



social development

Department:  
Social Development  
PROVINCE OF KWAZULU-NATAL

# **POLICY ON CONFLICT OF INTEREST**

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## **1. INTRODUCTION**

The Department has daily contact with private sector suppliers and service providers concerning financial undertakings including but not limited to:-tenders, contracts and agreements. The policy provides control measures to employees with financial interests and assets in the Department and to prevent Conflict of Interest(s).

## **2. PURPOSE**

The purpose of this Policy is to establish measures and standards for managing Conflict of Interest in the Department that may arise as a result of:-

- a) the financial interest of employees;
- b) employees holding:-
  - (i) a position in any company, close corporation or partnership that does business with the state; or
  - (ii) a private interest or share in any contract, agreement, tenders, assets or investment emanating from, or connected with, the state, any national or provincial Government Department, any municipality or any public entity or.
- c) the relationship of employees with suppliers or service providers in companies, bodies or organisations that do business with the administration and the employee's relationship with the suppliers or service providers to whom he/she is related and with whom the administration does business.

## **3. OBJECTIVE**

The objectives of the Policy are to:-

- (a) institute measures to manage conflict of interest in the department and from any allegations of conflicts of interest;
- (b) restrict the business interest of employees to prevent conflicts of interest; and
- (c) promote good governance and ethical conduct in the public service thereby ensuring that the public interest is served.

## **4. SCOPE OF APPLICABILITY**

This Policy is applicable to all employees of the Department.

## **5. LEGISLATIVE FRAMEWORK**

- 5.1 Public Service Act, 1994 (Proclamation No.103 of 1994);
- 5.2 Public Service Regulations, 2001;
- 5.3 Public Finance Management Act, 1999 (Act no 1 of 1999);
- 5.4 Promotion of Access to Information Act, 2000 (Act no 2 of 2000);

- 5.5 Promotion of Administration Justice Act, 2000 (Act no 3 of 2000);
- 5.6 Protection and Combating of Corrupt Activities Act, 2004 (Act no 12 of 2004);
- 5.7 Protected disclosures Act, 2000 (Act no 26 of 2000); and
- 5.8 Public Sector Integrity Management Framework (2013).

## 6. DEFINITIONS, ABBREVIATIONS AND ACRONYMS

For the purpose of this Policy, unless context indicates otherwise, the following definitions are set out for the terms indicated:

- 6.1 **“Conflict of Interest”** means a conflict between the public duties and private interest of a public servant, in which the public servant has private interest which could improperly influence the performance of his/her official duties and responsibilities;
- 6.2 **“Department”** means the KwaZulu-Natal Provincial Department of Social Development;
- 6.3 **“Employee”** means any person in the employ of the Department, as defined in terms of Section 1 of the Public Service Act;
- 6.4 **“Entity”** means direct member or partner in the interest or share in any company, close corporation, partnership, sole propriety;
- 6.5 **“Gift”** means an irrevocable and charitable token which is bestowed voluntarily without any expectation of tangible compensation and for which no direct or indirect contractual obligations are imposed; and
- 6.6 **“Remunerative work”** means any work performed by a public servant outside his/her employment in the Public Service for which a benefit, reward or payment for services rendered is made.

## 7. POLICY PROVISIONS

### 7.1 Principles guiding this Policy

- (a) respect of human dignity, equity and the advancement of human rights and freedom and the recognition of the supremacy of the constitution and the rule of law;
- (b) a high standard of professional ethics which must be promoted and maintained;
- (c) services must be provided impartially, fairly, equitably and without bias; and
- (d) transparency must be fostered by providing the public with timely, accessible and accurate information.

### 7.2 Duty to avoid conflicts of interest

- (a) employees must, at all times act in good faith in the best interest of the department;
- (b) employees may not misappropriate opportunities proposed to, or pursued by the state;

- (c) employees may not engage in influence peddling or the passing on of insider information;
- (d) employees may not compete improperly with the Government; and
- (e) employees must exercise powers for purpose for which they were conferred.

### 7.3 Types of Conflict of Interest

- (a) **apparent or perceived conflicts of interest** exist when it appears that an employee's private interest may improperly influence the performance of his/her duties;
- (b) **potential conflicts of interest** arise where an employee has private interest that could arise to conflict with his/her official duties; and
- (c) **actual conflicts of interest exist** where an interest interferes with the employee's ability to discharge his/her public duty in a proper manner.

### 7.4 Manifestations of conflict of interest

- (a) a conflict of interest may arise when an employee:-
  - (i) obtains or holds a private position (e.g. director, member or partner), interest or share in any entity and/or
  - (ii) holds a private interest or share in any contract, agreement, tender, asset or investment emanating from, or connected with the Government or business interest in the form of amongst others, partnerships, shareholdings, board membership and/or investments in private entities that have associations with the department;
- (b) receipt of money, gifts, hospitality or favours by an employee from a private entity that has a financial interest with the department may constitute a conflict of interest;
- (c) when an employee represents the department in a decision-making process in which an individual or business entity associated with the employee is the subject of the discussion, a conflict of interest may exist; and
- (d) an employee may not use information obtained from his/her official position to benefit a private entity to the disadvantage of the:
  - (i) Department; or
  - (ii) Potential competitors in the private sector in exchange for a gratification.

### 7.5 Consequences of conflicts of interests

- (a) a conflict of interest may be viewed as misconduct or abuse of public office and must be dealt with in terms of the Disciplinary Code and Procedure for the Public Service;
- (b) a conflict of interest may be construed as corruption which is a criminal offence if

there is an element of gratification involved and an employee may be prosecuted criminally as a result; and

- (c) failure to disclose a financial interest(s) and assets constitutes misconduct and material non-disclosure and must be dealt with accordingly.

## **7.6 Managing conflicts of interest**

### **(a) Disclosure of Financial Interests and Assets**

- (i) All employees (Salary Levels 1-16) including those employed on an Occupational Specific Dispensation (OSD) are required to disclose their financial interests and assets in the prescribed formats by 30 April annually or on appointment, the declaration must include those of their spouses/partners, parents and children where applicable;
- (ii) Information relating to disclosure must be treated as sensitive information and must be classified in terms of the Minimum Information Security Standards (MISS) and access to this information must be protected and restricted; and
- (iii) Such declarations shall be made through the completion of prescribed form, which shall then be submitted to the Executive Authority or his/her designee **see the attached annexures A, B & C.**

### **(b) Declaration of relatives doing business with Government**

- (i) Employees are required to declare whether they have relatives who are doing Business with Government particularly the Provincial Administration; and
- (ii) Employees are required to declare whether their spouses are doing business with Government, particularly the Provincial Administration.

## **8. GIFTS, HOSPITALITY AND OTHER BENEFITS**

8.1 The acceptance of gifts, hospitality and other benefits must be controlled in accordance with the Departmental Policy on Acceptance of Gifts, Hospitality and Favours.

## **9. REMUNARATIVE WORK OUTSIDE THE PUBLIC SERVICE**

9.1 Remunerative work outside the Public Service must be controlled in terms of the Provincial Policy Framework on Remunerative Work outside the Public Service in conjunction with this Policy.

## **10. ROLES AND RESPONSIBILITIES**

The success of this Policy depends on the consideration and cooperation of all employees. All employees share the responsibility of adhering to and enforcing the Policy in their respective Business Units.

**10.1 Head of Department is responsible for:-**

- (a) ensuring that all financial disclosure forms are scrutinised for possible conflicts of interest; and
- (b) ensuring that funds are available for the implementation of this Policy.

**10.2 Senior Managers are responsible for:-**

- (a) ensuring that all employees within their Chief Directorates completes and submit financial disclosure forms on time.

**10.3 Human Resource Management is responsible for:-**

- (a) ensuring that the content of this Policy is communicated to all line managers and employees in the department; and

**11. NON COMPLIANCE**

An employee who fails to comply with this this Policy shall be guilty of an act of misconduct.

**12. MONITORING, EVALUATION AND REVIEW**

12.1 The Human Resource Management Component is responsible for communicating the provisions of this Policy to all Employees.

12.2 The Policy will be monitored, evaluated and reviewed after three years or as and when the need arises.

**13. EFFECTIVE DATE**

The effective date of this Policy will be the date of approval.

**14. TITLE OF THE POLICY**

This Policy shall be called Policy Conflict of Interest.

**15. POLICY APPROVAL**

This Policy is approved with effect from the 21<sup>st</sup> day of December in the year 2015.



.....  
**MS NG KHANYILE**  
**HEAD OF DEPARTMENT:**  
**DEPARTMENT OF SOCIAL DEVELOPMENT**



## FINANCIAL DISCLOSURES INFORMATION SHEET

The following notes will guide you in completing the financial disclosures form. You are required to disclose the following details with regard to

### NOTE A – Share and Other Financial Interests

- The number, nature and nominal value of shares of any type;
- The nature and value of any other financial interests held in any private or public company or any other corporate entity; and
- The name of that entity.

### NOTE B – Directorships and Partnerships

- The name and type of business activity of the corporate entity or partnership;
- The company registration number(s); and
- The amount of any remuneration received for such directorship or partnership.

NOTE C – Remunerated work outside the public service (*All remunerated work must be sanctioned by your EA as required by section 30 of the Public Service Act, 1994*)

- The type of work;
- The name of the employer and type of business activity; and
- The amount of the remuneration received.

### NOTE D – Consultancies and retainerships

- The nature of the consultancy or retainerships of any kind;
- The name and type of business activity of the client concerned; and
- The value of any benefits received for such consultancy or retainerships.

### NOTE E – Sponsorships

- The source and description of direct financial sponsorship or assistance; and
- The value of the sponsorship or assistance.

NOTE F – Gifts and hospitality from a source other than a family member

- A description, the value and the source of a gift with a value in excess of R350.00;
- A description and the value of gifts from a single source which cumulatively exceed the value of R350.00 in the relevant 12 month period; and
- Hospitality intended as a gift in kind.

#### NOTE G – Immovable property

- A description of the immovable property;
- the extent (size) of the immovable property and the measure (e.g. square metres, hectares);
- The area (location) in which the immovable property is situated; and
- The value of the immovable property.

#### NOTE H – Vehicles

- A description of the vehicle(s);
- The registration number(s) of the vehicle(s);
- The year and model of the vehicle(s); and
- The purchase price of the vehicle(s).





FINANCIAL DISCLOSURE FORM

SURNAME: \_\_\_\_\_ INITIALS: \_\_\_\_\_

PERSAL NUMBER: \_\_\_\_\_ ID Number: \_\_\_\_\_

I, the undersigned (surname and initials) \_\_\_\_\_

(Postal address) \_\_\_\_\_

(Residential address) \_\_\_\_\_

(Position held) \_\_\_\_\_

(Name of Department) \_\_\_\_\_

Tel \_\_\_\_\_ Fax \_\_\_\_\_

hereby certify that the following information is complete and correct to the best of my knowledge:

**SECTION A**

**1. Shares and other financial interests**

See information sheet: note A

<b>Nature</b>	<b>Name of Company/Entity</b>	<b>No. of shares /Extent of financial interest</b>	<b>Nominal Value (ZAR)</b>

**2. Directorships and partnerships**

See information sheet: note B

<b>Name of corporate entity</b>	<b>Company Registration Number</b>	<b>Type of business</b>	<b>Amount of Remuneration (ZAR)</b>

**3. Remunerated work outside the public service**

See information sheet: note C

Please attach a copy of the authority to perform remunerative work outside the public service when submitting your disclosure.

<b>Name of Employer</b>	<b>Type of Work</b>	<b>Amount (ZAR)</b>

**4. Consultancies and retainerships**

See information sheet: note D

<b>Name of client</b>	<b>Nature</b>	<b>Type of business</b>	<b>Value of any benefits received (ZAR)</b>

**5. Sponsorships**

See information sheet: note E

<b>Source of assistance/sponsorship</b>	<b>Description of assistance/ sponsorship</b>	<b>Value of assistance/ Sponsorship (ZAR)</b>

**6. Gifts and hospitality from a source other than a family member**

See information sheet: note F

<b>Description</b>	<b>Source</b>	<b>Value (ZAR)</b>

## 7. Immovable property

See information sheet: note G

Description	Extent (size)	Extent (measure)	Area(Location)	Value (ZAR)

## 8. Vehicles

Please record the details of the vehicles you own regardless of whether the bank is the titleholder of not. You are the owner even if the bank is the titleholder of the vehicle/s.

See information sheet H

Description	Registration	Year Model	Purchase Price (ZAR)

## SECTION B

### Spouse/partner/close family members

See information sheet Section I

Name of person	Nature of Relationship	Name of Company	Type of Business

\_\_\_\_\_  
SIGNATURE OF EMPLOYEE

DATE: \_\_\_\_\_

PLACE: \_\_\_\_\_



**ANNEXURE C**

**OATH/AFFIRMATION**

1. I certify that before administering the oath/affirmation I asked the deponent the following questions and wrote down her/his answers in his/her presence:

(i) Do you know and understand the contents of the declaration?

Answer \_\_\_\_\_

(ii) Do you have any objection to taking the prescribed oath or affirmation?

Answer \_\_\_\_\_

(ii) Do you consider the prescribed oath or affirmation to be binding on your conscience?

Answer \_\_\_\_\_

2. I certify that the deponent has acknowledged that she/he knows and understands the contents of this declaration. The deponent utters the following words: "I swear that the contents of this declaration are true, so help me God". /"I truly affirm that the contents of the declaration are true". The signature/mark of the deponent is affixed to the declaration in my presence.

\_\_\_\_\_  
**Commissioner of Oath /Justice of the Peace**

Full first name and surname:

\_\_\_\_\_(Block letters)

Designation (rank) \_\_\_\_\_ Ex Officio Republic of South Africa

Street address of institution \_\_\_\_\_

Date \_\_\_\_\_

Place \_\_\_\_\_

\_\_\_\_\_  
**CONTENTS NOTED: EXECUTIVE AUTHORITY**

**DATE:** \_\_\_\_\_