



# Conflict of Interest Policy

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## 1. Introduction

- 1.1. Identifying and dealing with conflicts of interest is an integral part of establishing an ethical culture at Screen Australia. Screen Australia recognises that individuals hold a range of legitimate interests outside the immediate workplace. It is the responsibility of Employees and Contractors to ensure that these interests do not create a conflict of interest or a perception of a conflict of interest with the performance of their duties in Screen Australia.
- 1.2. This policy is divided into three parts. The first part ("A") applies to both Employees and Contractors, and provides general guidance on conflicts of interest. The second part ("B") applies to Employees only, and describes Employees' duties under this policy. The third part ("C") applies to Contractors only, and describes their duties under this policy.

## 2. Purpose

- 2.1. The purpose of this policy is to inform Screen Australia staff of their responsibilities and obligations, and clearly define the standard of behaviour required of them.
- 2.2. Dependency
  - 2.2.1. This policy forms the foundation for all related processes and procedures. Any changes to this policy must be reflected in changes to the supporting processes, procedures, tools and systems or alternatively any changes to processes, procedures, tools and systems must be in compliance with this policy.

## 3. Scope

- 3.1. Coverage
  - 3.1.1. This policy applies to all Screen Australia Employees and Contractors. This policy should be read in conjunction with other relevant Screen Australia policies and requirements mentioned.
- 3.2. Compliance
  - 3.2.1. This policy needs to be read and complied with by all Employees and Contractors.

## 4. Definitions

- 4.1. *Associated Entity* has the same meaning as in the *Corporations Act 2001* (Cth).
- 4.2. *Contractor* means a person undertaking services for Screen Australia subject to a written contract, who is not an employee of Screen Australia; or an employee of a labour hire agency contracted by Screen Australia.
- 4.3. *Employees* means a person employed by Screen Australia under either the *Screen Australia Act 2008* (Screen Australia Act) or the *Public Service Act 1999* (PS Act).

## 5. Policy

- 5.1. Screen Australia recognises that staff hold a range of legitimate interests outside the immediate workplace. It is the responsibility of staff to ensure that these interests do not create or give rise to a conflict of interest or a perception of a conflict of interest.
- 5.2. It is Screen Australia policy that all Employees and Contractors must remain independent, impartial and unbiased when performing their duties. To ensure that you are perceived as impartial, effective and fair, you must ensure that your interests and obligations do not conflict, and do not appear to conflict, with your responsibilities as an Employee or Contractor. Your interests may be of a personal or financial nature, and may extend to interests of persons related or associated with you. It is for this reason that this policy refers to Associated Entities. You must disclose any conflict of interest in a timely way and take reasonable action, including as directed by Screen Australia, to deal with any conflict. Disclosing a possible conflict as soon as you become aware of it means that the issue can be dealt with promptly, minimises the risk of you being exposed to criticism or disciplinary action, and minimises the risk of exposure to Screen Australia.
- 5.3. It is an express requirement of employment with Screen Australia that each employee familiarise themselves with, and act in accordance with, the Screen Australia Conflict of Interest Policy. You must complete and submit Attachment A of this policy to Human Resources prior to commencing with Screen Australia.
- 5.4. If you are unsure whether you have a conflict of interest, it is in all instances preferable to declare that possible conflict.
- 5.5. When considering whether a conflict of interest exists, consider the situation from the standpoint of an objective outsider. If it is likely that a reasonable objective outsider would consider that a conflict or a perception of a conflict exists, you should act as though a conflict does exist.

## PART A – FOR BOTH EMPLOYEES AND CONTRACTORS

### 6. What Do We Mean By a Conflict of Interest?

- 6.1. A conflict of interest can:
  - (a) be real (i.e. there is a verifiable conflict of interest) or perceived (i.e. an onlooker may perceive there is a conflict);
  - (b) arise from personal (including both financial and/or non-financial matters);
  - (c) arise from the interests of persons or entities related to or associated with you;
  - (d) arise from duties which you owe to persons or entities other than Screen Australia;
  - (e) arise because of the interests of your immediate family, Associated Entities or parties with whom you have relationships.
- 6.2. An Employee or Contractor has a conflict of interest when they are in a position of authority which requires them to exercise judgment or make decisions, or to participate in a body such as a committee which makes decisions, on behalf of Screen Australia and also has (personal, financial or other) interests or obligations that might interfere with or influence the exercise of their judgment.

- 6.3. A clear example of a conflict of interest is where an Employee's or Contractor's position or authority may be used to influence or make decisions that lead to any form of financial or personal gain for the Employee or Contractor, or for an Associated Entity.

## **7. Examples of Conflict of Interest Situations**

The following list is not intended to be exhaustive.

### **7.1. Financial Interests**

- 7.1.1. Financial interests may cover such things as directorships, share holdings, real estate or trusts that have the potential to conflict with official duties.
- 7.1.2. An example of this type of conflict could be where an Employee or Contractor (or Associated Entity) holds shares in a private company and his or her duties require decisions which could result in benefits or concessions for that company. Where this situation arises, the Employee or Contractor should advise the relevant Head of Department and withdraw from the decision making process with regard to decisions concerning the company in which the Employee or Contractor (or Associated Entity) has an interest.

### **7.2. Personal and Other Interests**

- 7.2.1. Personal and other interests may arise from social or cultural activities as well as from family, personal or other relationships (both positive and negative).
- 7.2.2. In carrying out their duties, Screen Australia Employees and Contractors should not allow themselves to be improperly influenced by family or other personal relationships. For example, situations may arise where a decision has to be made by the Employee or Contractor and that decision would directly affect a person who has a personal relationship with the Employee or Contractor. In these cases, Employees and Contractors should declare the conflict and refer the matter to the relevant Head of Department.

### **7.3. Use of position, access to information, assessing applications for funding**

- 7.3.1. You must not use your position as an Employee or Contractor to gain access to information or to influence a decision making process inappropriately (for example by speeding up that process or drawing attention to an application).
- 7.3.2. If a person undertaking an assessment of a funding application for Screen Australia, whether as a committee member, reader or other assessor, has an interest such that a reasonable observer could reasonably conclude that the interest could affect the assessment, the person must disclose the interest.

### **7.4. Assessment and Investment Committee meetings**

- 7.4.1. A conflict of interest may need to be disclosed before a relevant meeting takes place, in which case the Employee or Contractor should provide details of the possible conflict to the chair of the meeting. The chair of the meeting may decide that the Employee or Contractor will receive no information about relevant decisions, and will not be allowed to sit in on meetings where relevant funding decisions/discussions are being made/held.
- 7.4.2. The following procedures should be followed by Assessment or Investment Committees:
  - (a) Committees which deal with matters where conflicts of interest can arise must have a standing agenda item calling for declarations of potential conflicts of interest. This does not preclude the disclosure of an interest at any stage in proceedings.

- (b) If a declaration is made the committee must consider the relevant circumstances including the seriousness of the conflict, the risk of a perception that a conflict exists, the likelihood that decisions may be influenced, and the ability to obtain alternative suitable representation on the committee.
- (c) The committee's response to a declaration may include:
  - determining that the issue will not affect, or be reasonably perceived to affect, the functioning of the committee;
  - requiring the affected individual to take all reasonable steps to remove the conflict;
  - requiring the affected individual to withdraw from all or a part of the meeting; or
  - requiring that the individual stand down from the committee.
- (d) A committee member may be unwilling to discuss the details giving rise to a conflict, and this should be respected. In such a case the committee should be informed that a conflict may exist and the member must withdraw from the meeting for any item that is affected by the conflict. Alternatively, the member may choose to, or be required to, stand down from the committee.
- (e) The minutes should record that a conflict of interest was disclosed and the name of the committee member making the disclosure. Normally there will be no requirement to record the details of the conflict. In all cases the response to a disclosure should be recorded, e.g. 'Person left the meeting for this item'.

#### **7.5. Serving on a Board or Committee**

- 7.5.1. You must advise the Head of People & Culture if you are currently serving or planning to serve on a board or a committee.

## **8. Managing of Conflict of Interest Situations**

### **8.1. New employees and contractors**

- 8.1.1. Each new Employee and Contractor will, at the time of their engagement, be required to provide Screen Australia's People & Culture Unit with a signed declaration in the form of Attachment A. In addition, during the recruitment process, Screen Australia may seek information about conflicts of interests from applicants.
- 8.1.2. Current Employees and Contractors who are or become members of assessment committees and current Employees who are at or above Senior Executive Service Band 1 level (SES 1) must provide Screen Australia's Human Resources Unit with a signed declaration in the form of Attachment B.
- 8.1.3. It is the responsibility of all Employees and Contractors who have signed declarations in the form of Attachment A and/or Attachment B to notify the relevant Head of Department promptly upon becoming aware of any material change of circumstance relevant to their declaration.
- 8.1.4. All Employees and Contractors must disclose, and take reasonable steps to avoid, any conflict of interest in connection with their employment or engagement with Screen Australia. This includes conflicts of interest which arise in connection with an Associated Entity. Employees and Contractors

must declare any financial or non-financial interests which are relevant to their engagement as an Employee or Contractor of Screen Australia.

## **PART B – FOR EMPLOYEES ONLY**

### **9. Statutory Requirements**

9.1. The main statutory requirements relating to conflicts of interest are outlined below:

- Paragraph (7) of the APS Code of Conduct requires that an APS employee must disclose and take reasonable steps to avoid any conflict of interest (real or perceived) in connection with APS employment (s 13(7) of the PS Act);
- Paragraph (8) of the APS Code of Conduct requires that an APS employee must use Commonwealth resources in a proper manner and for a proper purpose (s 13(8) of the PS Act);
- Paragraph (10) of the APS Code of Conduct provides that an APS employee must not improperly use inside information or the employee's duties, status, power or authority to gain a benefit or advantage for themselves or another person, or cause detriment to the employee's agency, the Commonwealth or another person (s 13(10) of the PS Act);
- APS employees must behave in a way that upholds the APS Values. The APS Values requires the Australian Public Service to perform its functions in an ethical and impartial manner (s 10(2) and (5) of the PS Act);
- Employees employed under the Screen Australia Act must comply with Screen Australia's Code of Conduct and Values, which is based on the APS Code of Conduct.
- Section 27(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) provides that an official (including an employee) of a Commonwealth entity (such as Screen Australia) must not improperly use their position to advantage themselves or another person.
- Section 28(a) of the PGPA Act provides that an official of a Commonwealth entity must not improperly use information obtained through their position to advantage themselves or another person.
- Section 29(1) of the PGPA Act provides that an official of a Commonwealth entity who has a material personal interest that relates to the affairs of the entity must disclose details of the interest.

### **10. Further Examples of Conflict of Interest Situations**

The following list is not intended to be exhaustive.

#### **10.1. Personal and other interests**

- 10.1.1. In the case of a close personal relationship (be it part of a family or not) within a work group, it may be desirable for one party to move to another work area. While it is not uncommon or improper for couples or family members to be working in the same agency, it is not usually appropriate for one to have line responsibility over another. It is important that other Employees feel able to raise with more senior managers any concerns about perceptions of conflict of interest resulting from close personal relationships (be it part of a family or not) working in the one agency.

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**10.2. Procurement of goods and services**

- 10.2.1. Employees should ensure fair and ethical conduct in the procurement process and not allow any conflict, actual or perceived, between their duties as employees and their private interests. Dealings with suppliers should at all times be honest, fair and even-handed.
- 10.2.2. An employee's behaviour in an official capacity should not give the impression that they have been influenced by a gift or consideration to show favour or disfavour to any person or organisation. Employees must comply with Screen Australia's policies in relation to the disclosure of hospitality and gifts.
- 10.2.3. Employees should ensure that the confidentiality of commercially sensitive material relating to suppliers or other third parties with whom Screen Australia does business is maintained.
- 10.2.4. Employees should not approve payment requests or petty cash claims that are payable to themselves or to an Associated Entity.

**10.3. Applications for funding**

- 10.3.1. Applications from or involving Employees have the potential to constitute both perceived and actual conflicts of interest and are generally not permitted on this basis. Further guidance follows.
- 10.3.2. Employees are not permitted to apply for funding from Screen Australia.
- 10.3.3. Employees must inform the relevant Head of Department and the People & Culture Unit on finding out that any Associated Entity has applied for or is in receipt of funding from Screen Australia.
- 10.3.4. Employees must inform the relevant Head of Department and the People & Culture Unit if they have submitted an application for funding prior to the commencement of their employment and such application remains undecided. Any undecided application must be withdrawn from the date of employment.
- 10.3.5. Employees must also inform the relevant Head of Department if they are involved in a professional or other material capacity in a project or organisation that is currently under consideration for or has been or is to be funded by Screen Australia (including in relation to any applications submitted, or funding that has not yet been acquitted, prior to the commencement of employment).
- 10.3.6. In the event a project or organisation in which an Employee is involved is successful for funding, the Employee must withdraw from the application unless they obtain approval from the Chief Executive Officer to engage in outside work in accordance with the applicable policy. It is Screen Australia's expectation that any approved involvement is to be on commercial terms (including payment).

**10.4. Ex-employees**

- 10.4.1. On leaving Screen Australia, applications for funding from ex-employees or any entities in which they have a material personal interest must be assessed externally for a minimum period of six (6) months. Any decision to fund these applications will be based on merit and the published program guidelines.
- 10.4.2. Ex-employees will not be eligible to undertake services for Screen Australia as a Contractor (for example as an Assessor) for a minimum period of six (6) months from their leaving date, except in exceptional circumstances. The Chief Executive Officer shall determine if exceptional circumstances exist.
- 10.4.3. The Chief Executive Officer must be informed in all circumstances where an ex-employee (regardless of when they left employment) submits an application for funding or employment.

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## **10.5. Accessing and using information**

- 10.5.1. Employees must not access confidential information held by Screen Australia on matters that are unrelated to their normal duties and responsibilities. Accessing material that is confidential or highly sensitive and not related to their normal work may give rise to a perception that the Employee is accessing material for personal or other inappropriate purposes. If Employees legitimately require access to confidential or sensitive information outside their normal area of work, Employees must first check with the appropriate Head of Department.

## **11. Heads of Department**

- 11.1. It is the responsibility of Heads of Departments to:

- (a) Ensure that Employees are aware of their obligations in identifying and managing conflicts of interest, and potential conflicts of interest;
- (b) Upon receiving a disclosure of a conflict or possible conflict, appropriately investigate the nature and extent of the conflict, in consultation with the People & Culture Unit;
- (c) Having determined that there is, or could be, a conflict of interest, make recommendations to the Chief Executive Officer (or, as appropriate, to the Assessment/Investment Committee Chairperson) to address the situation. Any such recommendation could include that:
  - The Employee continue in his or her duties;
  - The Employee be requested to divest themselves of an interest/obligation;
  - The Employee's duties be rearranged;
  - The Employee be reassigned to an equivalent position with duties involving no such actual or potential conflicts of interest.

## **12. Failure to Comply**

- 12.1. Failure to comply with this policy by an Employee may constitute a breach of either the APS or Screen Australia Code of Conduct and disciplinary action may be taken against them in accordance with Screen Australia's Handling Misconduct Procedures.

## **PART C – FOR CONTRACTORS ONLY**

### **13. Contractors**

- 13.1. A Contractor must immediately advise the relevant Head of Department on becoming aware that:
- (a) a project in which they, or an Associated Entity, have an interest, has applied for Screen Australia funding or is in receipt of Screen Australia funding; or
  - (b) a project or organisation for which the Contractor or an Associated Entity provides or has agreed to provide professional services has applied for, or is in receipt of, Screen Australia funding.
- 13.2. Contractors (including Assessors) and their Associated Entities may not accept any professional engagement or position or provide any service in relation to a project in connection with which they have performed services for Screen Australia until the later of:
- (a) the expiry of six (6) months from the date of the Contractor's last involvement



with that project in any capacity; and

- (b) the date on which the Contractor's engagement by Screen Australia is terminated.

13.3. Contractors must not assess any applications within a round of applications if they (or an Associated Entity) have submitted, have an interest in, or have provided or agreed to provide any services in relation to an application within that round.

## **14. Contractors' Responsibility**

14.1. Contractors must not access confidential information on matters that are unrelated to their normal duties and responsibilities for Screen Australia. Accessing material that is confidential or highly sensitive and not related to their normal work may give rise to a perception that they are accessing material for personal or other inappropriate purposes. If Contractors legitimately require access to confidential or sensitive information outside their normal area of work, they must first check with the appropriate Head of Department.

14.2. Heads of Department dealing with Contractors must ensure that:

- Contractors are aware of and understand this policy;
- Each Contractor performs the duties for which they are contracted in a proper and appropriate manner;
- conflicts of interest are disclosed by the Contractors and assessed, resolved and managed appropriately, in consultation with the People & Culture Unit.

## **15. Attachments**

15.1. Conflict of Interest Policy Declaration – For new Employees and Contractors

15.2. Conflict of Interest Policy Declaration – For existing Contractors and Employees on Assessment/ Investment Committees, and for existing Employees at or above SES level

**15.1 ATTACHMENT A****CONFLICT OF INTEREST DECLARATION****For new Employees or Contractors**

1. I am a director (or alternate director) of the following organisations:

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2. Have you applied or are you planning on applying for Screen Australia funding, or are you in receipt of funding from Screen Australia?

*Yes/No (Please circle)*

3. Has any \*Associated Entity applied for funding or is any Associated Entity in receipt of funding from Screen Australia?

*Yes/No (Please circle)*

4. If you have answered yes to either or both of the above, please specify funding applicant/recipient name, project title, type of funding and, if known, the Officer who is handling your project:

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5. Neither I, nor any of my \*Associated Entities, has any professional or other material interest or \*involvement in any project which is planning to apply for or is in receipt of Screen Australia funding, or which is currently an applicant for Screen Australia funding, other than as indicated below.

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\*In this Declaration, the term "Associated Entity" means: any of:

- i. the partner or a family member of an Employee or Contractor;
- ii. any partnership of which an Employee or Contractor (or a partner or family member) is a member;
- iii. any corporation in which an Employee or Contractor (or a partner or family member) is a director or owns or controls twenty-five percent (25%) or more of the issued shares.

\*In this Declaration, the term “involvement” includes the provision of any professional services.

I, \_\_\_\_\_ (full name) have read and understood Screen Australia’s Conflict of Interest Policy. To the best of my knowledge and belief, the information I have provided above is true and complete:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witness Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please return this form to the People & Culture Unit

**15.2 ATTACHMENT B****CONFLICT OF INTEREST DECLARATION****For existing Contractors and Employees on Assessment/Investment Committees and for existing Employees at or above SES level**

1. I am a director (or alternate director) of the following organisations:

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2. Neither I, nor any of my \*Associated Entities, has any professional or other material interest or involvement in any project which is planning on applying for or is in receipt of Screen Australia funding, or which is currently an applicant for Screen Australia funding, other than as indicated below:

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\*In this Declaration, the term "Associated Entity" means: any of:

- i. the partner or a family member of an Employee or Contractor;
- ii. any partnership of which an Employee or Contractor (or a partner or family member) is a member;
- iii. any corporation in which an Employee or Contractor (or a partner or family member) is a director or owns or controls twenty-five percent (25%) or more of the issued shares.

\*In this Declaration, the term "involvement" includes the provision of any professional services.

I, \_\_\_\_\_ (full name) have read and understood Screen Australia's Conflict of Interest Policy. To the best of my knowledge and belief, the information I have provided above is true and complete:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witness Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please return this form the People & Culture Unit