



CONFLICT OF INTEREST POLICY

March 2020



PURPOSE

The purpose of this Policy is to ensure that conflicts of interest are identified and managed effectively so they do not adversely affect the operation of the Broken Bay Diocesan Schools System (DSS) including both schools and the Catholic Schools Office (CSO). Staff members are required to avoid conflicts of interest if possible and disclose any perceived, potential or actual conflict of interest as soon as they become aware of the conflict. The Policy is intended as a safeguard for staff employed in the DSS and a strategy for the DSS to ensure it is compliant with the requirements of s83C of the Education Act.

SCOPE

This policy applies to all staff employed by the DSS and all volunteers.

OBJECTIVE

Both the Australian Education Act 2013 (AEA) and the Education Act 1990 NSW (the NSW Act) specify that financial assistance, from the Australian or NSW Governments respectively, is not to be provided to schools that operate for profit.

Section 83C of the NSW Act (see Appendix 1A) specifies some of the conditions under which a school may be considered to operate for profit.

The objective of this document is to provide a framework to effectively identify, disclose and manage actual, potential or perceived conflicts of Interest in order to protect the integrity of the DSS and to promote transparency, confidence in the integrity, legitimacy, impartiality and fairness of decisions made.

Note that a separate policy addresses the management of Related Party Transactions.

DEFINITIONS

Conflict of interest

A conflict of interest for a person making a decision occurs when:

- Their personal interests or the interests of a relative or close associate conflict with their responsibility to act in the best interests of, or in accordance with the statutory obligations to, the DSS or
- The person has decision-making authority or exercises such authority over the CSO or a DSS school or parties thereof and the Related Party.

There are three types of conflict of interest: actual, perceived and potential and are not limited to financial gain.

Actual Conflict of Interest	Perceived Conflict of Interest	Potential Conflict of Interest
You hold a position where right now you can be influenced by your personal interests when doing your job.	You hold a position where you could appear to be influenced by your personal interests when doing your job.	You hold a position where you could in future be influenced by your personal interests when doing your job.

Personal interests include direct interests as well as those of family and friends.

Responsible Person

A Responsible Person means someone who has responsibility and authority in the DSS for planning, directing and controlling the activities of the school or its finances, directly or indirectly.

A Responsible Person in the DSS includes:

- a) the principal of the school;
- b) any other person who by the person's conduct assumes a position of authority over the governance or management of the school;
- c) each member of the Director's Group of the CSO
- d) The Trustees of the Diocese of Broken Bay

UNDERSTANDING CONFLICTS OF INTEREST

Staff members have an obligation to ensure that they address any actual, perceived or potential conflict between their personal interests and professional duties.

Conflicts of interest are not wrong in themselves. It is how they are managed that is important. There are four key stages in managing conflicts of interest:

Identify
Report
Resolve
Register

Conflicts of interest may lead to biased decision making which results in the decision maker or a relative or friend receiving a financial benefit or other personal advantage. For a conflict of interest to have been found to have occurred, a reasonable person would conclude that the professional actions of a staff member have been unduly influenced by their personal interests.

Personal interests are usually known only to an individual. The checklist in Appendix 1 will assist individuals to self-assess if a conflict of interest exists, or could be perceived by others as a conflict of interest. If a Responsible Person answers yes to any question on the checklist this is an indication that a conflict of interest exists.

REPORTING A CONFLICT OF INTEREST

NESA requires Schools to provide an annual declaration by each Responsible Person in relation to any actual, perceived or potential conflict. The declaration should cover any interests or shares that the Responsible Person has, for example in incorporated associations, proprietary companies, companies limited by guarantee, business partnerships, and industry and manufacturing associations that could compromise, or be perceived to compromise, the impartial performance of his or her duties. It should also cover any personal interest or shares that his or her immediate family (ie spouse, partner, children or dependents) have that the Responsible Person is aware of that could compromise, or be perceived to compromise, the impartial performance of his or her duties. Responsible Persons declaring conflicts of interest must complete a disclosure form (see Appendix 2)

Further Responsible Persons must disclose any new conflict of interest as it arises during the year.

If in doubt regarding the identification of a conflict of interest, such a conflict should be included in the Conflicts of Interest Register.

DSS staff members who are not Responsible Persons are required to complete a disclosure form (Appendix 2) as conflict of interest as arises.

Reporting a conflict allows the staff member to work with their manager to agree strategies and actions to resolve it. If not managed properly, any conflict can be damaging to the individual's and the DSS's reputation.

Examples of conflicts of interest:

- Purchasing goods or services supplied by a staff member's family business, relative or close friend
- Participating in a tender for goods or services where a relative or friend will be submitting a bid
- Directly negotiating for a friend or relative to provide goods or services to a school or the CSO for payment

- Involvement in selection processes for a relative or friend as an employee
- Sale of a DSS asset without an equitable process
- Enrolment decisions relating to a relative's or friend's child.

RESOLVING OR MANAGING A CONFLICT OF INTEREST

If a conflict of interest is declared it can be resolved or managed in a variety of ways, depending on the significance of the conflict. The CSO will assess each situation and circumstances. In deciding the appropriate approach, consideration should be given as to whether the conflict needs to be avoided or simply registered.

The main strategies for resolving a conflict are:

Strategy	Action to take	When is this strategy most suitable?
Register	Staff member formally registers details of the existence of an actual, perceived or future conflict.	<ul style="list-style-type: none"> ○ This may be the only action required for very low-risk conflicts. ○ Where recording the conflict is sufficient to maintain transparency.
Restrict	Restrictions are placed on the staff member's participation in decision making processes. This could include: <ul style="list-style-type: none"> ○ Not participating in any critical criteria setting role ○ Withdrawing from discussion about the plan or proposal ○ Limiting access to specific sensitive information ○ Abstaining from voting on the decision. 	<p>It is practicable to separate the staff member from parts of the activity or process.</p> <p>The conflict is not likely to arise frequently.</p>
Recruit	Recruiting an independent person eg Schools Consultant, Head of Service, to oversee all or part of the process. This could include: <ul style="list-style-type: none"> ○ Arranging for a Schools Consultant or Head of Service to make the decision ○ Requiring another person in the school or CSO to obtain three written quotes to compare against quote by family member ○ Increasing number of people involved in the decision making process if there is a special reason why the person needs to continue to be involved. This would need to be approved by the staff member's manager and documented. 	Conflict is more significant and needs to proactively managed but the staff member with the conflict has particular expertise and cannot be easily replaced.
Remove	<ul style="list-style-type: none"> ○ Remove person with the conflict from any involvement ○ Person abstains from any formal or informal discussion about the matter ○ Re-arranging duties and responsibilities to a non-conflicting function but not to a person who is supervised by the person with the conflict ○ Transferring the person to another school or team. 	There is ongoing serious conflict of interest and restriction or recruitment is not practical or feasible.
Relinquish	Person gives up the personal interest that is creating the conflict.	The person's commitment to their role in the DSS outweighs their attachment to their personal interest.
Resign	Person with the conflict resigns from their position.	No other options are workable. Person cannot or will not relinquish their conflicting personal interest.

CONFLICTS OF INTEREST REGISTER

All conflicts of interest must be registered in the DSS Conflicts of Interest Register. This Register is kept by the Office of the Director and helps to show that the conflict has been declared and resolved or managed. It adds transparency to the management of the conflict.

The Register records:

- the name of the staff member declaring a conflict of interest
- a description of the interest
- the nature of the conflict of interest
- date of disclosure
- steps taken by the CSO or school for dealing with the conflict
- action taken to address the conflict.

The Head of Financial Services is notified of every conflict of interest that is declared in order to ensure that the related party component of s83C is adhered to.

The Conflicts of Interest Register will be reviewed annually by the Director of Schools.

The Conflicts of Interest Register and associated declarations will be retained for a period of seven years before archiving or disposing of them in accordance with NSW Education Standards Authority (NESA) requirements.

BREACH OF POLICY

Failure to disclose a conflict of interest may result in disciplinary action ranging from informal counselling, increased supervision or monitoring, coaching or mentoring, through to informal or formal disciplinary action. Serious breaches may result in demotion, termination or referral to an external agency or the police for investigation.

RELATED POLICIES AND GUIDELINES

- Code of Conduct
- Complaints Handling Policy and Procedures
- Financial Management Policy
- Fraud Policy
- Gifts and Hospitality Policy
- Policy for Addressing Employee Performance and Disciplinary Matters
- Policy for Addressing Performance of Principals and Disciplinary matters

This Policy supersedes the Conflicts of Interest November 2019.

POLICY REVIEW

This policy will be reviewed not less frequently than once every five years.

POLICY DATES

Date policy originally issued	2015
Date of current edition of policy	2020
Date of next review	2025

authorised by
Dr Tony Bracken
Acting Director of Schools

APPENDIX 1

	Yes	No
Would I or anyone associated with me (family, friend or relative) 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, arising from my decision or action 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 stand to gain or lose financially directly or indirectly from my decision or action?	<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 made any promises or commitments to someone who stands to gain or lose from my proposed decision or action?	<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 organization 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"/>
Does my proposed decision conflict with my responsibility to act in the best interests of, or in accordance with the statutory obligations to, the Diocesan Schools System?	<input type="checkbox"/>	<input type="checkbox"/>
Does the proposed decision provide a benefit to another institution over which I have either control or influence?	<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"/>

APPENDIX 2

Conflict of Interest Disclosure Form

Use this form to declare a Conflict of Interest (COI) in your role as a Responsible Person under S47 of the Education Act (NSW) 1990 or as a DSS staff member.

Responsible Persons have an obligation to ensure that they declare and address any 'actual', 'perceived' or 'potential' COI between their personal interests and professional duties. Refer to the DSS Conflict of Interest Policy

<https://curianet.dbb.org.au/Catholicschoolsoffice/dssresources/System%20Documents/Conflict%20of%20Interest.pdf> for definitions of COI categories.

Also refer to the Independent Commission Against Corruption (ICAC) COI factsheet for further information about the COI types, recognizing a COI, strategies that can be used to manage a COI

<https://www.icac.nsw.gov.au/prevention/corruption-prevention-publications>

***Required**

1. Email address*

Position

2. *

Mark only one oval per row.

	DBB Trustee	CSO Director of Schools	CSO leadership Team member	DSS School Principal	DSS Staff member
Select your role	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Person's Details

3. First Name *

4. Last Name *

5. Position *

6. School Name or CSO Team *

7. Main contact number *

8. Email (if different to that stated above)

Conflict of Interest Details

Refer to the DSS Conflict of Interest Policy

<https://curianet.dbb.org.au/Catholicschooloffice/dssresources/System%20Documents/Conflict%20of%20Interest.pdf> for definitions of 'actual', 'perceived', 'potential' conflict categories.

9. Nature of this Conflict *
Mark only one oval per row.

	Actual	Perceived	Potential
Select	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

10. Nature of this Interest *
Mark only one oval per row.

	Pecuniary: Material or Monetary gain	Non-pecuniary: Tendency toward favour or bias
Select	<input type="radio"/>	<input type="radio"/>

11. Date at which the Conflict of Interest has been identified

Example: 7 January 2019

12. Please provide a brief outline of the nature of this Conflict of Interest *

Management of the Conflict of Interest

Refer to the DSS Conflict of Interest Policy

<https://curianet.dbb.org.au/Catholicschooloffice/dssresources/System%20Documents/Conflict%20of%20Interest.pdf> for advice on the management of Conflicts of Interest. In short, there are 3 key stages in managing conflicts of interest (i) reporting (ii) resolving (iii) registering.

13. Please provide a brief outline of the nature of this Conflict of Interest *

Disclosure

14. I have discussed this Conflict of Interest with my line manager *

	Yes	No
Select	<input type="radio"/>	<input type="radio"/>

15. Name of line manager

16. Position of line manager

Declaration

17.. Tick all that apply.

- I declare that the above details are correct and I make this declaration in good faith.
- I agree to update this disclosure throughout the period of my tenure as a Responsible Person on an annual basis or until such time as the conflict ceases to exist, or at such time as a conflict arises.
- I agree to comply with any conditions or restrictions imposed by the Catholic Schools Office to manage, mitigate or eliminate any actual, potential or perceived conflict of interest.

18.. Date

Example: 7 January 2019

- Send me a copy of my responses.