



Conflicts of Interest Policy and Procedure

Professional Standards

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POLICY

1 Introduction

Fire & Rescue NSW (FRNSW) is committed to managing conflicts of interests in a transparent manner to ensure good governance, sound corruption prevention, effective risk management, and to maintain the reputation and integrity of FRNSW and its employees. The public is entitled to have confidence in the integrity of FRNSW and to know that an employee's personal interests do not conflict with their government duties.

Integrity is one of the core values of FRNSW and the NSW government. Acting with integrity means avoiding conflicts of interest and never placing, or appearing to place, your own personal interests before those of FRNSW. The integrity and fairness of the decisions and actions taken by employees can be compromised when conflicts of interest are not identified and appropriately managed. A conflict of interest, or the perception that a conflict of interest may have arisen, can do great damage to the performance and reputation of FRNSW.

The purpose of this policy is to set the professional behaviours, standards and ethics expected of all employees in regard to reporting and managing any actual, perceived or potential conflicts of interest. It outlines the responsibilities of employees in identifying, reporting and managing conflicts of interest and seeks to protect both employees and FRNSW.

2 Scope and application

This policy applies to all FRNSW employees including but not limited to permanent and retained firefighters; administration and other staff including consultants, contractors and sub-contractors; volunteers and students gaining work experience (henceforth referred to as employees).

It is important to note that this policy applies to activities outside the workplace which could undermine public confidence in or harm the reputation of FRNSW.

3 Legal and policy framework

The legal and policy framework includes, but is not limited to:

3.1 Legal framework

- *Fire and Rescue Act NSW 1989*
- *Fire Brigade Regulation 2014*
- *Government Sector Employment Act 2013 (GSE Act)*
- *Independent Commission Against Corruption Act 1988 (ICAC Act)*
- *Public Interest Disclosures Act 1994*

3.2 Policy framework

- *FRNSW Code of Conduct and Ethics*
- *FRNSW Managing Gifts and Benefits Policy*
- *FRNSW Intellectual Property Policy*
- *FRNSW Public Interest Disclosures Policy*
- *FRNSW Secondary or Other Employment Policy*

4 Definitions

4.1 Conflict of interest

A conflict of interest occurs when the private interests of a FRNSW employee interferes with or influences, or appears to interfere or influence their official duties and responsibilities. It includes situations where official decisions may be influenced by private interests in social, professional or business activities with individuals or groups. This includes private interests held jointly with, or held separately by friends, relatives, associations / businesses, community groups, and rivals.

It is important to note that a conflict of interest can arise in many situations, and is not necessarily wrong or unethical. What is important, however, is to appropriately identify, report and effectively manage any actual, perceived or potential conflict of interest in a timely manner.

4.2 Private Interests

A private interest is broadly defined as anything personal in your private life that impacts on you. It is only relevant to this policy where there is, or could be perceived to be, a connection to your official duties.

Private interests can include your social, community, professional and business interests and those of the people and groups with which you associate (including friends, relatives, associations / businesses, community groups, rivals and enemies).

Private interests that may give rise to a conflict of interest are often broken into two groups, pecuniary and non pecuniary.

4.3 Pecuniary (financial) interests

Pecuniary interests involve any situation where there is the potential for you or your associates to benefit financially. Pecuniary interests do not necessarily involve an exchange of money. Pecuniary interests also exist where a person (relative or associate) owns property, holds shares or has a position in a company which interacts or may interact with FRNSW (and where your decisions may benefit them).

4.4 Non pecuniary (non financial) interests

A non-pecuniary interest does not have a financial component. A non-pecuniary interest can involve personal or family relationships, or involvement in social, political, religious, sporting or cultural activities that could influence, or be perceived to influence, your judgment or decisions as a FRNSW employee.

Personal opinions, prejudices and attitudes can also represent a non-pecuniary interest. If you are unable to set these aside in the conduct of your public duty, then these can lead to a conflict of interest. Even when you can set them aside, such personal viewpoints might be seen to be a conflict of interest by a reasonable person.

4.5 Official duties and responsibilities

These include what you are required to do in your job, as well as what is required by FRNSW as outlined in our Values, the Code of Conduct and other policies, standard operating procedures and guidelines.

5 Types of Conflicts of Interest

Conflicts of interest may be actual, perceived or potential.

Actual	Perceived	Potential
Where a conflict exists between your official duties and responsibilities and your private interests	Where it could be seen by a reasonable person that your private interests could improperly interfere or influence you in the performance of your official duties or responsibilities, whether or not this is in fact the case.	Where your private interests could interfere with or influence your official duties or responsibilities in the future.

5.1 Examples of Conflicts of Interests

The range and extent of FRNSW activities and the individual roles and personal interest of its employees makes it impossible to list every type of potential conflict of interest. Some examples of a conflict of interest include but are not limited to:

- Financial interests (of the employee, friends, relatives, associations / businesses, community groups, and rivals) that could influence the impartiality of the performance of duties;
- A gift or benefit that provides, or may be perceived to provide, an incentive for employees to seek the services of a particular company over others;
- Personal beliefs or attitudes that influence the performance of duties;
- A FRNSW decision maker who also representing the interests of a community group affected by the decision;
- Secondary or future employment (paid or unpaid) which may conflict with FRNSW duties;
- A decision or approval of expenditure which will affect the decision maker, friends, relatives, associations/businesses, community groups, rivals and/or enemies;
- An individual on a selection panel is a friend, relative, rival or enemy of an applicant for the position;
- An individual assessing tenders from companies in which they have an interest and/or their friends, relatives, associations/businesses, community groups, rivals and enemies;
- An individual approving requests to waive fees for FRNSW services to themselves, friends, relatives, associations/businesses, community groups, rivals and enemies;
- An individual or their friends, relatives, associations/businesses, community groups, rivals and enemies is the director/shareholder of a company that may be affected by policy changes being considered in their work area.
- Character references

5.2 Former employees

All individuals must be careful when dealing with former employees, and make sure they do not receive favourable treatment or access to private or confidential information. Individuals must report incidents where attempts are made to influence them by former employee.

It is important to note that conflicts of interest that lead to biased decision making may constitute corrupt conduct.

6 Policy principles

All FRNSW employees have a responsibility to perform their roles effectively, efficiently and fairly and to avoid situations where their private interests can affect their public duties.

6.1 Protecting the public interest by upholding our values

All government sector employees including FRNSW employees, have a responsibility to place the public interest over their own personal interests. Acting in the public interest requires leadership, courage and innovation to develop practical recommendations and actions that are consistent with the core values and will help the Government of the day achieve its objectives. Acting in ways that are expedient or convenient, but which do not promote the integrity, trust, service and accountability of the government sector, are not in the public interest.

6.2 Promoting transparency, accountability, integrity and impartiality.

Transparency and accountability, integrity and impartiality are fundamental to FRNSW and the NSW government sector. Public acceptance of government and the roles of government sector employees depends upon trust and confidence founded upon the administration being held accountable for its actions. In serving the public, acting with integrity means being free of inappropriate self-interest and bias and acting at all times in the public interest.

Employees hold positions of public trust and must take responsibilities for their own actions. They must ensure that their duties are performed transparently, efficiently and in accordance with the law. All decisions made and actions taken must be able to withstand public scrutiny, including the efficient and effective use of organisational resources.

6.3 Developing an organisational culture that effectively identifies and manages conflicts of interest

Having a culture in which employees are comfortable in raising any concerns about possible conflicts of interest with their managers before they become a problem, will help protect FRNSW.

Employees are actively encouraged to ask questions and seek advice about possible conflict of interests from a supervisor/manager and/or Professional Standards.

FRNSW supports an organisational culture where conflicts of interest, or potential conflicts of interest are managed effectively. Managers/supervisors of stations and business areas throughout FRNSW are encouraged to assess conflict of interest risks inherent to their environment and functions, and to identify reasonable responses to conflict of interest situations to guide their staff members in the application of the policy.

7 Policy implementation

FRNSW is committed to achieving the principles and requirements of this policy and will:

- Provide training, information and advice to employees and managers;
- Maintain a secure and confidential register containing details of the conflicts of interest and the decision associated with each.

8 Roles and responsibilities

8.1 Senior executives

- Modelling the highest standard of ethical conduct.
- Must declare any private interests on commencement of their employment, when circumstances change, and annually (requirement under the *Code of Ethics and Conduct for NSW Government*)
- Developing and promoting strategies to enhance a prevention and appropriate action culture within FRNSW;

8.2 Manager responsibilities

- Modelling the highest standards of ethical conduct.
- Provide advice and assist employees with appropriate ways to declare and manage any potential or actual conflicts of interest issue;
- Participate in any management strategies developed by Professional Standards including monitoring as required;
- Monitor the work of employees and the risks they are exposed to in relation to conflicts of interest issues, and taking appropriate action when necessary;
- Taking preventative actions to minimise the risk of undeclared conflict of interests in your area of responsibility;
- Providing access to information and training to employees;

8.3 Employee responsibilities (including Managers and Senior Executives)

- Perform your roles effectively, efficiently and fairly and make decisions that are not affected by self-interest, personal values, private opinions, private affiliations or the likelihood of personal gain or loss;
- Always put the public interest above your own personal or private interests when carrying out your official duties and responsibilities, or when a conflict that is related to your employment arises when you are on or off duty;
- Identify and declare immediately any perceived, potential or actual conflict of interest to Professional Standards;
- Not seek or accept any payment, gift or benefit outside of your employment agreement for yourself or a family member;
- Not create a conflict of interest with another person. For example, if a person with a conflict of interest passes the decision making process to a subordinate, then a conflict of interest may be created for subordinate (i.e. it is possible that the subordinate may try to please the manager rather than make a fair decision).

9 PROCEDURE

To deal with conflicts of interest the employee must, in consultation with Professional Standards:

1. **Identify** the conflict
2. **Avoid** the conflict (where practical)
3. **Declare** the conflict
4. **Manage** of the conflict
5. **Monitor** the conflict until it is resolved (with the manager or relevant decision maker).

9.1 Identifying the conflict

There will be occasions when an employee's private interests may come into conflict with their obligation to put the public interest first at all times. Whilst conflicts of interest are not wrong in themselves, it is how they are managed that is important to ensure the reputation and integrity of both individual employees and FRNSW is maintained.

Factors that may put an employee at risk of a conflict of interest include, but are not limited to:

- Financial and economic interests, such as debts or assets;
- Family or private business;
- Secondary or other employment interest;
- Enmity towards, or competition with, another individual or group;
- Membership or affiliations with for-profit and not-for-profit organisations, political organisations, sporting bodies, clubs and associations, and other personal interests;
- Obligations to professional, community, ethnic, family or religious groups in a personal or professional capacity;
- Family or other relationships with clients, contractors or other staff working in the same (or a related organisation);

- Highly specialist skill(s) in an area where demand for the skill(s) frequently exceeds supply;
- Future employment prospects or plans (post-separation employment);
- Involvement in a recruitment panel where they may personally know an applicant for a role who is being interviewed;
- Involvement in a procurement or tender evaluation panel where they may personally know a tenderer.

It is not always possible for employees to avoid having a conflict of interest, particularly in smaller communities or specialist industries. What is important is what employees do, or do not do, immediately upon becoming aware of the conflict of interest.

9.2 Avoid the conflict (where possible)

Where reasonable practical you should avoid conflict of interests. For example you must:

- Avoid activities where you could be seen to accrue an advantage from inside information because of your official duties;
- Avoid participating in activities which directly contradict your role responsibilities, even if in your own time;
- Ensuring that there can be no real or perceived benefit that may influence the performance of your official duties

If a conflict of interest has been identified and you have avoided it, it is recommended that you record the details of the conflict and actions in your notebook or diary (or other appropriate place) where you are able to access at a later date.

9.3 Declare the Conflict of Interest

If you suspect that you may have a conflict of interest whether it is an actual, perceived or potential conflict, you should complete a Conflicts of Interest Declaration Form and submit it for assessment by Professional Standards. This form can be located on the Professional Standards Conflicts of Interest intranet page (<http://intranet/toolkit/about-you/all-staff/conflicts-of-interest-declaration>).

If you have any questions you can contact Professional Standards on phone 9265 2826.

9.4 Manage the Conflict of Interest

Professional Standards will consult with relevant parties such as the employee and their manager (or relevant decision maker/s) to develop a specific strategy to manage the conflict.

All Conflict of Interests will be registered in a confidential and secure database.

The employee and their manager (or relevant decision maker) must comply with all aspects of the management strategy including monitoring the conflict until it is resolved.

The strategies for managing conflicts of interest are known as the 6Rs:

- Register
- Restrict
- Recruit
- Remove
- Relinquish
- Resign

9.4.1 Strategies to manage conflict of interests

Strategy	Action	When it is most suitable
Register	All conflicts of interest (whether actual, potential or perceived) must be registered with Professional Standards	All conflicts of interests
Restrict	Restrictions are placed on your involvement in the matter to oversee part or all of the process that deals with the matter.	You can be effectively separated from parts of the activity or process. The conflict is not likely to arise frequently.
Recruit	Recruit an impartial third party to oversee part or all of the process that deals with the matter.	It is not feasible or desirable for you to remove yourself from the decision making process. In small or isolated communities where your particular expertise is necessary and genuinely not easily replaced.
Remove	You choose to remove yourself completely from the matter.	For ongoing or serious conflicts of interest, where restriction or recruitment is not appropriate.
Relinquish	You relinquish the private interest that is creating the conflict.	Where your commitment to public duty outweighs your attachment to your private interest/s.
Resign	You resign from your position with FRNSW.	No other options are workable. Where you cannot or will not relinquish your conflicting private work. Where you prefer this course as a matter of personal principle.

9.5 Monitor the conflict until it is resolved (with the manager or relevant decision maker).

To ensure that the chosen management strategy remains relevant until conflicts of interest are resolved, it is important to regularly review and assess the:

- Original situation that gave rise to the conflict of interest;
- Initial determination and management decision;
- Strategy put in place to manage the conflict of interest;
- Actions taken in implementing the management strategy;
- Changes in the situation that may have an impact on the management strategy;
- Perceptions held by others that the conflict of interest is having an improper influence on the matter;
- Changes made to the management strategy and its implementation.

If changes to the situation are significant, it is advisable that you re-start the complete management process. This means commencing with a formal identification of the current situation and any conflicts of interest that may apply before adopting a revised management strategy.

Formal records should be kept of all reassessments and decisions made and actions taken. You need to keep a copy, your manager needs to have a copy and a copy needs to be sent to Professional Standards for inclusion in *Conflicts of Interest register*.

10 Conflicts of interest identified by other employees

Employees or managers who become aware of a conflict of interest involving a colleague or subordinate should raise it with a senior manager or Professional Standards.

If the matter involves possible corrupt conduct, maladministration and/or serious or substantial waste, employees must report the matter to Professional Standards or to ICAC – the Independent Commission Against Corruption. Employees should be aware of the protection provided in relation to public interest disclosures under the Public Interest Disclosures 1994.

Further information is available /in FRNSW's *Public Interest Disclosure Policy*.

11 Policy breaches

Examples of policy breaches may range from a failure to register a relevant conflict of interest, to refusal to resolve or properly manage a conflict of interest of which an employee is aware, to an employee actually acting on a conflict of interest. A situation where an employee fails to disclose a potential or actual conflict of interest may lead to an allegation of misconduct.

Possible penalties for breaches of this policy include management action, up to and including, termination of employment or contract.

Some breaches of the policy may be required to be reported outside the organisation, e.g. in accordance with reporting obligations under section 11 of the Independent Commission Against Corruption Act 1988, or reporting to the Police.

Failure to disclose a conflict of interest in accordance with this policy may constitute corrupt conduct as defined in the Independent Commission Against Corruption Act 1988.

12 Monitoring and review

Professional Standards will monitor compliance with the *Conflict of Interest Policy* to ensure its ongoing effectiveness. Reported conflicts of interest will be monitored to identify and action areas of risk.

13 Training and support

Advice and support is available from Professional Standards regarding any aspect of this policy via professionalstandards@fire.nsw.gov.au or (02) 9265 2826

14 Further information

For further information please contact Professional Standards on (02) 9265 2826 or professionalstandards@fire.nsw.gov.au

15 Document control

Policy Manager	Director, Professional Standards
Contact No	02 9265 2826
Document type	Policy
Applies to	<input checked="" type="checkbox"/> Permanent Firefighters <input checked="" type="checkbox"/> Retained Firefighters <input checked="" type="checkbox"/> Community Fire Unit Members <input checked="" type="checkbox"/> Administrative and Trades Staff <input checked="" type="checkbox"/> Contractors and Consultants
Status	Final
Security	Unclassified [or other appropriate classification in accordance with the Information Security Policy]
File Reference	WPS17/975
Review Date	Every 2 years
Rescinds	In Orders 2009/14 – Conflicts of Interest Policy
Rescinded by	List the document/s that rescinded this document
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15.1 Revision history

Version	Date	Status	TRIM Ref	Details
1.0	December 2018	Final	WPS17/975	

Appendix A

Conflict of Interests Checklist			
<i>This checklist is intended as a guide only. It does not provide an exhaustive list of scenario's</i>			
Personal Interest	Yes	Unsure	No
Do I have any ties, obligations, financial relationships and/or affiliations with organisations, clubs, groups or individuals that may conflict with my FRNSW employment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do I or anyone associated with me, have a social or business (including share ownership or employment) interest in this matter?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do I have family, friendships or other relationships with clients, contractors or other people involved in the matter?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does the decision impact a former employee in any way?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do I have any debts owing or outstanding loans to any person involved in this matter?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Have I accepted any gifts, benefits and/or hospitality (e.g. meals, drinks, tickets, etc) from any person involved in this matter?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do I or anyone associated with me have a personal interest in information gained through the course of my employment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do I have doubts about my ability to act impartially in the public interest (i.e. to absolutely ensure that any private considerations do not affect my decisions/actions)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Perceptions			
Would it appear to a reasonable person that my private interests are in conflict with my public duty?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Could a neutral or disinterested observer reasonably believe my private interests had influenced me?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do I hold any private or professional views and biases that may lead others to conclude that I am not an appropriate person to deal with this?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Are there perception risks for FRNSW or myself if I remain involved?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Would I think it was wrong or improper if I saw someone else doing this?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential Benefits			
Could I, or anyone associated with me, benefit now or in the future from my actions or decisions in relation to the matter?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Could I, or anyone associated with me, be detrimentally affected now or in the future by my actions or decisions in relation to this matter?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Am I, or anyone associated with me (e.g. a relative, friend, associate or enemy) likely to gain or lose financially if the matter is resolved a certain way?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Could the matter have an influence on my future employment opportunities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>If you answered 'yes' or 'unsure' to any of the above questions then you must report to Professional Standards using the 'Conflict of Interests Declaration Form.'</p> <p>If you answered 'no' to all of these questions it does not necessarily mean you do not have a conflict of interest. Please seek advice from you manager or Professional Standards.</p>			