



AFP

Better Practice Guide on conflicts of interest

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Compliance: This instrument is part of the AFP's professional standards framework. The AFP Commissioner's Order on professional standards (CO2) outlines the conduct expected of AFP appointees. Inappropriate departures from the provisions of this instrument may constitute a breach of AFP professional standards and be dealt with under Part V of the *Australian Federal Police Act 1979 (Cth)* (the Act).

This document is a functional governance instrument as defined in the AFP Commissioner's Order on governance (CO1).

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Introduction

This Better Practice Guide provides guidance to AFP appointees for the identification, disclosure, reporting and management of conflict of interest matters. It also provides guidance to AFP appointees providing a personal or commercial reference for a commercial entity.

Conflicts of interest

A conflict of interest within the AFP can either be an organisational or operational conflict of interest:

- **an organisational conflict** of interest can arise from any situation where the AFP or an AFP appointee associates with a person, group or organisation which is involved (or perceived to be involved) in an activity that is incompatible with the AFP's values and law enforcement role
- **an operational conflict** of interest can arise from any link between an AFP appointee's operational duties and private interests and can affect the successful outcome of individual investigations.

Private interests

Private interests include social, community, professional and business interests, including those of any person(s) or organisation(s) with whom a person associates with. A private interest as it relates to conflicts of interest may be anything that can affect an appointee's ability to be impartial or to act properly in serving the public interest/performing their official AFP duties. This includes declarable associations and situations where the AFP appointee may obtain a benefit or advantage for themselves or another person.

Private interests may be pecuniary or non-pecuniary.

Pecuniary interests

A pecuniary interest exists where there is the potential for an individual to benefit financially. Pecuniary interests do not necessarily need to involve an exchange of money and may exist where an individual (or relative or associate):

- owns property (e.g. real estate)
- holds shares; buys or sells shares in a company
- has significant financial or economic interests in an entity that has (or may have) dealings with the AFP
- receives benefits (such as concessions, discounts, gifts or hospitality)
- has significant liabilities or debts, or changes in their financial or economic interests.

Non-pecuniary interests

A non-pecuniary interest does not have a financial component. A non-pecuniary interest can involve:

- personal, family or business relationships
- social, sporting, political, trade union or cultural activities that could influence, or be perceived to influence, judgments or decisions of the AFP or of an AFP appointee
- personal circumstances of the AFP appointee such as being charged with or convicted of an offence, health or medical circumstances (including drug or alcohol dependency), secondary/outside work, future employment prospects (i.e. post separation of employment), and duties owed in other contexts (for example, as a director of a company).

Gift or Benefits

Accepting gifts and benefits can also result in actual, potential or perceived conflicts of interest.

AFP appointees must be aware of their obligations when being offered or receiving a gift or benefit by virtue of being an AFP appointee.

Further information on gifts and benefits is located in the [AFP National Guideline on gifts and benefits](#).

What are the risks of a conflict of interest?

Conflicts of interest present risks to both the appointee and the AFP and must be identified, reported, assessed and managed appropriately:

- an **organisational conflict** can affect the public perception of the integrity of the AFP
 - An example of this may be an appointee's association with organised crime members or outlawed motorcycle clubs. This would directly call into question the integrity of the AFP as a whole in working against these types of crime
- an **operational conflict** may impact the perception of impartiality and/or conduct in relation to a specific operation or investigation. This can also have direct impact on successful prosecutions, or other operational outcomes
 - An example may be an AFP appointee involved in investigating a criminal offence, also being associated with the defendant in the matter. This would directly call into question the impartiality of the appointee's actions (whether misconduct has occurred or not) and has the potential to impact any prosecution that may occur.

Conflicts of interest can also lead to or be perceived to increase the risk of corrupt conduct occurring. Conflicts of interest may result in a Category 3 conduct issue and are investigated by Professional Standards (PRS) under Part V of the *Australian Federal Police Act 1979* (Cth) (the Act). A Category 3 finding may result in disciplinary action up to and including termination of employment.

Some conflicts of interest conduct issues may also be considered as Abuse of Office. Abuse of Office can also result in criminal charges pursuant to section 142.2 of the Criminal Code Act 1995. Abuse of office is punishable by imprisonment.

What do I need to do to avoid conflicts of interest?

Conflicts of interest can arise for any AFP appointee. AFP appointees have personal responsibility for ensuring they avoid actual, perceived or potential conflicts of interest.

Reasonable steps that an AFP appointee must take to **avoid and minimise the risks associated with** conflicts of interest include:

- minimising the amount of information provided to private interests to avoid the extent they can compromise and/or be seen to compromise the AFP appointee's impartiality
 - examples of this include:
 - keeping a record of any conversations where a private interest may ask/has asked details about your AFP employment
 - not disclosing information about your official duties
- abstaining from involvement in official decisions and actions that conflict with private interests, affiliations and associations
- avoiding, where possible, association (outside of official duties) with individuals and organisations whose values are inconsistent with the values of the AFP
- Especially activities or situations where it could be perceived that those individuals or organisation could reasonably benefit from association with an AFP appointee (whether or not that has occurred)
- avoiding, where possible, any involvement in a relationship that appears to involve preferential treatment or improper use of rank and/or position.

How do I identify a potential conflict of interest?

To maintain the trust and confidence in the AFP, its staff and operations, early identification and management of conflicts of interest is essential. This includes perceived and potential conflicts, as even the perception of bias may be sufficient to undermine public confidence in the impartiality of an AFP appointee and while performing their AFP duties.

Early identification and management of conflicts of interest may prevent subsequent corrupt conduct from occurring.

- To **identify** conflicts of interest (real, perceived or potential), AFP appointees must routinely consider the relationship between their private interests and their responsibility to be impartial and act properly in the public interest/perform their official duties.

This includes consideration of a range of private interests such as:

- current and former relationships, family, friends, rivals and enemies
- social networking accounts, online dating sites, etc
- close personal association with employees working in organisations whose values are inconsistent with the values of the AFP
- declarable associations, such as, but not limited to:
 - foreign nationals outside of official AFP duties
 - journalists and media figures
 - public figures (e.g. politicians or celebrities)
 - clients or contractors of the AFP
 - former AFP or Australian Protective Service appointees
 - former members of any law enforcement or intelligence agencies
 - criminal entities (other than those utilised or targeted for official purposes)
 - AFP appointees who have been suspended from duty as a results of a PRS investigation
 - Former AFP appointees who have been terminated as a result of a PRS investigation
- declarable associations with or obligations in relation to:
 - sporting bodies, clubs and associations
 - political, trade union or professional organisations or other groups and individuals
 - community, ethnic, family or religious groups
- financial and economic interests such as shares, assets, trust funds or debts
- holding a supervisory position which has the managerial responsibility for a position held by a family member and/or an AFP appointee with whom there is an intimate relationship
- employed in the same working environment as a family member or an AFP appointee with whom there is an intimate relationship
- participating in a selection panel whose outcome may result in the recruitment or promotion or transfer of a family member, close friend or appointee with whom there is an intimate relationship, as per the AFP National Guideline on recruitment
- involvement in any relationship (including where the relationship arose as a result of performing official duties) that can undermine the objectivity of the member in the performance of their duties, and that involves, or appears to involve, partiality, preferential treatment or improper use of rank or position, including a position of power or trust (refer also to section 39 of the AFP National Guideline on deployment to International Command missions)
- secondary employment, in accordance with the AFP National Guideline on secondary work or volunteering
- future employment prospects or plans (i.e. post separation employment).

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What are the reporting and recording requirements for a conflict of interest?

Once a conflict of interest is identified, the supervisor must work with the appointee to develop, implement and record a conflict of interest management strategy and have it approved by the manager one removed. This should occur prior to an Integrity Report being completed, as the potential risks associated with the conflict and how it is to be managed must be recorded in the Integrity Report.

Following this, all conflicts of interest must be recorded in an Integrity Report as described in the [AFP National Guideline on integrity reporting](#).

A conflict of interest may be reported, recorded and resolved immediately and a single integrity report may suffice; however, circumstances may arise that require ongoing management and reporting to the PRS Integrity Intervention Team.

Where the conflict of interest relates to a declarable association, a Change of circumstances form must also be submitted as per the [AFP Commissioner's Order on security \(CO9\)](#)

Operational conflicts

Where an operational conflict of interest has been identified which is related to a PROMIS case, the AFP appointee must also record a decision case note entry in the relevant PROMIS case log. The case note should be titled 'conflict of interest' and only state that there has been an operational conflict of interest identified.

The AFP appointee must not access any AFP records (including the PROMIS case) for information relating to the conflict of interest or any associated information. AFP appointees should also take care not to record unnecessary private details in case notes.

The management strategy for operational conflicts of interest must also be recorded in PROMIS by the supervisor. If the conflict is likely to last for an extended period of time without change, the case note entry must include a mandatory review date to ensure the effectiveness of the management strategy is reviewed.

Any change in circumstances for an ongoing conflict of interest must be recorded by the AFP appointee and their supervisor in PROMIS. Where required, a new 'conflict of interest' decision case note entry should be recorded by the supervisor, detailing how the new circumstances will be dealt with.

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Other reporting requirements across the AFP

There are specific reporting requirements and/or the need to consider conflicts of interest within other governance instruments; however, they do not necessarily use the term 'conflict of interest'.

These include:

- [Commissioner's Financial Instructions \(CFIs\)](#)
- [Commissioner's Order on professional standards \(CO2\)](#)
- [AFP Commissioner's Order on security \(CO9\)](#)
- Commanders Orders (e.g. [Regional Assistance Mission Solomon Islands Code of Conduct](#))
- [AFP National Guideline on recruitment](#)
- [AFP National Guideline on secondary work or volunteering](#)
- [AFP National Guideline on integrity reporting](#)
- [AFP National Guideline on property and exhibits](#)
- [AFP National Guideline on procurement and contracting](#)
- [AFP National Guideline on gifts and benefits](#)
- [AFP National Guideline on hospitality and entertainment](#)
- [Better Practice Guide on AFP support for, or sanctioning of, events](#)

Supervisor responsibilities

Supervisors and AFP appointees are required to manage any integrity issue and work collaboratively to ensure conflicts of interest are appropriately identified, reported and managed. Supervisors are required to make decisions about the risks posed by any identified matter and take steps to manage the individual, organizational and operational risks.

On receipt of a disclosed conflict of interest by an AFP appointee, the supervisor must record the circumstances in an official AFP notebook, diary or field book, or in an official minute from the AFP appointee, detailing the:

- conflict of interest or declarable association
- nature of the conflicting AFP duty, role or responsibility.

Supervisors must also ensure they maintain all records/reports in accordance with the [AFP National Guideline on information management](#).

The supervisor must then undertake a risk assessment to assess the risk posed by the conflict of interest. AFP appointees and their supervisor/s must consider the risks posed by any identified conflict of interest in accordance with the general principles of the [AFP National Guideline on risk management](#). When assessing the risk, AFP appointees and their supervisor/s must consider various potential outcomes.

Supervisors must also work with the appointee to develop a management strategy. All management strategies must address the conflict of interest in proportion to the identified risk.

High risk - conflicts of interest

Where ‘major’ consequences are identified as ‘likely’ from a conflict of interest, this is considered a ‘High Risk’ conflict of interest.

If the High Risk situation involves an operational conflict, supervisors must report all details to the relevant functional manager/commander in the first instance. AFP appointees should also be removed from further involvement in the operational activity.

If the relevant commander/manager (or above) authorises the decision to not remove an AFP appointee from a high-risk situation, the reasons must be recorded by the supervisor in the original 'conflict of interest' decision case note entry in PROMIS, along with a date to review the effectiveness of the alternative management strategy. The strategy must be reviewed on the set date and an update added to another 'conflict of interest' decision case note entry.

The following practical approaches to address conflicts of interest may be used independently or in combination and are not listed in any preferential order. All management strategies should be implemented in consultation with AFP appointees.

| Option | Description | Considerations |
|----------|---|--|
| Report | All conflicts of interest must be reported through an integrity report. | <ul style="list-style-type: none"> Required for all conflict of interest situations |
| Record | Record the details of the conflict of interest with ongoing monitoring of the situation. | <ul style="list-style-type: none"> Record in Integrity Report form Required for all conflict of interest situations This alone might be enough to manage low-risk perceived or potential conflicts of interest by maintaining transparency, accountability and operational integrity. |
| Restrict | Restrictions are placed on the involvement of the individual subject of the conflict of interest in the investigation/matter. | <ul style="list-style-type: none"> This approach is appropriate where the: <ul style="list-style-type: none"> AFP appointee can be effectively separated from parts of the investigation/matter AFP appointee can perform regular duties in a normal manner the conflict is not likely to recur frequently the conflict is not likely to affect operational integrity. |
| Recruit | An independent person oversees part or all of the investigation/matter. | <ul style="list-style-type: none"> This approach might be appropriate where it is not feasible or desirable to remove AFP appointee from the investigation/matter (e.g. expertise required or not easily replaced due to remote/small location). |
| Remove | The individual is removed from any involvement in the investigation/matter and/or transferred to another role. | <ul style="list-style-type: none"> This approach: <ul style="list-style-type: none"> is most appropriate for ongoing conflicts of interest where restrictions or recruitment are not appropriate and other feasible or workable options are not available may require consultation beyond the individual’s supervisor. |

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| Relinquish | The individual relinquishes the private interest that is causing the conflict. | <ul style="list-style-type: none"> • This approach: <ul style="list-style-type: none"> ○ is most appropriate where other options are not workable or suitable and the individual is willing to forgo the private interest ○ can be requested by a manager/commander. • AFP appointees should not be asked to relinquish a significant private interest in a low-risk conflict where the effects are not significant. • The maintenance of an interest which constitutes a serious conflict of interest may affect the ability to hold a security clearance and possibly an individual’s ability to maintain their employment with the AFP. |
| Resign | The individual resigns from their position. | <ul style="list-style-type: none"> • This approach might be appropriate when: <ul style="list-style-type: none"> ○ no other options are workable ○ AFP appointees cannot or will not relinquish the cause of the conflict of interest and changes to their responsibilities or work environment are not feasible ○ the individual prefers this course. |

Supervisors may also seek advice from Professional Standards through the **s 47E(d)** to determine appropriate action. The supervisor must notify the individual of the outcome. Procedural fairness must be afforded to any AFP appointees subject to such considerations.

Conflicts of interest involving family members

When a supervisor becomes aware that there may be family members or AFP appointees involved in an intimate relationship within the same working environment, they must confirm this with the AFP appointees, and then ensure a risk assessment is conducted.

It is at the supervisor's discretion to manage the employment of family members or AFP appointees involved in an intimate relationship in the same working environment on a case-by-case basis. Where a decision is made that the family members/AFP appointees involved in an intimate relationship can remain in the same working environment, the supervisor must ensure there is a definite separation in performance reporting chains and the family members/AFP appointees involved in an intimate relationship are not assigned to the same teams. Decision and approvals must not be made by either party in respect to the other if they are in a familial or intimate relationship.

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Approving management strategies

Management strategies are approved by the relevant Coordinator/Superintendent (or above). These strategies must be considered on a case-by-case basis.

Coordinator/Superintendent (and above) should consider:

- the AFP Appointees current role and welfare
- maintain the integrity of the AFP
- minimise the potential for misconduct
- ensure the efficient performance of the AFP.

If necessary, AFP managers one removed may vary or revoke a management strategy after consultation with the relevant AFP appointee, appointees supervisor and/or PRS.

Recording management strategies

Once discussed and negotiated, the AFP appointee and their supervisor must record the management strategy, including any agreed actions and timeframes. This information must be included in the Integrity Report. The management strategy for operational conflicts of interest must be recorded by the supervisor in a PROMIS case note.

Any change in circumstances for an ongoing conflict of interest must be recorded by the AFP appointee and their supervisor. Where required, a new 'conflict of interest' decision case note entry should be recorded by the supervisor, detailing how the new circumstances will be dealt with.

Providing a personal reference

AFP appointees providing a personal reference, either in their private capacity or on behalf of the AFP, must ensure the information given does not compromise the integrity and reputation of the AFP in accordance with the following requirements:

In a personal capacity

AFP appointees, in their personal capacity, may provide a personal reference for any person, including an AFP appointee, provided the personal reference:

- expressly states that it is given in the AFP appointee's personal capacity
- where appropriate, expressly states that it does not represent the views of the AFP
- is not a misuse of the AFP appointee's duties, status, power or authority, or seeks to gain a benefit or advantage for themselves or any other person (other than the subject of the personal reference), organisation or corporation
- is not on AFP stationery or letterhead
- does not include an AFP signature block and is classified 'unofficial'
- does not raise any actual or perceived conflict of interest with the operations and reputation of the AFP per the [AFP National Guideline on conflicts of interest](#).

An AFP appointee may provide a personal reference in a personal capacity for the purposes of an employment opportunity without obtaining approval if the above standards are met.

On behalf of the AFP

AFP appointees must obtain written approval from their Manager/Commander or above before giving a personal reference for any person, including an AFP appointee, which:

- is on behalf of the AFP
- implies that it represents the views of the AFP; and/or
- has any actual or perceived conflict of interest with the operations and reputation of the AFP.

A Manager/Commander or above who receives a request from an AFP appointee must determine if a personal reference may be given either in a personal capacity or on behalf of the AFP and must respond in writing to the request received.

Manager/Commander or above must consider:

- its intended use (such as for academic entry, judicial or disciplinary proceedings)
- if the person requesting it is also an AFP appointee (or former AFP appointee)
- the nature of the relationship between the AFP appointee providing the personal reference and the person requesting it
- possible media or public interest
- any actual or perceived conflict of interest per the [AFP National Guideline on conflicts of interest](#).
- whether Professional Standards or AFP Legal should review it prior to provision
- whether it can be provided on AFP stationery.

Manager/Commanders or above who wish to provide a personal reference on behalf of the AFP must seek approval from their appropriate management line.

Providing a commercial reference

The AFP's policy is to not provide commercial references; however, an AFP appointee at the level of coordinator/superintendent or above may provide a commercial reference for a commercial entity, only where the commercial reference is given directly to a Commonwealth, state or territory agency.

An Assistant Commissioner/National Manager may determine in writing that exceptional circumstances exist to justify the provision of a commercial reference other than to a Commonwealth, state or territory agency. The written request must clearly outline the exceptional circumstances why the AFP should depart from its policy of not providing commercial references.

Written approval should be obtained from the relevant Assistant Commissioner/National Manager before providing a commercial reference which:

- is on behalf of the AFP
- implies that it represents the views of the AFP; and
- has any perceived conflict of interest with the operations and reputation of the AFP.

To determine if it is appropriate for the AFP to provide a commercial reference, the Assistant Commissioner/National Manager must consider:

- its intended use (such as for commercial endorsement)
- the AFP's policy to not provide commercial references
- whether it would affect the AFP's independence and impartiality, or the community's perception of the AFP's independence and impartiality, in the exercise of its functions
- any actual or perceived conflict of interest per the [AFP National Guideline on conflicts of interest](#)
- possible media or public interest
- whether a Deputy Commissioner, the Commissioner, Professional Standards and/or AFP Legal should review it prior to provision
- whether it should be provided on AFP stationery.

Commercial references must not be provided to commercial entities for publication, including on their websites, and this restriction must be conveyed in writing to the entity before, or at the time, the commercial reference is provided.

Copies of commercial references, and the approval, must be forwarded to

s 47E(d)

s 47E(d) @afp.gov.au for placement on their records.

AFP appointees must always decline any offer of a gift or benefit that is made in connection with a commercial reference. Further information relating to receiving gifts can be found in the [National Guideline on gifts and benefits](#).

AND PUBLISHED PURSUANT TO THE **Further advice on conflicts of interest**

Queries about the content of this document should be referred to the

s 47E(d)

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Definitions

AFP appointee as defined in section 4 of the *Australian Federal Police Act 1979* (Cth) (the Act), a:

- Deputy Commissioner
- AFP employee
- Special Member
- Special Protective Service Officer
- person engaged overseas under section 69A to perform duties overseas as an employee of the AFP
- person engaged under section 35 as a consultant or independent contractor to perform services for the AFP and determined by the Commissioner under section 35(2) to be an AFP appointee
- secondee assisting the AFP to perform its functions under a section 69D agreement
- AFP appointees, contractors, volunteers and other persons who provide services to the AFP.

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