



Catholic Schools Office Diocese of Lismore

CONFLICT OF INTEREST STANDARD OPERATING PROCEDURE

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SOP Contact Officer:	Assistant Director - School Resources Services
Related Documentation:	Catholic Education in the Diocese of Lismore Foundational Values for Catholic Identity and Mission. Corporate Credit Card Policy and Standard Operating Procedure Employee Performance and Discipline Policy and Standard Operating Procedure Parent and Caregiver Complaints Policy and Standard Operating Procedure Privacy Policy and Standard Operating Procedure Purchasing Policy and Standard Operating Procedure Responsible Persons Policy and Standard Operating Procedure <i>Education Act 1990</i> NSW Education Standards Authority (NESA) Registration Systems and Member Non-Government Schools (NSW) Manual

RATIONALE

Conflicts of interest can arise for employees at all levels and in every area of the Catholic Schools Office (CSO) and parish schools in the Diocese of Lismore. 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 CSO and parish schools and for the individuals concerned.

This Standard Operating Procedure outlines the procedural obligations on all employees to identify, report, and address conflicts of interest, and to subject them to ongoing monitoring. The Standard Operating Procedure also identifies the role of Principals and supervisors to take steps to address risks of conflicts of interest in relation to their staff. This Standard Operating Procedure aims to satisfy legal and contractual obligations, in particular s 83C of the *Education Act 1990* (NSW).

SCOPE

This Standard Operating Procedure applies to all employees in parish schools, the Catholic Schools Office and any related entities under the administration of the Catholic Schools Office, Diocese of Lismore.

1. DEFINITIONS

- 1.1 **Approved Authority** means a position with authority to act on behalf of the Director or Assistant Director
- 1.2 **Close personal relationship means** family relationships (siblings, parent, child, spouse including de facto spouse, partner, relations by marriage, grandchild and grandparent), and emotional relationships (including intimate relationship and close friendships).
- 1.3 **Conflict of interest** is when an employee's personal interests, or those of a person with whom he or she has a close personal relationship, conflict with his or her primary obligation to act in the interests of the CSO or parish school. A conflict of interest may be actual, perceived or potential.
- 1.4 **Financial interest** is any right, claim, title or legal share in something having a monetary or equivalent value. Examples of financial interest include, but are not limited to, shares, share options, and the right to receive remuneration, such as salary, consulting fees, allowances, discounts and the like.

Excluded from this definition is an investment by a superannuation, mutual, pension or other institutional investment fund in which an employee has an interest but over which the employee does not exercise control.
- 1.5 **Perceived conflict of interest** is where it could appear to a reasonable person that the employee's personal interests could improperly influence the performance of his or her duties, whether or not this is in fact the case.
- 1.6 **Personal interests** mean interests that can bring a benefit or disadvantage to the employee or to others the employee may wish to benefit or disadvantage. Personal interests include financial interests and interests arising from close personal relationships or involvement in cultural, sporting, religious or social activities. They also include interests that may lead to a

tendency or predisposition to favour or to be prejudiced against a person or an organisation.

- 1.7 **Potential conflict of interest** arises where an employee has personal interests that could conflict with his or her official duties in the future.
- 1.8 **Responsible Persons** in a parish school are those responsible for the proper governance of parish schools, including the parish school's proprietor, those concerned with the management of the parish school, members of the parish school's governing body and any other person exercising a function in relation to the management of the parish school. Refer to the Responsible Persons Policy and Standard Operating Procedure.

2. PRINCIPLES

- 2.1 The following principles underpin the CSO's management of risks of conflicts of interest:
 - I. Protecting the public interest through upholding the values and best interests of the CSO, parish schools and diocese;
 - II. Supporting transparency and accountability;
 - III. Promoting individual responsibility for integrity and impartiality; and
 - IV. Developing an organisational culture which encourages effective management of conflicts of interest.
- 2.2 These principles will enable the CSO and parish schools to manage conflict of interest risks effectively by identifying:
 - I. The responsibilities of all CSO and parish school employees for the management of conflict of interest risks;
 - II. The steps employees can take to manage conflict of interest risks; and
 - III. Resources available to assist employees to meet their responsibilities for managing conflict of interest risks.

3. RESPONSIBILITIES

- 3.1 It is the responsibility of all those employed by the CSO or parish schools to be aware of their obligation to identify, disclose and appropriately manage conflicts of interest which may arise at any time during the course of duty or while on CSO or parish school business. This includes an assessment of private and personal interests and whether they conflict or have the potential to conflict with official duties, and the disclosure of actual, potential or perceived conflicts of interest.
- 3.2 It is the responsibility of Principals to ensure that staff are aware of this Standard Operating Procedure and related Policy and to facilitate compliance by those they supervise.
- 3.3 When confronted by an actual, potential or perceived conflict of interest, those covered by this procedure must formally disclose the conflict of interest and

its nature. Disclosure of a conflict of interest, whether actual, potential or perceived is done on the Conflict of Interest Declaration form (Attachment 2).

- 3.4 Where an employee of the CSO or parish school becomes aware of an actual, potential or perceived conflict of interest that has not been declared, they should discuss the matter with the individual, encourage full disclosure and take action applicable to the situation. If appropriate, a formal disclosure of the conflict of interest must be made.
- 3.5 While all conflicts of interest must be disclosed, on rare occasions, there may be an ethically acceptable reason for not disclosing the specific nature of the conflict, for example if this would breach another person's privacy. In such cases, the individual must still declare that a conflict of interest exists and the relevant Assistant Director or Principal must be satisfied that the conflict can be managed without its nature being disclosed.

4. IDENTIFYING CONFLICTS OF INTEREST

- 4.1 Risks of conflict of interest are typically significant in relation to three types of activity:
 - I. Recruitment and selection;
 - II. Procurement (tendering, purchasing, contracting); and
 - III. Funding allocation.
- 4.2 Other areas of high risk include contractor management, other work (external employment), receiving gifts, benefits or hospitality, complaints management and disciplinary processes.
- 4.3 A conflict of interest exists where the personal interests of a person conflicts with their professional responsibilities such that an independent observer might reasonably conclude that the professional actions of that person are unduly influenced by their own interests. Conflicts of interest may be actual, perceived, or potential. They may arise through decision making or actions. In all cases, the following tests can be applied to determine if there is a conflict of interest:
 - I. Public duty versus private interest;
 - II. Potential for benefits now or in the future;
 - III. Perception of how a decision or action may be viewed by others, the risk to individual and to the CSO and parish schools;
 - IV. Proportionality – would it appear fair and reasonable to an independent person;
 - V. Presence of mind – what would be the consequences if the issue is ignored, what would be the perception if questioned publicly; and
 - VI. Promises – what commitments have been made, does an individual stand to gain or lose from the action or decision.

- 4.4 Generally the level of risk associated with conflict of interest will increase with an increasing level of leadership or authority and where multiple functions are assigned to one individual.
- 4.5 Specific areas of high risk to be considered include:
- I. Financial and economic interests, for example shareholding in or directorship of a company dealing with the CSO or parish school by the person concerned or by a partner or immediate member of their family;
 - II. Family or private businesses that may have dealings with the CSO or parish schools which may be in competition or conflict with the CSO or parish schools;
 - III. Family or other relationships with contractors, students, or other staff also working in the CSO or parish schools;
 - IV. Paid outside employment, being a member of a Committee or Advisory Board, employment by a company dealing with the CSO or parish schools or in a role related to an aspect of government policy or operations which affects a matter under consideration by the CSO or parish schools;
 - V. Future employment prospects or plans;
 - VI. Affiliations with, or membership of, other organisations and associations (e.g. not profits; political; trade unions; professional organisations) that may be dealing with the CSO or parish schools or in competition or conflict with the CSO or parish schools; and
 - VII. Obligations to professional, community, ethnic, family, or religious groups in a personal or professional capacity.

5. PROCEDURE FOR MANAGING RISKS OF CONFLICT OF INTEREST

- 5.1 Responsible management of risks of conflicts of interest involves three steps:
- I. Assessment;
 - II. Risk management; and
 - III. Monitoring.
- 5.2 **Assessment** - identify conflicts of interest by:
- I. Scrutinising private interests and public duties to identify actual, potential or perceived conflict of interest. (A checklist for the assessment of conflicts of interest is provided in Attachment 1); or
 - II. Principals, supervisors and CSO SRS personnel can be consulted for advice.
- 5.3 **Risk management** - report and address the risks of identified conflicts of interest by:
- I. Reporting identified conflicts of interest (actual, potential or perceived) to an approved authority, Principal or supervisor or senior employee;

- II. Assessing the risks to the public interest arising from any identified conflict. Consider in particular risks to stakeholder and public confidence; and
- III. Take reasonable steps to address the risks of identified conflicts of interest to protect the public interest. These steps may include the following:
 - Register the details of the actual, potential or perceived conflict of interest via the Declaration of a Conflict of Interest attached to this document;
 - Restrict the employee's involvement in the public duty subject to the conflict;
 - Recruit a disinterested third party to oversee part or all of the public duty;
 - Remove the employee from all responsibilities in relation to the public duty;
 - The employee relinquishes the private interest;
 - The employee resigns their public office temporarily or permanently;
 - Record any decisions in relation to the management of conflicts of interest 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; or
 - Maintain confidentiality in managing private information obtained in the assessment and management of conflicts of interest.

5.3 **Monitoring**

The identification and management of conflicts of interest will be subject to regular review, periodically and in response to any changes in circumstances, such as changes in Responsible Persons.

6. DISCLOSURE PROCEDURE

- 6.1 Members of staff are required to complete a confidential Declaration of a Conflict of Interest as soon as they become aware that they may have an actual or potential conflict of interest.
- 6.2 A copy of the Declaration of a Conflict of Interest is attached to this document. The Declaration should be completed and then either emailed or personally delivered to the Principal for declarations by parish school employees, or to the CSO School Resources Services personnel for CSO employees, for evaluation.

- 6.3 If a management procedure beyond disclosure is deemed to be required, this will be reported to the member of staff and, if appropriate, to senior CSO SRS personnel. An appropriate procedure to manage or eliminate the conflict of interest will be agreed.
- 6.4 Any unresolved situation or disagreement will be referred to the CSO Executive for a final decision. A perceived, potential, or actual conflict of interest affecting a Principal or CSO Executive should be disclosed to the Director of Catholic Schools.

7. CONFLICTS OF INTEREST REGISTER

A record of declared actual and potential conflicts of interest will be maintained in a Register of Declared Conflicts of Interest (A template is provided in Attachment 3). The CSO must maintain a Register for declarations by CSO employees, and each parish school must maintain a Register for school employee disclosures.

8. RESPONSIBLE PERSONS

Those classed as Responsible Persons will be required to complete a Conflicts of Interest Declaration each year, as required in the Responsible Persons Standard Operating Procedure. Every conflict of interest declared by Responsible Persons, including nil declarations, will be recorded in the Conflicts of Interest Register.

9. RELATED PARTY TRANSACTIONS AND CONFLICTS OF INTEREST

- 9.1 Related party transactions are those transactions between the CSO or a parish school and any organisation, excluding organisations within the NSW Catholic systemic school system such as other schools and the CSO; and includes any other organisations, entities or persons, such as relatives or parties related in other ways, where there may be a perception that there is a conflict of interest.
- 9.2 Payments may be made by parish schools to related parties providing the following criteria are met:
- I. The payment by the parish school is for school related services or assets for the parish school; and
 - II. The payment amount reflects the market value for the service or asset; and
 - III. The transaction is recorded in a Register of Related Party Transactions as required in the Related Party Transactions Standard Operating Procedure.

10. CONFIDENTIALITY OF DISCLOSURE

- 10.1 The CSO will seek to ensure that confidential disclosures are protected from misuse. Conflict of Interest disclosures will be treated as confidentially as possible, within the requirements of the law.

- 10.2 A Principal or SRS personnel in receipt of a disclosed conflict of interest will exercise their judgment about the level of confidentiality necessary to manage the conflict. If in doubt, advice should be sought from a member of the CSO Executive.
- 10.3 The Principal or SRS personnel will inform the person disclosing the conflict of their decision on further disclosure, where this arises. If this is not agreed between the parties, the matter will be referred to the CSO Executive.
- 10.4 The annual reporting of the management of conflict of interest will be presented in a way that safeguards the confidence of the person making a disclosure. The CSO may seek further particulars on any conflict of interest where they judge the interest of the CSO or parish school to be affected.

11. CONSEQUENCES FOR NON-COMPLIANCE

- 11.1 Non-compliance with the provisions of this Standard Operating Procedure and related Policy, including refusal to take any reasonable action as directed to resolve a conflict of interest, is a serious matter. Depending on the severity and implications of the breach, action may be taken under the Employee Performance and Discipline Policy and Standard Operating Procedures
- 11.2 Breaches of this Policy may also result in referral to, and action being taken by, a statutory authority and/or agency.

ASSESSMENT CHECKLIST TO HELP IDENTIFY CONFLICTS OF INTEREST (5.2)

If you answer YES to any of the questions below, you may have an **actual**, reasonably **perceived** or **potential** conflict of interest.

What is the situation?	Yes	No
Would I or anyone associated with me benefit from or be detrimentally affected by my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
Could there be benefits for me in the future that could cast doubt on my objectivity?	<input type="checkbox"/>	<input type="checkbox"/>
Do I have a current or previous personal, professional or financial relationship or association of any significance with an interested party?	<input type="checkbox"/>	<input type="checkbox"/>
Would my reputation or that of a relative, friend or associate stand to be enhanced or damaged because of the proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
Do I or a relative, friend or associate of theirs stand to gain or lose financially in some covert or unexpected way?	<input type="checkbox"/>	<input type="checkbox"/>
Do I hold any personal or professional views or biases that may lead others to reasonably conclude that I am not an appropriate person to deal with the matter?	<input type="checkbox"/>	<input type="checkbox"/>
Have I contributed in a private capacity in any way to the matter my agency is dealing with?	<input type="checkbox"/>	<input type="checkbox"/>
Have I made any promised or commitments in relation to the matter?	<input type="checkbox"/>	<input type="checkbox"/>
Have I received a benefit or hospitality from someone who stands to gain or lose from my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
Am I a member of an association, club or professional organisation or do I have particular ties and affiliations with organisations or individuals who stand to gain or lose by my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
Could this situation have an influence on any future employment opportunities outside my current official duties?	<input type="checkbox"/>	<input type="checkbox"/>
Could there be any other benefits or factors that could cast doubts on my objectivity?	<input type="checkbox"/>	<input type="checkbox"/>
Do I still have any doubts about my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>

If you still have any doubts about your proposed decision or action, direction should be sought from the relevant Assistant Director.

DECLARATION OF A CONFLICT OF INTEREST

Employee Name			
Position			
School/Service Area			
Nature of the Conflict of Interest			
Other Party Involved			
Period of Conflict			
Start date:		End date	(or tick) <input type="checkbox"/> If ongoing <input type="checkbox"/>
Comments Eg: why is there a conflict, how the risk could be mitigated, or other factors to consider			

I declare the above details are correct and I make this declaration in good faith

Employee Signature		Date	
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Declarant's Supervisor			
Name			
Position			
School/Service Area			
Comments			
Signature		Date	

Attachment 3 - Conflict of Interest Register

Name of Employee	Nature of Conflict	How Resolved	Duration	Reported To
Eg: Ms A. Principal	Brother is applying for teaching position at school	Removed self from selection panel	1 February 2017 to 21 February 2017	Assistant Director – School Resources Services
Eg: Mr Art Teacher	Sister owns art supplies shop	Received 3 quotes from similar shops; ensured purchase from sister's shop at market value.	23 January 2017	School Principal

VERSION HISTORY

Version	Approval Date	Authorised By	Notes
1	February 2017	Assistant Director – School Resources Services	Originally released