Northern Territory Public Sector Conflict of Interest Policy

Introduction
The Northern Territory Public Sector Principles of Administration Management, Human Resource Management, including the Merit and the Equality of Employment Opportunity principles, and Performance and Code of Conduct (the Code) are vital elements of the employment arrangements established by the Public Sector Employment and Management Act.

The Code defines the expected level of conduct and provides guidance on a range of ethical and moral issues that may affect individuals from time to time. The Code is an intrinsic part of the terms and conditions of employment, and as such, binds and must be observed by Chief Executive Officers (CEOs), executive contract officers and NTPS employees. Observance of the Code provides protection to the individual, as well as the NT Government and community. The Principles and Code of Conduct apply. For ease of reference, the relevant sections of the code and Act are included at pages 4 to 7.

The objective of this policy is to provide guidelines for application of an essential element of the Code, the necessity to disclose in writing any financial or other interests that conflict, or have the potential to conflict between personal interest and official duty.

For the purposes of this policy, conflict of interest means a conflict between private financial or other interests and official duties or responsibilities of the agency, whether real or apparent.

Application
In accordance with paragraphs 4.1 (Application of the Code of Conduct) and Section 16 (Disclosure of Interests) of the Code, all public sector employees are required to disclose in writing any financial or other interests held by them immediately upon becoming aware that a potential conflict between personal interest and official duty, whether real or apparent, has arisen or is likely to arise. In addition, and without limiting the obligations of all employees under the Code, this Policy may be applied by CEOs to executive officers and / or other employees within their agencies who, because of the nature of their duties, it is considered appropriate to do so.

Disclosure Process
Chief Executive Officers
In order to ensure they comply with the NTPS Principles and Code of Conduct, CEOs are required to complete a Declaration of Private Financial and Other Interests ("Declaration"). In addition, if a CEO has included the interests of other persons such as members of their immediate family in their declaration, those persons should be requested to complete Part B of the Declaration (Declaration of Private Financial and Other Interests, Immediate Family Members (and Other Relevant Persons)). Nil Declarations are required where there is nothing to declare.

Completed Declarations should be forwarded to the Commissioner for Public Employment for safe keeping in accordance with the guidelines provided at the front of the Declaration. The Commissioner for Public Employment’s Declaration should be held by the NT Auditor General.

On 1 July each year, or whenever there is a change in their financial and other interests that could conflict with their official duties, CEOs are required to review and restate (or resubmit) their Declaration, and forward it to the Commissioner for Public Employment.

Executive Officers and Designated Employees
For executive officers or other employees required by their CEO to complete a Declaration, the content and process for submission of Declarations to their CEOs will be in accordance with agency directions. CEOs may wish to adapt the Declaration to suit specific agency requirements.

Completed Declarations are held as evidence of disclosure and, as such, provide some protection for CEOs, employees and agencies from unfounded allegations of bias concerning agency advice or decisions.

Responsibility
The provision of a signed Declaration does not absolve any individual of the responsibility to manage conflicts, or potential conflicts, between their financial and other interests and their official duties. In the case of CEOs, that conflict or potential conflict should be discussed with the relevant Minister and, if appropriate, the Chief Executive of the Department of the Chief Minister and/or the Commissioner for Public Employment.

Executive officers and employees should discuss a conflict or potential conflict with their CEO or other senior executive in their agency. The ultimate decision concerning the appropriate course of action is one for the CEO. **However, it must be emphasised that the primary responsibility for declaring and managing a conflict of interest rests with the individual employee.**
It should be noted that declarations may be examined by the NT Auditor-General in pursuance of a function under the Audit Act to ascertain compliance with the NTPS Principles and Code of Conduct.

**Failure or refusal to declare**
Failure or refusal to provide a Declaration could be considered a breach of discipline (or a breach of contract in the case of a CEO or executive contract officer) under section 49 (a) of the Public Sector Employment and Management Act.

**Conflict of Interest Flow Chart**
The flow-chart below serves as a guide to outline the procedure and provides a number of questions or prompts when considering conflict of interest issues. Whilst the flow chart illustrates the decision path for CEOs, the same general process should apply within agencies, except that completed declarations are held by the CEO of each agency.

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**Do I have private financial and/or other interests that may give rise to a conflict of interest?**

- **YES**
  - Am I aware of immediate family members or other persons with whom I have a close relationship whose personal or business/financial activities may give rise to a conflict of interest with my official duties, whether real or apparent.

  - **YES**
    - Discuss with relevant Minister and, if appropriate, CEO Department of the Chief Minister and/or Commissioner for Public Employment and complete a Declaration of Private Financial and Other Interests. Include the interests of your immediate family members and other relevant persons in your Declaration and ask the person(s) to complete Part B of the Declaration.
    - Submit Declaration to Commissioner for Public Employment.
  
  - **NO**

- **NO**

**Complete and submit nil Declaration to Commissioner for Public Employment.**
Note: Any changes in the financial and other interests of you and/or your immediate family/other relevant persons should be reported in a Declaration immediately you become aware of a possible conflict.

**Note:**
CEO Declarations are to be updated annually on 1 July or immediately a change occurs in the CEO's financial or other interests that could conflict with their official duties.

Statutory obligations in accordance with northern territory public sector principles and code of conduct.
The requirement upon CEOs, executive contract officers and NTPS employees to disclose their private financial and other interests and those of their immediate family which give, or may give, rise to a conflict of interest is specified in Section 5F of the *Public Sector Employment and Management Act* and Section 16 of Employment Instruction No 12 – Code of Conduct. Those provisions apply to CEOs and executive contract officers by virtue of Determination No 13 of 2011, setting out the terms and conditions of their contract. For ease of reference relevant extracts of the regulations and employment instruction are provided below.

**Principles of Public Administration and Management**
Section 5B(c)

(c) informing, advising and assisting the government objectively, impartially and with integrity;

**Principles of Performance and Conduct**
Section 5F(1)

(a) carry out the officer's duties as follows:

(i) objectively, impartially, professionally and with integrity;

(ii) to the best of the officer's ability;

(iii) in accordance with the Act and any code of conduct applicable to the officer under section 16(2)(c);

(b) treat other public sector officers, other persons in the workplace and members of the public fairly, equitably and with proper courtesy and consideration;

(c) ensure effective, efficient and appropriate use of public resources;

(d) avoid actual or apparent conflicts of interest between personal or other interests and duties as a public sector officer

**Code of Conduct**
(Employment Instruction No 12)

**16. Financial and other private interests**

**Disclosure of interests**

16.1. A Public Sector Officer must disclose in writing to his or her Chief Executive Officer any financial or other interests held by the Public Sector Officer immediately upon becoming aware that a potential conflict between personal interest and official duty, whether real or apparent, has arisen or is likely to arise.
16.2. Notwithstanding the above, where a Chief Executive Officer considers it appropriate, any or all Public Sector Officers of an agency may be required to provide written statements of their financial or other interests as set out below. The types of interests and contemplated interests which are to be considered by Public Sector Officers in determining whether or not they might conflict with their official duties include, but are not limited to, the following:

a) shareholdings or other interest in a company or business, whether held by a Public Sector Officer as an individual or as a member of another company or partnership, or through a trust;
b) interest in land or property;
c) significant liabilities to organisations or individuals excluding indebtedness for home mortgages or for current and ordinary household and living expenses;
d) outside employment, appointments or directorships, whether remunerated or not; and
e) Local Government office.

16.3. The above interests are to be considered by a Public Sector Officer not only in relation to him or herself, but also in relation to his or her immediate family.

Ultimate decision

16.4. In the event of a real or apparent conflict of interest, a Chief Executive Officer must decide whether:

a) a Public Sector Officer can continue his or her duties in the area;
b) a Public Sector Officer should be requested to divest himself or herself of the interest; or
c) a re-arrangement of duties amongst staff, or a transfer to perform duties that involve no such real or apparent conflict, should be organised.

16.5. The ultimate decision concerning the appropriate course of action is one for a Chief Executive Officer.

Bankruptcy

16.6. If a Public Sector Officer becomes bankrupt during his or her employment, he or she must inform his or her Chief Executive Officer who will determine if any action is required.
20. Acceptance of gifts and benefits

Judgement and responsibility

20.1. The acceptance of gifts or benefits by Public Sector Officers is an area requiring sound judgement. Benefits include offers of cash, gifts, free travel, substantial hospitality, accommodation or entertainment. Accepting such gifts or benefits is a matter of judgement for the individual Public Sector Officer concerned who must be satisfied that his or her responsibilities will not in any way be compromised or appear to be compromised by acceptance. The Public Sector Officer will bear personal responsibility for any decision to accept a gift or benefit.

Guiding principles

20.2. In deciding whether to accept gifts or benefits, a Public Sector Officer will be guided by the following principles:

a) a Public Sector Officer must not solicit or accept any gifts or benefits, the receipt or expectation of which might in any way tend to influence, or appear to tend to influence, the Public Sector Officer in his or her official capacity;

b) in the event that any substantial gift, offer or suggestion of such is made directly or indirectly to a Public Sector Officer, the facts shall be reported at the first opportunity to the Chief Executive Officer;

c) a Public Sector Officer must avoid all situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind is securing, or attempting to secure, the influence or favour of the Public Sector Officer; and

d) a Public Sector Officer must take all reasonable steps to ensure that his or her spouse, children or dependents, or staff members, are not the recipients of benefits which could give the appearance of an indirect attempt to secure the influence or favour of a Public Sector Officer.

Permission to accept a gift

20.3. In any event, a Public Sector Officer accepting a gift or benefit of a substantial nature must have the specific permission of the Chief Executive Officer.

Agency guidelines / policy

20.4. A Chief Executive Officer may issue agency guidelines/policy regarding the acceptance of gifts and benefits by Public Sector Officers, consistent with the Code. These should give consideration to the following:

a) the relationship of the agency to the donor;
b) the primary business of the donor;

c) the likelihood of further contact with the donor;

d) whether the gift is being accepted as part of a formal exchange of gifts between official representatives of the Northern Territory and another Government;

e) the possible adverse consequences to the Northern Territory’s interests which may result from the acceptance or refusal of a gift; and

f) the type of gift or benefit which in the context of the agency's operations can be seen as inconsequential or trivial.

20.5. The agency guidelines/policy do not form part of the Code or the legislation.