF INTEREST?

COI arises in circumstances where an employee's public duty is influenced, or can be seen to be influenced, by a private interest.

Private interests include both financial and non-financial interests, and can include the interests of family members and close friends or associates. They can be positive or negative interests—personal enmity towards someone can be just as relevant as loyalty to them.

The public duty of all employees of the School and members of school boards includes the obligation to perform all duties in accordance with school values. A conflict therefore arises if a private interest might undermine an employee's ability to perform a particular role in accordance with these values, whether or not the outcome of the task or function is affected; an employee's benevolent intention does not mean that risks of perceived COI can go unaddressed.

While COI can lead to corruption and fraud, it mostly arises innocently and independently of any fraudulent intent and should be managed with this in mind—with transparency, consistency and without favouritism or exception.

COI can be **actual**, **potential** or **perceived**. A **potential** COI refers to circumstances where it is foreseeable that a COI may arise in future and steps can be taken now to mitigate any risk. A **perceived** COI arises where a reasonable person might think that an employee or board member could be unduly influenced by a private interest, even if the employee or board member is confident of their own objectivity.

It is particularly important for employees or board members to address risks of **perceived** COI because they are the most likely to be overlooked or underestimated.

An important consideration when identifying and managing COI is whether reasonable and fair minded people would consider that a private interest is likely to influence their duty to the extent that it would create a risk for the organisation or undermine school values. Being able to identify these risks will assist employees, leadership team and board members in taking appropriate steps to protect the public interest.

Because COI is inherently subjective and personal, individuals can be prone to underestimating or misrepresenting the extent of the influence a private interest might have. It is therefore critical that leadership are involved in assisting employees to assess and address risks associated with COI.

Poor management of COI can have a serious effect on the School, including:

- Poor substantive outcomes arising from decisions in which merit is compromised
- Loss of stakeholder confidence and the erosion of proper processes
- Considerable expense and loss of efficiency to remedy actions which are tainted by undisclosed or improperly managed COI
- Loss of trust in the School

*See the **COI Case Studies** for typical examples of conflicts of interest.*

OBJECTIVES

The purpose of this COI Policy is to enable the School to manage COI risks effectively by identifying:

- the principles which inform the responsible management of COI risks in the School
- the responsibilities of all School employees, leadership and board members for the management of COI risks
- the steps employees or board members can take to manage COI risks
- key resources available to assist employees or board members to meet their responsibilities for managing COI risks.

PRINCIPLES

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

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

RESPONSIBILITIES

ALL EMPLOYEES

All employees, including leadership, have a responsibility to avoid any COI that may affect their duty. Where a conflict is identified, reasonable steps must be taken to address it in order to protect the public interest.

All School employees and board members are responsible for:

- Being aware of their obligations to avoid and address COI
- Continually assessing their private interests and public duties in order and identify whenever they are subject to a COI
- Reporting identified COI to the leadership team or Board chair
- Assessing the risks related to identified conflicts and taking reasonable steps to address these risks in accordance with School policy and procedures so that the School's interest is protected.

LEADERSHIP:

In addition to managing their own COI, leadership play a role in supporting their staff to identify and address COI by:

- Being aware of the risks of COI which are inherent to the work of the staff they manage
- Making their staff aware of their obligations under COI policy and other relevant policies and procedures
- Identifying the training needs of their staff members in relation to COI policy and practice
- Advising their staff about appropriate ways to address COI
- Recording disclosures of COI reported to them by staff members
- Assisting staff members to identify and implement appropriate management strategies
- Continually monitoring the work of staff they manage and assessing the risks to which they might reasonably be exposed
- Taking appropriate disciplinary action in relation to employees who apparently fail to meet their obligations under School policy
- Modelling School values through transparent and consistent management of their own COI.

SCHOOL BOARDS

School Board members are bound by the EGSEG Constitution's code of conduct. Relevant duties under this Code are to:

- Act in the best interests of the association;
- Uphold the values, aims and objects, and good reputation, of the School;
- Behave with honesty and integrity, respect and accountability;
- Demonstrate high standards of ethical behaviour and responsiveness to the needs and aspirations of the association;
- Act with due care and diligence;
- Act within the requirements of all applicable Commonwealth and State laws and satisfy all common law obligations and responsibilities;
- Maintain appropriate confidentiality of, and accountability for, the acts of the board;
- Disclose and take all reasonable steps to avoid any conflict of interest in connection with the operations or activities of the association;
- Use the assets and resources of the association in a proper and accountable manner;

- Make decisions about the allocation of assets and resources of the school applying the principle that merit is the primary matter considered;
- Not make any improper use of information obtained as board members or gain or seek to gain a direct or indirect pecuniary benefit or material advantage for any member, board member or employee or any related person, to the detriment of the association;
- Not cause or permit any act with intent to deceive or defraud the association, any member of the association or any other person;
- Not provide false or misleading information in response to any request for information relating to the official activities of the board.

If a member of the school board or a member of his or her immediate family has any direct COI (including a pecuniary interest) in a subject or matter under discussion at a school board meeting, that member:

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

AT RISK AREAS

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

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

Other areas of high risk include contractor management, other work (external employment), receiving gifts, benefits or hospitality, complaints management and disciplinary processes, and managing private/public partnerships.

Principals and Business Managers undertake some of these functions regularly and therefore need to be particularly aware of the risks.

Activities which carry a high risk of COI should be subject to considered and systematic scrutiny.

CONTRACTORS AND EXTERNAL ORGANISATIONS

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

OBLIGATION TO INCORPORATE COI MANAGEMENT IN SPECIFIC CIRCUMSTANCES

The management of COI in accordance with School policy should be incorporated into the work of the following groups, which are formed in the School from time to time:

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

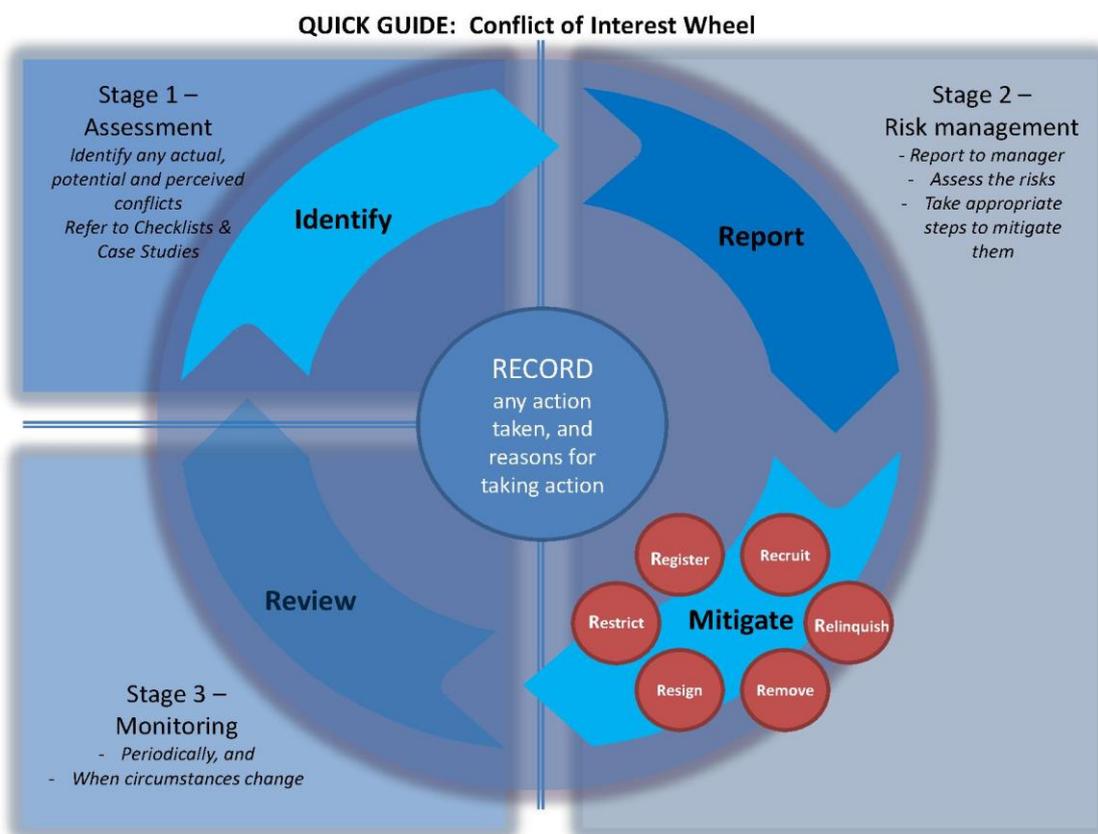
The management of COI in the work of these groups should include the following steps:

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

PROCESS FOR MANAGING RISKS OF COI

Responsible management of risks of COI involves three steps:

1. Assessment
2. Risk management
3. Monitoring



Version 3.0

1. Assessment: identify COI

- a. Scrutinise private interests and public duties to identify actual, potential or perceived COI.
- b. Leadership can be consulted for advice.

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

- a. **Report** identified COI (actual, potential or perceived) to a senior authority, usually the leadership team. In certain circumstances conflicts can be reported to a relevant committee or board. However, it would rarely be sufficient for reports only to be made to peers or subordinates.
- b. Assess the risks to the public interest arising from any identified conflict
- c. Take reasonable steps to address the risks of identified COI to protect the school's interest. These steps may include the following:
 - **Register** the details of the actual, potential or perceived COI
 - **Restrict** the employee's involvement in the duty subject to the conflict
 - **Recruit** a disinterested third party to oversee part or all of the duty
 - **Remove** the employee from all responsibilities in relation to the duty
 - The employee **relinquishes** the private interest
 - The employee **resigns** their office temporarily or permanently
- **Record** any decisions in relation to the management of COI including decisions not to take any action in a manner which ensures transparency and accountability. Decisions may, for example, be recorded on the employee's personnel file. Document reasons for any decision to take, or not to take, certain action.
- Maintain confidentiality in managing private information obtained in the assessment and management of COI.

3. Monitoring

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

LEADERSHIP ROLE

Identified conflicts must be reported to the leadership team. It is rarely sufficient for conflicts to be disclosed only to subordinates or peers. Employees may also consult with the leadership team for assistance in identifying conflicts, or with any COI matters.

Leadership team members who have identified COI are to report it to the Board Chair.

WHOSE RESPONSIBILITY IS IT TO TAKE ACTION?

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

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

If, however, the employee feels that the leadership team's direction is unreasonable or otherwise flawed, they can lodge a grievance with the Board to challenge its validity.

RESOURCES

TAILORED, REAL-WORLD GUIDANCE IS BEST

The **COI scenarios** contains examples which can assist employees in applying the above process to real-world situations.

Given the variety of circumstances in which COI may arise, the School also recognises that high-level principles or generic examples may be inadequate guidance for resolving COI risks in specific circumstances.