



Managing Conflicts of Interest Information

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Managing Conflicts of Interest Information

1. Background

The Managing Conflicts of Interest Information (Information) supports the practical application of the Managing Conflicts of Interest Policy (the Policy).

The management of conflicts of interest are a critical part of good integrity governance systems for which organisations are accountable to continuously improve and manage their risks. Good integrity governance is achieved by creating an environment of transparency in and accountability for, preventing, detecting and responding to fraud and corruption risks and integrity issues to enable a culture of integrity to flourish.

The information is intended to comply with [MP 0124/19 Code of Conduct Policy](#), and to provide guidance and assist in the identification and management of integrity risks associated with conflicts of interest.

This information draws heavily on key points from the Integrity Coordinating Group's (ICG) Conflicts of Interests Guidelines for the Western Australia Public Sector.¹

2. Conflicts of interest

Department of Health employees and Health Service Provider staff members must ensure that their personal interests do not conflict, or appear to conflict, with their public duty.

A conflict of interest is defined as:

a situation arising from conflict between the performance of public duty and private or personal interests. Conflicts of interest may be actual, or be perceived to exist, or potentially exist at some time in the future.²

It is not always possible to avoid a conflict of interest and in itself, a conflict of interest is not necessarily wrong or unethical. However, dealing effectively with conflict of interest is vital to protecting public confidence in the WA health system.

Conflicts of interest can be actual, perceived or potential. It is important to appropriately identify, disclose and effectively manage all types of conflicts, being aware that conflicts may evolve and change as circumstances change.

The threshold for a perceived conflict of interest to exist can be low. Department of Health employees and Health Service Provider staff members should be particularly attentive to situations which may involve a perceived conflict.

When in doubt, you should declare a conflict even if it does not seem significant. This should be done as soon as practical. A conflict of interest is usually more effectively managed if it is declared and managed in a transparent manner from the outset. This approach helps to protect the integrity of the organisation as well as the Department of Health employee or Health Service Provider staff member involved.

¹ 'Conflicts of Interests Guidelines for the Western Australia Public Sector', The Integrity Coordinating Group (a group consisting of the Auditor General, the Public Sector Commissioner, the Corruption and Crime Commissioner, the Information Commissioner and the Western Australian Ombudsman), published 2011

² Ibid.

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2.1 Types of conflicts

Most conflicts of interest arise when a public officer is placed in a position where their duty to act independently and/or exercise their professional judgement ethically and without prejudice may be, or appear to be, compromised by self-interest or a relationship with a third party.

For example, they can arise in relation to a Department of Health employee or Health Service Provider staff member's:

- financial and economic interests
- secondary employment
- affiliations with for-profit and not-for-profit organisations and associations
- affiliations with political, community, ethnic, family or religious groups (either in a personal or professional capacity)
- hostility or competition with another individual or group
- relationships with clients, contractors or other staff working in the same or a related organisation
- specialist skills (e.g. if practitioners are in short supply)
- future employment prospects or plans.

Most conflicts of interest fall in to one of two categories:

- financial and material interests – where a public officer (or someone associated with them) could gain or lose financially because of the way the public officer fulfils their official duties.

Examples of situations where such interests could give rise to a conflict of interest include:

- procurement
 - contract and tender management
 - property ownership
 - business partnerships
 - positions in companies
 - allocation of grants
 - private sector sponsorship
 - gifts, benefits and hospitality
 - shares
 - dual roles as a public officer – such as also being a Board or Committee member
 - debts
 - travel
 - filling a public sector vacancy.
- non-financial and partiality interests – where a public officer's personal involvements, relationships, obligations, values or attitudes may influence the way they carry out their official duties.

Examples of situations where such interests could give rise to a conflict of interest include:

- family relationships

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- friends (or adversaries)
- religious and cultural obligations
- membership of clubs, groups and associations
- beliefs, values and attitudes
- volunteer commitments.

2.2 Identifying a conflict of interest?

Each situation should be dealt with on its own merits; there is no 'one way' of identifying whether a conflict of interest exists. However, the following questions which may assist in identifying if a conflict of interest situation has arisen or could arise:³

- Do I have personal or private interests that may conflict, or be perceived to conflict, with my public duty?
- Could there be benefits for me now, or in the future, that could cast doubt on my independence or objectivity?
- How will my involvement in the decision or action be viewed by others? Are there risks associated for me or my organisation?
- Does my involvement in the decision appear fair and reasonable in all the circumstances?
- What are the consequences if I ignore a conflict of interest? What if my involvement was questioned publicly?
- Have I made any promises or commitments in relation to the matter? Do I stand to gain or lose from the proposed action/decision?

Although Chief Executives and senior managers have a particularly important role in ensuring an organisation's conflict of interest situations are properly managed, it is a Department of Health employee or Health Service Provider staff member's responsibility to identify and declare a conflict of interest and to drive the development and execution of a plan as to how the conflict will be managed.

2.3 Department of Health employee and Health Service Provider staff member initiated identification of a conflict of interest

The Conflict of Interest Registry (COIR) assists Department of Health employees and Health Service Provider staff members to determine if a conflict of interest exists and meeting the reporting requirement.

The WA health system entity should ensure that their procedures provide adequate guidance for Department of Health employees or Health Service Provider staff members to determine if a conflict of interest exists, how, when and to which position to report.

The WA health system entity's procedures should also clearly identify the hierarchy of acknowledgement, endorsement and approval, that is, which positions are authorised to undertake these functions when a Department of Health employee or Health Service Provider staff member reports a conflict of interest.

³ Ibid.

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2.4 Conflict of interest identified in a meeting

If a Department of Health employee or a Health Service Provider staff member, including the Chair of a meeting, identifies a conflict of interest during a meeting, the Department of Health employee or Health Service Provider staff member should verbally declare the interest (either to the Chair, or if the Chair is making the declaration, to the meeting).

A strategy for dealing with the declaration should be put into place immediately. In deciding on a strategy the full range of options for dealing with a declared interest should be considered. For example, automatically removing the declarer from the meeting should not be the only strategy considered, nor may it be the most appropriate one.

2.5 Conflict of interest identified by management or a third party

If someone other than the Department of Health employee and Health Service Provider staff member concerned identifies a conflict of interest and reports it, the WA health system entity should ensure that the procedures provide adequate guidance about who and which positions are authorised to look in to the matter. Any such investigation should include a discussion with the Department of Health employee or Health Service Provider staff member concerned.

If a conflict of interest is found and it is one that should have been disclosed by the Department of Health employee or Health Service Provider staff member concerned, then their behaviour may amount to a breach of the Policy. The WA health system entity's procedures should provide guidance as to the process to be followed in this instance.

2.6 Managing a conflict of interest

Simply identifying and declaring a conflict of interest is not sufficient to manage the risks which can arise. Once the conflict has been declared and the type of conflict identified a management plan should be developed and documented. Without an effective management plan the conflict of interest may impact the officer's ability to carry out their role fairly and impartially. Active management of the conflict is aimed at resolving or minimising the impact of the conflict so that any decisions and strategies are, and are seen to be, honest, transparent and impartial.

In developing a management plan, the strategies for dealing with the conflict should first be considered. Options or strategies that could be employed in managing conflicts of interest can be found in Attachment 1.

Once a strategy has been identified the details should be agreed between the Department of Health employee or Health Service Provider staff member who has the conflict and their manager. If the manager is not an appropriate person, the WA health system entity's procedures should detail who should supervise management of the conflict with the Department of Health employee or Health Service Provider staff member. This may be required for example if an officer's manager also has a related conflict of interest relevant to the matter at hand.

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The management plan should then be documented. The scale and scope of the management plan should be commensurate with that of the conflict. It should include:

- details of the conflict and its type
- key strategies to be taken to manage the conflict
- if and when the plan will be reviewed
- who is responsible for the strategies in the plan.

The plan could be recorded in a variety of ways, for example emails or meeting minutes, which should then be uploaded into the System Manager COIR or the reference to where the record is stored for meeting minutes.

2.7 Reporting conflicts of interests

The WA health system entity should ensure that their procedures clearly identify, as required by the Policy, that declarations of conflicts of interest are to be recorded in the COIR and who is responsible.

2.8 Record keeping

Records must be maintained in accordance with the WA health system entity's Record Keeping Plan and retained for the periods in the available retention and disposal schedules. Where a specific retention and disposal schedule does not exist that covers the records, the records must be retained until such time as a sentence is created and approved that would authorise disposal.

3. High risk conflict of interest situations

Certain common activities are considered high risk in relation to conflicts of interest such as:

- the purchase (procurement) and disposal of goods and services including managing tenders and contracts
- receipt of gifts, benefits and hospitality
- private practice or outside/secondary employment
- research and collaborating with commercial entities
- sponsorship
- allocation of grants
- travel.

The management of conflicts of interest in relation to procurement was highlighted as a particular risk in the Corruption and Crime Commission (CCC) 'Report on Fraud and Corruption in Procurement in WA Health: Dealing with the Risks'⁴ (The CCC 2014 Report) and 'Report into bribery and corruption in maintenance and service contracts within North Metropolitan Health Service'⁵ (The CCC 2018 Report).

The CCC 2014 Report notes that in line with WA Health's Partial Exemption (Partial Exemption) under the *State Supply Commission Act 1991* procurement staff must be

⁴ Report on Fraud and Corruption in Procurement in WA Health: Dealing with the Risks, Corruption and Crime Commission, 2014

⁵ Report into bribery and corruption in maintenance and service contracts within North Metropolitan Health Service, Corruption and Crime Commission, August 2018

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'appropriately skilled' and undergo 'appropriate training'.⁶ In line with the Partial Exemption and the *State Supply Commission Probity and Accountability Policy* the report draws the conclusion that 'appropriate skills and training should include, at a minimum, identifying and managing conflicts of interest.'⁷

The CCC 2014 Report noted a range of concerns which demonstrated the nexus between misconduct risks in procurement activities and the failure to declare conflicts of interest, gifts and secondary employment. Concerns focused on the lack of training provided to staff in relation to conflicts of interest.

A further issue raised in The CCC 2014 Report was the management of declarations of interest in the contract award stage of the procurement cycle and the lack of an appropriate registers to provide coverage of the majority of situations where a conflict of interest may occur in relation to procurement.

The Office of the Auditor General's 2012 report 'Pharmaceuticals: Purchase and Management of Pharmaceuticals in Public Hospitals' (OAG 2012 Report) noted that the WA health system must carefully manage any perceived or real conflicts of interest which may arise when purchasing pharmaceutical products from companies that provide sponsored travel.⁸ The OAG 2012 Report went on to note that one of the weaknesses in the WA health system pharmaceutical procurement process and practice was 'poor management of potential conflicts of interest.'⁹

The OAG 2012 Report concluded that there were improvements to be made in managing conflicts of interest risk relating to the procurement of pharmaceuticals. Central to these improvements is the ability for the Health Service Providers to identify potential conflicts of interest and embedding conflicts of interest declarations into key decision-making processes that have bearing on the purchase of pharmaceuticals.

The WA health system entity must maintain the System Manager COIR to provide the high level overview of conflicts of interest across the service to assist in monitoring and managing high risk areas where conflicts of interest arise.

There are a number of binding policy frameworks which require conflicts of interest to be considered in particular areas of high risk. These include the *Integrity, Employment* and the *Procurement Policy Frameworks*. The Office of the Chief Procurement Officer has issued a comprehensive set of Procurement Policies, templates and guides to assist procurement activities and the implementation of the *Procurement Policy Framework*.

Some of the relevant WA health system policies include but are not limited to:

- [MP 0136/20 Gifts, Benefits and Hospitality Policy](#)
- [MP 0017/16 WA Health Staff Air Travel Policy](#)
- [MP 0047/17 Sponsorship Policy](#)
- [MP 0161/21 Procurement and Contract Management Policy](#)

⁶ Partial Exemption under the *State Supply Commission Act 1991* was granted to the Minister for Health on 1 July 2011

⁷ Ibid. p7 [29] and [30]

⁸ Pharmaceuticals: Purchase and Management of Pharmaceuticals in Public Hospitals, Western Australia Auditor General, 2012

⁹ Ibid, p4 Auditor General's Overview

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4. Breaches of the Managing Conflicts of Interest Policy

A breach of the Policy by a Department of Health employee may constitute a breach of discipline and may be subject to the process prescribed by the Department of Health [Discipline Policy](#). If the breach of discipline relates to a suspected act of misconduct it will be reported and managed appropriately.

A breach of the Policy by a Health Service Provider staff member may constitute a breach of discipline and may be subject to the process specified in [MP 0127/20 Discipline Policy](#).

For Contracted Medical Practitioners a breach of the Policy may constitute a dispute about professional conduct. Refer to [MP 0083/18 Disputes About the Professional Conduct of a Contracted Medical Practitioner Engaged Under a Medical Services Agreement Policy](#) which specifies this process.

A breach of the Policy by a Health Service Provider staff member may constitute misconduct as defined in [MP 0125/19 Notifiable and Reportable Conduct Policy](#) which specifies the misconduct reporting process.

5. Further information and guidance

The Integrity Coordinating Group's Conflicts of Interests - Guidelines for the Western Australia Public Sector provides further detail and guidance on the key points in these Guidelines.

The WA health system entity's Integrity Area can be contacted for advice on conflict of interests and management.

System-wide Integrity Services is an additional resource available.

Strategies for the management of identified conflicts of interest¹⁰

The WA Integrity Coordinating Group has published Conflicts of interest – Guidelines for the WA public sector which provide the following guidance.

1. Record/Register:

Recording the disclosure of conflict of interest in a register is an important first step however, this does not necessarily resolve the conflict. It may be necessary to assess the situation and determine whether one or more of the following strategies is required.

2. Restrict:

It may be appropriate to restrict involvement in the matter. For example, by refraining from taking part in debate about a specific issue, abstaining from voting on decisions, and/or restricting access to information relating to the conflict of interest. If such a situation occurs frequently, and if an ongoing conflict of interest is likely, other strategies may need to be considered.

3. Recruit:

If it is not practical to restrict involvement in a matter, an alternate officer may be able to take on the relevant role, or an independent third party may need to be engaged to participate in, oversee or review the integrity of the decision-making process.

4. Remove:

Removal from involvement in a matter altogether is the best option when ad hoc or recruitment strategies are not feasible, or appropriate.

5. Relinquish:

Relinquishing the personal or private interest which prompted concerns about a conflict of interest may be a valid strategy. For example, this could be the relinquishment of shares or a membership of a club or association.

6. Resign:

Resignation is usually a last option, but may be appropriate, if the conflict of interest cannot be resolved in any other way. For example, some cultural and political affiliations may not be able to be practically relinquished.

¹⁰ 'Conflicts of Interests Guidelines for the Western Australia Public Sector', The Integrity Coordinating Group (a group consisting of the Auditor General, the Public Sector Commissioner, the Corruption and Crime Commissioner, the Information Commissioner and the Western Australian Ombudsman), published 2011.

Conflict of interest examples¹¹ – strategy options

Listed below are situations where conflicts of interest may potentially occur and recommended strategies to avoid or deal with the conflict.

Purchasing Goods and Services or Letting of Contracts

Situation	Recommended strategy
<p>Accepting gifts or benefits from suppliers, or other individuals, involved in the provision of goods and/or services could present a conflict of interest or obligation.</p> <p>Gifts and benefits can take many forms e.g. lucky door prizes, raffles, travel, meals, opportunities to attend educational meetings etc.</p>	<p>Do not accept gifts from businesses or suppliers to the WA health system.</p>
<p>Having a relationship with a potential supplier (e.g. socially or through a family member etc.) could present a conflict of interest.</p>	<p>Withdraw from any part of the tendering/purchasing process or declare the conflict and refrain from voting (if acceptable to other personnel involved).</p>
<p>Having a financial or other interest (e.g. through a family member/friend) in a company that is a potential supplier to the WA health system entity is a conflict of interest.</p>	<p>Withdraw from any part of the tendering/purchasing process or declare the conflict and refrain from voting (if acceptable to other personnel involved).</p>

If gifts or other benefits are accepted and/or preferential treatment is given to one supplier or person this could be considered to be corrupt conduct which may result in criminal charges and/or disciplinary action including dismissal.

Improper actions may include, but are not limited to:

- preferentially selecting individual suppliers
- evaluating new products and being biased towards a supplier
- inviting quotes/tenders and then informing a particular supplier of the quote price, giving them the opportunity to submit a better quote
- providing information that gives a supplier an advantage over other suppliers either at that time or later on
- going to a supplier, who is a relative, without ensuring competitive prices are being obtained
- developing specifications that are directed at a particular supplier's product because of a personal association
- receiving short supply of goods and paying full cost from a firm in which you have a financial interest, or in expectation of a 'kick-back'
- accepting an invitation from a supplier to a social engagement which could lead you to feeling obligated to that supplier.

¹¹ Managing Conflicts of Interest Procedures NSW Government Health
https://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2015_045.pdf

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Recruitment

Situation	Recommended strategy
<p>Sitting as a member on selection panels where applicants for the position are known to the member personally, as either family, friend or close associate, to an extent that could be considered to be a conflict of interest. Selections are to be conducted equally, fairly and based on merit in accordance with the principles of Equal Employment Opportunity (EEO) and affirmative action.</p>	<p>Declare the interest and withdraw from any part of the recruitment process is the preferred option; however in some situations it may be necessary to include the person with the conflict on the panel (for example in cases where they have specific expertise that is required). In these cases it may be an option to involve an independent in the recruitment process, or segregate the advice of the person with the conflict.</p>
<p>Being in a position to influence the selection, or non-selection, of an applicant for a position where the applicant is known personally, involvement would be a conflict of interest.</p>	<p>Declare the interest and do not offer advice or get involved in the recruitment process.</p>

Improper actions may include, but are not limited to:

- manipulating/coercing selection panels to select or not select a particular applicant
- withholding information that would affect the selection or non-selection of the most appropriate applicant
- providing information such as selection questions to one applicant and not others.

Staff management

Situation	Recommended strategy
<p>Having a close personal and/or family relationship with another Department of Health employee or Health Service Provider staff member over whom control is exercised.</p>	<p>All Department of Health employees and Health Service Provider staff members are to be treated equally and fairly and any relationships that could be perceived to be of possible concern should be brought to the attention of a more senior officer.</p>

Improper actions may include, but are not limited to:

- promoting friends or relatives where other applicants are more deserving
- preferentially rostering staff to the advantage of particular Department of Health employee/s or Health Service Provider staff member/s due to personal association with those persons. This can have financial (penalty rates etc.) advantage to the favoured Department of Health employee/s or Health Service Provider staff member/s to the disadvantage of others
- assessment and/or inappropriate recommendation of particular Department of Health employee/s or Health Service Provider staff member/s over others because of personal associations, for such things as:
 - training courses
 - attending conferences
 - job or advancement opportunities.
- recommending incremental progression, or non-progression, of particular Department of Health employee/s or Health Service Provider staff member/s due to personal interests, or attitudes, that are not aligned to the work situation
- giving preference for the taking of leave by Department of Health employees or Health Service Provider staff members to the detriment of others due to personal association
- not applying the same rules equally to all Department of Health employees or Health Service Provider staff members because of personal association, for example failure to address issues of late attendance, non-performance, etc.

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Secondary employment

Situation	Recommended strategy
Being privately employed in a second job where the second position could affect the performance of the duties in the WA health system entity and/or give the impression that favouritism was being given to the private employer.	All Department of Health employees and Health Service Provider staff members are required to seek approval for any secondary employment. Where Department of Health employees or Health Service Provider staff members seek approval for secondary employment and any conflicts of interest associated with the secondary employment cannot be managed, approval will be denied.

Improper actions may include, but are not limited to:

- use of WA health system entity resources, including staff, to support private work outside the WA health system entity employment
- using your position within the WA health system entity to unfairly obtain opportunities for future or outside employment.

Client/Patient Relationship

Situation	Recommended strategy
Providing services/care when the client/patient is a close friend, relative or business associate , etc.	Department of Health employees and Health Service Provider staff members are not to give preferential treatment to personal associates at the expense of others.

Membership of Associations, Clubs, Professional Organisations, Political Parties

Situation	Recommended strategy
Being involved in decision-making processes of the WA health system entity that could have an effect on the method of operation of an association, club, professional organisation that the Department of Health employee or Health Service Provider staff member is a member of, or has an interest in.	Declare the interest and allow management to determine the extent of involvement. If a Department of Health employee or Health Service Provider staff member is found to have made or influenced a decision of the WA health system entity to the detriment of the WA health system entity, the Department of Health employee or Health Service Provider staff member may have committed an act of misconduct and could be subject to disciplinary action.

Improper actions may include, but are not limited to:

- using the position in the WA health system entity to favour the private organisation, or a member of the private organisation
- being involved in an association, club or professional organisation and making decisions which impact adversely on the WA health system entity
- making known confidential information from the WA health system entity, without approval, to the advantage of the private/outside organisation and to the detriment of the WA health system entity.

Note: Release of confidential information without appropriate approval may be a breach of discipline and may be a criminal offence.

Clinicians and Other Health Professionals

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Health professionals encounter a variety of circumstance in their day-to-day work, which could give rise to potential conflicts of interest. The giving and receiving of gifts is a controversial element of the relationship between the pharmaceutical industry, medical suppliers and health professionals.

Situation	Recommended strategy
Establishing a relationship with a pharmaceutical company or medical equipment supplier where it could be perceived that preference was given to that particular company during a procurement/tendering process.	Declare any potential conflict of interest.
Accepting travel and accommodation fees to present research findings.	Obtain approval from the Chief Executive for accepting travel and accommodation fees and releasing of possible confidential information.
Accepting payment of fees and/or honorariums for sitting on committees.	If a fee-for-service is received and the service is provided during working hours, then the income must be declared and provided to the organisation for inclusion in "Other Revenue". (This includes payment for jury duty, unless the Department of Health employee or Health Service Provider staff member does not receive their usual salaries and wages during the course of the trial).
Participating on professional boards, committees, societies , etc. which could constitute a conflict of interest with position held in WA health system entity. Membership of unions or associations would not normally be considered a conflict of interest.	If the member considers there is an advantage to the board, committee or society due to their clinical role then obtain approval from the authorised officer to participate in external boards.
Having directorships and shareholdings in private companies or associations which deal with the WA health system entity.	Declare the interest to the Chief Executive who would then decide whether a conflict of interest existed and possibly restrict the Department of Health employee or Health Service Provider staff member's involvement in WA health system entity processes or request resignation from external involvement.
Evaluating new products/drugs where decisions may be influenced by personal associations/offers of samples or equipment, whether to the individual or the organisation.	Declare any potential conflict of interest.
Making referrals to an aged care facility , group home or boarding house in which the person making the referral (or a family member or associate) has an interest.	Declare any potential conflict of interest.

Improper actions may include, but are not limited to:

- using health system resources to support private work
- inappropriately accessing private confidential information to establish a private work
- recommending service providers or firms to patients/clients, relatives or other individuals due to personal relationships, or preferences, whether for financial gain or not.

Composition of a Medical Credentialing Committee

Situation	Recommended strategy
Composition of a Credentialing Committee is to take into account potential conflicts of interest that may arise.	The committee member should declare any potential conflict of interest to the Committee Chair who will assess if the conflict warrants the committee member not being involved in the credentialing of the practitioner.

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Making Recommendations of Service Providers to Patients by Staff Members of Health Service Providers

Health Service Provider staff members are frequently required to make recommendations of service providers to patients. The provision of such recommendations may be either in direct response to the request of the patient or relative or be offered by the health professional when his/her judgement indicates the information may assist the patient manage their health care.

Situation	Recommended strategy
Providing information or making recommendations to client/patient regarding service providers where one of the service providers is a close friend, relative or business associate , etc.	Department of Health employees and Health Service Provider staff members are not to give preferential treatment to personal associates at the expense of others. Department of Health employees and Health Service Provider staff members are not to recommend any one service provider or firm. They should provide "lists" of available service providers/firms. If a Department of Health employee and Health Service Provider staff member is found to have received a financial return for recommending one service provider, or firm, this may be an act of misconduct and could result in disciplinary action. Department of Health employees and Health Service Provider staff members who recommend particular service providers, or firms, due to personal preference may have committed a breach of discipline.

Improper actions may include, but are not limited to:

- recommending service providers or firms to patients/clients, relatives or other Department of Health employees or Health Service Provider staff members due to personal relationships, or preferences, whether for financial gain or not
- receiving a financial or other form of gain in recommending a particular service provider.