



# DECLARATION OF PRIVATE INTERESTS PROCEDURAL RULE



This document sets out departmental policy and requirements regarding the declaration of private interests.

|                                                                                                  |   |
|--------------------------------------------------------------------------------------------------|---|
| Principles and Background .....                                                                  | 2 |
| Policy .....                                                                                     | 2 |
| Purpose .....                                                                                    | 2 |
| Declarations of Interests and Security Clearances.....                                           | 2 |
| Who is required to make a declaration?.....                                                      | 2 |
| What should be covered in the Declaration.....                                                   | 2 |
| Outside Employment and Declarations .....                                                        | 3 |
| Personal Relationships.....                                                                      | 3 |
| Procurement and Grants.....                                                                      | 3 |
| Completing a Declaration of Private Interests .....                                              | 4 |
| Agency Head Responsibilities.....                                                                | 4 |
| Frequency.....                                                                                   | 4 |
| Declarations by the Agency Head .....                                                            | 4 |
| Interests of Immediate Family Members .....                                                      | 4 |
| Appendix A – Declaration of Interests Template.....                                              | 5 |
| Appendix B – Declaration of Consent by Immediate Family Member .....                             | 6 |
| Annex A - Declaration of Personal Financial and other Interests .....                            | 7 |
| Annex B - Declaration of Personal Financial and other Interests of Immediate Family Members..... | 8 |
| Appendix C – Procedural Guidance for the Executive Officer .....                                 | 9 |



## Principles and Background

The Code of Conduct at s13 of the *Public Service Act 1999* requires that an APS employee must:

- behave honestly and with integrity in the course of APS employment;
- disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment;
- not make improper use of (a) inside information, or (b) the employee's duties, status, power or authority, in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person.

The requirement to be aware of and to avoid or manage real and perceived conflicts of interest applies to all APS employees. RET has put procedures in place that:

- help all employees to understand the importance of avoiding real and apparent conflicts of interest in public employment;
- require all employees to notify managers about private interests, both financial and personal, where they could present a real or apparent conflict with their official duties;
- provide guidance to managers and employees on strategies and good practice in avoiding or managing conflicts of interest.

## Policy

In 1983, the then Australian Government made a decision requiring all senior public servants, statutory office holders, senior staff of statutory authorities and all Ministerial staff to furnish an annual written declaration of their private financial and other interests as well as those of their immediate family – spouse and dependent children.

## Purpose

The purpose of the declaration is to ensure that heads of agencies are aware of any private interests or relationships of APS employees in leadership or other sensitive positions which could or could be seen to influence the decisions the employees are taking or the advice they are giving. These could include personal interests and relationships that could involve a real or potential conflict of interest in terms of the employee's responsibilities. The completion of a declaration of interests also provides employees with the opportunity to consider whether any of their financial or personal interests might give rise to a real or perceived conflict with their duties and take action to remove or minimise the potential for that to occur.

## Declarations of Interests and Security Clearances

RET may apply security clearance requirements to jobs that deal with sensitive information and issues. The security vetting process may require employees to provide information on their personal financial and other interests that could make them vulnerable to outside pressure.

While there may be some overlap between the personal information collected as part of a security vetting and the personal information required to be declared under the declarations policy, the purpose of the security vetting process is to identify personal circumstances or relationships that could make an employee vulnerable to improper influence or otherwise compromise an employee's integrity or ability to manage sensitive information.

## Who is required to make a declaration?

All SES employees, including those acting in SES jobs for longer than three months, are required to complete a Declaration of Interests.

Staff at non-SES levels whose responsibilities also require them to be particularly transparent about their private financial and personal interests should complete a Declaration of Interests.

## What should be covered in the Declaration

It is the responsibility of employees to whom the declaration policy applies to consider and declare private interests or relationships that could or could be seen to impact upon the decisions they are taking or the advice they are giving.

Factors to be taken into account in considering what to disclose include:

- the particular roles and responsibilities of the employee's agency and its probity concerns;
- the particular roles and responsibilities of the employee.

Examples of organisations and situations where transparency and openness about private and personal financial interests are particularly important include:

- agencies, organisations and positions undertaking an investigatory or regulatory role;
- agencies, organisations and positions that allocate contracts or disperse Australian Government funds;
- agencies, organisations and positions that are responsible for the protection and management of sensitive policy, commercial or personal information.

The types of interests and relationships that may need to be disclosed include:

- real estate investments;
- shareholdings;
- trusts or nominee companies;
- company directorships or partnerships;
- other significant sources of income;
- significant liabilities;
- gifts;
- private business or social/personal relationships;
- paid, unpaid or voluntary outside employment

that could or could be seen to impact upon the employee's responsibilities.

Ownership of personal assets such as an unencumbered personal or family home, works of art, jewellery, furniture, antiques etc are most unlikely to have any real or perceived impact on an employee's responsibilities and would not normally need to be declared, since their possession is unlikely to involve a conflict of interest or any other threat to an employee's probity, except in the case of people working in these fields.

## Outside Employment and Declarations

The basic principle is that employees should be able to take up paid or unpaid employment outside the APS, provided that it does not conflict with or adversely affect their duties. In RET, employees are required to seek written permission from their Head of Division prior to engaging in outside employment.

Before approving paid or unpaid employment outside the APS, RET will take into account the particular sensitivities of the employee's work in considering whether to approve the request. Even when outside employment has been approved, it should still be disclosed in the declaration if it could or could be seen to impact upon work responsibilities. While RET employees are not normally required to seek permission to undertake unpaid voluntary work, voluntary and community groups could have interests or aims in relation to RET policy development or programme implementation. Employees should disclose voluntary work or associations that could or could be seen to impact upon their work responsibilities.

Unpaid or voluntary outside employment can present the same potential for conflict of interest as paid outside employment. For this reason they will be treated with the same level of importance as paid outside employment in the context of conflict of interest considerations.

## Personal Relationships

Employees may have family or other personal relationships with people engaged in activities that could have an interest in issues the employee is dealing with. Examples could include media, lobbyists or people who have business dealings with their agency. RET employees are, of course, perfectly entitled to have such relationships, but staff covered by the declarations policy should be open about them. They should therefore disclose the names and activities of family and other personal relationships that could or could be seen to impact upon the employee's responsibilities.

## Procurement and Grants

The Commonwealth Procurement Guidelines and the Commonwealth Grant Guidelines require that officials declare any private interests which may prejudice or be seen to prejudice an officer's impartiality in making decisions in relation to a procurement or grant process.

All officers involved in a procurement or grant process, including the evaluation team, secretariat, financial delegate, and any technical, financial, probity or other advisers must declare their private interests through a [conflict of interest statement](#) prior to commencing a procurement or grant process.

The requirement to declare any actual or perceived conflicts of interest should be a "standing item" on the meeting agenda for the procurement or grant process as an actual, perceived or potential conflict of interest can arise at different stages of the process.

Should a conflict arise, the officer should immediately declare this conflict to the evaluation committee chair and/or the financial delegate and the procurement/probity adviser. The conflict, including the action taken to deal with the conflict, should be recorded in the evaluation report.

For further information on how private interests should be dealt with during a procurement/grant process, refer to the [Procurement and Funding Procedural Rule](#), or contact the Procurement, Grants and Program Delivery Team at [retprocurement@ret.gov.au](mailto:retprocurement@ret.gov.au).

## Completing a Declaration of Private Interests

Before completing the declaration, employees must access the following link to the APSC guidelines on managing conflicts of interest: <http://www.apsc.gov.au/circulars/circular071.htm>.

The declaration requires an employee to acknowledge that they have read and understood the APS-wide guidelines covering declarations of personal interests set out in APS Values and Code of Conduct in Practice. Employees must declare all private interests which actually conflict, or could reasonably be seen to conflict, with their employment duties and obligations under the Public Service Act 1999. The [Declaration of Interests Template](#) can be used for employee declarations.

Once completed, SES employees should send their Declaration of Interests in a double-envelope to the Secretary, with the outer envelope marked: "Personal and Confidential - Private Interests Declaration", with the actual declaration in the inner envelope. Non-SES employees should utilise the same delivery method, however instead forward their Declaration of Interests to the head of their division. Each declaration will be treated confidentially.

## Agency Head Responsibilities

While it is the responsibility of employees to declare personal and private interests, it is the responsibility of the agency head to ensure that any conflict of interest or other threat to the integrity of the agency that is identified in the declarations is avoided or effectively managed.

## Frequency

All SES employees, and staff at non-SES levels whose responsibilities also require them to be particularly transparent about their private financial and personal interests, are required to submit a declaration of interests at least annually, or when an officer's circumstances change.

At the beginning of each financial year, the Secretary will advise all SES officers of their obligation to update their Declaration of Interests in accordance with departmental policy and APSC Guidelines (procedural guidance on this process can be found at Appendix C).

Old or superseded SES declarations must be returned to the HR Manager of RET for filing as confidential documents on the officer's employment history files.

## Declarations by the Agency Head

Declarations made by the Secretary must be completed annually, at the beginning of each financial year, and submitted to the Minister. If the statement discloses a conflict, the Minister and the agency head must take steps to resolve the conflict.

## Interests of Immediate Family Members

The term "immediate family members" applies to spouses and dependent children. Previously, employees were required to declare all the personal interests and relationships of immediate family members that they were aware of.

RET employees are no longer required to declare the personal interests and relationships of their immediate family. Rather, as part of their disclosure responsibilities, they will agree that they will declare any private interests or relationships of their immediate family that they are aware of, where circumstances arise in which they consider that these interests could or could be seen to influence the decisions they are taking or the advice they are giving.

It would be necessary in those circumstances for RET to obtain the family member's direct consent to the disclosure in a manner that is consistent with the requirements of the Information Privacy Principles contained in the *Privacy Act 1988*. These requirements could be covered by the family member signing a notice to the declaration of their relevant interests as follows:

*I am aware that my information has been collected for the purpose of identifying personal and other interests that could or could be seen to influence the decisions that the employee covered by the declarations policy is taking or the advice he/she is giving. I am aware of the Privacy Principles set out in the Privacy Act 1988 which authorise the collection and the third parties to whom my personal information may be disclosed. I consent to the collection of my personal information by the Department of Resources, Energy and Tourism.*

If consent was not given, then the employee should discuss with the agency head of RET, in general terms, that he/she believes that there is an actual or potential sensitivity. The agency head can then decide what action may need to be taken.

## Appendix A – Declaration of Interests Template

This declaration of financial and other personal interests is to be completed annually by:

- all SES employees;
- all employees acting as SES for longer than three months;
- any other agency employees to whom the agency head considers the declarations policy should apply because of their responsibilities or the nature of their work.

This declaration is to be forwarded on completion to the head of your agency.

Name \_\_\_\_\_

Position Title \_\_\_\_\_

Branch/Division \_\_\_\_\_

Geographic Location \_\_\_\_\_

I declare that:

- I am aware of my responsibilities under the APS Code of Conduct to behave honestly and with integrity, to disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment and not make improper use of (a) inside information, or (b) my duties, status, power or authority, in order to gain, or seek to gain, a benefit or advantage for myself or for any other person;
- I have read and understood:
  - the APS-wide guidelines covering declarations of personal interests set out in *APS Values and Code of Conduct in Practice*;
  - any other policies and guidelines on declarations of personal interests that my agency may have put in place;that require me to declare any private interests or relationships which could or could be seen to influence the decisions I am taking or the advice I am giving;
- The attached list at **Annex A** of my private interests and relationships has been prepared on the basis of:
  - the particular roles and responsibilities of my agency;
  - my particular APS roles and responsibilities.

I undertake to immediately inform the head of my agency of any changes to:

- my responsibilities or to the issue or subjects on which I am required to make decisions or give advice; and
- my personal circumstances

that could affect the contents of this declaration and to provide an amended declaration/s using this pro forma.

I undertake to declare any private interests or relationships of my immediate family that I am aware of, should circumstances arise in which I consider that they could or could be seen to influence the decisions I am taking or the advice I am giving. I understand that this would require the consent of the family member to the collection by my agency of personal information and a declaration that he/she is aware of the purpose for which the personal information has been collected, the legislative requirements authorising the collection and the third parties to whom the personal information may be disclosed, and consents.

|           |      |
|-----------|------|
|           |      |
|           | Name |
| Signature | Date |

## Appendix B – Declaration of Consent by Immediate Family Member

This declaration is to be completed by the immediate family member/s of the employee should circumstances arise in which the employee considers that the personal financial and other interests of the family member/s could or could be seen to influence the decisions they are taking or the advice they are giving.

Name \_\_\_\_\_

Relationship to Employee \_\_\_\_\_

I am aware that my information has been collected for the purpose of identifying personal and other interests that could or could be seen to influence the decisions that the employee covered by the declarations policy is taking or the advice he/she is giving. I am aware of the Privacy Principles set out in the *Privacy Act 1988* which authorise the collection and the third parties to whom my personal information may be disclosed. I consent to the collection of my personal information by the Department of Resources, Energy and Tourism.

The attached list at **Annex B** of my private interests and relationships has been prepared on that basis.

|           |      |
|-----------|------|
|           |      |
|           | Name |
|           |      |
| Signature | Date |

**Annex A - Declaration of Personal Financial and other Interests**

Please list any private interests or relationships which could or could be seen to influence the decisions you are taking or the advice you are giving.

The types of interests and relationships that may need to be disclosed include real estate investments, shareholdings, trusts or nominee companies, company directorships or partnerships, other significant sources of income, significant liabilities, gifts, private business, employment, voluntary, social or personal relationships that could or could be seen to impact upon your responsibilities.

|                  |             |
|------------------|-------------|
|                  |             |
|                  | <b>Name</b> |
|                  |             |
| <b>Signature</b> | <b>Date</b> |

**Annex B - Declaration of Personal Financial and other Interests of Immediate Family Members**

Please list any private interests or relationships which could or could be seen to influence the decisions that the employee covered by the declaration policy is taking or the advice he/she is giving.

The types of interests and relationships that may need to be disclosed include real estate investments, shareholdings, trusts or nominee companies, company directorships or partnerships, other significant sources of income, significant liabilities, gifts, private business, employment, voluntary, social or personal relationships that could or could be seen to impact upon your responsibilities.

|                  |             |
|------------------|-------------|
|                  |             |
|                  | <b>Name</b> |
|                  |             |
| <b>Signature</b> | <b>Date</b> |

## Appendix C – Procedural Guidance for the Executive Officer

At the beginning of each financial year, the Secretary's Executive Officer will advise all SES officers of their obligation to update their Declaration of Interests in accordance with departmental policy and APSC Guidelines. The following provides procedural guidance for completion of that task.

### Step 1: Email to SES Officers

On 1 July (or the next working day), the Secretary or their Executive Officer must forward the following text to all RET SES officers via email. The Executive Officer must ensure that the email is sent to all current SES officers, including SES officers on long-term leave.

#### **What is a Declaration of Interests?**

In 1983, the then government made a decision requiring all senior public servants, statutory office holders, senior staff of statutory authorities and all Ministerial staff to furnish an annual written declaration of their private financial and other interests as well as those of their immediate family – spouse and dependent children.

The purpose of the declaration is to ensure that heads of agencies are aware of any private interests or relationships of APS employees in leadership or other sensitive positions which could or could be seen to influence the decisions the employees are taking or the advice they are giving. These could include personal interests and relationships that could involve a real or potential conflict of interest in terms of the employee's responsibilities.

#### **Who is required to make a declaration?**

All SES employees, including those acting in SES jobs for longer than three months, are required to complete a Declaration of Interests at least annually.

Should circumstances arise in which an employee considers that the personal financial and other interests of a family member could or could be seen to influence the decisions they are making or the advice they are giving, signed consent should be obtained from the family member before the disclosure and declaration of their private interests in Annexure B of the employees declaration.

#### **How do I complete a Declaration of Interests?**

To complete the declaration, you will need to access the following link to the APSC guidelines on managing conflicts of interest: <http://www.apsc.gov.au/circulars/circular071.htm>.

The declaration requires acknowledgment that you have read and understood the APS-wide guidelines covering declarations of personal interests set out in APS Values and Code of Conduct in Practice. You must declare all private interests which actually conflict, or could reasonably be seen to conflict, with your employment duties and obligations under the *Public Service Act 1999*.

The [Declaration of Interests Template](#) can be used for employee declarations.

#### **Where should completed declarations be sent?**

Once completed, SES officers should personally deliver their Declaration of Interests to the Secretary's Office by no later than COB 15 July.

### Step 2: Filing New Declarations

Once received, each completed Declaration of Interest must be filed on a Records Management file with a security classification of "Confidential – Personnel In Confidence".

### Step 3: Filing Old Declarations

Old or superseded SES declarations must be returned to the HR Manager for filing as confidential documents on the relevant officers' employment history files.

### Step 4: Declaration of Interests by the Secretary

The Executive Officer is reminded that the Secretary is also required to provide a Declaration of Interests to the Minister at least annually.