Conflict of interest policy

**Acknowledgement**

The Victorian Curriculum and Assessment Authority proudly acknowledges and pays respect to Victoria’s Aboriginal and Torres Strait Islander communities and their rich and enduring cultures.

We acknowledge Aboriginal and Torres Strait Islander people as Australia’s first peoples and as the Traditional Owners and custodians of the lands and waters on which we rely. We pay respect to Elders past and present of the lands where we conduct our work and recognise their ongoing contributions as the first educators on the land now known as Victoria.

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1. Overview

The Victorian Curriculum and Assessment Authority 's (VCAA) Conflict of Interest (COI) policy is designed to underscore the crucial role of managing COI and to establish clear procedural requirements and expectations of the VCAA.

Employees will encounter COI and the VCAA acknowledges that conflicts cannot be avoided. They must, however, be identified and appropriately managed to ensure the organisation earns and maintains the highest levels of integrity and public trust within the VCAA and the broader Victorian Public Sector (VPS).

This policy has been developed to support the application of the *Public Administration Act 2004* (Vic) and the Code of Conduct for Victorian Public Sector Employees.

This policy outlines the expectations and obligations of all employees to proactively address COI that may arise in their roles, and to subject them to ongoing monitoring. The policy also identifies the role of managers and the steps to address risks of COI in relation to their employees.

This policy applies to all employees within the Victorian Curriculum and Assessment Authority (VCAA). For the purposes of this policy, the term 'employees' encompasses VCAA employees of the direct workforce, as well as any individuals or groups undertaking an activity for or on behalf of the VCAA, including:

* all employees (fixed term, casual, sessional) employed under Ministerial Order No. 1451 – Victorian Curriculum and Assessment Authority employees (Employment Conditions, Salaries, Allowances, Selection and Conduct) Order 2023 (referred to as ‘The MO’)
* Board members.
1. Objectives
* **Avoidance of COI:** The policy aims to ensure that VCAA employees are aware of their responsibilities and obligations in preventing and avoiding situations where COIs may arise.
* **Identification and declaration of COI:** Where a COI is identified, this policy requires employees to make a declaration, and ensure that COI are effectively identified, declared, and managed.
* **Active management:** The policy underscores the need for active management of COI. Once identified and declared, COI must not be ignored but actively addressed and managed.
* **Integrity and public trust:** The overarching objective of the policy is to uphold and enhance the integrity of the VCAA and the broader Victorian Public Sector.
1. Principles
	1. Protecting the public interest through upholding VPS values

Protecting the public interest is central to the public duty of employees within the VPS. To meet their public duty obligations employees must follow legislation and apply the VPS values set out in Section 7 of the *Public Administration Act* (2004).

* 1. Supporting transparency and accountability

COI must be seen to be managed fairly and effectively. The process for identifying, disclosing, and managing COI must be transparent. By taking a consistent and open approach to resolving or managing conflicts, the VCAA requires employees to follow established policies and procedures.

* 1. Promoting individual responsibility for integrity and impartiality

Resolving or managing COI in favour of the public interest demonstrates the VCAA’s integrity and professionalism of employees.

All VCAA employees are individually responsible for arranging their private affairs as far as possible to prevent a conflict of interest arising. Managers have an additional responsibility to set an example for their employees by demonstrating commitment and adherence to established policies and procedure.

* 1. Upholding a supportive organisational culture

Leadership plays a crucial role in fostering a supportive organisational culture through guiding and training employees on established policies, procedures, and practices. This promotes open communication where employees feel at ease discussing and disclosing COI in the workplace. Additionally, they ensure that information related to disclosed COI remains safeguarded from misuse by others.

1. Roles and responsibilities
	1. The employer

The employer’s responsibilities include:

* supporting employees in identifying and addressing COI
* educating employees about the COI policy
* assessing employees’ training needs
* providing guidance on addressing COI
* recording and monitoring COI disclosures
* ensuring employees adhere to COI policies
* modelling transparency and consistency in managing their own COI.
	1. Employees

Employees must

* Hold an individual responsible for managing integrity risks in the course of their engagement with the VCAA
* demonstrate integrity and impartiality
* understand and get clarity of relevant policy obligations, guidance and supports
* place the public interest above their private interests when performing VCAA work-related duties
* maintain awareness of COI obligations
* continuously assess personal interests against public duties
* where possible, take action to avoid COI in the first instance
* take appropriate action to resolve any identified COI through declaring and managing COI in accordance with this policy
* report identified COI to a manager, or authorised delegate.

1. Expectations
	1. What is a conflict of interest?

A COI is where an employee within the VPS has private interests that could improperly influence, or be seen to influence, their decisions, or actions in the performance of their duties These COI can be actual, potential, or perceived and may involve financial or non-financial interests, including those of family members and close associates.

COI can affect employees at all levels and areas of the VCAA. The key is to ensure that private interests do not compromise public duties. Conflicts may be actual, potential, or perceived:

* **Actual COI:** there is a **real conflict** between an employees’ public duties and private interests.
* **Potential COI:** an employee has private interests that **could conflict** with their public duties. This refers to circumstances where it is foreseeable that a conflict may arise in future and steps should be taken now to mitigate possible future risks.
* **Perceived COI:** the public or a third party could **form the view** that an employees’ private interests could improperly influence their decisions or actions, now or in the future.
* **Private interest:** a private interest only needs to be declared as a conflict of interest if it could influence, or reasonably be seen to influence, your public duties. Private interests include direct and indirect interest categories, such as:
* relationships (personal relationships, consensual relationships between employees, declarable associations)
* financial (financial interests, outside employment)
* activities (membership of a social, cultural, community or sporting institution, volunteering at a particular association, institution or club, or involvement with a social, cultural, community or sporting organisation, including family members being members or attendees)
* duties and influences (other duties, loyalties, and biases)
* **Consensual personal relationships:** Consensual personal relationships include consensual sexual, intimate and/or romantic relationships between adults of any sex or gender identity. Relationships of this kind may be on a casual, periodic, or regular basis and may or may not constitute a primary relationship. A familial relationship of spouse or de facto partner also constitutes a consensual personal relationship.
	1. Identifying conflicts of interest

Many employees will encounter a COI during their employment. All employees are responsible for actively considering their private interests and how these could intersect with their public duties.

Employees are encouraged to consult with their manager for assistance in identifying whether a private interest could be an actual, potential, or perceived conflict of interest.

Employees with higher risk factors for COI include those who have:

* responsibility, or involvement in, key decision-making processes – such as those that involve the allocation of public funds (procurement, grants, contract management, finance)
* unique operating environments – such as working alone with little supervision or working in small or regional communities where likelihood for close personal relationships within the community is increased
* other public-facing duties such as managing public correspondence or working with private sector organisations
* regulatory responsibilities for identified sectors
* primary employment with another organisation who may benefit from access to the VCAA’s systems, data and information
* personal relationships within the VCAA – such as a consensual personal relationship with another employee or a family relationship with an employee

Managers should consider the risk profile of the employee’s role and expected duties and assist them to identify situations which may give rise to conflicts with their private interests.

* 1. Avoiding conflicts of interest
* All employees must, wherever possible, avoid COI in their public duties
* Where it is not possible to avoid COI, employees must declare and manage the COI in accordance with this policy
* Although it is not possible to identify all possible COI in advance, employees must deal with conflicts promptly once they arise. Employees must be also able to identify potential COI and put in place appropriate measures to prevent an actual conflict arising where possible
* In the case of any doubts regarding a COI, or about the application of this policy, employees should immediately raise the matter with a manager, or authorised delegate.
	1. Managing conflicts of interest

Where a conflict cannot be avoided, an employee must actively manage the conflict to protect the public interest from influence of a private interest.

Where the VCAA or public might also benefit from circumstances that involve a conflict of interest (e.g. discounts on goods or services), the COI must still be declared, and steps taken to manage its impact. With any COI, there is the potential that the personal benefit involved can create perceptions of corruption.

Employees must develop a COI management plan as part of their COI declaration which is must be approved by their manager.

Management plans are a risk mitigation strategy and should seek to address:

* how public duties impacted by the conflict of interest will be performed
* the communication of the COI and relevant management strategies.
	1. Management strategies

COI management plans often involve the implementation of one or more of the following risk mitigation strategies, depending on the circumstances of the conflict and the identified risks.

Employees must monitor and review their COI declaration and management plan regularly and in response to any changes in circumstances or risks to ensure that the plan remains effective.

**Record and monitor**

The conflict of interest is officially declared and recorded.

Relevant managers and employees may be advised of the conflict on a ‘need to know’ basis to support ongoing monitoring of the situation to ensure the conflict does not intersect with or influence public duties.

Where changing circumstances result in the level of risk increasing, additional strategies (such as restrict or remove) may be implemented to appropriately address the conflict.

**Restrict**

Some restrictions may be placed on the employee’s decision-making capacity where a private interest intersects with their public duties. For example:

* limiting involvement in discussions relating to the private interest to observation-only
* restricting access to available information about matters that intersect with a private interest.

The use of the restriction strategy may still allow involvement in implementation of decisions made by others that relate to the conflicted duties.

**Remove**

An employee faced with a COI is completely removed from any involvement or performance of duties relating to the subject matter of the conflict. This may include removing:

* all decision-making responsibility relating to the matter
* any opportunity to influence decision-making or considerations of others relating to the matter
* ability to access information about the matter, including participation in discussions and access to documents.

**Resolve**

Sometimes, a COI cannot adequately manage to mitigate the risk to the public interest.

In these cases, it may be necessary for:

* the employee to remove their private interest (where possible to do so)
* the manager to explore alternative resolutions to mitigate the risk posed by the conflict.
	1. Declaration of private interests

In addition to their obligations under this policy to identify, declare and manage COI, certain employees are required to also complete the declaration of private interest (DOPI) form on eduPay.

The following employees must complete a DOPI:

* public entity board appointees
* employees holding a financial delegation of $20,000 or more
* employees directed to do so by their manager in recognition of a high COI risk due to a private interest they hold, or a work duty they perform.

These designated employees must complete and/or review a DOPI:

* upon appointment to their position
* if there is a change to their private interests, within 5 working days
* if their manager has assessed the situation as warranting declaration on the basis of potential, perceived or actual conflict of interest risk.

Managers are required to review the completed DOPI of their direct reports and assess whether any declared private interest would create an actual, potential or perceived conflict with the public duties of the employee.

If a conflict of interest is identified from a DOPI:

* the employee’s manager must note this on the DOPI form in eduPay
* the employee must also complete a COI declaration in eduPay for their manager’s approval
* the COI must be managed in accordance with this policy.
	1. Identifying higher risk

While a COI may occur, some functions and activities are considered higher risk than others and may require increased risk mitigation measures from employees.



Areas of high risk include:

* recruitment
* procurement and contract management
* internal committee governance
* contractor management
* other work (primary or irregular employment)
* offerings of gifts, benefits, or hospitality
* complaints management and disciplinary processes
* managing private/public partnerships.

Managers undertake some of these functions regularly and therefore need to be particularly aware of the risks. Activities which carry a high risk of COI should be subject to consideration and systematic scrutiny.

* 1. Personal relationships in the workplace

Employees can have personal relationships with each other, as long as both parties are consensual. These relationships are private, meaning they're kept confidential. However, they could lead to conflicts of interest, whether real, potential, or perceived.

If a personal relationship involves people in a direct professional hierarchy (i.e. in the same reporting line, where one person has supervisory or decision-making authority over the other) it could create a conflict of interest. This is especially true for senior leaders. In such cases, the employees must inform their manager or an authorised delegate about their relationship. This disclosure helps to manage any potential conflicts of interest. Actions taken could include changing reporting structures temporarily or permanently. It is important that any decisions made are fair and don't unfairly affect anyone's job. The severity of the conflict determines how it is handled.

Employees can disclose their personal relationships confidentially to protect their privacy. Only relevant managers or authorised individuals will be informed about the conflict of interest and any steps taken to manage it. Everyone involved in these matters must respect the confidentiality and sensitivity of the information shared. Personal details should only be disclosed to those who absolutely need to know.

* 1. Conflict of interest wheel



* 1. Breach of this policy

Depending on the circumstances of the matter, a failure to identify, report, address or monitor COI in accordance with this policy could constitute misconduct and could lead to disciplinary action which could result in:

* informal resolutions, including close monitoring, additional education and counselling
* performance management
* commencement of a misconduct process.

Any finding of misconduct that amounts to a breach of the Code of Conduct for Victorian Public Sector Employees can result in termination of employment.

For serious breaches amounting to allegations of corruption, the matter may be referred to IBAC for investigation.

Should a criminal offence be suspected to have occurred, the matter can also be referred to Victoria Police for investigation.

* 1. Definitions

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| Term | Definition |
| **Private interests** | Private interests are any interests individuals have in their personal life. They can be:* Relationships

Personal relationships can include family members, friends, consensual personal relationships, professional relationships and business relationships. They can also include personal or business rivals or competitors. Personal relationships can sometimes link to the department and its work, for example:* a family member who also works within the department or a Victorian government school
* a child who attends a Victorian government school or early childhood learning centre
* a family member who works for an organisation that regularly supplies goods or services to the department or a Victorian government school, including applications for tender.
* Consensual personal relationships between employees

A consensual personal relationship between employees within the department or school. This may be sexual, romantic, or intimate in nature.* Declarable associations

Declarable associations relate to a relationship with a person, group or organisation alleged or proven to be involved in serious unlawful activity.* Financial Interest
* Financial interests include existing, potential or future:
* Financial holdings (e.g., real estate, shares, business ownership, investments, or other benefits from office holder positions)
* Financial gains
* Financial loss.

Financial interests can influence an employee in their public duties to act in a way that financially provides benefit for them. Financial interests still constitute a conflict of interest in cases where the public interest mutually benefits. * Outside employment

Outside employment includes paid or unpaid employment in any business, trade or profession outside of an employee’s public sector role. Other casual or ad-hoc commercial activities may also be considered as other employment. Unpaid work, such as volunteering or pro bono work, can be considered as outside employment in certain circumstances.* Activities

Activities can include involvement with or participation in sporting clubs and associations, cultural interests, hobbies, community organisations, social clubs and associations or other activities.This can include:* Membership of a social, cultural, community or sporting institution
* Volunteering at a particular association, institution or club
* Involvement with a social, cultural, community or sporting organisation, including if your family members are members or attendees.
* Duties and influences
* Other duties

Other duties refers to other commitments or duties to another organisation or group which may be in the public or private sector. This includes paid or volunteer roles with other organisations, dual roles within the department, company office holder positions, or board and committee membership.Where these other duties are in conflict with the public sector duties expected of an employee at the department, this can be considered as a conflict of duty. Conflicts of duty can arise even where the interests of each duty are in alignment, such as within the one organisation.Conflicts of duty should be identified, declared and managed under this policy as a conflict of interest.* Loyalties and biases

Loyalties and biases refer to pre-existing preference that an employee may have for or against another organisation or person. This may include loyalty towards a previous employer, personal, political or cultural beliefs that provide for a particular fixed perspective on an issue, or a bias against a person or organisation. |
| **Conflict of interest** | A conflict of interest is where an individual has a private interest that could influence, or be reasonably perceived to influence, the performance of a public duty. |
| **Actual, potential, and perceived conflicts of interest** | Conflicts of interest are categorised as either:* *Actual –* there is an intersection between a private interest an individual has and their public duties.
* *Potential –* an individual has a private interest that could foreseeably intersect with their public duties.
* *Perceived* – it is reasonable for another person to believe that an individual’s private interests could influence the performance of their public duties, irrespective of whether they do.
 |

1. Managing this policy
	1. Authorisation

This policy is issued under the authority of the Chief Executive Officer.

* 1. Accountability for the policy

The owner for this policy is VCAA Human Resources. The owner reports to the Chief Executive Officer on the management of this policy.

The owner is responsible for:

* development and regular review of this policy
* development of protocols, processes and guidelines to support implementation
* monitoring compliance of applicable employees, organisational units, and/or locations.
	1. Important dates

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| --- | --- |
| Date of adoption: | July 2024 |
| Date of last amendment: | July 2024 |
| Date of next review: | July 2026 |

1. Related documents
* Public Administration Act 2004 (Vic)
* Code of Conduct for Victorian Public Sector Employees
* VCAA Gifts, Benefits and Hospitality Policy
* VCAA Fraud Corruption and Other Losses Control Policy
* VCAA Misconduct and Unsatisfactory Performance Policy.