

Conflict of interest policy

The community has a right to expect that Panel Members and consultants to Panels perform their duties in a fair and unbiased way, and that the decisions they make are not affected by self-interest, private affiliations or the likelihood of financial gain. The perception that a conflict of interest has influenced an outcome can undermine public confidence in the integrity of Medical Panels.

Medical Panels is a high-risk area for conflicts of interest because of the nature of its core functions – issuing determinations and final and conclusive opinions.

This policy outlines Medical Panels’ approach to identifying and managing conflicts of interest including:

- the Convenor’s expectations for managing conflicts of interest
- guidance for identifying conflicts of interest
- principles for managing conflicts of interest flexibly and proportionately.

Scope

This applies to medical practitioners appointed to the list of members of Medical Panels, the Convenor and Deputy Convenors (“Panel Members”), and consultants engaged to give expert advice to a Medical Panel. Officers and employees appointed for the proper functioning of Medical Panels are bound by their relevant employment codes of conduct.

Responsibilities

All Panel Members and consultants have a duty to put the public interest above their private interests and other duties when carrying out their Medical Panel functions. They are expected to:

- identify, declare and manage conflicts of interest effectively
- apply good practice principles
- abstain from any decision-making process in which they could be compromised, or appear to be compromised
- report any conflicts of interest to the Convenor as soon as they are identified, and record the details along with any associated management action
- record conflicts of interest on the “Declaration of Private Interest” and “Statement of Interest” forms

Identifying conflicts of interest is an individual responsibility of Panel Members and consultants. The Convenor has an important role in managing conflict of situations appropriately. If you are in doubt about whether something is a conflict of interest, please declare it to the Convenor and discuss whether any further action is required – it is better to be safe than sorry.

Identifying conflicts of interest

A conflict of interest occurs when a Panel Member or consultant is in a position to be influenced, or appear to be influenced, by private interests or where there are unclear loyalties with other public duties. Conflicts of interest are not inherently problematic and it is not always possible to avoid having a conflict of interest, particularly in specialist professions. It is how they are managed that is important.

Actual conflict	Perceived conflict	Potential conflict
You are a Panel Member or consultant and right now your panel work can be influenced by your private interests or other public duties	You are a Panel Member or consultant and your panel work appears to be influenced by your private interests or other public duties	You are a Panel Member or consultant and your panel work may in future be influenced by your private interests or other public duties

Declaration

Panel Members must declare their interests on commencement of the appointment, review their declared interests annually and update their declaration if their circumstances change. In addition, after a Panel is convened, they must declare any interest relating to that specific referral.

Managing conflicts of interest

There are several options available to the Convenor when deciding, in consultation with the Panel Member or consultant, how to manage a conflict of interest once it has been declared and judged to be material.

Strategy	What this strategy means	When it is most suitable
Record	You formally declare and record details of the existence of an actual, perceived or potential conflict of interest	<ul style="list-style-type: none"> ▪ As a minimum, all conflicts of interest should be recorded whether or not additional management strategies are put in place ▪ For very low risk conflicts of interest ▪ Where recording the conflict of interest is sufficient to maintain transparency
Restrict	Restrictions are placed on your involvement in a matter	<ul style="list-style-type: none"> ▪ You can be effectively separated from parts of the activity or process ▪ The conflict of interest is not likely to arise frequently
Recruit	An independent third party is appointed to oversee part or all of the process that deals with the matter	<ul style="list-style-type: none"> ▪ It is not feasible or desirable for you to remove yourself from the decision-making process ▪ In small, isolated or highly specialised communities or professions where your particular expertise is necessary and genuinely not easily replaced

Strategy	What this strategy means	When it is most suitable
Remove	You remove yourself completely from the matter	<ul style="list-style-type: none"> For ongoing serious conflicts of interest, where restriction or recruitment of others is not appropriate
Relinquish	You relinquish the private interest or other duty that is creating the conflict	<ul style="list-style-type: none"> Where your commitment to Medical Panels outweighs your attachment to your private interest or your commitment to a competing public duty
Resign	You step down on a temporary or permanent basis	<ul style="list-style-type: none"> No other options are available – particularly if members of the public could reasonably form the view that the Panel member’s situation is unacceptable and may damage the reputation of Medical Panels Where you cannot or do not wish to relinquish your conflicting private work or other duty Where you choose this course as a matter of personal preference or principle

Case Study 1: A Panel Member treats workers’ compensation patients

Most Panel Members have clinical practices and will sometimes treat WorkCover patients. They are paid for this work by the worker’s compensation authority through a WorkSafe agent.

This is a conflict of interest. The fact that a Panel Member sometimes treats WorkCover patients does not need to be declared or recorded, since it is relevant to all Panel Members and is not considered to be material. Individual conflicts are managed by the legislative requirement that prohibits a Panel Member from being part of a Medical Panel if they have “treated or examined or been engaged to treat or examine” a worker. A consultant is also required to declare any individual conflicts where they have previously treated or examined a worker.

Case Study 2: A Panel Member is also an independent medical examiner under workers’ compensation legislation

This is a conflict of interest and needs to be declared. The Convenor’s position is that this is a low-risk conflict because of the independent nature of an IME’s work in providing expert medical opinions. The Convenor’s usual position is that this conflict is adequately managed if the IME role is declared, and if the Panel Member or consultant ensures that they do not participate on a Panel if they have examined someone in their capacity as an IME.

Case Study 3: A Panel Member or consultant has been a consultant to or employee of an organisation that is a party to a referral

The Panel Member or consultant has a non-financial conflict of interest. His or her previous work (for example as a company doctor or a consultant on return-to-work issues or helping to develop wellbeing programs) and business relationship with the organisation has the capacity to compromise his or her impartiality. The conflict should be declared. The appropriate management strategy would be decided taking into account all the circumstances, but may involve that Panel Member or consultant being removed from the referral.

Case Study 4: A Panel Member's spouse, partner or other relative is an employee of a party to a referral.

A referral is lodged relating to a teacher's claim against their employer school. The Panel Member's cousin works as a teacher at that school. Unless the cousin is actually involved in the matter, the conflict is low-risk. It should be recorded – and in most cases, that will be enough to manage the situation. If the cousin is involved to a greater extent, it may be appropriate for the Panel Member to be removed from that Panel.

Case Study 5: Professional connections and associations

Conflicts of interest can arise from personal relationships and associations even where there are no financial concerns. Panel Members or consultant are often highly specialised, active professionals who provide expert advice and sit on professional and industry boards and committees. They may be acquainted with most of the other people working in their field. Here are a few examples:

In medical negligence referrals, professional and personal relationships with any of the medical professionals involved should be declared and managed in consultation with the Convenor. The management strategy adopted will depend on the circumstances of each case and each relationship.

Relationships with WorkSafe Victoria:

- A Panel Member is invited to be a medical representative on a general WorkSafe Victoria advisory committee that meets quarterly. This should be declared. In most instances, this will be a low-risk conflict and no further management strategies will be required.
- A Panel Member is invited to provide specialist expertise on claims-related projects. This should be declared. This will be a higher risk conflict than the example above, and the Panel Member should declare this relationship and agree on a management strategy with the Convenor.

A Panel Member is an active member of a professional association (AMA/College). While there is no conflict of interest with this per se, conflicts may arise in the future – particularly if the Panel Member has an official role within the other organisation. This is an example of a personal interest or professional relationship that should be declared on the annual declaration of private interests. The Panel Member should declare any further conflicts relating to particular issues as they arise.