



Commissioner's Instruction

No: 2010/02

To: *Board of Management
Regional Executive Directors
General Managers/Superintendents
Directors, Area & District Managers Community Offender Services
Director Offender Policy
Director Corporate Strategy*

For the information of all staff

Subject: **CONFLICTS OF INTEREST**

PREAMBLE

This Instruction is issued in accordance with the provisions of section 235B of the *Crimes (Administration of Sentences) Act 1999*. Commissioner's Instructions amount to lawful orders and any staff member who intentionally disobeys or disregards this Instruction, or is found to be negligent in the performance of their duties, may be liable to disciplinary action under the *Public Sector Employment & Management Act 2002*.

INTRODUCTION

A conflict of interest exists when an employee may be influenced, or could be perceived to be influenced, by a personal interest when carrying out the employee's public duty. A conflict of interest that adversely affects, or may be perceived to affect, an employee's decision-making may constitute corrupt conduct and may undermine public confidence in the integrity of Corrective Services NSW (CSNSW) as well as the employee.

The following policies relating to conflicts of interest are available on the intranet at *Policies and Procedures > Policy Directory Table >*:

Probity and Staff Development -

- Conflicts of Interest
- Gifts and Benefits
- Contact with Offenders

Human Resources -

- Other Paid Employment
- Merit Selection

The purpose of these policies is to provide direction and guidance in identifying, reporting and managing conflicts of interest and, if necessary, in monitoring and reviewing them.

Conflicts of Interest

CSNSW recognises that the personal interests of employees may at times come into conflict with the impartial fulfilment of their official duties and the public interest.

CSNSW therefore requires that:

- all conflicts of interest must be reported;
- management action must be taken to reduce any actual or potential risk to CSNSW and to employees;
- all action taken to resolve conflicts of interest must be transparent, accountable and properly documented;

It is the responsibility of employees to identify and disclose such conflicts of interest, or what could be a potential or perceived conflict of interest, using the Declaration referred to in the specific policy or, for general conflicts of interest, the general "Declaration of a Conflict of Interest" found on the intranet at:

Forms & Templates >> Probity and Staff Development Forms >> Declaration of a Conflict of Interest.

Gifts and Benefits

All employees should perform their duties without demand or expectation of any token, gift, benefit or reward. Employees should therefore:

- never solicit gifts or benefits;
- never accept gifts of money;
- always consider the value and purpose of a gift or benefit before making any decisions about accepting it;
- immediately declare any offer of a gift or benefit to their supervisor.

For reasons of transparency and accountability, all offers of a gift or benefit, regardless of value, must be declared and recorded on the "Declaration of Offer of Gift or Benefit" found on the intranet at:

Forms & Templates >> Probity and Staff Development Forms >> Declaration of Offer of Gift or Benefit.

Once completed by both the employee and their supervisor, a hard copy of the declaration is to be placed in the Gifts and Benefits Register held at the local workplace.

When it is considered that the offer of a gift or benefit was made with the intention of influencing the employee to act in a particular way (ie **bribery**), the employee is to complete a "Declaration of Offer of Gift or Benefit" and report it to their supervisor immediately.

In the case of an offender, or a relative or friend of an offender making the offer, the supervisor must record the offer in the offender's case file and fax the declaration to Corrections Intelligence Group (CIG) on 9748-0624.

Contact with Offender/s

It is inevitable that some employees will from time to time have social or off-duty contact with offenders to whom they are related or with whom they are otherwise involved.

Employees must disclose all personal relationships and/or significant social or off-duty contact with offenders so that risks may be managed and false perceptions corrected.

Employees are therefore obliged to report all known relationships or significant social or off-duty contact with offenders using the "Declaration of Contact with Offender" found on the intranet at:

Forms & Templates >> Probity and Staff Development Forms >> Contact with Offenders Declaration.

Failure to report or misrepresentation of the relationship may result in disciplinary action. Improper relationships of any kind will not be tolerated.

Casual or unintentional meetings with offenders do not have to be reported. For example, there is no need for employees to report each time they see an offender in the local supermarket. Such contact may be a random but regular occurrence, particularly in country locations.

Employees who are working with offenders must be professional at all times and must not overstep boundaries established for the performance of their role. Employees need to keep in mind the perception of improper conduct or existence of an improper relationship that can arise if routines, regulations and other protocols are not strictly and consistently followed, or if any contact with an offender becomes too familiar.

Employees need to be aware of the negative consequences that arise when such a perception is created in the mind of a colleague, an offender or member of the public.

Employees need to be aware that inappropriate contact with offenders can leave them open to exploitation and manipulation. Employees can be compromised by offenders if they break the rules, even in a minor way.

Other Paid Employment

Where a CSNSW full-time employee proposes to undertake other paid employment, the employee must seek written approval by submitting an "Assessment of Other Paid Employment" form to their manager. This form can be found on the intranet at:

Forms & Templates>>Human Resources Forms>>Other Paid Employment form

An initial assessment by the employee's manager must be carried out to determine whether a conflict of interest exists or whether the employee's duties may be adversely affected by the other paid employment.

A part-time employee (permanent or temporary) or casual employee is required to submit details of any proposed other paid employment, including employment in another Government agency, for assessment to determine whether the other paid employment may give rise to a conflict of interest or adversely affect their duties.

Merit Selection

The selection committee is formed to ensure the fairest consideration of all applicants. To protect the integrity of the merit selection process, a written declaration must be made by each selection committee member disclosing the nature of any relationship with applicants and other committee members, whether or not there are, or could be perceived to be, any conflicts of interest.

A Declaration of Conflict of Interest form is part of the selection committee's package and is to be completed by each selection committee member as part of the short listing process. A selection committee member should withdraw from the selection process immediately if there is a conflict of interest. In certain circumstances, a perceived conflict of interest may be sufficient reason for a selection committee member to withdraw from the selection process.

Use of offender labour for private purposes

The use of inmate or offender labour to provide services to CSNSW employees for private purposes is not permitted at any time. Such a practice gives a perception of a conflict of interest and is contrary to clause 165 (2) of the Crimes (Administration of Sentences) Regulation 2001 which provides that:

An inmate must not be employed to perform work for the benefit of the Commissioner or any correctional officer or CSNSW officer.

Similarly, clause 188 (2) of the Regulation provides that a periodic detainee must not be employed to perform work for the benefit of the Commissioner or any correctional officer or CSNSW officer.

The prohibition applies regardless of whether or not the services are paid for and regardless of whether or not the offender is currently subject to CSNSW custody or supervision.

Working where close personal relationships exist

CSNSW recognises that employees may at times have contact with persons of close personal relationships in their professional capacity. Where close working relationships exist, there may be occasions when a conflict between public duty and private interest will arise.

It is important therefore, to ensure that personal interests are conducted in such a way that the work of the employees involved is not affected adversely, and that equality of opportunity, professionalism and the integrity of CSNSW are maintained at all times.

It is therefore the responsibility of all employees to report any actual, perceived or potential conflict of interest arising out of close personal working relationships.

INSTRUCTION

This Instruction replaces:

- Commissioner's Instructions –
 - ◆ 01/2003 "Use of Inmate/Offender Labour for Private Purposes"
 - ◆ 10/2007 "Other Paid Employment"
 - ◆ 05/2008 "Conflicts of Interest Policy"
 - ◆ 01/2009 "Contact with Offenders"
- and
- Commissioner's Memorandum 01/13 "Gifts and Benefits Guidelines"

All employees who consider their private interests may come into conflict with the impartial fulfilment of their official duties and the public interest must read the relevant policy, comply with its provisions and have regard to CSNSW's *Guide to Conduct and Ethics*.

Please ensure that all employees under your area of administration are aware of this Instruction, a copy of which has been placed on CSNSW's intranet.



RON WOODHAM
Commissioner

Date: 17 May 2010

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References:	<i>DCS Guide to Conduct and Ethics</i> Conflicts of Interest Policy Gifts and Benefits Policy Contact with Offender Policy Other Paid Employment Policy Merit Selection Policy Working Where Close Personal Relationships Exist Policy