



COMMUNITY LIVING  
BRITISH COLUMBIA

MANAGING CONFLICT OF  
INTEREST:  
A PRACTICE GUIDE FOR  
EMPLOYEES

October 2012

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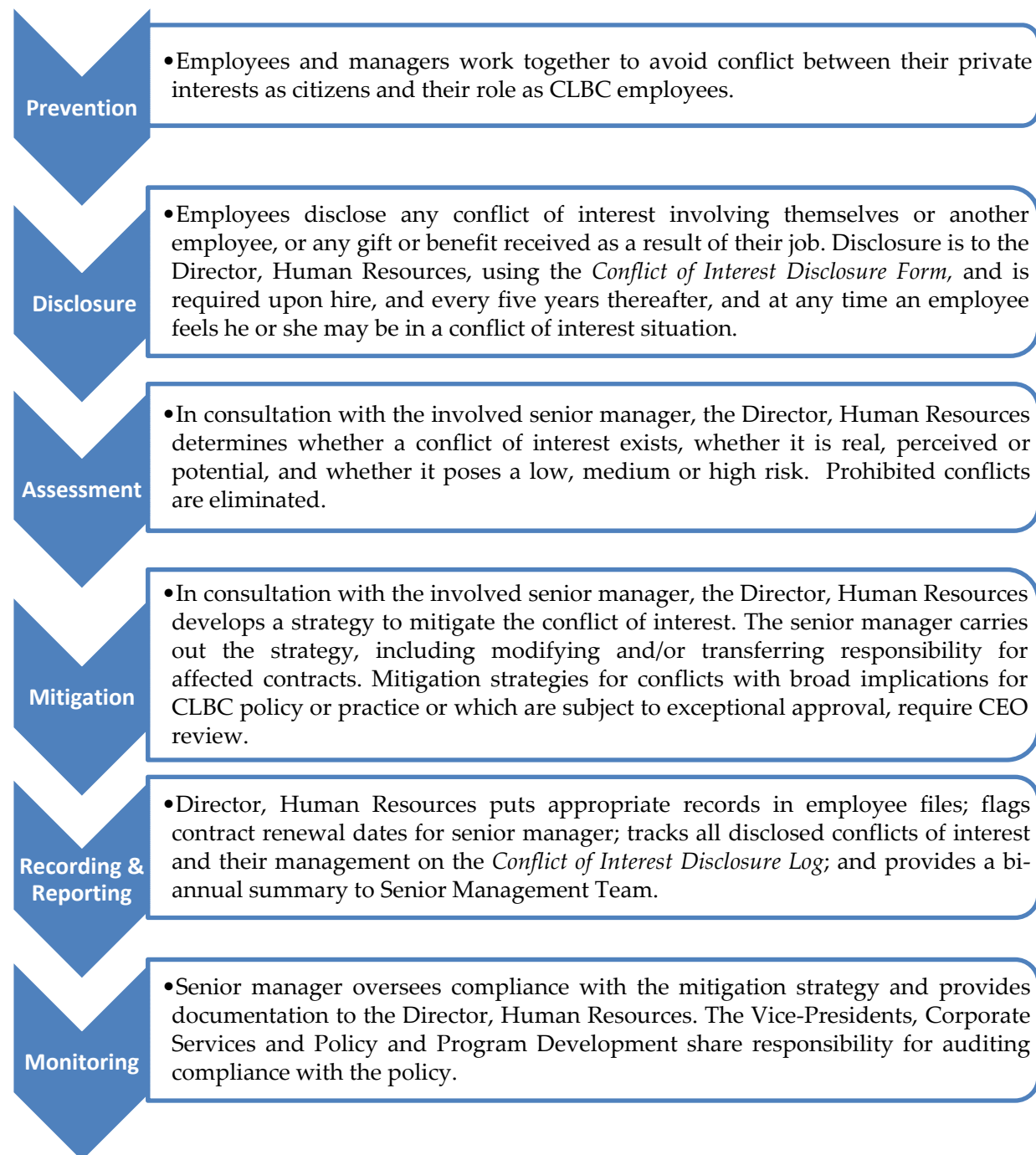
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This Guide is designed to help CLBC employees and managers understand and implement the *CLBC Conflict of Interest Policy-Employees*. It is to be used in conjunction with the policy, and does not replace the policy. Please contact the Director, Human Resources with questions or comments.

## 1. Understanding the Process

This flowchart summarizes the process and responsibilities for managing conflict of interest at Community Living British Columbia (CLBC), as established in the *Conflict of Interest Policy-Employees*:



## 2. Definitions Matter

A clear understanding of the definitions related to conflict of interest is the starting point for effective management by CLBC employees and managers. The three key definitions found in the *Conflict of Interest Policy – Employees* are: **conflict of interest**, **private interest**, and **related person**. These definitions are closely connected to each other and need to be applied as a whole. This section repeats these three key definitions and provides further interpretation and explanation.

### Conflict of interest

Incompatibility between the private interest of an employee, and the interests of CLBC or an individual supported by CLBC. This definition includes three types of conflict of interest:

- i) **Real** conflict of interest exists when the private interest of an employee adversely affects the interests or integrity of CLBC or of an individual supported by CLBC, the public's trust and confidence in CLBC, or the professional discharge of the employee's duties at CLBC; or when an employee uses his or her position at CLBC to advance his or her private interest.
- ii) **Perceived** conflict of interest exists when a well-informed person might reasonably believe that a conflict of interest exists.
- iii) **Potential** conflict of interest exists when an employee's private interest could result in a real conflict of interest in the future.

- For a conflict of interest to exist there does not need to have been any wrongdoing committed, harm caused or advantage realized. The existence of a conflict is independent of any actual adverse impact. Sound management is about disclosing the conflict and then removing or mitigating it **before** any adverse impact occurs.
- All three types of conflict of interest – real, perceived and potential – are covered by this definition. One is not 'worse' than another. All are considered to be conflicts and are subject to the policy. This is especially true because CLBC is a public agency governed by legislation, that for which the public, the individuals and families we work with and government have high expectations. Appearance is just as important as reality.
- At the heart of defining conflict of interest is the concept of **trust**. All CLBC employees are in a position of trust in our relationships with the people we support, and our stewardship of public finances. Even employees with no decision-making authority have access to information, referrals, contacts, informal knowledge and collegial relationships that allow them to potentially influence, or appear to influence, decisions that affect the most intimate and important details of the lives of individuals, or the funding for contracted agencies. Informal contact and knowledge can potentially be used to undermine the impartiality of decision-making.

- The trust placed in CLBC employees is further enhanced because the people we support are vulnerable adults. This raises the bar of expected conduct for employees even higher.

### Private interest

A material relationship, obligation or responsibility that is unique to the employee and/or a related person, and that benefits them in a disproportionate or preferential way. A private interest is often, but does not have to be, financial in nature.

### Related person

In relation to any employee, a person who does not deal with such employee at arm's length. Without limiting the generality of the foregoing, the following shall be deemed to be persons who are related persons in relation to an employee:

- i) Individuals connected by blood relationship, marriage, common-law partnership or adoption, (herewith known as "family members").
- ii) A company if the employee, or a family member, is an employee or senior officer of that company or has a direct or indirect beneficial control of that company.
- iii) A trust or estate, if the employee, or a family member, has a substantial beneficial interest therein or serves as a trustee, executor, administrator, professional advisor or in any similar capacity for such trust or estate.
- iv) A partnership, if the employee, or a family member, is a partner of the partnership.
- v) A person or company that has a material business relationship with the employee or a family member such that the employee or a family member would consider that person or company as a material client, customer or supplier.

The definitions of private interest and related person need to be interpreted together, because a private interest may involve a related person, rather than the employee directly. While the concept of a private interest is difficult to define precisely, there are several factors to consider when deciding if a matter constitutes a private interest or not:

- Just having a private interest does not always mean there is a conflict. CLBC expects employees to have private lives that involve volunteering in the community or having a spouse with a home-based business. The possibility of conflict arises when the **private interest is in a sphere that overlaps with the scope of what CLBC does.**

- A private interest does not have to be financial in nature. It can include serving as a board member for an organization, or participating in lobbying activity as a volunteer. These are relationships that create a sense of loyalty to an organization, and allow the person to have access to information and influence that a member of the public would not have. If the organization in question receives funding from CLBC, or lobbies CLBC for changes in funding or policy, then a CLBC employee in such a situation will have divided loyalties – precisely the type of situation that constitutes a conflict of interest.
- A private interest is unique to the employee or related person. It cannot be an interest that would apply to all employees or to members of the public in general, or to a broad class of the public. For instance, being a member of the union does not constitute a private interest, as all non-excluded employees have the same interest. Matters related to compensation and benefits do not constitute a private interest, as there is a broad class of employees with the same interest. Being a resident of a particular town does not constitute a private interest, as there is a broad class of people who also live in that town. Being eligible to access certain government programs is not a private interest, as all citizens of BC who meet the eligibility criteria are able to access these programs.
- A private interest that involves a related person to an employee is treated **exactly the same** as a private interest involving the employee directly. An employee sitting on the board of an agency contracting with CLBC is treated exactly the same as if the employee's spouse sits on the board. An employee being part-owner of a contracted agency is treated exactly the same as if the employee's business partner is part-owner.
- There are many situations in which an employee's private interest could possibly result in a conflict of interest, even where the employee does not have direct decision-making authority or intend any harm, wrongdoing or advantage:
  - An employee's spouse does consulting work in the community living field.
  - An employee's brother is part-owner of a psychological clinic that receives referrals from CLBC.
  - An employee runs a part-time home-based business that is unrelated to community living but requires that phone calls be returned during office hours.
  - A self-advocate works part-time for CLBC, receives CLBC services, and also volunteers with an advocacy organization.
  - An employee is being recruited by or applying for a job with a company considering bidding on a CLBC contract opportunity.
  - A manager is recruiting for a CLBC position in which her son is interested.

### 3. An Ounce of Prevention...

Preventing conflicts of interest is always preferable to assessing and mitigating them after they occur. This requires employees to be thoughtful and deliberate about their private interests and affairs, and aware of the possibility of conflict with their role at CLBC. It is about the highest ethical standards, about **appearing** to be free of conflict, as well as actually free of conflict, and about viewing the interests of the people CLBC supports as a primary value. Here are some ways to prevent conflict of interest:

- Be aware of the influence that day-to-day contact in the office can have on decisions. Just being aware that an RFP is being prepared for new services, even if you are not writing it or approving it, or making decisions flowing from it, means you have access to information that a member of the public, including any potential bidder, does not have. Or that you have access to that information before others do.
- When looking for ways to be involved in your community, be aware and cautious about organizations with contractual or referral relationships with CLBC or that may lobby or seek to influence the actions or decisions of CLBC.
- Err on the side of caution. Look at your private interests through the eyes of the public, or an individual or family member involved with CLBC, or the media. Would it **look** like a conflict of interest to them, even though you know that you have not done anything harmful? Think of everyone who fits the definition of related person to be the same as yourself, when arranging your private interests in relation to your role at CLBC.
- If your job involves decisions related to resource allocation, funding levels or contracting and procurement, rigorously apply the standard rules and avoid any preferential treatment. Where an exception is made due to individual circumstances, ensure that appropriate approvals and oversight are in place.
- Never use your work time or workplace to pursue your own private interests.
- Do not solicit or accept a gift or benefit arising from your employment with CLBC. The exception is gifts worth under \$25 that are part of the normal exchange of hospitality or gifts between friends or people doing business together, or a token exchanged as part of protocol or a public function. Such gifts must be infrequent, create no obligation, and allow for easy reciprocation. Disclosure is always required.
- Do not lend money to an individual supported by CLBC or an organization funded by CLBC.
- Be sure to complete the *Conflict of Interest Disclosure Form* upon hire and every five years thereafter and at any time an employee feels he or she may be in a conflict of interest situation. See Appendix for copy of the form.



## 4. Assessment Considerations

This section provides guidance for the Director, Human Resources, and senior managers involved in assessment of disclosed conflicts of interest. There is no possible way to list or anticipate all the possible conflicts of interest that could arise. Each disclosure requires individual assessment. Assessment determines first whether a conflict of interest exists. If it does exist, it then determines whether it is real, perceived or potential, and what level of risk it poses to the integrity of CLBC, the interests of individuals supported by CLBC and/or the public interest.

### Does a conflict exist?

Gather as much information as possible about the situation, the individuals involved and the history. Interview the person who disclosed and anyone else who seems relevant, to determine the precise nature, extent and impact of the conflict, including the details of any financial or other benefit gained by the employee or a related person, or of any harm or wrongdoing. Consult closely with the senior manager who knows the situation and individual involved.

Apply the definitions, isolating first the private interest involved, and then assessing whether it is compatible with the interests of CLBC and/or individuals supported by CLBC. Remember this is not about whether harm has been done – it is about whether a conflict of interest **exists**.

### Examples that do not constitute conflict of interest...

- Sitting on the board of an organization receiving funding from another government department, even if it serves some of the same people as CLBC.
- Being friends with someone who works at a CLBC-funded agency.
- Receiving a gift worth under \$25 from an individual or family.
- Attending a conference sponsored by a CLBC-funded agency and winning a door prize worth under \$25.
- Telling a friend or related person about a publicly advertised job vacancy at CLBC.

### Is it a prohibited conflict of interest?

If the conflict is prohibited by policy (Policy Section 3.3), the assessment does not have to be completed. Once it is confirmed that it is indeed a conflict of interest and that it falls under the list of prohibited conflicts, **it must be eliminated immediately**. Work directly with the employee to make and document the necessary arrangements. Lack of cooperation is grounds for serious disciplinary action, up to and including dismissal.



## Is it real, perceived or potential?

If a conflict does exist, the next step is to determine if it is real, perceived or potential, based on the policy definitions. Use the table below to help work through this determination:

### *Real, Perceived or Potential Conflicts of Interest*

	Real	Perceived	Potential
<b>Policy Definition</b>	When the private interest of an employee <b><u>adversely affects</u></b> the interests or integrity of CLBC or of an individual supported by CLBC, the public's trust and confidence in CLBC, or the professional discharge of the employee's duties at CLBC; or when an employee uses his or her position at CLBC <b><u>to advance his or her private interest.</u></b>	When a well-informed person might reasonably <b><u>believe</u></b> that a conflict of interest exists.	When an employee's private interest <b><u>could</u></b> result in a real conflict of interest in the future.
<b>Things to Consider</b>	Some type of harm or wrongdoing has happened, or some kind of unfair advantage has been gained as a result of the conflict of interest.  For example, the level of funding for an individual or to a service provider or the outcome of a procurement or hiring process has been affected.	Would an informed individual, family or member of the public <b><u>believe</u></b> it is a real or potential conflict of interest?	There is a possible incompatibility between the interest of CLBC and/or the individuals it supports, and the private interests of an employee - nothing bad has happened as a result yet.

## What is the level of risk?

Consider the seriousness of the harm, wrongdoing or advantage that could result from the conflict of interest **if left unmitigated**. Rate this as low, medium or high. This rating is **not** about whether the conflict of interest is real, perceived, or potential – but rather about its actual or possible impact - the **level of harm, wrongdoing or unfair advantage** that has or could result.

When assessing level of risk, consider the employee's connection to individual planning decisions, resource allocation decisions, contracting and procurement decisions, policy decisions and referral relationships. These are the typical places where a conflict with private interest can result in significant harm, wrongdoing or unfair advantage.

Use the tables on the next page to help determine this. The first table shows the criteria for determining the potential impact of the conflict. The second table gives some examples.

### *Low, Medium or High Risk*

Low Risk	Medium Risk	High Risk
<p>No visible or obvious impact</p> <p>No direct impact on individuals or families supported by CLBC</p> <p>Not likely to become public</p> <p>Minor amount of money involved</p> <p>One-time incident</p>	<p>Some adverse impact on the reputation, professional integrity or public image of CLBC – could become public.</p> <p>No direct impact on individuals or families supported by CLBC.</p> <p>Some amount of money involved.</p> <p>One-time or on-going.</p>	<p>Direct impact on funding, planning, services or other interests of individuals or families supported by CLBC.</p> <p>Significant adverse impact on reputation, integrity or public image of CLBC – likely to become public.</p> <p>Broad application for CLBC policy or practice, or requires exceptional approval (Policy Section 3.4)</p> <p>Involves on-going relationships.</p> <p>May involve significant amount of money.</p>

### *Examples*

Low Risk	Medium Risk	High Risk
<p>Employee receives an honorarium or consulting fee from an organization for a speaking engagement that is directly related to her role at CLBC.</p> <p>Employee wins a door prize worth several hundred dollars at a conference.</p>	<p>Manager hires her cousin in a CLBC job.</p> <p>Employee with responsibility for a small procurement that does not require a competitive process e.g. recognition items, chooses a supplier who is a related person.</p> <p>Employee uses CLBC premises or property to pursue unrelated business interests.</p> <p>Employees uses CLBC computer to design website of his wife's business.</p>	<p>Employee has or could have inside or advance information about a contract opportunity, or a policy change affecting a contract opportunity, on which a related person or a society on which he serves on the Board may bid.</p> <p>Employee influences or could influence funding decisions affecting a contract held by a related person, or services for a related person.</p> <p>Employee feels a sense of obligation or pressure from an agency funded by CLBC, because that agency supports his brother.</p> <p>Employee has a related person receiving CLBC supports where the situation is in crisis - services are changing and may require discretionary decision-making outside standard funding levels.</p> <p>Self-advocate is employed by CLBC and is a public spokesperson for an advocacy organization lobbying for changes to CLBC policies.</p>

## 5. Mitigating Conflicts of Interest

This section provides guidance for the Director, Human Resources and senior managers responsible for developing mitigation strategies. Mitigation is required whenever a conflict of interest is found to exist, except for a prohibited conflict, which must be immediately eliminated.

### Elimination as a first response

The first response to the determination that a conflict exists is to explore how it can be eliminated, **without any adverse impact on the interests of an individual being supported.** Interests of an individual being supported may include informed choice of caregiver, continuity of care, preservation of pre-existing relationships and arrangements, and optimal skills and experience in a caregiver or service provider. Here are some examples of conflicts that can be fairly easily removed through actions of the employee and/or CLBC:

- Employee stops using CLBC equipment or time to conduct business dealings related to a private interest.
- CLBC reassigns an employee so as to eliminate a situation in which a manager is supervising a related person.
- Employee voluntarily resigns from the Board of an organization that receives funding or referrals from CLBC.
- A person related to an employee sells their interest in a service-providing company, while leaving in place the front line staff people with established relationships with individuals receiving service.
- An employee sits on the microboard which contracts with CLBC, of an individual supported by CLBC.

In such situations, it should be fairly straightforward to discuss with the employee and make the arrangements required. Make sure to document the agreement and confirm that elimination has indeed occurred on the *Conflict of Interest Disclosure Log*.

### Conflict Mitigation

There are some instances where eliminating the situation causing the conflict would adversely affect the interests of an individual supported by CLBC and/or of the organization itself. Here are some examples:

- A prospective employee is a long-term respite caregiver for an individual supported by CLBC. The interests of CLBC are well served by hiring this person and benefiting from their skills and expertise. And the individual receiving the respite care wishes to stay with their long-time caregiver. Asking the prospective employee to fully withdraw from the conflict, i.e. stop providing respite care, would likely have an adverse impact on the individual being supported.

- An employee's brother, who qualifies for community living services, is moving to BC from Alberta to be closer to his sister, who works for CLBC. The brother will receive funded services from CLBC. Eliminating the conflict would mean the sister leaving her position at CLBC where she is a long-term and valuable employee.
- A self-advocate receives CLBC services and is also employed by CLBC. Resigning so as to eliminate the conflict of interest would have an adverse impact on her, as she would lose an interesting job and source of income. It would also adversely affect CLBC, which would lose a valued employee, and a role model for staff and other potential employers.
- An employee and a related person provide home sharing services directly for CLBC or under subcontract with an agency. This is a long-standing relationship in which the employee's spouse is the main caregiver and handles all dealings with CLBC. Withdrawing from it would cause considerable upset to the individual receiving service and also deprive CLBC of a qualified and experienced service provider.
- An employee is approached by a large service provider bidding on a sizeable new contract opportunity with CLBC, with a view to recruiting them to manage the new service. Categorically eliminating the conflict of interest, by refusing to speak with them, would eliminate a potential situation that could be beneficial to individuals and families who will use that service in the future.

Such situations are by definition high risk. Policy (Section 3.4) permits these types of situations to exist **on an exceptional basis only**, if the mitigation strategy that eliminates the conflict is reviewed and approved by the CEO. Document the situation well in a mitigation proposal to the CEO. Be sure to document the risk to CLBC and the risk to the affected individual if the conflict is eliminated, and why it is not appropriate for someone other than the employee to take over the private interest involved. Consider whether such a change could be made over time so as to eventually eliminate the conflict of interest while protecting the interests of the individual being supported.

### **Situations with broad application for CLBC policy or practice**

The other situation where CEO review and approval is required is when the conflict of interest and its mitigation strategies have broad application or implications for CLBC policy or practice. For example, a new program or funding approach being implemented across the province where unexpected conflicts of interest have come up and were not anticipated. In such situations, prepare a mitigation proposal for the CEO, documenting the situation and recommendations, with a view to organization-wide impacts.

## Mitigation strategies

Mitigation is designed to arrange the situation so as to reduce the **risk associated with the conflict of interest to a very low level**, and enable appropriate balancing of the three principles set out in policy:

### Principles for managing conflict of interest

#### Openness

Free and frank disclosure of private interests that may constitute conflicts of interest, and a transparent process for managing conflict of interest situations.

#### Employees as Citizens

Recognition that employees enjoy the same rights in their private dealings as other citizens, except where a restriction is essential to protect the interests of CLBC and/or of an individual supported by CLBC.

#### Interests of Individuals Supported by CLBC

Vigilant respect for the rights and informed choices of individuals supported by CLBC.

Acceptable mitigation of one-time conflicts of interest may involve cessation of some activity by the employee, return of a monetary benefit or some type of reparation.

Acceptable mitigation of ongoing conflicts inserts someone without a conflict of interest into the relationship in question. **It separates the employee from any participation in the matters related to the conflict.** This separation is not just from direct decision-making authority, but also from knowledge of, participation in or influence over formal or informal discussions related to the matter in conflict. This has the effect of removing any actual or possible advantage, or adverse impact, therefore reducing the risk level as low as possible.

The approach to mitigation depends on the level of risk involved. It is linked to the level of monitoring and oversight that will be required, and to the possible disciplinary implications for the employee. While each situation is unique, the table on the next page serves as a useful guide.

*Mitigation Approach is Related to Level of Risk*

	Low Risk	Medium Risk	High Risk
<b>General Approach</b>	Use existing policies and human resources tools, negate any benefit gained and make reparations.	For one-time situations, same as low risk. For ongoing situations, same as high risk.	Completely separate the employee from any present or future participation in matters related to the conflict.
<b>Appropriate Strategies</b>	<p>Review of <i>Conflict of Interest Policy, Standards of Conduct</i> and other related policies with employee.</p> <p>Return of any gift or monetary benefit received.</p>	<p>Return of any gift or monetary benefit received.</p> <p>Undoing/redoing of any hiring, contracting or procurement process where the outcome was compromised by the conflict of interest.</p> <p>Cessation of employee activities causing the conflict.</p>	<p>Transfer of responsibility for decisions involved in the conflict (e.g. contracting, resource allocation, planning, referrals) completely out of the sphere of influence of the employee. This usually means moving it to another service area or up the line of authority to the Director, Regional Operations or other senior manager.</p> <p>Transfer of the employee in conflict to another service area.</p> <p>Public statement if required.</p> <p>Contact and explanation/discussion with individuals/families/service providers affected.</p> <p>Additional oversight/documentation of changes in funding, especially any requiring discretion outside standard funding levels.</p>
<b>Discipline for Non-Disclosure</b>	Verbal reprimand.	Written reprimand on employee file.	Severe – likely suspension with possibility of dismissal.
<b>Monitoring</b>	Documentation that mitigation complete.	For one-time situations, same as low risk. For ongoing situations, same as high risk.	Vigilant and ongoing monitoring.

## Additional considerations

When designing and implementing mitigation strategies, consider the following:

- Arrangements for moving of electronic planning records and/or contracting files  
(See *Inter-regional Transfer Policy*)
- Potential impact on an individual receiving service who may now have to deal with an office much farther away from where they live. If this will cause undue hardship due to distances involved, reconsider other possible strategies, and be sure to discuss in detail with the affected individuals and families before finalizing.
- Preservation of continuity of relationships, proximity to family/support network members, and informed choice for individuals supported by CLBC.
- Possible need to notify individuals who may be affected by the conflict of interest, and/or to make some kind of public statement or response to media coverage. In such situations, be sure to inform and consult with the Director of Communications as soon as possible.



## Appendix: Conflict of Interest Disclosure Form

CLBC employees are required to be familiar with and follow the *Standards of Conduct*, the *Conflict of Interest Policy-Employees* and the *Managing Conflict of Interest Practice Guide*.

This disclosure form must be completed and submitted to Human Resources **upon hire, and every five years thereafter, and at any time an employee feels he or she may be in a conflict of interest situation.**

Employee/Applicant's Name	
Position / Classification	
Location	
Competition # (new hires only)	
Date filed	
<input type="checkbox"/> <b>New hire/initial disclosure</b> <input type="checkbox"/> <b>Regular five year disclosure</b> <input type="checkbox"/> I declare that I am not aware of any real, perceived or potential conflict between my private interests and my duties and responsibilities as a CLBC employee.	
<input type="checkbox"/> <b>Disclosure of specific conflict - Describe in detail:</b>  	
<b>Mitigation Strategy:</b>  	
Employee/Applicant Signature _____ Date_____	
Manager/Supervisor's Signature _____ Date_____	
Director/Senior Manager Signature _____ Date_____	
Director, Human Resources Signature _____ Date_____	
*CEO signature _____ Date_____	
(*for exceptional approvals only)	

*Copy Distribution: Original to HR for employee file and copy for competition file (for new hires only)*