

**Hospital Authority Head Office**  
**Human Resources Circular No. 42/2001**

**Conflict of Interest**

(Distribution: This circular should be read by all Ds, CCEs, HCEs,  
GMs and other staff through Units Heads)

**Purpose**

The purpose of this circular is to summarise for employees' easy reference the prevailing policies and procedures on conflict of interest. It also sets out general guidelines on how a conflict of interest, whether actual or perceivable, can be avoided and the appropriate course of action to be taken when it arises. Common situations in which a conflict of interest may arise between an employee's official duties and his private interests; and examples in relation to these situations are also recapitulated.

**Background**

2. Major policies and procedures on conflict of interest and related subjects applicable in Hospital Authority (HA) are set out in Human Resources Policies Manual (HRPM), Human Resources Administration Manual (HRAM) and Procurement and Materials Management Manual (PMMM), details of which are at the Appendix.

**Conflict of Interest**

3. A conflict of interest may arise when an employee's loyalty to HA conflicts with his loyalty to:

- (a) his family and other relations;
- (b) his personal friends;
- (c) the clubs and societies to which he belongs; or
- (d) any person to whom he owes a favour or is obligated in any way.

4. An actual conflict of interest occurs when an employee's actions and decisions are under the influence of his private interest. An example is that an employee who sits on a recruitment selection board favours a candidate who is his family member.

5. A perceivable conflict of interest occurs when an employee's actions and decisions, as perceived by the public, may be under the influence of his private interest. An example is that an employee who sits on a recruitment selection board fails to declare that a candidate is his family member.

6. An actual conflict of interest often involves the abuse of official position and in some cases even corruption if an advantage is obtained. A perceivable conflict of interest, though may not involve abuse of official position, can be as damaging as an actual one because it undermines public confidence in our integrity.

### **General Principles**

7. All employees should be honest and impartial in their dealings with members of the public and with their stakeholders in HA. An employee must not use his position, nor any information made available to him in his official capacity, to benefit himself, his family or any other group of people with whom he has personal or social ties. An employee should also avoid putting himself in a position where he may arouse any suspicion of dishonesty, or using his official capacity to benefit himself or favour his family or friends.

8. To avoid conflict of interest, an employee should:

- (a) put corporate interests before all other interests in discharging official duties;
- (b) observe the relevant internal policies, guidelines and circulars;
- (c) stay alert to situations which may lead to an actual or perceivable conflict of interest;
- (d) avoid putting himself in a position of obligation to anyone who has or may have official dealings with his department, including his subordinate staff;
- (e) decline to provide assistance, advice or information to relations, friends, etc. in connection with his work where this will give the recipient an unfair advantage over other people, and refer all legitimate requests to the proper subject officer to be dealt with in the normal way;

- (f) refrain from acquiring any investment or any financial or other interest which may lead to a conflict of interest with his official duties; and
- (g) report to his supervisor any private interest that might influence, or appear to influence, his judgement in the performance of his duties.

### Common Situations and Examples of Conflict of Interest

9. The situations and examples described below are by no means exhaustive. Employees should at all times make a conscious effort to avoid or declare, as appropriate, any conflict of interest that may arise or has arisen. Failure to do so may render them liable to disciplinary action. In case of doubt, an employee should consult or seek advice from his supervisor.

#### Staff Selection

10. A conflict of interest arises when a job applicant is a relative or close personal friend of an employee who serves as a member of the recruitment selection board. The employee should declare an interest and abstain from the selection process in accordance with HRPM Chapter C3.

#### Outside Work

11. Any outside activity (whether paid or unpaid) which may lead to conflict of interest situations must be avoided. An employee should avoid undertaking outside work offered by any HA contractor or supplier, as this will constitute a conflict of interest. It is the responsibility of the employee before entering upon outside work to consider conscientiously whether conflict of interest exists or may exist. An employee should refer to HRPM Chapter H7 on the policy and seek permission from HCE, CCE or CE where appropriate.

#### Advantages and Gifts

12. If an employee accepts advantages or gifts (both in cash and in kind) from a person having official dealings with HA, or who is likely to have such dealings in the future, conflict of interest may arise since the employee may be asked to return a favour by providing advice, assistance or information that will give that person an unfair advantage. An example is that an employee, in making personal investments or securing a bank loan through an agent or a bank having official dealings with HA, should not accept any discount or additional offers which are not available under normal market practices.

13. All gifts presented on social and ceremonial occasions which the employee attended in his official capacity are to be regarded as gifts to the department in which the employee works, which he has received on behalf of the department. The department shall dispose of such gifts in line with the guidelines promulgated from time to time. Accepting gifts, favour or free services from persons having business dealings with HA on other occasions may constitute a conflict of interest. An employee should refer to HRPM Chapter 11 for details of the policy.

14. Employees should pay particular attention to the Prevention of Bribery Ordinance (PBO). HA employees who are public servants under the PBO must comply with the following:

- (a) must not solicit any advantage from any commercial company that may have business dealings with HA; and
- (b) must obtain prior written approval from HAHO/hospital, as appropriate, if any advantage is offered by a commercial company which has business dealing with HA.

15. HAHO/hospital must give due regard to the circumstances in which the approval is sought before giving approval.

#### Entertainment

16. Employees should avoid accepting lavish or unreasonably generous or frequent entertainment from persons e.g. contractors, bankers and trading agents who have business dealings with HA. Prior to accepting provision of entertainment (including food and drink for immediate consumption and any other entertainment connected with, or provided at the same time), employees should consider whether there is a genuine need (e.g. for liaison and public relations purposes) to do so.

17. They should also be clear that in accepting any entertainment they will not be placed in a position of obligation or be led to a conflict of interest situation. The relevant policy is stated at HRPM Chapter 11.

#### Charity Solicitations and Public Donations

18. In considering charity solicitations and the acceptance of public donations, employees should make reference to the policy set out in HRPM Chapter 13 as well as the 'Guidelines on Acceptance of Donation and Sponsorship' promulgated vide Human Resources Circular No. 2/98 and seek permission from the HCE, CCE or CE, where appropriate. In gist, one of the primary factors which has to be taken into consideration is that the acceptance

of advantages, gifts or entertainment will not give rise to an actual, perceivable or potential conflict of interest situation.

#### Collections and Retirement Gifts

19. To avoid conflict of interest, an employee proceeding with the collection of money or goods made for retirement gifts or for the relief of any employee or his family who has encountered distress or difficulties of any kind should refer to the policy set out in HRPM Chapter I2 and obtain permission from the HCE, CCE or CE, as appropriate. It is the objectives of HA to ensure that all collections and donations are voluntary and affordable, and are made for an employee or his family only when there is a genuine need.

#### Investments

20. Conflict of interest will occur when:

- (a) an employee's involvement in investments or his relationship with any person involved in investments may influence him in the discharge of his duties; and/or
- (b) an employee can make gainful investments as a result of access to information in his official capacity.

21. Employees should therefore consider carefully before acquiring any investment or other interest whether this will lead to an actual or perceivable conflict with his official duties. Details of the policy on investments is set out at HRPM Chapter I8 and supplemented by the Human Resources Circular No.7/2001.

#### Procurement and Materials Management

22. There are some common situations that can give rise to a conflict of interest when dealing with procurement or materials management activities. Examples include (a) an employee who works in supplies unit or makes purchasing recommendations or decisions having close family or social relationships with a supplier or any business enterprise which has business dealings with HA on procurement and supply of goods and/or services; or (b) an employee takes part in tender evaluation or in making decision on the selection of a contractor for the supply of goods and/or services to HA and one of the bidders is a company in which he has a financial interest or the employee knows that in which his spouse has an investment as defined in Human Resources Circular No. 7/2001. Employees involved in procurement or materials management activities must observe the Code of Ethics and Procedure Guidelines on Conflict of Interest stated in the PMMM. Conflict of interest must

always be declared by any employee involved in the procurement/supplies functions or tender evaluation.

#### Monitoring of Staff Performance

23. Conflict of interest situation may arise when an employee responsible for monitoring the performance of a staff regardless of employment terms (including staff employed by a recruitment service company and is seconded to HA) who is his family member, relative or close personal friend. The employee should inform his supervisor and declare his interest; and/or abstain from direct supervision of the staff concerned.

#### Conflict of Interest Issues - Civil Servants

24. Civil servants working in HA are governed by Civil Service Bureau Circular No. 19/92 on 'Conflict of Interest', other circulars on individual concerned subjects and the relevant Civil Service Regulations (CSR) that may be promulgated from time to time.

#### Enquiries

25. Enquiries on this circular can be addressed to Mr Clement TSE, Senior Human Resources Manager (Human Resources Systems) at 2300-6966 or Ms Ada CHAN, Human Resources Manager (Grade Review) at 2300-6314.



(Dr Kathleen SO)  
for Chief Executive  
Hospital Authority

**List of Major Policies and Procedures on Conflict of Interest**

- (a) Selection (HRPM/HRAM Chapter C3)
- (b) Outside Work (HRPM/HRAM Chapter H7)
- (c) Advantages and Gifts (HRPM/HRAM Chapter I1)
- (d) Collections and Retirement Gifts (HRPM/HRAM Chapter I2)
- (e) Charity Solicitations and Public Donations (HRPM/HRAM Chapter I3)
- (f) Investments (HRPM/HRAM Chapter I8)
- (g) Procurement and Materials Management Administrative Directions and Procedure Guidelines (PMMM Part II Section A & Part III Section A9, A14 and A25)

醫院管理局總辦事處  
人力資源通告第 42/2001 號

利益衝突

[注意：所有總監、聯網行政總監、醫院行政總監、總經理及其他職員（經科組主管）均應閱讀本通告]

目的

本通告旨在簡介有關利益衝突的現行政策程序，方便本局僱員參考。本通告並列出如何避免實際或表面利益衝突的一般指引，以及出現利益衝突時應採取的行動。此外，通告亦列舉僱員於公務和私人利益之間可能出現衝突的常見情況，並舉例加以說明。

背景

2. 適用於醫管局的利益衝突及有關事宜的主要政策程序載於《人力資源政策手冊》、《人力資源行政手冊》，以及《採購及物料管理手冊》（見附錄）。

利益衝突

3. 利益衝突會因僱員一方面忠於醫管局，另一方面忠於下述人士／機構而產生：－

- (a) 家人及其他親屬；
- (b) 私人朋友；
- (c) 所屬會社；或
- (d) 有恩惠於僱員的任何人士、或僱員對其負有義務的任何人士。



4. 當僱員的行動或決定受其私人利益影響時，即出現實際利益衝突。例如僱員出任遴選委員會成員時，屬意於某投考人，而該人乃其家人。

5. 當公眾人士認為僱員的行動或決定可能受其私人利益影響時，即出現表面的利益衝突。例如僱員出任遴選委員會成員時，未有申報某投考人是其家人。

6. 實際的利益衝突通常涉及濫用職權，而一些收受利益的個案甚至會涉及貪污。表面的利益衝突雖然未必一定涉及濫用職權，但後果與實際利益衝突同樣嚴重，因為它會令市民對我們的誠信失去信心。

### 一般原則

7. 凡僱員於面對市民及與本局利益有關的人士時，必須處事誠實及公正不阿。僱員不得利用其職位、或任何因其職位而獲取的資料，使本身、家人或與本身有私人或社交聯繫的人士受惠。僱員亦應避免處身某種情況，致令人懷疑他是否誠實、或懷疑他利用公職為自己或家人朋友圖利。

8. 為避免出現利益衝突，僱員應：

- (a) 於執行職務時把機構利益放在首位；
- (b) 遵守所有相關的內部政策、指引及通告規定；
- (c) 對所有可導致實際或表面利益衝突的情況提高警覺；
- (d) 避免落在須對與其所屬部門有公事往來的任何人士、包括本身的下屬，負上義務的情況；
- (e) 拒絕向親友等提供與自己工作有關的協助、意見或資料，以免令前者比其他人士佔優；並應將所有合法的要求轉達適當的負責人員，以便按一般程序處理；
- (f) 避免取得任何可能與公職有利益衝突的投資、經濟利益或其他利益；以及
- (g) 當任何私人利益可能或似乎影響職務上的判斷時，向上級呈報。

## 常見的情況及利益衝突舉例

9. 以下所列舉的情況及例子並非包攬無遺。僱員必須時常留意避免出現利益衝突、或對可能/已出現的衝突作出申報，否則便有被紀律處分之虞。如有疑問，應向上司徵詢意見或指示。

### 職員遴選

10. 僱員如擔任遴選委員會成員，而申請職位的人士乃其親人或相熟朋友，則會出現利益衝突。該僱員應根據《人力資源政策手冊》第 C3 章的規定，申報利益及停止參與遴選工作。

### 外間工作

11. 僱員應避免會導致利益衝突的任何外間活動（無論有薪或無薪）。僱員應避免出任由醫管局承辦商或供應商提供的外間工作，因為這會構成利益衝突。僱員於從事外間工作前，有責任考慮是否存在利益衝突的問題。僱員應參閱《人力資源政策手冊》第 H7 章的政策規定，並向醫院行政總監，聯網行政總監或行政總裁（視乎何者適用）取得批准。

### 利益及禮物

12. 假如僱員接受任何人的禮物（無論是金錢或其他形式），而該人與醫管局有公事往來或將來很可能會與醫管局有公事往來，則會導致利益衝突，因為僱員或會被要求提供意見、協助或資料以作回報，致令該人不公平地取得利益。例如當僱員透過一間與醫管局有業務往來的代理商或銀行，作出私人投資或借貸時，該僱員不應接受屬非一般市場情況下授予或提供之折扣或利益。

13. 僱員因本身的職位出席社交場合及慶典所獲贈的禮物，均視為致送與僱員所屬部門的禮物，而由僱員代領。該部門須按照不時公布的指引處理該等禮物。於其他場合接受來自與醫管局有業務往來人士的禮物、恩惠或免費服務，則可能構成利益衝突。僱員應參閱《人力資源政策手冊》第 II 章所載的詳細政策。

14. 僱員應特別留意《防止賄賂條例》的規定。根據該條例，醫管局僱員乃公職人員，必須遵守以下規定：—

- (a) 不得向任何與醫管局有業務往來的商業機構索取任何利益；以及

- (b) 若擬接納由與醫管局有業務來往的商業機構提供的任何利益，必須事先取得醫管局總辦事處／醫院（視乎何者適用）的批准。

15. 醫管局總辦事處／醫院在作出批准前，必須充分研究有關申請的情況。

### 款待

16. 僱員應避免接受來自與醫管局有業務往來人士(例如承辦商、銀行及貿易代理商)奢華、過份優厚或經常性款待。接受款待（包括即時享用的食物及飲料，以及其他同時提供的款待）前，僱員應考慮是否確有需要（例如爲了聯誼或促進公關）這樣做。

17. 僱員並應清楚明白，他們在接受任何款待時，並不會因而蒙受恩惠或導致出現利益衝突的情況。有關的政策載於《人力資源政策手冊》第11章。

### 慈善勸捐及公眾捐贈

18. 考慮進行慈善勸捐及接納公眾捐贈時，僱員應參閱《人力資源政策手冊》第13章的政策，以及人力資源通告第2/98號公布的「接納捐贈及贊助指引」，並取得醫院行政總監，聯網行政總監或行政總裁（視乎何者適合）的批准。簡而言之，須考慮的一個主要因素是在接納利益、禮物或款待時，並不會產生實際、表面或潛在的利益衝突情況。

### 募捐及退休禮物

19. 爲免出現利益衝突，凡僱員募捐金錢或物品作爲退休禮物，或用以減輕任何僱員或其家人所遇到的困境，均應遵行《人力資源政策手冊》第12章的政策，並取得醫院行政總監，聯網行政總監或行政總裁（視乎何者適合）的批准。醫管局的目標，是確保所有募捐及捐贈均屬自願及捐贈者能夠負擔，以及爲真正需要的僱員或其家屬而進行的。

## 投資

20. 遇有下述情況，即屬利益衝突：

- (a) 僱員的投資或他與其他投資者的關係，將會影響他執行職務；及/或
- (b) 僱員藉其公職身分取得資料而投資獲利。

21. 因此，僱員於投資或獲取利益前，必須審慎考慮會否與其公務實際有衝突或表面有衝突。請參閱《人力資源政策手冊》第 18 章的投資政策指引及人力資源通告第 7/2001 號以作補充。

## 採購及管理物料

22. 在採購及管理物料方面，往往會出現一些導致利益衝突的情況。例如：(a)在物料供應組工作或作出採購建議/決定的僱員，與某供應商或公司的人員有密切的家屬或社交關係，而該供應商或公司與醫管局於採購及/或服務提供方面有業務往來；或(b)參與評審標書或挑選承辦商向醫管局提供物料及/或服務的僱員，而他本人於投標的其中一間公司有經濟利益，或僱員知道其配偶在該公司有投資利益(投資的定義列於人力資源通告第 7/2001 號)。參與採購或管理物料的僱員必須遵守《行為守則》及《採購及物料管理手冊》所載的利益衝突程序指引。如有利益衝突，參與採購/供應工作或評審標書的僱員必須經常作出申報。

## 監督職員工作表現

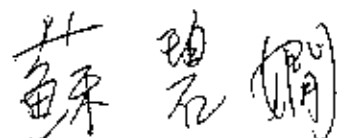
23. 僱員於監督某職員的工作表現時，不論該職員的僱用條件為何(包括該職員乃經招聘公司聘往醫管局工作者)，只要他是該僱員的家人、親屬或相熟朋友，則亦可能導致利益衝突。該僱員必須向上司申報利益；及/或不再直接監督該職員。

## 利益衝突：公務員

24. 在醫管局工作的公務員，須受公務員事務局有關「利益衝突」的通告第 19/92 號、其他有關事宜的通告及不時公布的相關公務員事務規例規管。

查詢

25. 關於本通告的任何查詢，請聯絡高級人力資源經理(人力資源系統)謝坤文先生(電話：23006966)或人力資源經理(職系檢討)陳穗芳女士(23006314)。

Handwritten signature in Chinese characters: 蘇碧嫻 (So Si-nan).

醫院管理局行政總裁  
(蘇碧嫻醫生代行)

2001年12月11日

有關利益衝突的主要政策及程序一覽表

- (a) 遴選(人力資源政策手冊/人力資源行政手冊第 C3 章)
- (b) 外間工作(人力資源政策手冊/人力資源行政手冊第 H7 章)
- (c) 利益及禮物(人力資源政策手冊/人力資源行政手冊第 I1 章)
- (d) 募捐及退休禮物(人力資源政策手冊/人力資源行政手冊第 I2 章)
- (e) 慈善勸捐及公眾捐贈(人力資源政策手冊/人力資源行政手冊第 I3 章)
- (f) 投資(人力資源政策手冊/人力資源行政手冊第 18 章)
- (g) 採購及物料管理行政指令及程序指引(採購及物料管理手冊第 II 部第 A 節及第 III 部第 A9、A14 及 A25 節)