

ASSESSING & ADDRESSING CONFLICTS OF INTEREST DISCLOSED BY POLITICAL STAFF

Guideline for Managers of Political Staff and
the Chief of Staff to the Premier

Introduction and Purpose

Political staff are required under the [Political Staff Oath Regulation](#) and [Standards of Conduct for Political Staff](#) to avoid conflicts of interest. Political staff must arrange their private affairs in a manner that will prevent real, perceived or potential conflicts of interest from arising. Political staff also have an obligation to proactively disclose information to their manager (or the Chief of Staff to the Premier) regarding circumstances that may give rise to a real, perceived or potential conflict of interest so that any such conflict may be assessed and appropriately addressed. Effectively managing conflicts of interest is one of the primary ways that public confidence in the integrity of government is fostered and maintained.

The purpose of this guideline is to establish a procedural framework and toolkit for managers and the Chief of Staff to the Premier to assist them when seeking to assess a disclosure made by a political staff member to determine if a conflict of interest exists, and when seeking direction regarding how such a conflict may be addressed. The guideline supports the effective administration of the Standards of Conduct for Political Staff and ensures disclosures related to a conflict are addressed according to fair, transparent procedures that assess the staff member's interests against the need to serve the public interest. A process diagram summarizing the conflict of interest process is found at [Appendix D](#).

Political staff seeking information on disclosing a possible conflict of interest should refer to the companion document to this guideline, [Disclosing a Conflict of Interest: Guideline and Disclosure Form for Political Staff](#).

Scope

This guideline has the same scope as the Standards of Conduct for Political Staff. Political staff are persons appointed under section 15(1)(a) of the *Public Service Act* who report through to the Chief of Staff to the Premier or provide support to a Minister, and who are not assigned job duties primarily of an administrative, technical or communications nature. Most appointees working in the Office of the Premier and supporting Ministers' offices are political staff (e.g., Ministerial Assistants and Executive Assistants). Appointees to Government Communications and Public Engagement are not political staff.

Managers of regular employees in the BC Public Service seeking to assess an employee conflict of interest disclosure should review the conflict of interest page on MyHR for more information and resources, and/or confer with their ministry ethics advisor or deputy minister.

Defining a Conflict of Interest

The Standards of Conduct for Political Staff define a conflict of interest as a situation where a political staff member's private affairs or financial interests are in conflict, or could result in the perception of conflict, with the staff member's duties or responsibilities in such a way that:

- the staff member's ability to act in the public interest could be impaired; or
- the staff member's actions or conduct could undermine or compromise:
 - the public's confidence in the staff member's ability to discharge work responsibilities; or
 - the trust that the public places in the Province of British Columbia.

A conflict of interest therefore involves a conflict between the public duty and private interests of a political staff member, in which the private interests could influence the performance of their job duties, or in which a staff member uses their office for personal gain.

Conflicts of interest do not relate exclusively to matters concerning financial transactions or the transfer of economic benefit. A conflict may arise regardless of the staff member's intentions and does not necessarily imply an individual is improperly motivated. A conflict may arise wherever a set of circumstances exists that creates the risk of a real, perceived or potential conflict of interest.

Real, Perceived and Potential Conflicts

The Standards of Conduct for Political Staff require that political staff must disclose any real, perceived or potential conflict of interest. A **real** conflict of interest has the same definition as described above.

A **perceived** conflict of interest can be said to exist where a staff member's private interests would appear to a reasonable person to conflict with their job duties *even though there may not be an actual conflict*. For example, a staff member has a close relative who has applied for a job in the Premier's Office. The staff member will participate on the interview panel to take notes, but will play no role whatsoever in making the hiring decision. This may be viewed as a perceived conflict (the staff member is participating on the interview panel involving her relative) even though there is no real conflict (the staff member is only taking notes not participating in any decision-making). Note a perceived conflict can be just as serious as a real or actual conflict.

A **potential** conflict of interest arises where a staff member has private interests such that, while no conflict has yet arisen, a conflict would arise were the staff member to become involved in discharging workplace responsibilities in the future that could be influenced by the private interest. For example, a staff member is a Ministerial Assistant in the Ministry of Environment. The staff member has recently advised their manager that they intend to accept a volunteer role with an environmental advocacy group that operates across Canada, including in British Columbia. In this case, the staff member is in a potential conflict related to the possibility that the environmental advocacy group with whom they wish to affiliate may in the future lobby the provincial government to make a change to its current environmental policy.

Please refer to the [Standards of Conduct for Political Staff](#) for additional information on conflicts of interest.

Key Responsibilities: Managers of Political Staff and the Chief of Staff to the Premier

Following the reporting of a possible conflict of interest issue by a political staff member as required by the Standards of Conduct for Political Staff, an assessment by the employer must be made to determine if a real, potential or perceived conflict exists, and decisions made regarding what steps (if any) should be taken to address the conflict. Managers of political staff and the Chief of Staff to the Premier may both play a role in this process.

Responsibilities

Chief of Staff to the Premier and Deputy Chief of Staff to the Premier

- Advise managers of political staff of the required standards of conduct and the consequences of non-compliance, including providing comprehensive orientation to new managers of political staff regarding the Standards of Conduct for Political Staff.
- Provide timely advice and direction to managers of political staff and political staff respecting the application of this policy statement, including guidance on an appropriate employer response to transgressions of this policy; and
- Coordinate the development of awareness, training, and communication programs in support of this policy.
- Seek out advice as required on issues that are complex or cannot easily be resolved (e.g., advice from legal counsel, or the Head of the BC Public Service Agency).
- Where a political staff member has no other direct manager to whom they report, the Chief of Staff to the Premier or Deputy Chief of Staff to the Premier assume the responsibilities assigned below to managers of political staff.
- Manage disclosures under the *Public Interest Disclosure Act* and ensure all political staff are aware of the *Public Interest Disclosure Act*.

Managers of Political Staff

- Advise political staff of the required standards of conduct and the consequences of non-compliance, including providing comprehensive orientation to new staff members regarding the Standards of Conduct for Political Staff.
- Promote a work environment that is free of discrimination;
- Deal with breaches of this policy in a timely manner, taking the appropriate action based upon the facts and circumstances, and conferring with the Chief of Staff to the Premier as appropriate;
- Waive the provision on working relationships under the circumstances indicated; and
- Delegate authority and responsibility, where applicable, to apply this policy within their organization.
- Receive disclosures from and provide advice to political staff under the *Public Interest Disclosure Act*.

Political Staff

- Fulfil their assigned duties and responsibilities, regardless of the party or persons in power and regardless of their personal opinions;
- Disclose and resolve conflicts of interest or potential conflict of interest situations in which they find themselves;
- Maintain appropriate workplace behaviour;
- Avoid engaging in discriminatory conduct or comment; and
- Check with their manager or Chief of Staff to the Premier when they are uncertain about any aspect of this policy.

The Role of the BC Public Service Agency

The BC Public Service Agency plays a direct role in providing advice to managers, ethics advisors and deputy ministers as it relates to conflict of interest matters concerning regular [public service employees](#). As it relates to political staff, the role of the Agency is to support the Office of the Premier, which may include establishing human resource regulations, policies, guidelines and tools.

Principles for Managing Conflicts of Interest¹

To maintain public trust and confidence in the integrity of the Province of BC, and to create an organizational culture that supports political staff who bring forward potential conflict of interest issues, the following principles should be observed by managers and/or the Chief of Staff to the Premier when managing conflict of interest matters. These principles are grounded in certain core values including service, accountability and integrity.

Serving the Public Interest with Integrity

Decisions and advice regarding conflicts of interest should be made following an assessment of the merits of each individual case, should align with requirements and protocols established in the Standards of Conduct for Political Staff, this guideline and other applicable authorities, and should not be prejudiced by the personal views, preferences or interests of the decision-maker.

Supporting Consistency, Transparency and Accountability

The employer should ensure conflicts of interest are dealt with consistently and in accordance with the Standards of Conduct for Political Staff and procedures outlined in this guideline. To the extent

¹ Adapted from principles developed by the Organization for Economic Co-operation and Development (OECD), *Managing Conflict of Interest in the Public Sector*.

reasonable and necessary, organizations should be transparent within the organization regarding how a conflict of interest situation has been resolved, and should promote scrutiny of their management of conflict situations. This serves to ensure staff members understand why decisions to resolve a conflict were taken, enhances accountability, and supports continuous improvement in the process for addressing conflicts of interest.

Promoting Individual Responsibility

The employer should ensure political staff understand their obligations under the Standards of Conduct for Political Staff to arrange their private affairs in a manner that will prevent real, perceived or potential conflicts of interest from arising, and for resolving any such conflicts in favour of the public interest when they do arise. Organizations should demonstrate their commitment to supporting these staff member obligations by acting with integrity and professionalism when dealing with conflict of interest situations, and by complying with the Standards of Conduct for Political Staff and procedures outlined in this guideline.

Engendering an Organizational Culture Intolerant of Conflicts of Interest

The employer should create and promote a culture of open communication and dialogue regarding the importance of political staff integrity, and regularly remind political staff that fulfilling their obligations respecting conflicts of interest is a key part of maintaining public trust in the integrity of the Province of BC. This kind of culture building may rely on training initiatives, executive communications and other activities aimed at ensuring all political staff develop an intolerance of conflicts of interest, and have confidence in the policies and procedures followed by their organization to address conflicts that do arise.

Procedures for Assessing and Addressing Conflicts of Interest

Many conflict of interest issues can be resolved easily and informally by a staff member and their manager. For example, a manager might confirm that the staff member's private business selling eggs from their hobby farm at a local Sunday market does not constitute a conflict of interest. Conversely, a manager might advise a staff member that they cannot be a decision-maker for a job competition where one of the applicants is the employee's sister as this would constitute a conflict.

Where the issue cannot be easily and informally resolved, the following procedures are intended to provide a framework for assessing potential conflicts, and for addressing conflicts that do arise. It is expected these procedures will be followed by managers of political staff and the Chief of Staff to the Premier to assess and address a potential conflict of interest concern in their organization. These procedures are not exhaustive and are intended to assist the assessment process. Managers should consult with the Chief of Staff to the Premier for additional assistance, who may in turn seek additional advice (e.g., legal counsel, the Head of the BC Public Service Agency).

Procedures for assessing and addressing conflicts of interest are organized as a series of six sequential steps. A process diagram summarizing the conflict of interest process is found at [**Appendix D**](#).

1. **Disclosure by the Staff Member:** Political staff are required under the Standards of Conduct for Political Staff to disclose information to their manager (or the Chief of Staff to the Premier) regarding circumstances that may give rise to a real, perceived or potential conflict of interest.
2. **Identify Work Duties and Relevant Interests:** Identify the job duties, other public duties and private interests of the staff member that are relevant to the circumstances.
3. **Analyze and Assess:** Analyze whether the staff members private interests conflict, or could be perceived to conflict, with their ability to discharge their work duties or serve the public interest, and assess the severity of the harm that could result from the conflict.
4. **Decide and Resolve/Mitigate:** Decide whether the circumstances give rise to a real, perceived or potential conflict that must be addressed in some way by the employer; consider what steps could be taken to resolve or mitigate the conflict so it does not pose unacceptable risks to the employer or the public interest.

5. **Document:** Document on the staff member's personnel file, and elsewhere as may be required, the reasons for the conclusion reached and steps taken (if any).
6. **Communicate:** To the extent reasonable and necessary, communicate transparently within the organization regarding the conflict and how it was addressed.

STEP 1: DISCLOSURE BY THE STAFF MEMBER

New and current political staff who find themselves in a real, perceived or potential conflict of interest are required under the Standards of Conduct for Political Staff to disclose the matter to their manager (or the Chief of Staff to the Premier), and to follow the employer's direction in resolving the conflict. Disclosure is required **both at the outset of employment and an ongoing basis as circumstances may demand**. This includes employees who have less than full-time employment, or job functions that necessarily contemplate external remunerative work or external affiliation, as such external affiliations may be a common source of a possible conflict.

Political staff disclosures regarding conflicts of interest may be submitted using the form contained in the guideline, [Disclosing a Conflict of Interest: Guideline and Disclosure Form for Political Staff](#). At the discretion of the staff member's manager (or the Chief of Staff to the Premier), alternate methods of reporting may also be accepted (e.g., email, letter, etc.), typically where the magnitude of the possible conflict is deemed to be relatively minor and therefore more informal means of resolution or mitigation may be adopted.

While the Standards of Conduct for Political Staff establish a positive duty on political staff to disclose possible conflicts of interest related to their own conduct, the employer may on occasion become aware of allegations of conflict that the staff member in question has not disclosed, but which may represent a conflict of interest. Managers who become aware of possible conflicts of interest in this way should substantiate the legitimacy of the allegation and, where appropriate, discuss the matter with the staff member deemed to be in a possible conflict. If circumstances exist that may constitute a real, perceived or potential conflict, this guideline should be consulted to assess and address the matter.

Where a conflict of interest was known to the staff member but not disclosed, consideration should be given to treating the situation as an instance of misconduct.

STEP 2: IDENTIFY WORK DUTIES AND RELEVANT INTERESTS

Recall that the Standards of Conduct for Political Staff define a conflict of interest as a situation where a political staff member's private affairs or financial interests are in conflict, or could result in the perception of conflict, with the staff member's duties or responsibilities in such a way that:

- the staff member's ability to act in the public interest could be impaired; or
- the staff member's actions or conduct could undermine or compromise:
 - the public's confidence in the staff member's ability to discharge work responsibilities; or
 - the trust that the public places in the Province of British Columbia.

A conflict of interest therefore involves a conflict between the public duty and private interests of a political staff member, in which the private interests could influence the performance of their job duties, or in which a staff member uses their office for personal gain.

In reviewing a staff member's disclosure, managers (or the Chief of Staff to the Premier) should therefore ensure the staff member has disclosed:

- The specific **job or public duties** of the staff member relevant to the possible conflict;
- The specific **private interests** of the staff member relevant to the possible conflict; and
- Any specific interests of the employer related to upholding public trust and confidence.

For example, a staff member works in the Ministry of Municipal Affairs & Housing as a Ministerial Assistant and has responsibility for advising their Minister on issues related to provincial grants provided to local governments in BC. The staff member has a private consulting business that provides advice to local governments on how to best navigate the application process so that they may improve their chances of obtaining a local government grant. In this case:

- The staff member's relevant job duties might include: being informed about processes and approval procedures related to the grant process, liaising with ministry staff, and advising their Minister on any issues of concern;
- The staff member also has other relevant public duties, for example ensuring they do not use information acquired through their employment for personal benefit.
- The staff member's private interests are securing additional income and utilizing their knowledge of local government grants for purposes other than their job as a Ministerial Assistant;
- The employer's interests are a fair grant process where all applications are treated equally and applications are evaluated and approved according to objective criteria.

STEP 3: ANALYZE AND ASSESS

Having received the staff member's disclosure (Step 1) and identified private and workplace/public interests relevant to the possible conflict (Step 2), the next step is to analyze and assess those interests to determine if they conflict, or could be perceived to conflict, in a way that:

- Impairs the staff members ability to act in the public interest;
- Undermines the public's confidence in the staff member's ability to discharge work responsibilities; and/or
- Undermines the public's trust in the Province of BC.

Making this determination relies on two separate assessments:

1) Do the relevant private interests of the staff member and their workplace/public duties relate to one another in such a way that it can be concluded a real, perceived or potential conflict of interest exists?

Three standardized tests are provided to assist in determining if a real, perceived or potential conflict of interest exists. These three tests can be found at **Appendix A**.

Note these same three tests are included in the [Staff Member Guideline](#) to assist political staff when trying to self-assess whether they are in a possible conflict and should therefore disclose the matter to their manager (or the Chief of Staff to the Premier). Managers may wish to discuss these tests with their staff member as part of the process of better understanding whether a conflict does or does not exist.

2) If a real, perceived or potential conflict of interest does exist, what is the severity of the conflict (i.e., what would the magnitude of the overall impact be for the employer were the conflict left unaddressed)?

Determining the extent to which a real, perceived or potential conflict of interest must be addressed or mitigated by the employer and staff member relies on determining the severity of the conflict. Conflicts can be more or less severe in their impacts, and therefore the employer's analysis of and response to a possible conflict must include an assessment of how severe the consequences of the conflict would be were the conflict allowed to persist.

Assessing the severity of a conflict depends on ascertaining: (i) the likelihood that public interests or workplace decisions made in the relevant circumstances would be unduly influenced by a private interest, and (ii) the seriousness of the harm that could result from such influence. Further information and criteria for assessing the severity of a conflict of interest is found at **Appendix B**.

STEP 4: DECIDE AND RESOLVE / MITIGATE

Following the completion of Step 3, the disclosure made by a staff member can now be characterized as:

- A real, perceived or potential conflict of interest (or not a conflict at all);
- More likely to influence, or less likely to influence, the staff member in making workplace decisions or meeting other public duties; and
- More serious, or less serious, regarding the harm that could result from such influence.

The next step is to decide whether the conflict, its likelihood of influencing the staff member and potential for harm require the conflict to be resolved or mitigated. Each determination of this kind must be based on a case-by-case review of the specific circumstances at issue, and therefore relies on the professional judgement of the manager (or the Chief of Staff to the Premier) to gauge the overall magnitude of the conflict and decide how it should be addressed. Such determinations should:

- Assess the private interests of the staff member against their workplace duties and the employer's obligation to ensure the public interest is upheld;
- Be consistent with the Standards of Conduct for Political Staff, applicable guidelines or other authorities;
- Where deemed necessary by the Chief of Staff to the Premier, be made in consultation with an advisor (e.g. legal counsel, the Head of the BC Public Service Agency) where the matter is complex or cannot be easily resolved; and
- Be conducted in a timely manner and document any decisions made.

Options for Resolution or Mitigation

Specific options for resolving or mitigating a conflict of interest can include one or more of several strategies as appropriate in the circumstances:

- Divestment or liquidation of a financial interest by the staff member;
- Assignment of a conflicting financial interest into a “blind trust” arrangement;
- Return or repayment of a gift or other benefit arising from a conflict;
- Recusal of the staff member from involvement in affected decision-making processes;
- Restriction of access by the staff member to particular information;
- Rearrangement or reassignment of the staff member's duties and responsibilities;
- Transfer of the staff member to another non-conflicting position;
- Resignation of the staff member from the conflicting private interest (e.g., resigning from a part-time position with another employer that is in conflict with their job as political staff); or
- Resignation/termination of the staff member.

The list above is not intended to be exhaustive. See **Appendix C** for more information on these options.

Identifying the Appropriate Decision-Maker

Decisions by the employer regarding how to address a staff member's disclosure may be made by the staff member's manager or the Chief of Staff to the Premier, as circumstances warrant.

For issues that are simple or straightforward, the decision-maker may be the staff member's manager. For example, a staff member receives an expensive gift from a private stakeholder at a recent meeting. The manager makes the decision to resolve the conflict by directing their staff member to return the gift.

For any issue that is not simple or straightforward, it is expected the Chief of Staff to the Premier will be the final decision-maker. Under the Standards of Conduct for Political Staff, the Chief of Staff to the Premier is responsible for “dealing with breaches of [the Standards] in a timely manner, taking the appropriate action based upon the facts and circumstances.” This responsibility extends to conflict of

interest matters as well. Given this responsibility, managers of political staff should err on the side of caution when reviewing political staff disclosures and advise the Chief of Staff to the Premier of any issue they believe may require the Chief of Staff's involvement or decision.

For example, a newly hired Ministerial Assistant discloses that they have financial interests in several private companies and is concerned these companies may have direct or indirect business relationships with the ministry. The decisions regarding whether a conflict exists in this case, and how to proceed if a conflict does exist, are likely complex. Further, the conflict could be serious in its implications for the ministry were it allowed to persist. In any such situation, it is expected the Chief of Staff to the Premier will be involved and make the final decision regarding how to proceed, seeking out additional advice to inform their decision as they deem necessary (e.g., advice from legal counsel or the Head of the BC Public Service Agency).

STEP 5: DOCUMENT

Political staff disclosures regarding possible conflicts of interest and the decisions made to resolve or mitigate such conflicts must be clearly recorded in formal documents. This should include documentation on the staff member's personnel file (and elsewhere as required) reflecting the reasons for the conclusion reached by the employer and the directions (if any) to be followed. A copy of the written reasons should also be provided to the staff member.

Documenting the conflict provides clarity to the staff member and their organization regarding the conflict and its outcome, and enables the organization to demonstrate to an outside party, if necessary, that a specific conflict has been appropriately identified and managed.

STEP 6: COMMUNICATE

To the extent reasonable and necessary, government organizations should be transparent within the organization about how a conflict of interest was addressed to ensure misunderstandings about a conflict and decisions taken by the employer to respond to the conflict are minimized.

For example, a manager becomes aware that the management of a conflict of interest issue has created concern in the work unit about whether or not the staff member in question proactively disclosed the conflict to the manager as required by the Standards of Conduct for Political Staff. To support transparency and alleviate the concerns of other staff, the manager might communicate with his staff and confirm the staff member followed the correct process regarding disclosure and has taken action to resolve the conflict.

Care must be taken in making any such disclosure to respect the privacy rights of the staff member, to protect other confidential or sensitive information, and to ensure that the release of the information is done in a way that will reduce, not exacerbate, possible concerns held by other staff in relation to the conflict.

Timelines for Assessing and Addressing Conflicts of Interest

The review and resolution of political staff disclosures regarding conflicts of interest should be completed in a timely manner. Specifically:

- **Step 1:** As indicated in the Guideline for Staff Members, a staff member has 30 days to make a disclosure to the employer once they become aware of a possible conflict.
- **Steps 2 & 3:** Initial review, analysis and assessment of the disclosure by the employee's manager should be completed within approximately two weeks after receiving the staff member's disclosure.
- **Step 4:** No firm timeline is recommended in regards to making a final decision about the conflict and what steps (if any) may be required to resolve or mitigate the conflict. Such decisions can be complex

and may require additional consultation. It is therefore recommended this step be completed in a reasonable timeframe, consistent with the specific circumstances under review.

- **Step 5:** Documenting the conflict should be done throughout the review process; final documentation on the staff member's personnel file (and elsewhere as required) should be completed within approximately two weeks following the completion of Step 4.
- **Step 6:** Communication to the broader organization about a possible conflict should only occur following a review of the extent to which such communication is reasonable and necessary. This will usually involve additional consultation. It is therefore recommended this step be completed in a reasonable timeframe, consistent with the specific circumstances under review.

Reporting Allegations of Wrongdoing

In addition to disclosing conflicts of interest, a political staff member has a duty to report any situation relevant to the BC Public Service that they believe contravenes the law, misuses public funds or assets, or represents a danger to public health and safety or a significant danger to the environment. Political staff can expect such matters to be treated in confidence, unless disclosure of information is authorized or required by law (for example, the Freedom of Information and Protection of Privacy Act). Political staff will not be subject to discipline or reprisal for bringing forward to their manager or the Chief of Staff to the Premier, in good faith, allegations of wrongdoing. Please refer to the [Standards of Conduct for Political Staff](#) for more information.

The Standards of Conduct for Political Staff note that political staff may also report wrongdoing under the *Public Interest Disclosure Act* (PIDA). Please refer to the Standards for more information and direction regarding the disclosure of wrongdoing under PIDA.

Questions?

For assistance with questions or other issues related to assessing and addressing conflicts of interest, managers of political staff should reach out to the Chief of Staff to the Premier for consultation and advice. The Chief of Staff may in turn seek out additional advice to as they deem necessary.

References and Resources

- [Standards of Conduct for Political Staff](#)
- [Oath of Employment for Political Staff](#)
- [Disclosing a Conflict of Interest: Guideline and Disclosure Form for Political Staff](#)
- [Ethics & Standards of Conduct for Political Staff - MyHR](#)

Conflict of Interest Toolkit

Appendix A: Tests for Identifying Conflicts of Interest

Appendix B: Criteria for Assessing the Severity of Conflicts of Interest

Appendix C: Options for Resolving or Mitigating a Conflict of Interest

Appendix D: Conflict of Interest Process Diagram

Appendix A: Tests for Identifying Conflicts of Interest

The following tests provide a simple questionnaire-style framework designed to assist managers and/or the Chief of Staff to the Premier when seeking to determine whether a disclosure made by a staff member constitutes a real, perceived or potential conflict of interest:²

- **Test 1: Real (or Actual) Conflict of Interest**
- **Test 2: Perceived (or Apparent) Conflict of Interest**
- **Test 3: Potential Conflict of Interest**

² Tests in this section have been adapted from generic conflict of interest tests developed for public bodies by the Organization for Economic Co-operation and Development (OECD), *Managing Conflict of Interest in the Public Sector*. The explanatory comments for each test are similarly adapted from the OECD generic tests.

TEST 1: REAL (OR ACTUAL) CONFLICT OF INTEREST

- **Question 1: What duties or functions (i.e. job duties) is Political Staff Member X responsible for?**

[Refer to the job description, information describing the functions of the staff member's organization, duties flowing from regulation or legislation, the Standards of Conduct for Political Staff, or other descriptions of duties]

Answer 1: Staff Member X is responsible for functions 1, 2 and 3 in ministry B.

- **Question 2: Does Staff Member X have private interests of a relevant kind?**

[Refer to Comments below on "relevant private interests"]

Answer 2: Yes, the applicable facts are clear and Staff Member X has job-relevant private interests.

- **Conclusion:** Staff Member X has a conflict of interest.

EXPLANATORY COMMENTS:

"Private interests of a relevant kind" refers to private/personal interests that could be affected by the performance of Staff Member X's job duties or responsibilities. In this context, the private interests:

- Qualitatively, are of such a kind that it would be reasonable to believe the private interests could influence Staff Member X's performance of their job duties (for example, close affiliations with people or organizations, or personal assets or investments, etc); **or**
- Quantitatively, are of such financial value that it would be reasonable to believe that the private interest could influence Staff Member X's performance of their job duties (for example, a significant family business interest, opportunity to make a large financial profit or avoid a large loss, etc).

For example, a staff member works in the Ministry of Municipal Affairs & Housing as a Ministerial Assistant and has responsibility for advising their Minister on issues related to provincial grants provided to local governments in BC. The staff member has a private consulting business that provides advice to local governments on how to best navigate the application process so that they may improve their chances of obtaining a local government grant. In this case:

- The staff member's relevant job duties might include: being informed about processes and approval procedures related to the grant process, liaising with ministry staff, and advising their Minister on any issues of concern;
- The staff member also has other relevant public duties, for example ensuring they do not use information acquired through their employment for personal benefit.
- The staff member's private interests are securing additional income and utilizing their knowledge of local government grants for purposes other than their job as a Ministerial Assistant;
- The employer's interests are a fair grant process where all applications are treated equally and applications are evaluated and approved according to objective criteria.

On this basis, it would be concluded the staff member has job-relevant private interests and is therefore in a real conflict of interest. Steps must be taken by the staff member at the direction of their manager or the Chief of Staff to the Premier to ensure this conflict is addressed.

TEST 2: PERCEIVED (OR APPARENT) CONFLICT OF INTEREST

- **Question 1: What duties or functions (i.e. job duties) is Political Staff Member X responsible for?**

[Refer to the job description, information describing the functions of the staff member's organization, duties flowing from regulation or legislation, the Standards of Conduct for Political Staff, or other descriptions of duties]

Answer 1: Staff Member X is responsible for functions 1, 2 and 3 in ministry B.

- **Question 2: Does Staff Member X have private interests of a relevant kind?**

[Refer to Comments below]

Answer 2: The relevant facts are not certain, but it appears to be the case that Staff Member X may have job-relevant private interests.

- **Conclusion:** Staff Member X has a perceived (or apparent) conflict of interest.

EXPLANATORY COMMENTS:

“Private interests of a relevant kind” means the same thing as in Test 1. Recall that a perceived conflict of interest can be said to exist where a staff member's private interests would appear to a reasonable person to conflict with their job duties *even though there may not be an actual conflict*.

A perceived (or apparent) conflict-of-interest situation can be as seriously damaging to the public's confidence in a political staff member, or the staff member's ministry/organization, as a real (or actual) conflict. A perceived conflict of interest should therefore be treated as seriously a real (or actual) conflict, until such time as a final determination regarding the conflict is made.

For example, a staff member has a close relative who has applied for a job in the Premier's Office. The staff member will participate on the interview panel to take notes, but will play no role whatsoever in making the hiring decision. This may be viewed as a perceived conflict (the staff member is participating on the interview panel involving her relative) even though there is no real conflict (the staff member is only taking notes not participating in any decision-making).

In most instances, the employer must address a perceived conflict in the same way as a real or actual conflict. So in the example above, the staff member's manager (or the Chief of Staff to the Premier) would decide to remove the staff member from the interview panel to eliminate the perceived conflict and thereby ensure the public interest is upheld.

In rare situations, it may be determined that the perceived conflict can be managed or mitigated in a way that makes the conflict permissible. For example, they might inform persons likely to be affected by the interview panel's decision that there is a perceived conflict in relation to the staff member being involved with the interview process, but explain that there is no real conflict and therefore it has been decided to let the staff member participate on the panel to take notes. It is recommended that decisions of this kind should only be made in consultation with the Chief of Staff to the Premier, who may at their discretion seek out additional advice (e.g., legal counsel, the Head of the BC Public Service Agency).

TEST 3: POTENTIAL CONFLICT OF INTEREST

- **Question 1: What duties or functions (i.e, job duties) is Political Staff Member X responsible for?**

[Refer to the job description, information describing the functions of the staff member's organization, duties flowing from regulation or legislation, the Standards of Conduct for Political Staff, or other descriptions of duties]

Answer 1: Staff Member X is responsible for functions 1, 2 and 3 in ministry B.

- **Question 2: Does Staff Member X have private interests of a relevant kind?**

[Refer to Comments below]

Answer 2: No, at the present moment Staff Member X has private interests which are not job-relevant, but it is reasonably foreseeable that, in the future, Staff Member X's private interests could become relevant interests.

- **Conclusion:** Staff Member X has a potential conflict of interest.

EXPLANATORY COMMENTS:

"Private interests of a relevant kind" means the same thing as in Test 1.

The significant factor in this test is that Staff Member X has private interests which are currently not private interests of a relevant kind because Staff Member X's job duties are currently unrelated to their private interests. However, if it is likely or possible that circumstances could change in such a way that their private interests could affect the performance of their job duties, then those interests would become relevant interests.

For example, a staff member is a Ministerial Assistant in the Ministry of Environment. The staff member has recently advised their manager that they intend to accept a volunteer role with an environmental advocacy group that operates across Canada, including in British Columbia. In this case, the staff member is in a potential conflict related to the possibility that the environmental advocacy group with whom they wish to affiliate may in the future lobby the provincial government to make a change to its current environmental policy.

As a result, Staff Member X can be considered as having a potential conflict of interest. This situation could continue indefinitely and must therefore be distinguished carefully from real or perceived conflicts of interest (see Tests 1 and 2).

Appendix B: Criteria for Assessing the Severity of Conflicts of Interest

Assessing the severity of a conflict of interest depends on determining: (i) the likelihood that public interests or workplace decisions made in the relevant circumstances would be unduly influenced by a private interest, and (ii) the seriousness of the harm or wrong that could result from such influence.

The two tables below list the questions to be asked when determining (i) and (ii) above. These questions express criteria that identify the most important factors to be considered when making decisions about conflicts of interest.³

TABLE 1: LIKELIHOOD OF UNDUE INFLUENCE

What is the likelihood that public interests or workplace decisions made in the relevant circumstances would be unduly influenced by a private/personal interest?

Questions / Criteria	Explanatory Comments
What is the value/impact of the private/personal interest?	<ul style="list-style-type: none"> • It is reasonable to assume that the greater the monetary value of the private interest, the more probable is its influence on the employee. • Monetary value is not the only appropriate measure of the potential impact of a private interest. For example, gifts from external entities may be of small value individually, but if provided regularly to an employee may create and sustain a relationship that threatens to influence the workplace decision-making of the employee.
What is the scope of the relationship to the private/personal interest?	<ul style="list-style-type: none"> • Scope of the relationship refers to its duration and depth. • Longer and closer associations increase the scope of the relationship and therefore the risk of an employee being unduly influenced by a private/personal interest. • Examples of such associations include: a multi-year consulting agreement, a position on a company board of directors, or holding an elected office.
What is the extent of discretion? How much latitude does the employee have in making important workplace decisions?	<ul style="list-style-type: none"> • Discretion most often varies according to organizational role. • For example, Executives and senior managers will typically have more discretion to make workplace decisions than administrative staff, and therefore are at greater risk of being unduly influenced by a private/personal interest.

³ Criteria for assessing the severity of a conflict of interest have been adapted from criteria developed by the National Center for Biotechnology Information, *Conflict of Interest in Medical Research, Education and Practice*.

TABLE 2: SERIOUSNESS OF POSSIBLE HARM

What is the seriousness of the harm that could result from the undue influence of a private/personal interest impacting the workplace decisions of an employee or other public interests?

Questions / Criteria	Explanatory Comments
<p>What is the value/impact of the public interest, or job duties or functions of the employee?</p>	<ul style="list-style-type: none"> • Assessing the seriousness of a conflict requires an examination of the specific public interest, job duties and/or functions at risk of harm in a particular situation. • For example, a public interest related to employees of Treasury Board Staff would be that they provide objective, unbiased advice to Treasury Board. Given the role of Treasury Board, it would be a <u>relatively serious harm</u> if a TBS employee did not fulfill this public interest and instead advised Treasury Board in order to serve a private interest. • In contrast, a public interest related to junior administrative staff might be that they serve the public with professionalism and courtesy. While an important public interest, it would be a <u>relatively less serious harm</u> that would result were the employee to fail to serve this public interest because of the influence of a private interest.
<p>What is the scope of the consequences?</p>	<ul style="list-style-type: none"> • The greater the scope of the consequences, the greater the potential for serious harm. • Conflicts that affect more employees, members of the public, etc., have a larger scope of consequences and therefore a larger scope for potential serious harm. • In rare circumstances, the scope of consequences may also include the employee's colleagues or organization. For example, a senior manager in the Environmental Assessment Office who also provides consulting services to a major oil and gas company may not only be compromising themselves, but also the trust placed in the EAO and its employees as environmental stewards, or even the integrity of the BC Public Service as a public institution.
<p>What is the extent of accountability?</p>	<ul style="list-style-type: none"> • Generally, a conflict of interest is more serious when the level of accountability is less extensive. • For example, if an employee is managing a project but regularly reports to an oversight committee, and also has their project decisions reviewed by a regulatory agency, then accountability for decision-making is bolstered and the risk of serious harm to a public interest resulting from the undue influence of private/personal interest is diminished. • By contrast, if an employee managing a project has little or no oversight, then accountability for decision-making is diminished and the risk of serious harm to a public interest is increased.

Appendix C: Options for Resolving or Mitigating a Conflict of Interest

Specific options for resolving or mitigating a conflict of interest can include one or more of several strategies as appropriate in the circumstances. The following list provides examples of such options but is not intended to be exhaustive.⁴

Divestment or liquidation of a financial interest held by the staff member

- Eliminates the risk of a real, perceived or potential conflict of interest arising from an asset or liability held by a staff member.
- Requires the staff member to divest their assets or liabilities through sale or transfer to another person at arm's length, or relinquishment of the asset or repayment of the liability.

Assignment of a conflicting financial interest into a "blind trust" arrangement

- A blind trust places assets of a staff member in a trust. The trustee is empowered to exercise all the rights and privileges associated with those assets, including the power to sell with no direction from or control by the staff member placing the assets in trust. No information is provided to the staff member except as required by law or the trust agreement.
- Selection of a trustee by the staff member must be made with care. The trustee must have an arm's length relationship to the staff member (e.g., cannot be a family member). The trustee can be an investment company, a trust, a public trustee or an individual, such as a lawyer.
- It is the staff member's responsibility to demonstrate that they have established a blind trust that satisfies the concerns of the employer.

Recusal of the staff member from involvement in affected decision-making processes

- Where a particular conflict is unlikely to regularly occur, it may be appropriate for the staff member to continue in their current position but not participate in decision-making on any matters potentially related to the conflict.
- When recusal is adopted, care must be taken to ensure that all affected parties to the decision understand why recusal is necessary to protect government integrity, and understand their role in supporting the recusal.

Restriction of access by the staff member to particular information

- Similar to recusal of the staff member from involvement in making certain decisions, it may be appropriate for infrequently occurring conflicts to withdraw the staff member from discussion of certain proposals or plans, or to prevent the staff member from receiving relevant documents and other information related to their private/personal interest.
- When restriction of access is adopted, care must be taken to ensure that all affected parties to the decision understand why the restriction is necessary to protect government integrity, and understand their role in supporting the restriction.

Rearrangement or reassignment of the staff member's duties and responsibilities or transfer of the staff member to a non-conflicting position

- Where a particular conflict is likely to be ongoing or occur frequently, *ad hoc* recusal from decision-making or restriction to particular information is likely inappropriate and insufficient.
- In such cases, the option of rearranging or reassigning certain duties, functions or responsibilities of the staff member may be considered where possible.

⁴ Options in this section have been adapted from options presented by the Organization for Economic Co-operation and Development (OECD), *Managing Conflict of Interest in the Public Sector*.

- Where duties, functions and responsibilities cannot be rearranged or reassigned in a way that resolves or sufficiently mitigates the conflict, transfer of the staff member into another non-conflicting position may also be considered.

Resignation of the staff member from the conflicting private interest

- Where the conflict cannot be resolved by other means (for example, by one or more of the measures listed above), a staff member may be required to remove or eliminate the conflicting private interest.
- For example, if the staff member is doing consulting work as a side-business that is in direct conflict with their role as political staff, the only resolution may be for the staff member to cease the consulting work.

Resignation/termination of the staff member from Government

- Where a serious conflict cannot be resolved by other means, or where the staff member is unwilling to take steps to remove or eliminate the private interest in conflict, the staff member may be required to resign (or be terminated) from Government.
- This option should only be considered following a thorough review and receipt of professional human resource advice and when other options available to resolve or mitigate the conflict are not apparent.

Appendix D: Conflict of Interest Process Diagram

Disclosure of Conflict of Interest by Political Staff Member to the Employer

Identification of possible conflict by the staff member: Political staff who believe they are, or may be, in a real, perceived or potential conflict of interest must bring the matter forward to their manager or the Chief of Staff to the Premier. This step should be completed by the employee within **30 days** of the staff member becoming aware of the possible conflict.



Confirmation of possible conflict by staff member's manager: Where the issue is straightforward, the manager may direct the staff member to take steps required to resolve or mitigate the conflict. Where the issue is complex and/or not easily resolved or mitigated, the manager may require the staff member to complete the Conflict of Interest Disclosure Form for Political Staff.



Completion of disclosure form by staff member: The form ensures all applicable information related to the conflict is gathered and disclosed in writing, and establishes the basis for additional review by the staff member's manager or the Chief of Staff to the Premier.



Assessment and Resolution by the Employer

Review of staff member's disclosure by their manager or the Chief of Staff to the Premier



Identify work duties and relevant interests: Identify the work duties, government interests and private interests of the staff member that are relevant to the circumstances.



Analyze and assess: Analyze whether the staff member's private interests conflict, or could be perceived to conflict, with their ability to discharge their work duties or serve the public interest, and assess the severity of the harm that could result from the conflict. This step may involve consultation with Chief of Staff to the Premier, who may in turn seek out additional advice.



Decide and resolve/mitigate: Decide whether the circumstances give rise to a real, perceived or potential conflict that must be addressed in some way by the employer; consider what steps could be taken to resolve or mitigate the conflict so it does not pose unacceptable risks to government or the public interest; communicate the final decision and direction to the staff member in writing.



Document: Document on the staff member's personnel file, and elsewhere as may be required, the reasons for the conclusion reached and steps taken (if any).



Communicate: To the extent reasonable and necessary, communicate transparently within the organization regarding the conflict and how it was addressed.