



Australian Government

Office of the Australian Information Commissioner

External complaints about OAIC employees or contractors – overarching policy

Operational policy for the management of external complaints about the behaviour of OAIC employees or contractors



Audience and location: All staff

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26 November 2020

OAIC

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0.1	s22	Initial draft	23 August 2020
0.2	AGS	Amendments	24 September 2020
0.3	s22	Approved	26 November 2020

Executive summary

This operational policy describes the way in which the Office of the Australian Information Commissioner (OAIC) will manage external complaints about the behaviour of its employees or contractors (staff members).

Members of the public, businesses and government agencies have the right to complain about OAIC staff members. The OAIC's service commitment to the community it regulates is contained in the Service Charter (D2020/015181).

There are two types of complaints that external people or entities might make about OAIC staff members:

1. Complaints that an OAIC staff member has interfered with the privacy of an individual
2. Complaints about conduct that does not involve interference with the privacy of an individual.

Either type of complaint can involve conduct that may amount to a breach of the Australian Public Service (APS) Code of Conduct by a current or former employee and which may be handled under OAIC's *Breaches of the APS Code of Conduct Procedures* instead of being handled under the relevant complaints policy.

This policy provides guidance to staff members about the correct handling of all types of complaints.

Complaints of an interference with privacy

Where a complaint is received that an OAIC staff member has interfered with an individual's privacy it must be managed in accordance with the *Privacy complaints about the OAIC* policy.

Such complaints will be managed by the Legal team.

Complaints about conduct

Where a complaint is received about the conduct of a staff member that does not involve interference with an individual's privacy it must be managed in accordance with the *External complaints about OAIC employees or contractors – operational policy* – found at [D2021/004230](#).

Complaints about conduct might include:

- rudeness
- delay
- failing to respond to reasonable requests.

Such complaints will be managed by the staff member's manager and reported to the relevant Assistant Commissioner or Principal Director.

Complaints about breaches of the APS Code of Conduct

The above policies do not preclude action being taken under the *Breaches of the APS Code of Conduct Procedures* if the complaint relates to a current or former OAIC employee (but not a contractor).

Where a complaint concerns the conduct of a current or former OAIC employee that may amount to a breach of the APS Code of Conduct, such complaints may be managed in accordance with the *Breaches of the APS Code of Conduct Procedures* – found at [D2021/004229](#). The *Breaches of the APS Code of Conduct Procedures* also apply where concerns come to light other than through an external complaint.

If you are uncertain about which policy applies to a complaint, please discuss the matter with the Principal Lawyer or a member of Executive.

Regardless of the type of complaint made, the staff member receiving the complaint must register the matter as a complaint in Resolve.



Australian Government
Office of the Australian
Information Commissioner

Guidance for staff

Dealing with privacy
complaints about the OAIC

[oaic.gov.au](https://www.oaic.gov.au)

OAIC

February 2021

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Background

Purpose

This Guide applies to any officer of the Office of the Australian Information Commissioner (**OAIC**) who receives a complaint from an individual alleging that the OAIC has interfered with their privacy.

References in this Guide to provisions are to those contained in the *Privacy Act 1988* (Cth) (**Privacy Act**) unless otherwise indicated.

This Guide outlines:

- The process for handling a first instance complaint about an act or practice on the part of the OAIC that may be an interference with the privacy of an individual
- The role of the OAIC's privacy officers
- The process for managing a complaint made under s 36 about an act or practice of the OAIC
- The legal basis for appointing an external investigator to conduct an investigation under s 40(1) and the role of the external investigator
- The role of Legal Services team and Corporate Services Branch in procuring and appointing the external investigator
- The role of the relevant Assistant Commissioner, General Counsel and Director of the Legal team in progressing the s 36 privacy complaint
- Supporting the officer about whom a privacy complaint is made.

This policy does not preclude action being taken under the '[Breaches of the APS Code of Conduct Procedures](#)' (if the complaint relates to a current or former OAIC employee) or under an applicable contract (if the complaint relates to a contractor).

OAIC as an agency and as a regulator

The OAIC acts as the regulator in handling privacy complaints made about other Australian Privacy Principle (**APP**) entities.

Under s 36 an individual may complain to the Commissioner about an act or practice that may be an interference with their privacy. If such a complaint is made, and the act or practice may be an interference with the privacy of an individual, under s 40 the Commissioner is obliged to investigate the act or practice, subject to exceptions.

The requirement to investigate only applies if the complainant complained to the respondent first or if the Commissioner decides that it was not appropriate for the complainant to first complain to the respondent.

As an APP entity, the OAIC may also receive complaints from individuals who claim that the OAIC has interfered with their privacy. In these instances, the OAIC is the respondent agency.

Where an individual lodges a complaint about the OAIC's conduct, the OAIC must generally first consider dealing with that complaint in its capacity as a respondent agency, and second, in the event that the complainant continues to press their complaint after an unsuccessful attempt to resolve, in its capacity, as a regulator. There may be instances where it is not appropriate for the complainant to complain in the first instance to the OAIC as an agency, and the Commissioner may, pursuant to s 40(1A), decide to investigate the complaint under s 36.

Where an individual complains to the OAIC under s 36 (in its capacity as a regulator), that the OAIC has interfered with their privacy, there is a risk that the OAIC will be perceived to be biased or may

have a conflict of interest in investigating its own actions. That is, a reasonable observer might consider that the OAIC may not bring an impartial mind as the regulator, in regulating its own actions.

In order to mitigate this risk, the OAIC has decided on a process by which it may seek the assistance of an appropriately qualified and experienced external consultant to conduct an independent investigation into the act or practice about which the complainant complains. The decision to outsource a s 36 privacy complaint against the OAIC to an external investigator must be made by the Australian Information Commissioner (**the Commissioner**) or an Executive delegate.

Related material

- [Privacy regulatory action policy](#)
- [Guide to privacy regulatory action](#)
- [Privacy Officer Appointment Instrument](#)
- [OAIC Privacy Management Plan](#) (D2018/011921)

Guidance

Role of Privacy Officers

The *Privacy (Australian Government Agencies — Governance) APP Code 2017 (the Code)* made under s 26G requires the OAIC to appoint at least one privacy officer who is the primary point of contact for advice on privacy matters in an agency and who handles privacy complaints, among other responsibilities.

Under the existing [Instrument of Appointment](#), the General Counsel is the Chief Privacy Officer (**CPO**), while Lawyers, including Senior Lawyers and the Director of the Legal Services team constitute OAIC privacy officers for the purposes of the Code.

In the event that an OAIC officer, including Enquiries staff, receives a complaint in writing from an individual, which alleges that the OAIC has interfered with their privacy, the officer should acknowledge the complaint and refer the complaint to the CPO. The CPO will decide whether attempts to resolve the matter should be undertaken as the agency involved, or whether the matter should be considered under s 36. The CPO will consider the complexity of the matter in reaching their decision, with more complex matters more likely to be managed under s 36.

Privacy officers will liaise with the OAIC Executive about how to approach privacy complaints made against the OAIC. In some instances, as noted above, the Commissioner may consider exercising their discretion to find that it is not appropriate for the complainant to complain to the OAIC and may instead invite the complainant to make, or may decide to treat the first instance complaint as, a complaint under s 36.

Officers who are subjects of the complaint

On receipt of a privacy complaint, the CPO will talk to the manager/s of the officer who is the subject of the complaint. The CPO will generally refer the complaint to privacy officers within the Legal Services team to assist with management of the complaint.

Any officer who is the subject of the complaint will be advised in broad terms of the nature of the complaint and will be directed not to access any of the OAIC's document management systems (such as Content Manager or Resolve) relating to the complaint.

They will be offered support by their manager, including information about accessing such services as Employee Assistance Program.

Complaints will be handled with an appropriate level of confidentiality. Information about the complaint will be disclosed to relevant staff on a need to know basis, including where it is necessary to give procedural fairness to the officer concerned.

Outcomes of Privacy Complaints against the OAIC

If a complainant is dissatisfied with the outcome of their privacy complaint at first instance, they are entitled to make the complaint to the OAIC as a regulator under s 36 of the Act.

If the complainant considers that the OAIC's privacy officer erred in law in their making of a decision about the complaint, it is open to the complainant to seek judicial review of that decision.

Alternatively, if the complainant is dissatisfied with the outcome of the complaint or the way in which the complaint was handled, they may contact the Commonwealth Ombudsman.

OAIC as an agency

The CPO will decide whether the OAIC should attempt to resolve the matter as an agency, ahead of moving to s 36 processes. Relatively straightforward matters, where the officer who is the subject of the complaint agrees with the facts and circumstances put forward by the complainant, may be able to resolved less formally.

In those circumstances, the resolution of the matter will be attempted by the Lawyer assigned to the matter by the CPO. This may involve:

- Obtaining a statement of facts from the officer involved
- Reaching a decision regarding whether those facts amount to an interference with the privacy of the complainant
- Attempting to resolve the matter with the complainant.

Where the matter is more complex, or attempts to resolve the matter informally are unsuccessful and the complainant wishes to pursue the matter, the CPO may decide to investigate the complaint under s 36.

Section 36 complaint

Role of Case Manager

In-house management of s 36 complaint

On receipt of the complaint made under s 36 about the OAIC the CPO will generally allocate the complaint to a Lawyer within Legal Services (**the case manager**). Though the CPO will maintain oversight, the case manager will be responsible for both the management of the s 36 complaint and the procurement of an external investigator. Section 36 complaints against the OAIC will be expedited.

Management of s 36 complaint by an external investigator

Before an investigator is engaged, the OAIC must advise the complainant that the OAIC will engage the third-party investigator (**the investigator**) to investigate the complaint.

The case manager will write to the complainant explaining the decision to outsource the complaint to the investigator, advising that information about the complaint, including the original complaint to the OAIC and the complainant's submissions, will be sent to the investigator.

The case manager will undertake a procurement process to engage an external investigator in accordance with the OAIC's usual legal procurement process. Final approval of the external investigator will be given by the Deputy Commissioner.

The CPO will also ensure that the investigator is appointed to the role under the relevant instrument of appointment. The CPO and Corporate Services will be responsible for processing the invoices provided by the investigator.

The external investigator will treat the complaint under s 36 in the same way that the OAIC would treat any other complaint about an APP entity, including by following the relevant parts of the guidance contained in [Case Management Overview](#). However neither the case manager or the CPO, or the external investigator will be the decision-maker. The decision-maker will be a member of the Executive, usually the Assistant Commissioner or the Deputy Commissioner.

The case manager will liaise with the investigator. The case manager should also write to the complainant, notifying them of the investigator's details and the fact that the investigator will be in contact with them.

The case manager should contact the investigator as soon as the complainant has been notified of the investigator's details. The case manager will generally be the point of contact for the management of the investigation. The case manager will provide the investigator with the documents relevant to the complaint. The case manager will be the contact person if the investigator has any questions during the investigative process.

Apart from outsourcing of the investigative role, the case manager will treat the complaint under s 36 in the same way that it would treat any other complaint about an APP entity. This means that the case manager will communicate with the complainant, providing them with updates on the progress of the case.

On receipt of the draft investigation report from the investigator, the case manager and/or the CPO will review the findings, reasons and recommendations for the following:

- understanding of all the complainant's claims
- factual findings based on evidence
- logical reasoning
- correct application of the law and policy
- consistency with other cases
- any other matters the case manager considers relevant.

It is open to the case manager to go back to the investigator seeking clarification on any aspect contained in the report. The case manager should liaise with the CPO and the decision-maker on these inquiries.

Once the case manager, CPO and decision-maker are satisfied that they agree with the investigator's report, they should provide procedural fairness to the complainant by providing the report and inviting comment, ensuring that enough information is provided to the complainant to enable them to understand why the information is relevant to their complaint.

Depending on the comments made by the complainant in response, the case manager, on consultation with the CPO and decision-maker, may need to confer further with the investigator.

Role of External Investigator

Under s 24 of the *Australian Information Commissioner Act (AIC Act)*, the Commissioner may engage consultants to assist in the performance of their functions and exercise of their powers, including privacy functions, where the relevant function or power can be delegated to a member of staff of the OAIC under s 25 of the AIC Act.

While it is not open to delegate a power to make a determination about a complaint under s 52, an external consultant is able to make a recommendation arising out of their investigation.

An investigator may find that there has been **no interference** with privacy and may recommend in their report that the complaint be finalised under one or more of the grounds in s 41, with the effect that the investigation is terminated.

Alternatively, the investigator may find that there **has been an interference** with privacy on the part of the OAIC, in which case, if this finding is accepted by the decision-maker, conciliation should be considered (see below).

The decision-maker will not be bound by any findings or recommendations made by the investigator. The investigator's report will amount to relevant information to which the decision-maker is to have regard.

Decision-maker

For s 36 privacy complaints about the OAIC, the decision-maker will be a member of the Executive, usually the Assistant Commissioner or the Deputy Commissioner. It is for the decision-maker in the OAIC to make the decision on a complaint.

Where the investigation of the complaint is outsourced to an investigator, the investigator's report will likely comprise the relevant information upon which the decision-maker makes the final decision but will not be definitive. The decision-maker should set out in a decision record their consideration of the investigator's report.

Decisions

Before making a decision to accept the findings and recommendations of the case manager, CPO and/or investigator the decision-maker will need to be satisfied of the matters outlined above.

Where the complaint investigation has been outsourced

An investigator may find that there has been **no interference** with privacy and may recommend in their report that the complaint be finalised under one or more of the grounds in s 41, with the effect that the investigation is terminated. Provided that the decision-maker is satisfied with the investigator's report, including they are satisfied with the matters outlined above, it is open to the decision-maker to finalise the matter by adopting the findings and recommendations of the investigator.

In the event that the investigator finds that there **has been an interference** with privacy on the part of the OAIC, conciliation should be considered. If conciliation is unsuccessful, the decision-maker will need to carefully consider next steps and may wish to seek legal advice.

Depending on the circumstances of the case, it may be that the investigator is asked to provide recommendations to remedy the conduct. If those recommendations are agreed, it may be that the decision-maker considers it appropriate to finalise the matter under s 41(1)(da) on the basis that further investigation is not warranted having regard to all the circumstances.

However, whether to decline to investigate further, and if so on what ground, is a matter that will need to be considered on a case-by-case basis.

Conduct of an OAIC employee

An interference of an individual's privacy is taken to be an act of the OAIC. However, the Code of Conduct requires all APS employees to act with care and diligence and to comply with Australian laws in connection with their employment. Consideration may be given to any conduct by an employee resulting in any interference of an individual's privacy and whether the employee's conduct ought to be referred for consideration under the [OAIC's Breaches of the APS Code of Conduct Procedures](#).

Records Management

Privacy officers will be responsible for registering the matter on Content Manager, liaising with the complainant, dealing with the complaint at first instance and advising the complainant of the outcome. A Resolve LEG case file will also be opened, but will act as a duplicate folder, with all documents to be placed on both the Content Manager and Resolve files.

Access to the Content Manager and Resolve files concerning privacy complaints against the OAIC, for both complaints made to the OAIC as an agency and subsequent s 36 complaints, should only be available to officers within the Legal Services team and Executive.

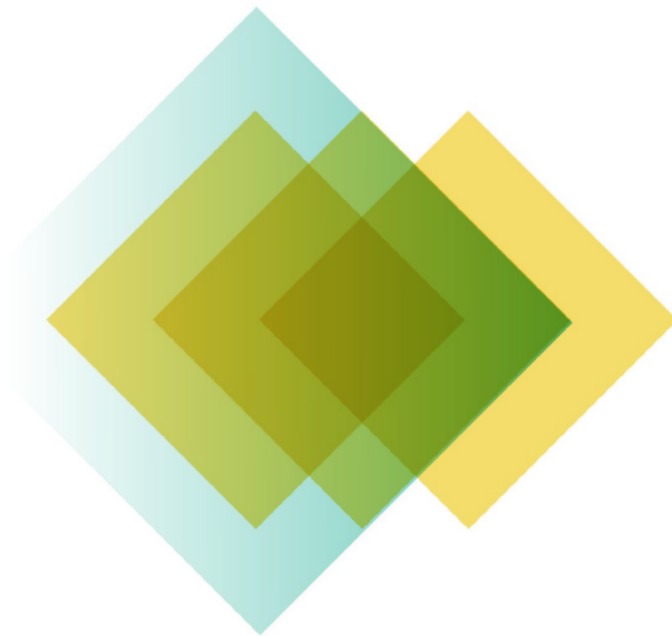
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0.3	s22	Revised draft	22 December 2020
	s22	Approval of final draft	23 December 2020



Australian Government

Office of the Australian Information Commissioner

Managing Conflicts of Interest



11 November 2025

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1.0		Original	June 2017
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1.2	s22	Updating Word template	May 2021
1.3	s22	Update and formatting Word template	August 2021
1.4	Director, GRC	Update to reflect organisational restructure Remove duplication	April 2025
	GM, Enabling Services	Approved	17 April 2025
1.5	GM, Enabling Services	Update to align with APSC guidance	November 2025

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Purpose

This document outlines the Office of the Australian Information Commissioner's (OAIC's) policy on managing real or apparent conflicts of interest. Implementation of the policy aims to ensure that the integrity and reputation of the OAIC are not compromised.

Introduction

As an independent regulatory agency, the integrity and reputation of the OAIC are critical.

Public confidence in the integrity of the OAIC is vital. That confidence may be jeopardised if the community perceives that employees are working to serve other agendas. Australian Public Service (APS) employees need to be aware that their personal interests could conflict or could reasonably be perceived to conflict with their official duties and need to know what to do when a conflict arises.

All APS employees are required to comply with the APS Values, Employment Principles, and Code of Conduct. The APS Code of Conduct states that an APS employee must:

- take reasonable steps to **avoid** any conflict of interest (real or apparent) in connection with their APS employment, and **disclose** details of any material personal interest in connection with their APS employment
- behave honestly and with integrity in connection with APS employment, and
- not make improper use of inside information or their duties, status, power or authority:
 - in order to gain, or seek to gain, a benefit or advantage for themselves or any other person, or
 - to cause, or seek to cause, detriment to the agency, Commonwealth or any other person.

The [*Public Governance, Performance and Accountability Act 2013*](#) also sets out the duties of officials under that Act, including the duty to disclose material personal interests. These duties apply to officials in all Commonwealth entities.

All public officials, including APS employees, are subject to the [*National Anti-Corruption Commission Act 2022*](#), which outlines the following types of corrupt conduct that can be prevented by the avoidance, or disclosure and effective management, of conflicts of interest:

- breach of public trust
- abuse of office by a public official
- misuse of official information by a current or former public official
- conduct of any person, including a public official's own conduct, that could adversely affect the honest or impartial exercise of a public official's powers, functions or duties

This policy applies to all officials, including Commissioners within the OAIC to the extent contemplated by the law¹. In making declarations, managing conflicts of interest and in relationships with staff Commissioners within the OAIC adopt this policy.

Failure to avoid, disclose or effectively manage conflicts of interest may have personal consequences for individuals, including sanctions for breach of the Code of Conduct or prosecution under relevant criminal offence provisions for corrupt conduct.

What is a conflict of interest?

A **real conflict of interest** exists where you have a personal interest or competing duty that could affect or be affected by the way you perform your public or official functions or duties.

An **apparent conflict of interest** exists where a reasonable person might think that you have a personal interest, relationship or competing duty that could affect, or be affected by, the way you perform your public or official functions or duties, even though there is no real conflict of interest.

A **potential conflict of interest** is where there is a real possibility that you will have a personal interest, relationship, or competing duty that could affect or be affected by the way you perform your public or official functions or duties in the future.

A **personal interest** includes financial and non-financial interests, including personal and professional relationships and associations as well as competing public or official functions or duties. Examples may include, but are not limited to:

- real estate investments
- shareholdings, trusts or nominee companies
- other significant sources of income, including self-managed superannuation
- business interests held as sole proprietor, partner, executive director etc.
- secondary/outside employment (including paid and volunteer activities and positions)
- professional associations (including past employment, past professional relationships, organisational memberships or public political affiliations)
- family, social or intimate personal relationships
- other public or official roles or duties elsewhere in the Commonwealth, which may come into conflict with an employee's primary role or duties at the OAIC.

A **material personal interest** is an interest that can sensibly give rise to a real or apparent conflict of interest. Personal interests do not give rise to a conflict of interest unless there is a real or sensible possibility of conflict (not simply a remote or theoretical possibility of conflict).

The appearance of a conflict can be just as damaging to public confidence in the integrity of the OAIC as an actual conflict. This means that both real and apparent conflicts of interest must be declared and managed appropriately.

¹ [Public Governance, Performance and Accountability Act 2013](#) s29

Requirements

All employees must be aware of and take reasonable steps to **avoid** any conflict of interest in connection with their employment. Where they can't be avoided, employees must **disclose** in writing details of any material personal interest so that it can be **managed**.

Employees must notify their supervisors about real or apparent conflicts of interest as soon as they become aware that a conflict may exist using the form set out at **Attachment A**.

If an employee's supervisor changes, it is the responsibility of the employee to provide a copy to their new supervisor of declarations of material personal interests and any approved management plans.

Supervisors at all levels have a duty to ensure that staff take all reasonable steps to avoid conflicts of interest, and declare and manage any real or apparent conflicts appropriately. are required to provide guidance and support to staff regarding their obligations, assess and manage conflict of interests according to OAIC policy, and personally demonstrate good conflict of interest management practice. Failure to do so may be a breach of the APS Code of Conduct, or other legislative or contractual obligations.

If applicable, a declaration of consent by immediate family members to the release of personal financial and other interests related to the employee's declaration must be completed. If such consent is unable to be given, the employee should discuss the matter with the General Manager – Enabling Services through their supervisor/branch head/division head to determine what action should be taken.

Having regard to seniority, responsibilities and the nature of work undertaken, and the potential for a heightened level of risk of conflict, the Australian Information Commissioner has determined that SES officers, Principal Directors, and the Chief Financial Officer (or any employees acting in these roles) must make an annual declaration of interests using the form set out at **Attachment A**.

All new employees must complete a conflict of interest declaration as part of their on-boarding procedures. Previous employment may be considered a material personal interest for this purpose, and all new employees need to consider whether their work history could give rise to a real or apparent conflict with their new role.

The Australian Information Commissioner may ask employees to complete a declaration of interests where their specific role or other circumstances make this appropriate.

Specifically, when an employee commences work on an assessment or investigation they may be required to complete a limited declaration regarding real or apparent conflicts arising in relation to the specific matter using the form set out in **Attachment B**. This includes those directly involved in undertaking the work or supporting a decision maker and those that approve actions or are the decision maker. The fact that the declaration has been made will be stored on the relevant Resolve matter file. The actual declaration will be stored on the employee's personnel file.

Employees must complete a conflict of interest declaration prior to the commencement of recruitment, procurement or contract management activities, and subsequently if circumstances change.

As Agency Head, the Australian Information Commissioner will ensure that any conflict of interest is effectively managed.² **Attachment A** contains a prompt for an employee to consider whether a management plan is required in respect of any real or apparent conflict of interest and a template to record the detail of the management plan as well as information about its approval by the OAIC.

All employees must complete an annual declaration that they have complied with their conflict of interest responsibilities and made appropriate declarations as required.

Identifying a conflict

Any situation or event where an employee's personal interests could inappropriately influence them in the performance of their duties as a member of the APS and an officer of the OAIC, can present a real or apparent conflict of interest.

A conflict or an appearance of a conflict could arise through circumstances including:

- an employee's financial interests including directorships, shareholdings, real estate, trusts or involvement in self-managed superannuation funds and other sources of income which have the potential to conflict with official duties
- an employee's personal and other relationships including personal (including family, friends, sexual, social, community), professional or business relationships
- an employee's other personal, professional or business interests including:
 - membership of, or relationship with, an organisation or its employees outside work (including past employment, past professional relationships, organisational memberships or public political affiliations)
 - paid, unpaid or voluntary outside employment (see below)
 - being in dispute or bringing a complaint or civil action against an entity or individual who is a party or representative of a party in a matter with the OAIC
 - receipt of gifts or benefits (see below).

Managing potential conflicts is an ongoing requirement that requires ongoing consideration and where relevant, disclosures.

Employees should ask themselves whether their personal interests could give rise to a real or apparent conflict with their official functions or duties, and if so, take action to disclose that.

Where you are not sure whether a personal interest could conflict with your duties, it is good practice to declare the interest and seek advice on how to assess and manage any potential conflict. In the first instance you should seek advice from your supervisor or the General Manager – Enabling Services. The APSC [Ethics Advisory Service](#) can also provide advice.

² Commissioners are required, by s 22 of the *Australian Information Commissioner Act 2010*, to give written notice to the Minister of all interests, pecuniary or otherwise, that the Commissioner has or acquires that conflict or could conflict with the proper performance of their functions.

Managers at all levels have a duty - in addition to declaring and managing their own conflicts - to ensure that their staff avoid conflicts of interest or declare and manage conflicts effectively on an ongoing basis.

Interests of immediate family members, friends or colleagues

Employees must disclose any personal interests or relationships of their immediate family, where they consider that the interests could influence, or could reasonably be seen to influence, the decisions they are taking or the advice they are giving. **Immediate family member** means spouses, partners and dependent children. It may also include any other relatives or close friends in the same household, or with whom employees have a financially dependent or interdependent relationship.

The activities or interests of others (such as family and friends) can also give rise to a conflict of interest. For instance, a friend may be a complainant, or a family member may work for, or invest in, a regulated organisation or agency. In deciding whether a conflict may exist, and how to manage it, consider:

- How well do you know the person concerned?
 - If the person is a family member or friend, a reasonable observer might consider that you may not act impartially, and a conflict of interest may exist.
- What interest or involvement does the person concerned have in the entity?
 - The more significant the interest or involvement, the more likely a reasonable person would consider that there could be a conflict of interest.
- How well do you know the organisation or agency?
 - You may have previously worked for an organisation that is involved in matters being dealt with in the OAIC, or you may have a partner working for such an organisation. You need to consider how close the connection is or was, and whether a reasonable person would consider that there could be a conflict of interest.
- How long ago was the connection?
 - If you worked for an organisation before recently joining the OAIC, and still meet regularly with friends from that organisation, there may be an apparent or real conflict of interest. If you worked for an organisation more than 5 years ago and have had no ongoing connection with the organisation or its employees, then a conflict is less likely, but still possible.

Conflicts involving outside employment / gifts and benefits

Outside employment may give rise to a real or apparent conflict of interest. Refer to the Policy on outside employment: [D2025/005679](#).

While gifts can also give rise to a conflict the [OAIC Gift and Benefits Policy](#) deals with these issues separately.

Disclosing material interests

Where a material conflict of interest cannot be avoided, the employee must disclose that interest so that it can be managed. Disclosing the interest ensures that the OAIC is made aware of personal interests or relationships that could or could reasonably be perceived to improperly influence employees in the exercise of their duties.

A **material personal interest** is one that can give rise to a real or apparent conflict of interest. The question is whether there is a real or sensible possibility of conflict. A good test for identifying a conflict of interest is to consider whether a reasonably impartial person would think that an employee's personal interests could plausibly conflict, or appear to conflict, with their official duties.

There is no standard list of items that must be disclosed. It is the responsibility of employees to consider and disclose the personal interests or relationships that influence, or could reasonably be seen to influence, their official functions. Factors that may need to be weighed in assessing the materiality of the conflict of interest include:

- the type or size of the employee's personal interest, real or apparent
- the nature or significance of the particular decision or activity being carried out by the OAIC
- the extent to which the employee's personal interest could affect, or be affected by, the OAIC's decision or activity
- the nature or extent of the employee's current or intended involvement in the OAIC's decision or activity.

Where a real or potential conflict is identified, employees should report the conflict to the General Manager – Enabling Services through their supervisor and Branch or Division Head as soon as they become aware of it, including to determine if a management plan is required. More information may be sought about the circumstances surrounding the conflict, including, if necessary, after consulting the employee, from another person or organisation.

Declarations (and any associated management plan) must be documented appropriately using the forms set out in **Attachments A and B**.

In the context of work with the OAIC, declarations are required:

- upon appointment/commencement with the OAIC
- throughout the course of employment in the circumstances set out in Attachment B and when undertaking activities such as recruitment, procurement and contract management

- on an hoc basis, including as and when circumstances change
- annually in the case of Commissioners, SES, Principal Directors, and any other employees to whom the Australian Information Commissioner considers this requirement should apply because of their responsibilities or the nature of their work.

Managing a conflict

It is critical that OAIC employees do not allow their interests to influence the decisions they make, the actions they take or the advice they provide in the course of their official duties.

Avoiding conflicts is generally preferable, but in practice there may be some situations where conflicts of interest cannot be wholly avoided. In those cases, they need to be managed in a way which will withstand external scrutiny.

The action taken to manage a real or apparent conflict of interest will be determined by the supervisor and ultimately approved by the General Manager – Enabling Services, according to the specific circumstances of the individual case, including the role and responsibilities the employee performs for the OAIC and the nature and extent of the conflict.

When reviewing a conflict of interest declaration and considering appropriate mitigation strategies for the management plan, the following questions are useful for employees and managers to think about when assessing risk:

- What is the nature of the personal interest?
 - Is it 'material', or remote or theoretical?
 - Is it significant to the person (like secondary employment or a valuable financial investment)?
 - Is it unavoidable or pre-existing (like a personal or professional relationship)?
- What is the person's role, or their specific duties?
 - Are they in a position that is highly visible or relates to regulatory decision making?
 - Do their duties involve high-conflict risk activities all the time, or only occasionally?
 - Is the person's personal interest or conflict an identified risk that requires specific controls to be applied (such as requiring strict information and external engagement controls)?
- Is the conflict risk real or apparent?
 - Does the conflict actually impact the person's ability to perform their duties?
 - Could an outside observer reasonably perceive the conflict to impact the person's ability to perform their duties?
- What is the likelihood of a conflict of interest arising?
 - Could the material personal interest affect the person's ability to perform their duties right now, or at some point the future?
 - Would the risk increase if circumstances change?
- What are the consequences of not managing conflict risk effectively (e.g. legal, financial, reputational, etc.)?
 - What are the adverse impacts or damage that could reasonably be foreseen to occur?
 - Can the consequence(s) be prevented, and, if so, how?

Developing a management plan

Decisions about appropriate management plans should be made in consultation between employees and supervisors, and other relevant areas of the OAIC if necessary.

There are a number of ways in which conflicts of interest can be managed, including but not limited to the following:

- allowing the employee to continue in their duties with the OAIC implementing appropriate safeguards that address the conflict of interest, such as:
 - advising colleagues (or stakeholders) of the conflict (or potential conflict) and any applicable management strategies to create visibility
 - withdrawing from involvement in particular discussions
 - restricting the flow of information
 - abstaining from decisions
 - additional clearance or supervision of the work
 - involvement of a disinterested third party to oversee or monitor the situation (such as a probity advisor).
- changing or reassigning the employee's duties, including in relation to certain parties or matters so they are removed from and no longer performing the role which may potentially put them in a conflict situation
- asking the employee to relinquish or divest the material personal interest or cease the activity giving rise to the conflict
- the employee resigns from their position or specific role.

The declaration of the conflict, the fact that it has been considered by the General Manager – Enabling Services and any mitigations must be recorded in writing on the employee's file in Content Manager. This includes the written approval of the management plan, or written approval that no management plan is required.

Any details in relation to others who will be notified of the conflict to support implementation of mitigations and any timeframes for the review of the ongoing appropriateness of action taken, and effectiveness of managing the conflict of interest should also be recorded.

References

- [Conflict of Interest | Australian Public Service Commission](#)
- [APS Values and Code of Conduct in practice](#) (2021)
- [Managing conflicts of interest and confidentiality with the non-government sector \(RMG 208\) | Department of Finance](#)
- [Conflicts of interest and corrupt conduct: A guide for public officials | National Anti-Corruption Commission's](#)
- [Australian Information Commissioner Act 2010](#)

Attachment A

Employee declaration of material personal interests form

Process for completed declarations of interest

1. Completed forms are to be saved by the employee to their personnel file in Content Manager. Noting that conflicts need to be discussed with supervisors, the employee may limit access to the declaration in Content Manager but the form and any management plan must always be accessible to the Australian Information Commissioner.
2. The employee must advise the Director, People and Culture by email: (i) that the declaration has been completed and (ii) if any conflict of interest requires discussion with their supervisor.
3. If discussion is required, the outcome must be recorded on the employee's personnel file in Content Manager and an email must be sent to the Director, People and Culture advising that the discussion has occurred and confirming that appropriate mitigations have been put in place. Documentation of the outcome on Content Manager must be accessible to the employee's supervisor and Branch or Division Head and both the General Manager – Enabling Services and the Australian Information Commissioner.
4. The Director, People and Culture will keep a record of what declarations have been made via an internal declaration of interests register, and where a real or apparent conflict has been identified, the fact that mitigation strategies have been agreed and will report on these issues as required to the Australian Information Commissioner.

PART A: Employee acknowledgement of responsibilities

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:

- inside information, or
- 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; or to cause, or seek to cause, detriment to my Agency, the Commonwealth or any other person.

I have read and understood:

- the APS-wide guidelines covering declarations of personal interests set out in Section 5 of APS Values and Code of Conduct in Practice
- the OAIC's Policy on managing conflicts of interest.

The attached list of my personal interests and relationships has been prepared on the basis of:

- the particular roles and responsibilities of the OAIC
- my particular roles and responsibilities.

I undertake to immediately inform the Australian Information Commissioner of any changes to:

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

that could affect the contents of this declaration and to provide an amended declaration.

Subject to the consent of the relevant family member/s, I undertake to declare any personal interests or relationships of my immediate family that I am aware of, should circumstances arise in which I consider that they could or could reasonably be seen to influence the decisions I am taking or the advice I am giving.

I understand that such a declaration would require the consent of the family member/s to the collection by the OAIC of personal information and I will take reasonable steps to make that person aware of the purpose for which the personal information has been collected, the legislative requirements permitting the collection and limited circumstances in which the personal information may be disclosed, and consents. If applicable, PART C and PART D should be completed.

I understand that the information I provide in this declaration will be held and accessed as noted above.

☐ I have no personal financial or other interests which may give rise to a real or apparent conflict of interest.

OR

☐ I have listed my personal financial or other interests which may give rise to a real or apparent conflict of interest below.

Employee's name: Click here to enter text.

Branch: Click here to enter text.

Position: Click here to enter text.

Signature: _____

Date: Click here to enter a date.

PART B: Employee declaration of material personal interests list (if applicable)

When completing Part B of the declaration, please list any financial interests, personal interests or relationships which could influence or could reasonably 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.

Click here to enter text.

Employee's name: Click here to enter text.

Branch: Click here to enter text.

Position: Click here to enter text.

Signature: _____

Date: Click here to enter a date.

PART C: Declaration of consent – family member (if applicable)

This declaration is to be completed by the immediate family member/s in circumstances where the employee considers that material personal interests of the family member/s could influence, or could reasonably be seen to influence, the decisions they take or the advice they give.

I declare that:

- I am aware that my information is being collected for the purpose of identifying material personal interests that could influence, or could be seen to influence, the decisions that my family member takes or the advice they give.
- I am aware of the Australian Privacy Principles set out in the Privacy Act 1988 which authorise the collection, use and disclosure of my personal information for purposes relevant to the management of conflicts of interest in respect of my family member.
- I consent to the collection of my personal information by the OAIC.
- The list at Part C below of my material personal interests has been prepared on that basis.

Family member's name: Click here to enter text.

Relationship to employee: Click here to enter text.

Signature: _____

Date: Click here to enter a date.

PART D: Declaration of material personal interests - family member (if applicable)

Please list any material personal interests you have which could influence, or could reasonably be seen to influence, the decisions that the employee covered by the declaration takes or the advice they give.

The types of interests and relationships that may need to be disclosed include real estate investments, shareholding, trusts or nominee companies, company directorships or partnerships, involvement in self-managed superannuation funds, other significant sources of income, significant liabilities, gifts, private business, employment, voluntary activities, donations, professional associations, memberships or affiliations, or social or personal relationships that could give rise to a real or apparent conflict with the responsibilities of the employee covered by this declaration.

Click here to enter text.

Family member's name: Click here to enter text.

Signature: _____

Date: Click here to enter a date.

PART E: Conflict of Interest Management Plan (if applicable)

Are actions required to manage the conflict (as agreed with your Supervisor/ General Manager – Enabling Services)?

☐ Yes ☐ No

If yes, please record the action/s to manage any real or apparent conflicts of interest that arise from your material personal interests.

While not an exhaustive list, some examples of appropriate management actions may include: withdrawing from particular discussions, restricting the flow of information, delegating or abstaining from decisions, reassignment of duties, or relinquishing the interest or the position (e.g. relinquishing membership of a Board, selling shares, etc.).

This should also include:

- details of how the conflict arises, including if the conflict relates to a specific activity and/or circumstances mean the conflict is time-limited (e.g. specific procurement process)
- details of who these actions have been agreed with
- any details in relation to others who will be notified of the conflict to support implementation of actions
- timeframes for the review of the ongoing appropriateness of actions, and effectiveness of managing the conflict; and
- where relevant, supporting documents should be provided or future documentation processes outlined.

Click here to enter text.

Employee's name: Click here to enter text.

Branch: Click here to enter text.

Position: Click here to enter text.

Signature: _____

Date: Click here to enter a date.

Declaration of interests privacy collection notice

Who is collecting your personal information?	Your personal information is being collected by the Office of the Australian Information Commissioner (OAIC) through this declaration of interests form. Written declarations of interest will be stored on an employee's personnel file in Content Manager and on an internal declaration of interests register maintained by the Director, People and Culture. Identified conflicts must be discussed with the employee's supervisor, relevant Branch or Division Head and the General Manager – Enabling Services.
Authority for collection of personal information	<i>Public Service Act 1999</i> <i>Public Governance, Performance and Accountability Act 2013</i>
Why is your personal information being collected?	The purpose of collecting your personal information is to document any real or apparent conflicts of interest, any mitigation strategies undertaken to manage conflicts and to record your acknowledgement of your obligations under the above legislation. This will assist the OAIC to manage any conflicts of interest if they were to arise.
What would happen if your personal information was not collected?	Declaring a material conflict of interest is a requirement under the above legislation.
To whom will your personal information be disclosed?	Your personal information will be available to be disclosed to the Australian Information Commissioner and you will need to discuss any real or potential conflicts with your supervisor, Branch or Division Head and the General Manager – Enabling Services and this may require disclosure of your personal information.
Access to and correction of personal information and complaints	Please refer to the OAIC's privacy policy for information on how to access, complain or request an amendment of your personal information.

Attachment B

OAIC assessment/investigation declaration of interests form

Process for completed declarations of interest

1. Completed forms are to be saved by the employee to their personnel file in Content Manager. Noting that conflicts need to be discussed with supervisors, the employee may limit access to the declaration in Content Manager but the form and any management plan must always be accessible to the Australian Information Commissioner.
2. A record that a declaration has been made must be kept on the relevant Resolve record.
3. The employee must advise the Director, People and Culture by email: (i) that the declaration has been completed and (ii) if any conflict of interest requires discussion with their supervisor.
1. If discussion is required, the outcome must be recorded on the employee's personnel file in Content Manager and an email must be sent to the Director, People and Culture advising that the discussion has occurred and confirming that appropriate mitigations have been put in place. Documentation of the outcome on Content Manager must be accessible to the employee's supervisor and Branch or Division Head and both the General Manager – Enabling Services and the Australian Information Commissioner.
2. The Director, People and Culture will keep a record of what declarations have been made via an internal declaration of interests register, and where a real or apparent conflict has been identified, the fact that mitigation strategies have been agreed and will report on these issues as required to the Australian Information Commissioner.

Assessment/Investigation Target: Click here to enter text.

Employee: Click here to enter text.

Employees will need to declare any personal interests or relationships which could influence or could be seen to influence the conduct of an assessment/investigation. Examples of the types of interests and relationships that may need to be disclosed include:

- investments or shareholdings with the target/respondent
- significant liabilities with the target/respondent
- personal disputes, complaints or civil actions against the target/respondent
- gifts received from the target/respondent
- social or personal relationships with employees of the target/respondent that could or could be seen to impact upon your responsibilities
- known views on a particular subject or target/respondent, for example through public comments on social media, that might reasonably suggest that you might not bring an open mind
- undertaking paid or unpaid employment with the target/respondent
- unsolicited offers of employment received from the target/respondent and

- actively seeking employment with the target/respondent (or a direct competitor) or being approached by a target/respondent (or a direct competitor) with an offer of employment.

Do you have any material personal interests to declare?

☐ Yes ☐ No

Click here to enter text.

Are actions required to manage the conflict (as agreed with your Supervisor/General Manager – Enabling Services)?

☐ Yes ☐ No

If yes, please record the action/s to manage any real or apparent conflicts of interest that arise from your material personal interests.

While not an exhaustive list, some examples of appropriate management actions may include: withdrawing from particular discussions, restricting the flow of information, delegating or abstaining from decisions, reassignment of duties, or relinquishing the interest or the position (e.g. relinquishing membership of a Board, selling shares, etc.).

This should also include:

- details of how the conflict arises, including if the conflict relates to a specific activity and/or circumstances mean the conflict is time-limited (e.g. specific procurement process)
- details of who these actions have been agreed with
- any details in relation to others who will be notified of the conflict to support implementation of actions
- timeframes for the review of the ongoing appropriateness of actions, and effectiveness of managing the conflict; and
- where relevant, supporting documents should be provided or future documentation processes outlined.

Click here to enter text.

Employee's name: Click here to enter text.

Branch: Click here to enter text.

Position: Click here to enter text.

Signature: _____

Date: Click here to enter a date.

Employee acknowledgement of responsibilities

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:

- inside information, or
- 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; or to cause, or seek to cause, detriment to my Agency, the Commonwealth or any other person.

I have read and understood:

- the APS-wide guidelines covering declarations of personal interests set out in Section 5 of APS Values and Code of Conduct in Practice
- the OAIC's Policy on managing conflicts of interest.

The attached list (if applicable) of my personal interests and relationships has been prepared on the basis of:

- the particular roles and responsibilities of the OAIC
- my particular roles and responsibilities.

I undertake to immediately inform the Australian Information Commissioner of any changes to my personal circumstances that could affect the contents of this declaration and which could or could reasonably be seen to influence the decisions I am taking or the advice I am giving, and to provide an amended declaration.

I understand that the information I provide in this declaration will be held and accessed as noted above.

<input type="checkbox"/> I have no personal financial or other interests which may give rise to a real or apparent conflict of interest.
OR <input type="checkbox"/> I have listed my personal financial or other interests which may give rise to a real or apparent conflict of interest below.
Employee's name: Click here to enter text.
Branch: Click here to enter text. Position: Click here to enter text.
Signature: _____ Date: Click here to enter a date.

Declaration of interests privacy collection notice

Who is collecting your personal information?	Your personal information is being collected by the Office of the Australian Information Commissioner (OAIC) through this declaration of interests form. Written declarations of interest will be stored on an employee's personnel file in Content Manager. Identified conflicts must be discussed with the employee's supervisor, relevant Branch or Division Head and the General Manager – Enabling Services.
Authority for collection of personal information	<i>Public Service Act 1999</i> <i>Public Governance, Performance and Accountability Act 2013</i>
Why is your personal information being collected?	The purpose of collecting your personal information is to document any real or apparent conflicts of interest, any mitigation strategies undertaken to manage conflicts and to record your acknowledgement of your obligations under the above legislation. This will assist the OAIC to manage any conflicts of interest if they were to arise.
What would happen if your personal information was not collected?	Declaring a material conflict of interest is a requirement under the above legislation.

To whom will your personal information be disclosed?	Your personal information will be available to be disclosed to the Australian Information Commissioner and you will need to discuss any real or potential conflicts with your supervisor, Branch or Division Head and the General Manager – Enabling Services and this may require disclosure of personal information.
Access to and correction of personal information and complaints	Please refer to the OAIC's privacy policy for information on how to access, complain or request an amendment of your personal information.