

# When in doubt, find out

A Companion Guide to  
Understanding the Conflict of Interest Policy

This guide is designed to be read in conjunction with the  
Conflict of Interest Policy, 3.39 General Administration Manual

We welcome feedback on our publications.

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## 1. INTRODUCTION

### A. What purpose does the policy serve and why is it important?

As public service employees, we all are accountable to the people of the Yukon and have a duty to conduct ourselves in a manner that upholds public trust and confidence. In a jurisdiction the size of the Yukon where so many close connections exist between people and organizations, the potential for conflict of interest situations arising is high.

Policy 3.39, Conflict of Interest is found in volume 3 of the General Administration Manual. It's designed to clarify the distinctions that must be made between public service responsibilities and private interests. It outlines expectations for all public servants while respecting the rights of employees to be involved as citizens of the community and to privacy in their personal affairs.

### B. Who is covered?

The policy applies to everyone who is hired under the *Public Service Act* and the *Education Act*, including casuals. It also applies to contract employees, such as interns hired under the GradCorps program.

### C. Who is not covered?

The policy doesn't apply to fee-for-service contractors; however departments may want to consider incorporating conflict of interest provisions in situations where an individual or organization is providing services to the Yukon government on a longer term basis.

## 2. CONFLICT OF INTEREST RULES AND EXAMPLES

### A. What is a conflict of interest?

A conflict of interest is when there is an actual or perceived incompatibility between an employee's public service duties and his/her personal interests. All public servants are expected to maintain a clear separation between the two and to declare any potential conflict of interest. The policy outlines the rules for employees to follow. In general, public servants may not:

- receive personal gain (financial or otherwise) by virtue of their public service position;
- use their public service position to give benefits or special favours to others; or
- place themselves in a position where they could be under obligation to anyone who might seek to benefit from their public service position.

## B. Dealing and Working with Others

It is essential that public servants perform their jobs fairly and without bias. This means avoiding situations where their impartiality may be called into question.

### Exercising authority

Many public servants have decision making powers and authorities that come with their jobs. Employees have an obligation to remove themselves from exercising their authority in situations where the nature of their relationship with another person or organization may be a cause to doubt their impartiality.

Public servants who find themselves in a potential conflict of interest situation should tell their supervisor or deputy minister who will make sure the matter is handled by another employee or in some other acceptable manner.

#### For example:

- **Participating on a government committee that awards community project grants when one of the applicants is an organization for which you volunteer.**
- **A building inspector investigating a safety complaint at a facility owned by a close family friend.**
- **Making recommendations on a land rezoning application filed by your neighbour.**

In the case of an emergency where it may not be possible to make alternate arrangements, employees are expected to handle the situation impartially and then inform their supervisor or deputy minister.

### Working with Relatives

Yukon government employees have the right to maintain personal relationships and to be free from discrimination based on family status. Immediate family members may work in the same department or branch as long as there is no opportunity to exercise favouritism.

As outlined in the policy, it would be considered a conflict of interest for an employee to participate in hiring or to directly supervise a member of their immediate family.\*

#### For example:

- **Sitting on a hiring committee when one of the applicants is your nephew.**
- **Supervising a GradCorps intern who is your step-daughter.**
- **Entering into a common-law relationship with your supervisor.**

(\*Except where the Public Service Commissioner has approved an exemption; e.g. hiring a principal/teacher couple at the same school.)

### C. Using government property

The rules outlined in the policy include the expectation that employees will use government equipment, facilities and property for government-related business, not to further their own interests.

As with the Guidelines for Using Computers, some common sense flexibility exists for incidental and occasional personal use. Talk to your supervisor if you are in doubt.

For example:

- **Downloading a government software program to use on your home computer.**
- **Using the department projector to make a presentation for a consulting project.**

### D. Other Employment

Employees may hold additional jobs outside of government, including self-employment, as long as they don't conflict with their public service position. In this context, conflict of interest may arise if the employment:

- interferes with regular duties;
- involves the use of Government premises, equipment or supplies;
- gives the employee additional compensation for performing their government duties.

Employees must disclose to their deputy minister any possible conflict of interest arising from other employment activities.

When in doubt, employees are encouraged to seek guidance from their supervisor or human resource advisor.

For example:

- **Receiving frequent phone calls and faxes at your government office that relate to your weekend landscaping company.**
- **Accepting an outside consulting project to conduct a review of a program administered by the department in which you are employed.**
- **Working late nights as a bartender and regularly arriving late for your government job.**
- **Accepting an honorarium to speak at a conference while acting in an official Yukon government capacity.**

## E. Volunteering

Public servants are encouraged to volunteer in the community. They need to make sure, however, that their volunteer activities don't pose a conflict of interest with their public service duties or appear to give the volunteer organization an advantage. The same rules for other employment also apply to volunteering.

Employees must disclose their involvement in any organization where a conflict of interest may arise and seek advice from their supervisor or human resources advisor if in doubt.

For example:

- **Applying to sit on the Board of Directors for an organization that receives contribution agreement funding from the department where you are employed in a senior capacity.**
- **Lobbying the government on behalf of an organization for changes to a law or policy administered by the department where you work.**

## F. Government Contracts

Public servants may bid on government contracts as long as they are not in a position to influence decisions about the contract and they have obtained prior written approval from their deputy minister.

For example:

- **Bidding as a private consultant on a government contract that you had a role in developing.**

## G. Investments and Private Assets

If a public servant's job involves making decisions or taking an action that may affect their own business or financial interest or that of an immediate family member, he/she must disclose that interest to their deputy minister.

If the situation is found to be a conflict of interest, the deputy minister will determine the best resolution.

Options could include placing assets in a blind trust, asking the employee to divest ownership of the asset or transferring the employee to another position where the conflict would be eliminated.

For example:

- **Purchasing shares in a company based on confidential information gained in your employment capacity.**
- **Buying shares in a company with which your department regularly does business.**

## H. Making Public Statements

Yukon government employees have the right to comment on public issues as private citizens, however they may not release information that is not available to the public or use their position in government to lend weight to their personal opinions.

Under the policy, employees may not publicly criticize policies programs or decisions with which they are involved. The GAM Communication Policy and Policy on Speaking in Public and Writing for Publication offer further guidance.

For example:

- **Writing a letter to the editor critical of the government's Children's Act review process when you are employed as a child protection worker.**
- **Using confidential information gained in your capacity as a policy analyst to illustrate a case study for a course you teach at the College in your personal time.**

## I. Accepting Gifts

Employees may not accept gifts or benefits beyond what is considered:

- the normal exchange of gifts between friends;
- tokens exchanged as part of protocol; or
- the normal exchange of hospitality between persons doing business together.

The GAM Gift Policy outlines rules for accepting gifts. Employees should never be obligated to an individual or organization or give the appearance that giving a public servant a gift will result in favourable treatment.

For example:

- **Accepting a consultant's invitation to discuss an upcoming public tender over dinner.**
- **Attending a film industry event on behalf of the Yukon government and accepting a gift of an expensive camera from a corporate delegate.**
- **Accepting a bottle of wine from an applicant whose land development permit you approved.**

## J. Political Activity

Public service employees may engage in political activities, as long as they are clearly separated from their public service roles and are in keeping with the rules established in section 9 of the Yukon *Public Service Act*.

For example:

- **Campaigning door-to-door while in uniform.**
- **Wearing a political button on your lapel while at work.**
- **Providing internal government documents to help in the crafting of political messages.**

### 3. DISCLOSURE PROCESSES

The Conflict of Interest policy requires all employees to disclose any situation that has the potential to conflict with their public service duties.

#### A. Initiating the disclosure process

Because it is so closely tied to public confidence in government, the best approach to dealing with a potential conflict of interest situation is ***when in doubt, find out.***

**Employees** should talk to their supervisor or human resource advisor about any situation – be it a relationship, a job, a volunteer assignment or any other affiliation or asset – that could affect or call into question their impartiality.

**Supervisors** should advise employees of their responsibilities under the policy and instruct them about whether or not a formal disclosure statement is required. Department human resource staff can also help.

While the onus is primarily on the employee to disclose, if supervisors become aware of a potential conflict of interest involving an employee, they must advise the employee of their duty to disclose under the policy.

#### B. Making a formal written disclosure

Where there is a possibility of conflict of interest, employees are required to provide a written disclosure statement to their deputy minister outlining the situation.

The written statement should include all relevant information to enable the deputy minister to make a decision. Employees may be asked to provide additional information as required.

#### C. Issuing a decision

The deputy minister will review the employee's disclosure statement in a timely manner and determine the appropriate course of action.

If the deputy determines there is no conflict of interest, this will be indicated in a written response to the employee with a copy placed on the employee's personnel file.

If the deputy finds that the situation may pose a conflict of interest, the matter will be discussed with the employee in an attempt to reach resolution which will then be confirmed in writing and placed on file.

In the event the deputy and employee are unable to agree on a resolution, the deputy will issue a decision which becomes binding upon the employee. A copy of the decision will be kept on file.

Employees have the option to appeal a deputy minister's decision to the Public Service Commissioner.

Employees who fail to disclose a conflict of interest or to abide by a decision may be subject to discipline up to and including dismissal.

#### D. Confidentiality

While employees have a responsibility to disclose conflicts of interest, they also have a right to expect that information will be kept confidential.

As directed in the Conflict of Interest policy, information pertaining to an employee's disclosure may only be kept in the department's human resource branch confidential files and in the employee's official personnel file at the Public Service Commission.

No record may be shared with a party other than the immediate supervisor, human resource advisor, deputy minister or authorized Public Service Commission staff without the written permission of the employee or as otherwise required by the *Access to Information and Protection of Privacy Act*.

## 4. RIGHTS AND RESPONSIBILITIES

As public servants, we all have a role to play in upholding the conflict of interest policy.

### A. Departments

Departments are responsible for educating employees about the policy, for providing guidance and for making decisions about whether or not a conflict of interest situation exists.

Departments have a **right** to:

- enforce and monitor the policy;
- issue additional instructions to employees pertaining to department-specific circumstances;
- request information from employees to support decision-making; and
- issue binding instructions to employees.

Departments have a **responsibility** to:

- make employees aware of their rights and responsibilities;
- provide information and advice to employees;
- handle disclosure statements and inquiries in a timely fashion; and
- maintain confidentiality of employee information.

### B. Employees

All Yukon Government employees are responsible for maintaining separation between their public service duties and their private interests and activities.

Employees have the **right** to:

- participate in the community as private citizens;
- engage in outside employment, volunteer and political activities;
- privacy and confidentiality of personal information; and
- appeal decisions to the Public Service Commissioner.

Employees have a **responsibility** to:

- conduct their employment duties in an impartial manner and to abide by the terms and conditions of this policy;
- avoid situations that could place them in an actual or perceived conflict of interest;
- seek advice from their supervisor or human resources advisor when they are in doubt;
- disclose to their Deputy Minister any potential conflict of interest
- provide information as required to make a decision; and
- comply with direction provided.

## 5. TEST YOUR KNOWLEDGE: Is it a conflict of interest?

### Test scenario #1:

Candace sends an email to her department colleagues announcing that she will be selling Avon products in the branch meeting room over lunch hour.

Q: Is Candace in a conflict of interest?

A. Yes. Here's why:

While public servants may engage in other employment activities on their own time, Candace has placed herself in a conflict of interest because she's using government equipment (computer and email) and facilities (meeting room) for non-government activities to benefit her personal business interests.



### Alternate approach:

Candace could avoid conflict of interest by posting an announcement about the event on the community notice bulletin and arranging for an alternate public space such as a library meeting room. She could further reduce the appearance of a conflict by using her personal email account for correspondence related to her home business.

### Test Scenario #2:

Henry is on a one-year leave without pay from his job as a government human resources director. During his leave, he accepts a consulting contract with an advocacy organization to develop recommendations for changes to the *Yukon Human Rights Act*.

Q: Does the conflict of interest policy apply to Henry?

A: Yes. Here's why:

Even though he's on a leave of absence, Henry is still a Yukon government employee and is therefore subject to the Conflict of Interest policy.

Because the consulting contract poses a potential conflict with Henry's role as a human resource director tasked with applying the *Human Rights Act* from an employer perspective, he must seek approval from his deputy minister prior to accepting the contract.



### Alternate Approach:

Henry could avoid a conflict of interest situation by discussing the consulting opportunity with his Deputy Minister prior to accepting the contract. Depending on the scope of the assignment, it may be possible for Henry to arrange the contract so that he is not involved in formulating any recommendations pertaining to the workplace.

### Test scenario #3:

Jack, an employee with the Department of Environment, accepts a volunteer assignment to sit on the board of directors of a local conservation group. It doesn't occur to Jack to disclose the appointment as he's been involved with the NGO for several years in various capacities and it's never been a problem.

Q: Does Jack have a duty to disclose the new board appointment?

A: Yes. Here's why:

Employees are encouraged to engage in the community as private citizens as long as these activities don't conflict with their ability to perform their jobs impartially.

The fact that Jack has been involved with the organization in the past does not exempt him from his duty to disclose the board appointment to his deputy minister. In assessing whether the board role would place Jack in a conflict of interest, his deputy minister would consider a number of factors including the nature of Jack's position in the department and what the role of board member would entail.



### Alternate approach:

Jack should proactively disclose the offer of the board position to his deputy minister for a decision. Depending on the nature of Jack's job and the board requirements, the deputy may determine there is no conflict of interest or that conflict can be avoided if Jack agrees to abide by certain conditions. If the deputy's findings indicate a conflict of interest would arise, Jack will have avoided breaching the policy.

### Test scenario #4

Charlie is a housing officer with the Yukon Housing Corporation. An old friend approaches her for help getting his daughter's application for social housing approved as she's been on the waiting list for several months. Charlie is familiar with his daughter's situation and knows she meets the program criteria. She agrees to "see what she can do".

Q: Is this an appropriate use of Charlie's authority?

A: No. Here's why:

While her friend's daughter may fit the program qualifications, it would still be a conflict of interest for Charlie to intervene on her behalf.

Public servants may not give preferential treatment to anyone – if she were to use her position to move the daughter's application along, Charlie would be exercising preferential treatment.

Public servants must remove themselves from exercising their authority where the nature of a relationship could call their impartiality into question. It's therefore inappropriate for Charlie to issue a decision on this application.



### Alternate Approach:

It would not be a conflict of interest for Charlie to provide her friend with information about the application process or with the name of a person his daughter can contact to discuss her application. It's perfectly acceptable to provide information to friends and family as long as it's information that's available to any member of the public.

### Test scenario #5

Nick is a GradCorps intern on an assignment with Energy Mines and Resources. Over dinner, Nick mentions to his dad that they should both invest in ABC Mining Company as he's learned they're about to be approved for a big mineral exploration project in the Yukon. Nick figures the information will soon be made public, so there's no harm getting in on the action

Q: Has Nick violated the Conflict of Interest policy?

### A: Yes. Here's why:

The policy applies to all employees including GradCorps interns.

Public servants may not personally benefit or allow others to benefit from their government employment. Nick was proposing to take privileged information gained in the course of his internship to financially benefit himself and his father.

Public servants may not divulge confidential information - it was inappropriate for Nick to disclose the information to his father, even if he believed it would soon be made public.



### Alternate Approach:

Nick should wait until the information has been made public before talking to his dad about the exploration project. If Nick wants to purchase shares himself, he needs to first clear the purchase with his deputy minister.

## 6. Related legislation and policies

For more information, refer to the following:

**Conflict of Interest Policy, GAM 3.39:** [http://www.psc.gov.yk.ca/pdf/3\\_39.pdf](http://www.psc.gov.yk.ca/pdf/3_39.pdf)

**Public Service Act:** <http://www.psc.gov.yk.ca/legislationpolicies/legislation.html>

**Access to Information and Protection of Privacy Act:**  
<http://www.hpw.gov.yk.ca/ict/atipp/>

**Employee Orientation Guide:** <http://www.psc.gov.yk.ca/employeeinfo/orientation.html>

**Guidelines for Using Computers:**  
[http://internal.gov.yk.ca/depts/hpw/ict/files/computer\\_guidelines.pdf](http://internal.gov.yk.ca/depts/hpw/ict/files/computer_guidelines.pdf)

**Communications Policy, GAM 1.3:**  
[http://internal.gov.yk.ca/pubs/gam/volume1/1\\_3.html](http://internal.gov.yk.ca/pubs/gam/volume1/1_3.html)

**Policy on Speaking in Public and Writing for Publication, GAM 1.4:**  
[http://internal.gov.yk.ca/pubs/gam/volume1/1\\_4.html](http://internal.gov.yk.ca/pubs/gam/volume1/1_4.html)

**Gift Policy, GAM 1.6:** [http://internal.gov.yk.ca/pubs/gam/volume1/1\\_6.html](http://internal.gov.yk.ca/pubs/gam/volume1/1_6.html)

**Directive on Post-Employment Restrictions, GAM 1.14:**  
[http://internal.gov.yk.ca/pubs/gam/volume1/1\\_14.html](http://internal.gov.yk.ca/pubs/gam/volume1/1_14.html)

**Indemnification Policy for Deputies, GAM 3.57:**  
[http://www.psc.gov.yk.ca/pdf/3\\_57.pdf](http://www.psc.gov.yk.ca/pdf/3_57.pdf)

## 7. Questions?

When it comes to avoiding conflict of interest situations, the best policy is open and honest communication. **Remember: when in doubt, find out!**

**Employees** who have questions about their rights and responsibilities should talk to their supervisor or human resource advisor.

**Supervisors** who need advice on interpreting the policy should speak to their department human resource advisor.

**Deputy ministers and human resource advisors** requiring clarification can contact the Staff Relations branch of the Public Service Commission.