

2022/23 Skills Assure Supplier

Guide to Conflict of Interest Management Plans

Purpose

The purpose of this guide is to assist a Skills Assure Supplier (SAS, you, your) to identify whether they have any Conflicts of Interest under their SAS Agreement/s and assist the SAS to develop a Conflict of Interest management plan to manage identified conflicts of Interest.¹

Clause 14 of your SAS Agreement requires you to disclose any Conflict of Interest, or risk of a conflict of interest to the Department immediately.

“Conflict of Interest” means having an interest, affiliation, or relationship, or owing an obligation (whether personal, financial, professional, or otherwise) which conflicts, may reasonably have the potential conflict, or may reasonably be perceived as conflicting, with the ability of the Supplier or its Personnel to perform its obligations under the Skills Assure Supplier Agreement/s fairly or objectively.

The Department takes the view that any subcontract or arrangement between a SAS and a Related Party immediately create actual (real), potential and/or perceived Conflicts of Interest, which impact, or are likely to impact, compliance with the terms of the SAS Agreement and the Department’s Policies.

Where you have identified one or more Conflicts of Interest, you **must** have a Conflict of Interest management plan in place for each conflict of interest identified. This is because you may need to implement different types of strategies to manage different Conflicts of Interest, therefore separate Conflict of Interest management plans will be required.

You are required to use the *Skills Assure Supplier Conflict of Interest Management Plan Template* to manage Conflicts of Interest. No other format will be accepted for the purposes of a Performance Review or otherwise.

SAS are not required to submit the Conflict of Interest Management Plan to the Department unless requested to do so in accordance with the SAS Agreement.

If you are uncertain as to whether you have any Conflicts of Interest under your SAS Agreement/s and/or how to effectively manage Conflicts of Interest, the Department encourages you to seek independent legal advice. The Department cannot provide you with legal advice.

¹ Capitalised terms used within this document have the same meaning given to them in the Skills Assure Supplier Agreement unless a contrary intention appears



Stages involved in developing a Conflict of Interest Management Plan

Stage 1 – Assess and identify

The first step to determining how to manage your Conflict of Interest is understanding the type of conflict you are dealing with – whether that be: **actual, perceived** or **potential**. The checklist below has been developed as a tool to assist you with identifying the type of conflict (note: this does not need to be submitted with your management plan).

	Yes	No
Would I or anyone associated with me, benefit from, or be affected by, this Conflict of Interest?	<input type="checkbox"/>	<input type="checkbox"/>
Could there be benefits for me in the future that could cast doubt on my ability to carry out my obligations under the Skills Assure Supplier (SAS) Agreement objectively? In particular, my obligations to act consistently with the spirit of the SAS Agreement and the Program; and act in the way that best achieves the objectives of the Program (Good Faith Obligations)?	<input type="checkbox"/>	<input type="checkbox"/>
Do I have a current or previous personal, professional or financial relationship or association of any significance with a party interested in the outcomes of students trained under the SAS Agreement for which I receive funding for?	<input type="checkbox"/>	<input type="checkbox"/>
Do I or a relative, friend or associate of theirs stand to gain or lose financially in some covert or unexpected way from the SAS delivering training to any particular student and claiming funding for those services?	<input type="checkbox"/>	<input type="checkbox"/>
Do I hold any personal or professional views or biases that may lead to others to reasonably conclude that I am not an appropriate person to be undertaking training and assessment and/or claiming funding for a student or students under the SAS Agreement?	<input type="checkbox"/>	<input type="checkbox"/>
Have I contributed or received any benefit in a private capacity in any way related to: i. the delivery of training and assessment of, or claiming funding for student or student/s under the SAS Agreement which would impact on my ability to meet my obligations under the SAS Agreement, including the Good Faith Obligations?	<input type="checkbox"/>	<input type="checkbox"/>
Have I made any promises or commitments in relation to either: ii. the outcomes of training and assessment for a student or students funded under the SAS Agreement; or iii. the funds claimed for the delivery of training and assessment for a student or student/s under a SAS Agreement?	<input type="checkbox"/>	<input type="checkbox"/>



Have I received a benefit or hospitality from someone who stands to gain or lose from either:

- i. the outcomes of training and assessment for a student or students funded under the SAS Agreement; or
- ii. the funds claimed for the delivery of training and assessment for a student or student/s under a SAS Agreement?

Could there be any other benefit or factors that could cast doubts on my objectivity?

Do I still have any doubts about my situation?

Is there a realistic expectation that I will, directly or indirectly, gain a financial or other material benefit from either:

- i. outcomes of training and assessment for a student or students funded under the SAS Agreement; or
- ii. the funds claimed for the delivery of training and assessment for a student or student/s under a SAS Agreement?

Does my conflict have the potential or could it be perceived to affect my earning capacity or financial situation?

Will, or does, my conflict have the potential or could it be perceived to have an impact on the value of any shares or property that I own?

Do I have a second job or private business that may be affected by my conflict?

Do I have any debts owing to a person who will be affected by my conflict?

Is there a realistic expectation that someone in a personal or business relationship with me will, directly or indirectly, gain a financial or other material benefit or suffer a financial or other material loss as a result of my conflict?

By nature of my relationship with this individual, would any benefit or loss they receive be expected, under normal circumstances, to flow through to me?

The following descriptions will help you in understanding the difference between the types of conflicts.

Types of conflict	Role	Position	Interest
Actual	Director, Shareholder or Key Personnel of a Skills Assure Supplier	Is in a position to be influenced	By their private interests when doing their job



Perceived	Director, Shareholder or Key Personnel of a Skills Assure Supplier	Is in a position to appear to be influenced	By their, their spouse or family members private interests when doing their job
Potential	Director, Shareholder or Key Personnel of a Skills Assure Supplier	Is in a position where they may be influenced in the future	By their, their spouse or family members private interests when doing their job

EXAMPLES	
Actual	<p>You are a director of a SAS and your spouse also owns a recruitment or labour hire company.</p> <p>The SAS and/or related party will or may receive funding for delivery of training AND payment for labour hire or commission for recruitment for that same student.</p> <p>Without a Conflict of Interest management plan, the SAS is unable to deliver training in an objective way as it/or its related entity will receive a benefit once the training is complete in the form of both government subsidies and payment for labour hire and/or recruitment services as a result of the outcomes.</p>
Perceived	<p>You are a Director of a SAS and your spouse owns a restaurant. The SAS carries out hospitality qualifications and the restaurant takes students from the SAS for work placement or on-the-job training.</p> <p>There is a perceived Conflict of Interest as the restaurant could be expediting students so that the SAS could obtain a benefit through receipt of government subsidies for completed units of competencies.</p>
Potential	<p>You are the Director of a SAS and your daughter owns a restaurant. For all intents and purposes, the restaurant and the SAS operate independently and separately to one another.</p> <p>The SAS does not currently deliver any qualifications in the hospitality industry; however, is considering expanding its Delivery Schedule to include hospitality qualifications. This is a potential Conflict of Interest and a management plan must be in place to manage any perceived or actual conflict if it arises.</p>



Stage 2 – Choosing a strategy for managing conflicts of interest

While conflicts of interest can be resolved or managed in a variety of ways, the choice of the strategy will depend on the nature of the conflict, the complexity of the situation and the subtleties and severity of the case.

Stage 2 of developing a Conflict of Interest management plan is considering the strategies implemented/to be implemented to mitigate risk within your organisation. Often, a combination of strategies can be adopted to manage conflicts of interest. These are detailed in the table below.

<p>Register</p>	<p>All conflicts of interest should be recorded in a register and kept by the SAS regardless of what additional management strategies are adopted. Strategies include:</p> <ul style="list-style-type: none"> • ensuring the supervisor or manager is aware of the conflict so that effective supervision can be carried out; or, • informing likely affected persons that a disclosure has been made providing appropriate details.
<p>Restrict</p>	<p>Restrictions should be placed on the individuals/ organisations involvement in the matter. This option can be adopted where the conflict can be separated from the activity or process. Strategies include:</p> <ul style="list-style-type: none"> • Refraining from taking part in any debate or decisions relating to the conflict; • non-involvement in any critical criteria setting or decision-making role concerning the conflict; • Abstaining from voting on decision proposals relating to the conflict; • Withdrawing from discussions of affected proposals and plans regarding the conflict; • Having restricted access to information relating to the Conflict of Interest; and/or • Being denied access to sensitive documents or confidential information relating to the Conflict of Interest. <p>When you use any of the above strategies to separate yourself/the individual from the decision-making process, you need to ensure that all affected parties to the decision know what management strategy was implemented and why.</p>
<p>Recruit</p>	<p>A disinterested/independent party to oversee part or all of the relevant activities or processes involved in the matter. Strategies include:</p> <ul style="list-style-type: none"> • Arranging for the affected decision to be made by an independent party. • Engaging an independent party to oversee or review the integrity of the decision-making process. This strategy could be particularly beneficial where there is a perceived Conflict of Interest.



	<ul style="list-style-type: none"> Increasing the number of individuals sitting on decision making committees to balance the influence.
Remove or Relinquish	<p>Removal strategies will be most appropriate for direct conflicts. This strategy aims to remove the persons involved from all duties related to the Conflict of Interest. Strategies include:</p> <ul style="list-style-type: none"> Removing person/s from any involvement in the matter; Abstaining from any formal or informal discussion about the matter; Removing the person/s from the situation where they/you may still exert, or be perceived to exert, a covert influence on decisions or actions taken in the matter; Re-arranging the person/s duties and responsibilities to a non-conflicting function; Transferring the person/s to another project; Transferring the person/s to another area of the organisation; or Using the services of another organisation. <p>“Remove or Relinquish” when the Conflict of Interest and its potential or perceived effects are of high risk or high significance.</p>
Resign	<p>Resignation is the most extreme solution to a serious Conflict of Interest. It should be available for consideration if the Conflict of Interest cannot be resolved in any other way. Alternatively, the person/s may choose to resign as a matter of personal principle. Strategies include:</p> <ul style="list-style-type: none"> Resignation of the person/s position within the organisation; or Ceasing operations between parties. <p>This option should be utilised where the Conflict of Interest and its potential or perceived effects are of high risk or high significance, or when there are no other options to avoid or manage the conflict.</p>

Stage 3 – Implement and monitor

The third stage of developing a Conflict of Interest management plan is the implementation and monitor stage.

You **must** have a Conflict of Interest policy and a Conflict of Interest management plan in place to implement your strategy. You **must** have a separate Conflict of Interest management plan in place for each Conflict of Interest you identified.

It is important that you regularly review the strategy, or combination of strategies, you have chosen to manage the conflicts of interest, to ensure that it remains relevant until (and if) conflicts are resolved.

Where you identify that the strategies chosen are no longer relevant, it is imperative that you make any changes to the management plan before problems arise.



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