



# Managing conflicts of interest in the LPAB

## Essential Summary

A conflict of interest occurs when an employee is in a position to be influenced by their private interests when doing their job. Conflicts of interest may lead to biased decision making, which may constitute corrupt conduct.

Each employee of the Office of the Board must complete and sign a Conflict of Interest Annual Declaration Form as soon as practicable after commencing duty for the first time, and then at least on an annual basis.

An employee of the Office of the Board who has a conflict of interest must also complete and sign a Disclosure Management Form, as soon as practicable after becoming aware of the existence of the conflict.

Annual Declaration Forms must be retained on the Board's Conflict of Interest Register in the Objective records system. Disclosure Management Forms must be forwarded to the HR Business Partner, Strategic HR in the Department of Justice for approval, and a copy retained on the Board's Conflict of Interest Register.

Members of the Board, its Committees and Sub-Committees should disclose any conflict of interest relating to a matter which is presently before, or is anticipated to come before, that body. A member who has an *ongoing* conflict of interest should complete the Disclosure Management Form.

More information for *employees* about the standards of conduct, ethics and behaviour required of all employees is in the Department of Justice's 'Code of Ethics and Conduct Policy'.

Printed copies of this document may not be up to date.  
Ensure you have the latest version before using this document.

## Scope

1. This policy applies to employees of the Office of the LPAB as well as to members of the Board, its Committees and Sub-Committees.
2. Nothing in this policy supersedes any requirement imposed on employees of the Office of the LPAB by legislation or by policies of the Department of Justice.
3. Nothing in this policy binds, limits or restrains the Board or its Committees from determining how best to manage and resolve a conflict of interest relating to one or more of its members, or a member of a Sub-Committee.

## Authority

4. The Legal Profession Admission Board has made this policy under the authority of section 20(2) of the *Legal Profession Uniform Law Application Act 2014*.

## Purpose

5. The purpose of this policy is to:
  - a. facilitate the establishment and maintenance of a Conflict of Interest Register for the LPAB
  - b. reinforce the obligation of employees of the LPAB to disclose any conflict of interest
  - c. promote fair, impartial and ethical decision-making by the Office of the Board as well as by the Board, its Committees and Sub-Committees.

## Definitions

6. **Annual Declaration Form** means the form at Appendix 1 which must be completed by every employee at least annually declaring whether or not he/she has any conflict of interest
7. **Board** means the Legal Profession Admission Board of New South Wales
8. **Casual employee** means a person who is employed by the Office of the Board on a casual and/or short-term basis only
9. **Committee** means a Committee established under the NSW Admission Board Rules 2015
10. **Disclosure Management Form** means the form at Appendix 2 which must be completed by an employee who has a conflict of interest to disclose

11. **Employee** means a person who is an ongoing or temporary employee of the Office of the Board, and includes the Executive Officer
12. **Executive Officer** means the person appointed as Executive Officer to the Board under the NSW Admission Board Rules 2015
13. **Office of the Board** means the office which provides services and performs duties and functions that the Board requires
14. **Register** means the official file maintained within the Office of the Board for the purpose of recording the disclosure of conflicts of interest and the approval of action to manage them
15. **Sub-Committee** means a Sub-Committee established under the NSW Admission Board Rules 2015.

## What is a conflict of interest?

16. The Department of Justice's 'Code of Ethics and Conduct Policy' states that:

'A conflict of interest occurs when an employee is in a position to be influenced by their private interests when doing their job. Real or perceived conflicts of interest exist when it is likely that an employee could be influenced or could be perceived to be influenced by a personal interest when performing their official duties. Conflicts of interest may lead to biased decision making, which may constitute corrupt conduct.'

17. The Department's Policy goes on to explain that:

'Examples of conflict of interests relating to a personal interest may include (but are not limited to) situations where an employee may have:

- a financial interest or the employee is aware that a family member, relative, friend or associate has a financial interest in a matter they deal with in the course of their work
- a personal relationship that could be seen to unduly affect the employees decision, for instance, when conducting a job selection
- a close personal relationship with another staff member
- personal beliefs or attitudes that could influence, or may be perceived to influence, the employee's impartiality
- other paid employment which conflicts with the employee's duties; and
- participation in political activities or making political comments that may relate to, or be seen as relating to, the work of the Department.'

18. Examples of the types of conflicts of interest which could potentially arise for employees in the Office of the Board include (but are not limited to):

- an employee assessing or approving an application made by a person who is a relative, friend or associate of the employee
- an employee arranging or authorising the purchase of goods or services from a supplier who is a relative, friend or associate of the employee
- an employee hiring, or authorising payments to, a casual employee who is a relative, friend or associate of the employee
- an employee providing advice to another employee (or to a Board/Committee or Sub-Committee member) who is required to make a decision about an applicant, where that applicant is a relative, friend or associate of the first employee.

## **Annual declaration by each employee**

19. Each employee must complete and sign a Conflict of Interest Declaration Form:

- as soon as practicable after commencing duty for the first time, and then
- at least on an annual basis, usually as soon as practicable after the beginning of the calendar year.

20. The Conflict of Interest Declaration Form is at Appendix 1. The Declaration Form requires the employee to:

- declare that he/she understands the requirement to disclose any conflicts of interest, and
- indicate whether or not he or she currently has any such conflict.

21. Each completed Declaration Form must be read and signed by the Executive Officer. In the case of the Declaration Form completed by the Executive Officer, the completed form must be read and signed by the Presiding Member.

22. All completed Declaration Forms must then be retained on the Board's Conflict of Interest Register. At the time of approval of this policy, the Register is established on Objective file number 16/002184.

## **Disclosure of a conflict by an employee**

23. An employee of the Office of the Board who has a conflict of interest must complete and sign a Disclosure Management Form, as soon as practicable after becoming aware of the existence of the conflict.

24. The Disclosure Management Form is at Appendix 2. It requires the employee to:
- describe the circumstances which might create, or might be perceived to create, a conflict of interest
  - propose how the conflict of interest might be managed.
25. Each completed Disclosure Management Form must be read and signed by the Executive Officer, who must also determine the actions for managing or resolving the conflict of interest. In the case of a disclosure made by the Executive Officer, the form must be read/signed, and actions determined, by the Presiding Member.
26. All completed Disclosure Management Forms must then be forwarded to the Department's Professional Standards Unit for approval, with a copy retained on the Board's own Conflict of Interest Register. At the time of approval of this policy, the Register is established on Objective file number 16/002184.

## **Disclosure of a conflict by a Board, Committee or Sub-Committee member**

27. Members of the Board, its Committees and Sub-Committees should disclose any conflict of interest relating to a matter which is presently before, or is anticipated to come before, that body. A member may do so in the context of a meeting of the Board or the relevant Committee or Sub-Committee, by verbally announcing and describing the conflict.
28. The member should generally abstain from voting in any decision relating to a matter in which there is a conflict. The Secretary of the body, who is usually an employee of the Board, should ensure the conflict is recorded in the meeting minutes. The Chair of the body should determine any other action which may be necessary.
29. A member of the Board, its Committees and Sub-Committees who has an *ongoing* conflict of interest should complete the Disclosure Management Form.
30. The member's completed Disclosure Management Form should be read and signed by the Presiding Member (in the case of a Board member) or by the Committee Chair (in the case of a Committee or Sub-Committee member), who should also determine any actions for managing or resolving the conflict of interest. In the case of a disclosure by a Committee Chair, the Form should be read/signed, and actions determined, by the Presiding Member.
31. All completed Disclosure Management Forms must then be placed on the Board's Conflict of Interest Register. At the time of approval of this policy, the Register is established on Objective file number 16/002184.
32. Nothing in this policy binds, limits or restrains the Board or its Committees from determining how best to manage and resolve a conflict of interest relating to one or more of its members.

## Provision of information to casual employees

33. Casual employees do not ordinarily have any responsibility for making decisions on behalf of the Board which might create a conflict with their private interests.

34. Even so, casual employees should generally be provided with information about their obligation to exercise their duties in a manner which is fair, impartial and ethical. The type and extent of information provided should be determined with references to the nature of the casual employee's duties.

35. For example, casual employees who:

- are examiners (who are engaged to set examinations and/or mark examination scripts in the Diploma in Law course) should be provided with specific information about their obligations, and what they should do if a conflict of interest arises during their work. The Examiners Manual, issued from time to time by the Office of the Board, is the appropriate mechanism for providing such information to examiners
- have some capacity to influence decision-making should be provided with a specific briefing about their obligations, and what they should do if a conflict of interest arises during their work. Such casual employees will include persons employed to supervise examinations in the Board's Diploma in Law course
- have no decision-making responsibility, or who are constantly supervised by an Office of the Board employee, are unlikely to need any specific information about their obligations. Such casual employees may include persons employed to assist at admission ceremonies

## Resolving or managing conflicts of interest

36. After a conflict of interest has been disclosed by an employee, the Executive Officer must consider and determine the appropriate action for resolving or managing the conflict.

37. A range of options is available depending on the significance of the conflict. These options are described in the Department of Justice's Code of Ethics and Conduct Policy, and include (but are not limited to):

- the employee seeking his/her supervisor's prior endorsement of all proposed action with respect to the matter creating the conflict
- the employee standing aside from the particular activity or decision where the conflict arises
- the employee relinquishing the personal interest.

## Summary of Responsibilities

38. The **Executive Officer** is responsible for:

- promoting awareness of, and compliance with, this policy within the Office of the Board
- reminding employees to complete the Annual Declaration Form
- ensuring appropriate information is provided to casual employees about fair, impartial and ethical exercise of their duties
- maintaining the LPAB Conflicts of Interest Register on an official file within the Office of the Board
- approving actions for managing a conflict of interest disclosed by an employee (except in the case of a conflict disclosed by the Executive Officer, in which case the responsibility rests with the Presiding Member)
- forwarding completed Disclosure Management Forms to the Professional Standards Unit in the Department of Justice for approval.

39. The Executive Officer may delegate some or all of the above responsibilities, but may not delegate the responsibility for approving actions to manage a conflict of interest disclosed by an employee.

40. **Employees** are responsible for:

- completing the Annual Declaration Form in a timely manner
- disclosing any conflict of interest which the employee has, as soon as practicable after the conflict arises
- if disclosing any conflict of interest, completing the Disclosure Management Form and complying with any approved actions for managing the conflict
- understanding and complying with the Department of Justice's Code of Ethics and Conduct Policy.

41. **Members** of the Board, its Committees and Sub-Committees are responsible for:

- disclosing any conflict of interest which the member has and which relates to a decision before that body
- generally abstaining from voting in any decision relating to a matter in which the member has a conflict.

## Appendices

Appendix 1: Conflict of Interest Annual Declaration Form

Appendix 2: Conflict of Interest Disclosure Management Form

## Related documents

HR002 Code of Ethics and Conduct Policy, Department of Justice

Code of Ethics and Conduct for NSW government sector employees

## Document information

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## Document history

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1.0	28/03/2017	Approved by the Legal Profession Admission Board

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