

# Conflict of Interest & Sharp Practices Policy & Procedure

## POLICY PURPOSE AND SCOPE

This policy is to ensure all staff and participants are aware about Conflicts of Interest unique to NDIS and generally found within a business and human service environment.

*All management, staff, and contractors are always required to act in the interests of the organisation, and to notify the organisation when this conflicts with other interests or commitments.*

Where a Board of Director (or their delegate) or a Management Committee exists, it is a legal obligation to register any Conflicts of Interest at every Board, Management Annual General Meeting.

## DEFINITIONS From The NDIS Commission (resource accessed 26/11/24)

WORD	DEFINITION
<b>Conflict of Interest</b>	A conflict of interest occurs when a person or organisation has an opportunity to put what will benefit them (their own interests) ahead of the interests of the person they are supporting.
<b>Actual</b>	it happened or is happening
<b>Potential</b>	it might happen
<b>Perceived</b>	it seems like it has happened or might happen

## POLICY

Caddens Care is committed to ensuring that actions and decisions taken at all levels in the organisation are informed, objective and fair. Caddens Care will act in the best interest of the participant, by avoiding, declaring and monitoring conflicts of interest.

A conflict of interest may affect the way a person acts, decisions they make and / or the way they vote on group decisions; and in so doing, detracted from the participants right to choose and control around their services.

Caddens Care will act proactively to manage perceived and actual conflicts of interest through development and maintenance of organisational policies. This will ensure organisational/ethical values do not impede participant's right to choose and control. Unmanaged Conflicts of interest may result in influencing decisions, limiting choice and control or one provider controlling multiple supports of a participant's NDIS plan. Where a worker is working for another agency and is exposed to one of Caddens Care clients who is also serviced by the other provider, we will ensure that the client is not working with that person in our service also. In that situation a conflict-of-interest form will be completed, a strategy documented, and the conflict of interest will be listed on the conflict of interest register with an appropriate review date.

Conflicts of interest must be identified, and action taken to ensure that personal or individual interests do not impact on the organisation's services, activities or decisions.

**This policy requires all employees and management:**

- Act impartially and without prejudice
- Declare any potential or actual conflict of interest, and
- Do not accept gifts or benefits that would influence a decision.

**This will include situations in which:**

- Close personal friends or family members are involved, such as decisions about employment, discipline or dismissal, service allocation or awarding of contracts.
- An individual or their close friends or family members may make a financial gain or gain some other form of advantage.
- An individual is involved with another organisation or offers services that are in a competitive relationship with our organisation and therefore may have access to commercially sensitive information, plans and / or financial information.
- An individual is bound by prior agreements or allegiances to other individuals or agencies that require them to act in the interests of that person or agency or to take a Position on an issue.

**PROCEDURE**

**Registration of known conflicts of interest**

A register of conflicts of interest will be kept, and management and staff will be asked to declare:

- Potential or actual conflicts of interest that exist when a person joins the organisation.
- Conflicts of interest that arise during their involvement with the organisation.

The register will be maintained by the Director (or their delegate). All potential and actual conflicts will be recorded in the register, showing:

- Identification and declaration of conflicts of interest

In addition to an initial declaration of any potential conflicts of interest at the beginning of their involvement with the organisation, all management and staff are required to declare any potential or actual conflicts of interest they are aware of:

- At the beginning of any meeting or decision-making process, informing those present when a conflict becomes apparent.
- Outside of a meeting, speak with the Director (or their delegate) when a conflict becomes apparent.
- By providing formal notification in writing to the Director (or their delegate).

**Avoid participating in or promoting sharp practices**

The Code of Conduct requires all staff and contractors to avoid engaging in, participating in or promoting sharp practices.

The term 'sharp practices' refers to a range of practices involving unfair treatment or taking advantage of people, including over-servicing, high pressure sales and inducements. Some sharp practices may undermine the integrity of NDIS providers, workers and/or the NDIS sector as a whole.

Although not usually unlawful, and therefore not prohibited outright, sharp practices are considered unethical, dishonest and not in the interests of the participant.

The organisation will ensure their workers are aware of their obligations not to participate in sharp practices such as, but not limited to:

- Misleading or deceptive conduct

- Coercive or exploitative conduct

### **Scenario**

As part of her NDIS Plan, Tamina has funding to purchase a new powered wheelchair to replace her old one which is outdated and has a battery malfunction. Tamina visits a wheelchair supplier and talks to a sales representative about her needs. Tamina uses her wheelchair almost exclusively indoors or on paved outdoor services, but the sales representative suggests that she may be interested in a four-wheel drive wheelchair with larger tyres which gives additional traction, stability and comfort on uneven surfaces such as at parks or dirt walking tracks. He notes that for this week only this particular model is 20% off, which makes it only a couple of hundred dollars more expensive than the entry level model that Tamina had been looking at and as such is excellent value-for-money. Tamina is unsure whether she really needs such an elaborate model, and says she'll go away and think about her options. Tamina then receives follow-up phone calls from the sales representative three times over the following week asking if she's made up her mind and reminding her that this special offer ends in only a few days. Tamina feels pressured and talks to her Local Area Coordinator. The Local Area Coordinator encourages Tamina to raise her concerns with the NDIS Commission, who investigate further and find that the incident may constitute unconscionable conduct and refer the matter to the Australian Competition and Consumer Commission (ACCC) for further investigation and action.

### **RELATED DOCUMENTS**

- Conflict of Interest Register
- Risk Register
- Risk Management Policy
- Whistle blower Policy
- Conflict of Interest folder

### **REFERENCES**

- NDIS Code of Conduct
- NDIS Quality and Safety Standards 2018
- <https://www.ndis.gov.au/providers/provider-compliance/conflicts-interest-ndis-provider-market#conflicts>