

APS Policy

Conflict of Interest

October 2024



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Conflict of Interest Policy

The APS is committed to maintaining the highest ethical standards and public trust, in accordance with APS values and obligations under charity law, corporations law and accounting standards.

1. Purpose

The purpose of this Policy is to support APS decision-makers to identify, disclose and effectively manage any actual, potential or perceived conflicts of interest and/or duty, including related party transactions, in order to protect the integrity of the APS and to manage risk.

2. Scope

This Policy applies to APS decision-makers and/or members of a decision-making body, including Board Directors, Board Committee members, employees, contractors and volunteers, with regard to influencing decisions or direct involvement in decision-making that concerns APS operations or strategic direction.

Board Directors and other Company Officers have specific responsibilities described in the *Australian Charities and Not-for-Profits Commission Regulations 2022* and *Corporations Act 2001*. This Policy has effect in addition to, and not in derogation of, any rule of law relating to the duty or liability of a person concerning conflicts of interest.

Where decision-makers have additional requirements relating to conflict of interest, such as the requirements of certain professions or offices held, they must comply with those requirements in addition to the provisions of this Policy.

3. Policy

A conflict of interest arises when the personal interests, or duties owed to another organisation, of a decision-maker conflicts with their responsibility to act in the best interests of the APS.

Conflicts of interest, including related party transactions, may be direct interests (relating directly to the decision-maker) or they may be indirect (related to associates of the decision-maker, such as family or friends, or associated organisations, and their interests). A conflict of interest may be actual, potential or perceived and may be financial or non-financial. Annexure A sets out some examples of conflicts of interest.

It is the policy of the APS that ethical, legal, financial or other conflicts of interest be avoided and that any such conflicts, if they do arise, are managed so that they do not conflict with duties or obligations to the APS.

Conflicts of interest are not necessarily a barrier to participation in APS decision-making activities provided that they are disclosed and openly and effectively managed in accordance with the Principles outlined in this Policy.

The APS will manage actual, potential or perceived conflicts of interest in accordance with this Policy and will respond to any breaches of the Policy.

All APS decision-makers must:

- identify and disclose any conflicts of interest – actual, potential or perceived – as soon as they become aware of any such conflict
- participate, in good faith, in the management of conflicts of interest
- avoid acting in a situation of actual conflict of interest
- comply with this Policy and participate in the response to any breaches.

Where common law and/or corporations law apply, a failure to comply with the relevant laws may result in civil penalties, restitution orders and/or criminal sanctions.

4. Definitions

In this Policy:

**Associate/
Associated
organisation**

A person is an associate of an APS decision-maker if that person:

- is a close relative (spouse, partner, parent, child, sibling), employee or employer of the decision-maker
- is substantially or materially controlled or influenced by the decision-maker (or vice versa)
- is a beneficiary under a trust for which the decision-maker is trustee (or vice versa)
- expects to receive compensation, payment or reward for providing their services to the decision-maker.

A body corporate is an associated organisation of an APS decision-maker if:

- the decision-maker is a shareholder or member of the organisation, or
- the decision-maker is a board or committee member or manager of the organisation and exerts/has capacity to exert control or influence over the operations, resources or affairs of the organisation, or
- the decision-maker has a significant interest in the body corporate, or would expect to receive an income, distribution, dividend or payment of any sort.

Conflict of interest

Any situation where it could reasonably be concluded that an APS decision-maker's consideration of a matter is influenced by other interests or duties.

Conflicts of interest include:

- *actual conflicts of interest*, where duties and responsibilities owed to the APS conflict with duties, responsibilities or interests external to the APS
- *potential conflicts of interest*, where it is might reasonably be foreseen that decision-making considerations might lead to an actual conflict of interest in the future, and
- *perceived conflicts of interest*, where despite the absence of any actual or potential conflict of interest, it might reasonably be supposed by observers of the circumstances surrounding the decision-maker and the decision, that a conflict of interest exists.

Decision-maker

A person, or those persons comprising a board, committee, group or panel, that make(s) or influence(s) decisions of the APS, whether operational or strategic, including people who act in the capacity of decision-makers from time to time.

Related party transaction	The transfer of resources, services or obligations between the APS and a related party, whether an organisation or an individual (such as an APS decision-maker). The transaction need not include a financial payment.
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5. Principles

5.1 Disclosure

If an APS decision-maker believes that a conflict of interest, including a related party transaction, exists or may arise in their regard, or if any Board Director, Board Committee member, employee, contractor or volunteer believes that an APS decision-maker has not disclosed a conflict of interest, the circumstances may, in the first instance, be raised for discernment of materiality and any confidentiality/privacy matters with:

- The President or Board Committee Chair, in the case of Board Directors or Board Committee Members
- The Governance & Risk Committee Chair and/or Company Secretary, in the case of the President
- The Chief Executive Officer and/or the General Manager Member Experience, in the case of Member Group office bearers or other volunteers
- The President and/or the Governance & Risk Committee Chair, in the case the Chief Executive Officer or Company Secretary
- The Chief Executive Officer and/or Chief Operating Officer, in the case of Executive and Senior Managers
- The relevant Manager or Supervisor, in the case of other staff and contractors.

APS decision-makers are then required to disclose any material conflict of interest, whether direct or indirect, actual, potential or perceived, as follows:

- Board Directors and Board Committee Members are to complete a Declaration of Interests in the APS prescribed form, as provided by the Company Secretary, upon appointment. Interests will be entered into a Register of Interests maintained by the Company Secretary. The Register, including conflict of interest management plans, will be accessible at all times by the Board and Board Committees and will be subject to in-depth review at least annually. Conflict of interest disclosure will be a standing meeting agenda item. Directors and Committee Members are required to make continuous disclosure of addition to, or amendment of, their material personal interests for update of the Register of Interests and for recording in relevant meeting minutes.
- Member Group office bearers and other volunteers are to make continuous disclosure of their material personal interests to the relevant Member Group Committee. Conflict of interest disclosure will be a standing meeting agenda item. A record of disclosures and conflict of interest management plans will be kept via the Committee meeting minutes.
- Executive and Senior Managers are to complete a Declaration of Interests in the APS prescribed form, as provided by the Company Secretary, upon appointment. Interests will be entered into a Register of Interests maintained by the Chief Operating Officer. The Register, including conflict of interest management plans, will be accessible at all times by the Board and Board Committees and will be subject to in-depth review at least annually. Executive and Senior Managers are required to make continuous disclosure of addition to, or amendment of, their material personal interests for update of the Register of Interests and recording in the minutes of any relevant meetings.
- Other staff and contractors are to make continuous disclosure of any material personal interests to their manager or supervisor and to any relevant committee or working group. A record of disclosures will be kept via relevant meeting minutes.

5.2 Management of Conflicts of Interest

Once a conflict of interest has been appropriately disclosed, the relevant decision-making forum, for example, the Board, Board Committee, Member Group Committee, Executive Committee or Tender Panel, will consider:

- If the conflict needs to be avoided or simply documented
- If the conflict will impair the disclosing person's capacity to impartially participate in decision-making
- If there are alternative options to avoid the conflict
- If there are considerations related to the APS's objects, resources or charitable purpose
- If there is a possibility that an appearance of improper conduct that might impair the reputation, or confidence in, the APS.

The decision-making forum will then decide:

- If the conflicted person should receive any information or briefing materials related to the matter
- If the conflicted person should participate in any discussion related to the matter
- If the conflicted person should vote on the matter
- If the conflicted person should be present during discussion or voting
- If the conflicted person should take leave or resign from the forum, in the case of a very significant or long-term matter.

5.3 Gifts and Hospitality

Gifts or hospitality received by a decision-maker which might reasonably be connected to their position as a person of influence or decision-maker (currently or in the future) must not be accepted or solicited. Any such gift or hospitality must be promptly reported to the individual's Chair, manager or supervisor.

This provision excludes gifts where it is clear that the gift was provided in consideration of a purpose other than an attempt to influence decisions.

Gifts or hospitality must not be accepted from any person or organisation engaged in, or who proposes to engage in, an APS tender process or award of a contract/extension of a contract.

5.4 Related Party Transactions

Related party transactions are conflicts of interest that involve the transfer of resources, services or obligations between the APS and related parties (organisations and/or individuals), including:

- purchases, sales or donations
- receipt of goods, services or property
- provision of professional advisory/consulting services
- leases
- transfer of property, including intellectual property
- loans
- guarantees
- provision of employees or volunteers.

In addition to management of related party transactions in accordance with this Policy, all such transactions involving an APS Board Director, Board Committee member or staff member (outside of the capacity of their appointed or employed role) must be notified to the APS Chief Operating Officer or Financial Controller. Material transactions, as determined by the APS's Auditor, are reported in the annual APS statutory financial statements.

5.5 Codes of Conduct

In addition to this Policy, all APS Board Directors, members and staff are expected to conduct themselves in accordance with the relevant Code:

- (a) APS Members Code of Conduct
- (b) APS Board Code of Conduct, and
- (c) APS Code of Conduct.

6. Associated Documents

APS Constitution

Governance Manual

APS Members Code of Conduct

APS Board Code of Conduct

APS Code of Conduct

Declaration of Interests Form

Fraud Control and Corruption Prevention Policy

7. Policy Review

This Policy will be reviewed at least every three years by the APS Board to ensure that it is operating effectively.

7.1 Revision Schedule

Review Date	Reason	Approver
May 2021	Approved	Board
December 2024	Scheduled review	Board
May 2027	Scheduled review	

Annexure A: Conflict of Interest Examples

The key test in assessing a conflict of interest is whether a decision-maker's duty to the APS could be influenced by a private interest or conflict of commitment, now or in the future – or that a reasonable person might perceive that this is the case.

Examples of situations where conflicts of interest/duties may arise and which require assessment and management are given below.

Direct financial interest

- Payment of a professional/consulting fee to a decision-maker
- Award of a contract to a company of which a decision-maker is the proprietor
- Sale of APS assets to a decision-maker.

Indirect financial interest

- Award of an employment contract to an associate of a decision-maker
- Provision of a grant to an organisation managed by an associate of a decision-maker
- Award of a contract to a company of which a decision-maker is an employee or is linked by an associate.

Non-financial interest

- Use of confidential knowledge acquired from the APS by a decision-maker
- Award of an APS honour/recognition to an associate of a decision-maker.

Conflict of duties

Decision-makers may have competing duties with regard to the APS and other organisations. For example:

- A decision-maker serves on multiple boards
- A decision-maker serves as an Executive in one organisation and on a board or committee of another organisation(s).

It is important that decision-makers, in addition to disclosing conflicts, are careful to always act in the best interests of the organisation for which they are influencing or making a particular decision – not in the interests of any other organisation. Decision-makers must also be careful not to use any information acquired at one organisation to make or influence a decision in another organisation.



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