

POLICY STATEMENT

CONFLICT OF INTEREST AND INSIDER TRADING

It is the Department's policy to provide a reporting framework which enables employees to disclose, and take reasonable steps to avoid, any conflicts of interest in connection with their APS employment. The policy also provides guidance for all employees on how to recognise and avoid insider trading, which is prohibited by law.

Principles

- A perception or allegation of conflict of interest or insider trading can be damaging to individual employees and adversely affect the reputation of the Department and its ability to function effectively.
- Fostering an awareness of the circumstances leading to conflict of interest and insider trading is an important mechanism for avoiding such situations.
- Transparency through a continuous disclosure reporting framework is the most appropriate approach to handling these issues.
- The freedom of employees to invest and associate should not be unduly limited by their APS employment.
- The procedures should not unreasonably interfere with the privacy of employees or their families.
- If a conflict of interest becomes apparent the Department will seek to resolve this in a way which removes the conflict with minimal impact on the employee.
- In some circumstances it may be necessary to institute arrangements to protect both the employee and the Department. As a last resort, it may be necessary to reassign the employee.

References: Public Service Act 1999, Public Service Regulations 1999, Crimes Act 1914, Privacy Act 1998, Corporations Act 2001. Chief Executive Instructions.

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BACKGROUND

In the course of their duties, many of our employees have access to commercial and other sensitive information which may either pose a conflict with their private interests, or create a perception that such a conflict exists.

The APS Code of Conduct (section 13(7) of the *Public Service Act 1999*) requires that APS employees disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment. It is also in the interests of all employees that the firms and people we do business with are confident that we act in accordance with the Code of Conduct and do not make improper use of information.

Insider trading would also breach the *Public Service Act 1999*(Section 13(10)) requirement not to make improper use of inside information. Furthermore, insider trading is prohibited for all members of the community under the *Corporations Act 2001* and has criminal penalties.

There is also a more general obligation under the *Public Service Regulations 1999* on employees not to disclose any information about public business or anything of which the employee has official knowledge and, under the *Crimes Act 1914*, it is an offence for an employee to publish or communicate such information.

The Department also has obligations under the *Privacy Act 1988*. These include having a reasonable basis for requiring information and securing information to ensure privacy and further information is available at <http://www.privacy.gov.au>

CONFLICT OF INTEREST

Definition

A conflict of interest is a circumstance which places an employee in a position where their personal interests (including those of their immediate family – to the extent known) could compromise their independence. Apparent (or perceived) conflicts of interest may be as important as actual conflicts.

Recognising potential conflicts of interest

Employees should consider whether any of their private interests, such as personal relationships and financial interests (including those of their immediate family), could be affected by the decisions of the Department over which the employee has influence.

An employee who is unclear whether particular circumstances constitute (or may in the future constitute) a potential conflict of interest should discuss the matter with their Head of Division (or for AusIndustry and Enterprise Connect, SES, State Office Manager or Regional Manager nominated by Head of Division) in a timely manner, to clarify matters and ensure appropriate procedures are followed. This is an important protection, both for the reputation of the Department and the employee, and would help to provide a response to any subsequent allegations of misconduct.

Immediate Family

For the purpose of this policy, an employee's immediate family is defined as the employee's spouse/partner and/or children. The obligation on employees to disclose the private interests of their immediate family is limited by the extent to which the employee can reasonably be expected to know such interests and the consent of the relevant family member(s) to disclose any personal information.

Personal Relationships

Employees may have personal relationships (including family and friendships) with people who are engaged in activities that could have an interest in issues with which the employee deals or over which the employee has influence. Examples could include journalists, lobbyists (see below) or people who have business dealings with their agency. APS employees are, of course, perfectly entitled to have such relationships. However, in the interests of transparency, employees should disclose the names and activities of any persons who could be seen to impact upon the employee's responsibilities.

Relationships with lobbyists

Employees need to be aware of and to manage any actual or perceived conflict of interest between their official duties and their relationships with lobbyists, including personal or social relationships with lobbyists.

The [Lobbying Code of Conduct](#) sets out the Government's policies for all APS employees in relation to contact with professional lobbyists and seeks to ensure that such contact is conducted in accordance with public expectations of transparency, integrity and honesty. All APS employees should familiarise themselves with the requirements of the [Lobbying Code of Conduct](#). Any lobbyist who acts on behalf of third-party clients for the purposes of lobbying Government representatives must be registered on the [Register of Lobbyists](#).

Acceptance of Gifts

Employees are expected to apply high standards of probity and ethical behaviour when [accepting gifts or benefits](#) (Chief Executives Instruction 2.13 refers). Gifts or benefits should not be accepted by an employee or a member of their immediate family if acceptance could, in any way, be construed as an attempt to influence an administrative, regulatory or contractual decision, or create the appearance of a conflict of interest.

If an employee has any doubts about the propriety of accepting a gift or benefit, then the gift or benefit should not be accepted, or the matter raised with their Disclosure officer for guidance;

INSIDER TRADING

Definition

Insider trading is trading in shares or other financial products (including procuring or inducing another person to buy or sell such products) on the basis of inside information. Inside information is information which is not generally known and which, if it were generally known, could reasonably be expected to have a material

effect on the value of the particular financial product. Insider trading is prohibited by the *Corporations Act 2001* and has criminal penalties. Insider trading would also breach the *Public Service Act 1999* requirement (section 13(10)) not to make improper use of inside information.

Recognising ‘insider trading’ information

Employees should be aware that the information they access as part of their duties may be inside or commercially sensitive information. Employees must not trade in shares or other financial products, or induce others to do so, on the basis of such information. It is the responsibility of each employee to form a judgement as to whether the information they access in the course of their APS employment would be considered inside material information.

Key considerations include:

- Is the information publicly available?
- How was the information obtained – was it provided with a ‘commercial-in-confidence’ or ‘in-confidence’ classification?
- Do you believe knowing the information would be ‘getting in early’ ahead of the investment market more generally?
- Would you expect the information to have a material effect on the value of the particular financial product?

Employees in some areas may have access to material information relating to companies in sectors outside of the Innovation portfolio. It is important to note that the absence of direct policy or program responsibility would be no defence to an insider trading allegation.

MANAGEMENT FRAMEWORK

Procedure for continuous disclosure of private interests

All employees are required to follow the department’s procedures for the continuous disclosure of private interests by completing annual declarations (compulsory) and subsequent declarations throughout the year (as required).

A self-assessment test for non SES employees to assist in determining relevant private interests and the appropriate form to complete is provided below. This test can assist employees to determine their obligations with regard to the disclosure of private interests at any time of the year, not just for annual declarations.

Making declarations

Each year, all:

- non SES employees are required to complete either:
- declaration of no relevant interests at Appendix A; or
- declaration of private interests at Appendix B, and

Employees should use the self-assessment test to determine whether they need to complete the declaration at Appendix A or Appendix B

- SES employees are required to complete a declaration of private interests at Appendix C.

New employees or employees who have transferred between Divisions are required to complete the appropriate declaration within 30 days of commencing in the new Division.

Self-Assessment Test – Non SES Employees

Self Assessment Questions

1. Do you own shares or other financial products¹ in an unlisted company? Yes/No
2. Do you own shares or other financial products in an individual listed company worth more than \$10,000 (current market value)? Yes/No
3. Do you receive an income stream in excess of \$20,000 from investments? Yes/No
4. Are you a trustee of a trust that trades in shares or other financial products? Yes/No
5. If you are a beneficiary of a trust, are you aware of the share or other security trading activities of that trust? Yes/No
6. Do you operate a self managed superannuation fund which trades in shares or other financial products, or any other vehicle trading in shares or other financial products? Yes/No
7. Are you a director of a company? Yes/No
8. Are you aware of your immediate family having any of the interests listed above that are relevant to the areas of responsibility within your division? Yes/No
9. Do you have any personal relationships or friendships with individuals (including lobbyists) involved in activities relevant to the division? Yes/No
10. Do you have any personal, financial or other Yes/No

¹ For the purpose of this document, financial products include shares, debentures and derivatives (such as warrants and options).

interests in any organisations involved in activities relevant to the Division?

11. Have you, in the course of your official duties received a gift? Yes/No
12. Are you aware of any other circumstance (not covered above) that could be considered to give rise to an actual or potential conflict of interest? Yes/No

If the answer to any of the questions above is yes, the employee needs to complete a Declaration of private interests (Appendix B).

If the to each question above is No, the employee should complete an annual declaration of no relevant interests (Appendix A).

Declaration of actual or potential conflict of interest

If any employee is aware of any circumstances that may be seen to give rise to an actual or potential conflict of interest (and it does not require a declaration in the form at Appendix B or C) then the employee needs to complete a declaration of actual or potential conflict of interest (Appendix D).

Such circumstances may include personal relationships with individuals involved in activities relevant to the employee's area of responsibility or other financial interests (not already declared in either Appendix B or C) that are relevant to the employee's specific area of responsibility. For example, if an employee held only a few shares in a publicly listed company that had applied for a grant from the Department and the employee is advising the decision maker, the employee needs to declare that shareholding (Appendix D). Remember that it is not just whether there is an actual conflict of interest, but that others might perceive that there is a conflict, which matters.

Continuous disclosure during the year

During the year, all employees are required to ensure any material changes in their private interests are disclosed within a reasonable timeframe using the form at Appendix D (Disclosure of Material Changes to Private Interests (During the year)). For example, if an employee's investment in an individual listed company not previously disclosed exceeds the threshold of \$20,000 during the year, the employee is required to declare such interest using the form at Appendix D.

Storage and security of declarations

All declarations are submitted to and held by the Head of Division – or other applicable Disclosure Officer in the case of Questacon (Director), AusIndustry (State Office Manager or SES officer as nominated by the Head of Division), Enterprise Connect (Regional Manager nominated by Head of Division) and the NMI, the employee's General Manager.

Superseded declarations are securely stored by Employment Services on restricted access files classified staff-in-confidence and subject to Australian Archives requirements.

Managing Conflicts of Interest

The Disclosure Officer is responsible for assessing the declaration and determining whether an actual or potential conflict of interest exists and whether any such conflict is material or immaterial. In the event that an actual or potential conflict of interest is identified, then the employee will be advised of any actions required to manage the conflict. For example, if the employee has any private interests relevant to their responsibilities then it may be necessary for the Head of Division/Disclosure Officer to disclose (with the employee's knowledge) the relevant information to the employee's Manager, so that any actual or potential conflict of interest can be effectively managed.

Intention to trade in financial products relevant to the Division

It is also required that, before making any trades (either purchase or sale) of financial products related to the policy or operational responsibility of the employee's division, the employee should discuss the matter with the relevant Head of Division. This includes trading by any vehicle controlled by the employee and any trading by the employee's immediate family (to the extent known by the employee). Employees are reminded that such proposed trading may give rise to potential conflicts of interest or insider trading and early discussion with the relevant Head of Division is encouraged. Employees should note that any such discussion shall not be construed as the provision of investment advice or recommending one course of action over another. The purpose of the discussion will be to explore the principles of conflicts of interest and insider trading as they may apply to the proposed trade.

After Leaving the Department

On leaving the Department, all employees are reminded of their obligation to not disclose, or act upon, information gained as a result of their employment with Innovation. The only exemption would be when such information is publicly available.

There are additional restrictions on post separation employment by SES employees who leave the APS after 1 July 2008 whereby they shall not, for a 12 month period, engage in [lobbying government representatives](#) on any matters on which they have had official dealings as public servants over their last 12 months of employment.

More information on [post separation employment](#) can be obtained from the Australian Public Service Commission website.

Boards and Committees

Government boards and committees play an important strategic role in providing leadership, direction and accountability across the public sector. There are many types of government boards and committees including:

- boards of public trading enterprises
- boards of statutory authorities
- policy coordination committees
- research committees
- tribunals
- registration boards
- appeal boards
- public trusts
- advisory committees.

The potential also exists for conflicts of interest or duty in committees or boards established by the Department particularly where a Minister appoints the chair and/or members and the committee or board can significantly influence decisions.

It is important for Divisions to establish procedures to alert committee members to the need to identify and avoid conflicts of interest. This may include committee members providing written declarations of interests that relate to activities of the committee, and making conflicts of interest a standing agenda item for committee meetings.

This policy together with the existing processes in [AusIndustry and the Research Division](#) can be used as guides in developing appropriate arrangements for committees and boards.

APPENDIX A - DECLARATION OF NO RELEVANT INTERESTS

(NON SES EMPLOYEES)

Please read the procedures carefully before completing this form

This Declaration is to be completed by Innovation employees on commencement with the Department, on transfer to another Division and annually in March each year as directed by this policy where they have *no relevant interests to disclose*.

Name _____

Position Title _____

Section/Branch/Division _____

Phone number _____

Tick the boxes on the checklist below to ensure you have completed all the relevant sections.

I declare that I:

- have read and understood Innovation's Conflict of Interest and Insider Trading Policy;
- have no relevant private interests or relationships that are subject to Conflict of Interest Procedures; and
- will continue to disclose to my Disclosure Officer² any potential or actual conflicts of interest as soon as they arise.

Signature

Date

Reviewed by:	
_____	Date: _____
Disclosure Officer's signature	

Disclosure Officer's name	

² Disclosure Officer – Heads of Division, Director Questacon or for AusIndustry, a SES officer or State Office Manager nominated by the Head of Division. For Enterprise Connect a Regional Manager nominated by Head of Division. For NMI the employee's General Manager

**APPENDIX B - DECLARATION OF PRIVATE INTERESTS
(NON SES EMPLOYEES)**

Please read the procedures carefully before completing this form

This Declaration is to be completed by Innovation non SES employees on commencement with the Department, on transfer to another Division and annually in March each year as directed by this policy where they have private interests that they are required to disclose.

Name _____

Position Title _____

Section/Branch/Division _____

Phone number _____

Tick the boxes on the checklist below to ensure you have completed all the relevant sections.

I declare that I:

- have read and understood Innovation's Conflict of Interest and Insider Trading Policy;
- have and will continue to disclose to my Disclosure Officer all relevant private interests and relationships and potential conflicts of interest as might arise; and
- have advised my immediate family of the disclosure of their private interests as relevant to my division's areas of responsibility and have requested their consent to this disclosure.

Signature

Date

Disclosure of private interests

Please list below all interests applicable to the following:

- a) shares or other financial products in listed companies (current market value over \$10,000); and/or
- b) shares or other financial products in all unlisted companies (including unlisted managed funds); and/or
- c) any investments that generate an income stream in excess of \$20,000; and/or
- d) any other financial products;

that are directly owned by

- you,
- a trust of which you are the trustee,
- a trust of which are you a beneficiary – to the extent share/financial product trading is known to you,
- a self-managed superannuation fund or other vehicles of which you have control, or
- an immediate family member – to the extent share/financial product trading is known to you and is relevant to your divisional operation responsibilities.

Innovation does NOT require disclosure of the quantity and value of the trading. Only the name of company and the industry in which it operates is required to be disclosed.

Please provide details such as the name of companies, businesses, trusts etc in which you hold a directorship, or your immediate family member holds a directorship which is relevant to your divisional operation responsibilities.

Under Innovation's Code of Conduct Policy Statement, acting as directors, whether such activity is remunerated or not is considered to be outside employment and as such requires the approval of the Secretary. Unpaid voluntary work such as that with community, charitable or sporting organisations does not require approval.

Please list all personal relationships with individuals (including lobbyists) involved in activities relevant to the division

Please list all business partnerships of which you are a partner.

Decision by disclosure officer

Based on the information available, including my own enquiries, I conclude:
(Indicate decision – no conflict exists, perceived or actual conflict of interest, material or immaterial.)

No Conflict

Perceived / Actual

Material / Immaterial

Date: _____

Disclosure Officer's signature

APPENDIX C - DECLARATION OF PRIVATE INTERESTS

(SES EMPLOYEES)

Please read the procedures carefully before completing this form

This Declaration is to be completed by Innovation SES employees on commencement with the Department, on transfer to another Division and annually in March each year as directed by this policy.

Name _____

Position Title _____

Section/Branch/Division _____

Phone number _____

Tick the boxes on the checklist below to ensure you have completed all the relevant sections.

I declare that I:

- have read and understood Innovation's Conflict of Interest and Insider Trading Policy;
- have and will continue to disclose to my Disclosure Officer all relevant private interests and relationships and potential conflicts of interest as might arise; and
- have advised my immediate family of the disclosure of their private interests as relevant to my division's areas of responsibility and have requested their consent to this disclosure.

Signature

Date

Disclosure of private interests

Please list below all interests applicable to the following:

- a) shares or other financial products in listed companies (current market value over \$10,000); and/or
- b) shares or other financial products in all unlisted companies (including unlisted managed funds); and/or
- c) any investments that generate an income stream in excess of \$20,000; and/or

d) any other financial products;
that are directly owned by

- you,
- a trust of which you are the trustee,
- a trust of which are you a beneficiary – to the extent share/financial product trading is known to you,
- a self-managed superannuation fund or other vehicles of which you have control, or
- an immediate family member – to the extent share/financial product trading is known to you and is relevant to your divisional operation responsibilities.

DO NOT COPY

Innovation does NOT require disclosure of the quantity and value of the trading. Only the name of company and the industry in which it operates is required to be disclosed.

Please provide details such as the name of companies, businesses, trusts etc in which you hold a directorship, or your immediate family member holds a directorship which is relevant to your divisional operation responsibilities.

Under Innovation's Code of Conduct Policy Statement, acting as directors, whether such activity is remunerated or not is considered to be outside employment and as such requires the approval of the Secretary. Unpaid voluntary work such as that with community, charitable or sporting organisations does not require approval.

Please list all business partnerships of which you are a partner.

Please list all other investments that are not disclosed above

'Investments' means any placement of moneys (not properties) that attracts interest or other benefits. Non interest-bearing accounts should not be included, but savings accounts, investment accounts, bonds, debentures, etc. should be included.

Where the cumulative amount held in savings accounts, portfolios and other investments does not exceed \$20,000 (current market value), disclosure is not required.

Please list other substantial sources of income, including source and nature of income (but not the amount)

Do not include your own Commonwealth salary. Include spouse's income from employment and any income by self, spouse, or dependants from investments, annuities, pensions or government sources. A reference to 'income from investments as set out above' is sufficient for investment income. Income over \$20,000 per annum should be notified, but smaller amounts from sources that have potential to create a conflict of interest should be included.

Under Innovation's Code of Conduct Policy Statement, employees require the Secretary's approval to engage in outside employment.

Please disclose all personal relationships with individuals (including lobbyists) involved in activities relevant to the division and which could be seen to impact on your responsibilities.

Statement by Disclosure officer

Decision by disclosure officer

Based on the information available, including my own enquiries, I conclude:
(Indicate decision — no conflict exists, perceived or actual conflict of interest, material or immaterial.)

No Conflict	Perceived / Actual	Material / Immaterial
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_____ Date: _____

The following action is required to manage actual or potential conflict of interest / circumstances raised.

Outline action required and reason for decision.

APPENDIX D - DISCLOSURE OF MATERIAL CHANGES TO PRIVATE INTERESTS (DURING THE YEAR)

You need to complete this form to advise of any relevant trading (purchase or sale) since your previous disclosure in:

- a) shares or other financial products in listed companies (current market value over \$10,000);*
- b) shares or other financial products in all unlisted companies; and/or*
- c) shares or other financial products in an individual listed company, not previously disclosed, that exceed the threshold of \$10,000 (current market value) during the year; and/or*
- d) any investments that generate an income stream in excess of \$20,000; and/or*
- e) any other financial products*

that are directly owned by

- you;*
- a trust of which you are the trustee;*
- a trust of which are you a beneficiary – to the extent share/financial product trading is known to you;*
- a self-managed superannuation fund or other vehicles of which you have control;*
- an immediate family member – to the extent share/financial product trading is known to you and is relevant to your divisional operation responsibilities.*

or

personal relationships with individuals (including lobbyists) involved in activities relevant to the division.

or

directorships or anything not elsewhere specified.

Name _____

Position Title _____

Section / Branch / Division _____

Phone number _____

Name of Disclosure Officer _____

DETAILS OF SHARE/FINANCIAL PRODUCT TRADING, PERSONAL RELATIONSHIPS and/or OTHER CONFLICT

Set out here all relevant details in relation to the trading or personal relationships or any material or perceived conflict not specified elsewhere. Attach extra pages if necessary (including any copies of documents that you feel may be appropriate).

Signature

Date

Statement by Disclosure officer

Decision by disclosure officer

Based on the information available, including my own enquiries, I conclude:
(Indicate decision – no conflict exists, perceived or actual conflict of interest, material or immaterial.)

No Conflict

Perceived / Actual

Material / Immaterial

Date: _____

The following action is required to manage actual or potential conflict of interest / circumstances raised.

Outline action required and reason for decision.