

What should ethics officers do?

- i. Developing a policy on conflicts of interest
- ii. Disclosure of financial interests
- iii. Other remunerative work
- iv. Gifts and hospitality

i. Policy on conflicts of interest

Each and every organisation should have a clear policy on conflicts of interest. It should ideally set out the following general principles:

Elements	Principles to manage them
Official function	We deal in <u>good faith</u> with the organisation and make decisions in its best interest and in line with our official duty.
Private interest	We are proactively <u>transparent</u> in order to manage conflicts of interests.
Action, decision-making or influence	We apply ourselves <u>objectively</u> in the best interest of the organisation and ensure that there are no conflicting interests that can impact on this objectivity.

The policy should also align with the relevant legislation. Organisations can put in place policies that go beyond what is contained in the legislation if it serves a purpose of managing risk in the organisation.

Policies generally also contain procedures around the disclosure of various types of interest, and the management of conflicts.

Besides managing disclosures, ethics officers should conduct training and awareness to build a culture where people proactively disclose when they have a conflict of interest. It is very easy for ethics officers and other public servants to fall into the habit of just going through disclosure processes and losing sight of the big picture. The big picture is that we want to build a culture where people are sensitive to their conflicts of interest, they disclose conflicts proactively, and the department helps them to manage the conflicts responsibly.

ii. Disclosure of financial interests

Guidance

Public Service

- Directive on other categories of employees designated to disclose their financial interests (DPSA, 2021)
- Explanatory manual – My guide to completing the financial interests disclosure form (DPSA)

What should ethics officers do?

As set out above, the purpose of disclosure of interests is to ensure transparency.

The TEI Conflict of Interest Handbook sets out good practice with regard to disclosures of interest.

The minimal responsibility of ethics officers with regard to disclosures of interest differs significantly between the public service and local government.

Public Service

In the public service there is a mature Financial Disclosure Framework set out in the Public Service Regulations.

- Certain 'designated employees' must disclose their interests on an annual basis using the eDisclosure system hosted by the DPSA.
- Specific disclosures of interest are where employees disclose a specific conflict as it happens. In other words, this is different to a general disclosure, which happens annually.
- While there is no formal requirement for a system to promote specific disclosures of interest, the following prescripts indicate that conflicts of interest should be avoided and there should be a way for employees to indicate when they are conflicted:

Public Service Regulations

An employee shall –

12(b) serve the public in an unbiased and impartial manner in order to create confidence in the public service;

13(b) not engage in any conduct that is in conflict with or infringes on the execution of his or her official duties;

13(d) recuse himself or herself from any official action or decision-making process which may result in improper personal gain or conflict of interest, and this shall immediately be properly declared by the employee;

13(f) refrain from favouring relatives and friends in work-related activities and not abuse his or her authority or influence another employee, nor be influenced to abuse his or her authority;

All public service financial disclosures should be made electronically on the eDisclosure system.

If a department believes they have certain employees who are at a high risk of conflicts of interest, and should actually be required to disclose their interests annually, they can simply write to the Minister of the DPSA and ask the Minister to designate these employees to disclose.

All disclosures must be verified.

The Public Service Commission does the verification for SMS members, which means that the department doesn't have to do this. It is, however, still good practice in case there are oversights.

The department must therefore do the verifications of disclosures made by other designated employees.

This means:

- Checking whether the forms are complete. Has everything been submitted?
- Confirming the submission by cross-checking with the CIPC, ENatis, and the deeds office.
- Cross-checking with the gift register and requests for approval of external remunerative work.
- Applying your mind to determine if there is a possibility for a conflict of interest. Speak to the employee in question if you are not sure about their submission.

Compliance checklist

Public Service Regulations – Chapter 2, Part 2 – Financial Disclosure	
Disclosures of interest and managing conflicts of interest	
Start communication to SMS members by 1 April informing them of the need to disclose and the process to follow	
Ensure disclosure by all SMS members by 30 April each year	
Ensure disclosure by new employees within 30 days of joining	
Submit electronically to the Public Service Commission (PSC) by 31 May	
Ensure confidentiality of forms submitted	
Act on referrals of potential conflicts from the PSC	
Report back to the PSC on any actions taken	
Institute disciplinary action if relevant	
Lifestyle audits	
Conduct a risk analysis on disclosed interests and income of all disclosures. (See Guide to implement lifestyle audits in the Public Service for more detail on how to do this)	
Consult employees for explanations where discrepancies exist	
Investigate whether disciplinary action must be taken where explanations do not sufficiently explain discrepancies AND institute disciplinary action	
Refer to law enforcement agencies on suspicion of a criminal offence	
Directive on other categories of employees designated to disclose their financial interests (2021)	
Start communication to relevant employees by beginning of June informing them of the need to disclose and the process to follow	
Relevant employees disclose in June and July of relevant years (see directive)	
Keep a register of relevant employees' interests (Public Service Regulations 17(2))	
Disclosures verified by 30 November	
Take appropriate steps to manage conflicts of interest identified	
Deal with non-compliance	
Report to MPSA: Number of employees who failed to disclose, and steps taken against them	
Report to MPSA: Number of employees found to have conflicts and consequent actions	
Directive on conducting business with an organ of state (2024)	
Policy developed on conducting business with the department in line with the directive	
Ensure all employees are not registered on the Central Supplier Database	
SCM policy should prohibit employees from conducting business with an organ of state	
Register kept of all entities that conduct business with the department	
Register kept on all persons who are engaged in supply chain management on behalf of the department	
Reports submitted to Executive Authority on the policy and registers	
Central Supplier Database is checked for all suppliers before contracting	

HoD reports contraventions to SAPS and Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit	
EA reports Annexure B to the Minister of Public Service and Administration through the Public Administration Ethics, Integrity and Discipline Technical Assistance Unit	

Local Government

In local government there is a duty to put in place a system allowing Section 56 managers and municipal managers to make general disclosures of interests in line with section 5(a) of the Code of Conduct.

While there is no formal requirement for a system to promote specific disclosures of interest, the following prescripts indicate that conflicts of interest should be avoided and there should be a way for employees to indicate when they are conflicted:

Municipal Systems Act

Schedule 2 – Code of Conduct for Municipal Staff Members

A staff member of a municipality must at all times –

2(b) perform the functions of office in good faith, diligently, honestly and in a transparent manner;

2(d) act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; and

2(e) act impartially and treat all people, including other staff members, equally without favour or prejudice.

4(1)(b) take a decision on behalf of the municipality concerning a matter in which that staff member, or that staff member’s spouse, partner or business associate, has a direct or indirect personal or private business interest.

5(1) A staff member of a municipality who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose in writing full particulars of the benefit to the council.

Compliance checklist

Section 5A of the Code of Conduct for Municipal Staff Members requires the disclosure of interests by section 56 managers and municipal managers.

Code of Conduct for Municipal Staff Members – s.5A. Declaration of Interests	
Set up a process and forms for disclosure of interests for s56 managers and municipal managers.	
Manage the information that has been disclosed.	
Make public the information as determined by council.	

iii. Other remunerative work

What legislation applies?

Public Service

- Directive on other remunerative work outside the employee's employment in the relevant department (2024)

Guidance

Public Service

- **Guide on managing other remunerative work in the public service (DPSA, 2025)**
- **Guide and procedures on managing conducting business with an organ of the State (DPSA)**

Most organisations prohibit their employees from doing other remunerative work, because this can cause them to focus on their other work to the detriment of their main job. There are also other conflict of interest concerns, such as the abuse of confidential information, intellectual property, or employees contracting with the organisation itself.

Many organisations manage other remunerative work applications together with their other conflict of interest processes.

Both the Public Service and Local Government Codes of Conduct state that conducting other remunerative work is prohibited, unless the employee has obtained permission.

There should therefore be a policy and process that sets out:

- How employees should apply for such permission;
- What information should be submitted in the application;
- What guiding principles should be considered when deciding whether to give someone permission or not;
- Who makes the decision;
- Whether the decision should be reviewed from time to time;
- What constraints should be placed on the decision.

Section 4 of TEI's Conflict of Interest Handbook gives guidance on how to make conflict of interest decisions. The following table from the handbook can be particularly useful when it comes to making decisions about whether or not to grant permission for other remunerative work.

		Yes	No
1	Will the employee be competing with the employer?		
2	Is the employee seeking to do business with the employer?		
3	Is there a potential to abuse organisational influence to benefit the employee?		
4	Is there the potential for the abuse of confidential information?		
5	Will the employee be conducting work with employer's clients?		
6	Is there a possibility of reputational damage to the employer?		
7	Will the employee be using organisational time and resources to further their own interests?		
8	Will the employee still have sufficient time and energy to do their job?		
9	Is the employee's current work performance up to standard?		

Public Service

The **Directive on other remunerative work outside the employee's employment in the relevant department (DPSA, 2024)** provides detailed guidance on how the system should work in public service departments.

Also see:

- **Guide on managing other remunerative work in the public service (DPSA, 2025)**
- **Guide and procedures on managing conducting business with an organ of the state (DPSA, 2025)**

Compliance checklist

Directive on other remunerative work outside the employee's employment in the relevant department (2024)	
Develop a policy on other remunerative work application in line with the directive	
Institute a process for application of other remunerative work in line with the directive	
Send a reminder to employees who have permission, by 15 January, reminding them that they need to ask for re-approval by 1 February	
Report quarterly to the HoD in line with 9.3 of the directive	
Cases of non-compliance must be captured on PERSAL	
HoD to report cases of non-compliance to Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit by 30 April each year	

Local Government

The Code of Conduct for Municipal Staff Members says that:

“Except with the prior consent of the council of a municipality a staff member... may not be engaged in any business, trade or profession other than the work of the municipality.”

While the **Directive on other remunerative work outside the employee's employment in the relevant department (2024)** does not apply to local government, it is recommended that local government ethics officers also read this directive for guidance.

Much of what is contained in this directive can be applied to the management of other remunerative work applications processes in local government.

iv. Gifts and hospitality

Gifts are another area linked to conflicts of interest. The concern is that employees' influence may be 'bought' with excessive gifts. In this way excessive gifts may be considered as bribes. To manage this perception, most organisations have gift policies in place. These are sometimes contained in the conflict of interest policies.

Additional resource:
Guide on Managing Gifts in the Public Service (DPSA, 2019)

Public Service

Public Service Regulations

Code of Conduct

An employee shall -

13(a) not receive, solicit or accept any gratification, as defined in section 1 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), in return for performing or not performing his or her official duties;

(h) not receive or accept any gift in the course and scope of his or her employment to the cumulative value exceeding R500 per year, unless approval is obtained from the relevant Executive Authority;

You therefore have to put in place a process for employees to obtain permission for receiving gifts. You should also keep a gift register. It is best to allow employees to disclose via email and to keep the register digitally, for example in Excel.

Local Government

Municipal Systems Act

Code of Conduct for Municipal Officials

8. Rewards, gifts and favours

(1) A staff member of a municipality may not request, solicit or accept any reward, gift or favour for—

(a) persuading the council of the municipality, or any structure or functionary of the council, with regard to the exercise of any power or the performance of any duty;

(b) making a representation to the council, or any structure or functionary of the council;

(c) disclosing any privileged or confidential information; or

(d) doing or not doing anything within that staff member's powers or duties.

(2) A staff member must without delay report to a superior official or to the speaker of the council any offer which, if accepted by the staff member, would constitute a breach of subitem (1).

This implies an obligation to put in place a process for employees to obtain permission for receiving gifts.