

family

A D V O C A C Y

PO Box 502
Epping NSW 1710

305/16-18 Cambridge St
Epping NSW 2121

Phone: (02) 9869 0866
Facsimile: (02) 9869 0722

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Author: Beach, Margot

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Abstract

Begins by giving some examples of situations where members of staff who work with people with disabilities can easily compromise their work role by introducing their private lives into situations with residents/clients. The article describes why this is an unsatisfactory way to go about things and gives a list of five questions for workers to ask themselves in situations of doubt. **Keyword: Professionals**

DEMYSTIFYING CONFLICT OF INTEREST

A guide for Service Providers

Margot Beach, Principal Residential Officer, Brisbane South Alternate Living Service, and Christine Radke, A/Assistant Program Services Co-ordinator, Brisbane South Alternate Living Service, Division of Intellectual Disability Services.

Case 1:

Andrew is a Disability Support Worker employed to assist five individuals with an intellectual disability who live in a rented house in the community. These individuals require a high level of support in the form of 24 hour staffing.

During the last month there has been a change of residence for the people living in the house. The new premises have a large garden and yard, so a gardening service will have to be employed to assist with its upkeep.

Andrew's brother, Craig, does gardening as a second job. Andrew has asked Craig if he would do the gardening. Craig agrees to do so and is paid \$30.00 per fortnight with monies from the household account.

Case 2:

Jill is an Amway distributor who works part-time for a disability support organisation. She has come to know a large number of people through her part time work. Many of these people have since joined Amway through Jill and Amway products are in turn being used in the houses these people work in. Jill frequently receives orders from her 'network people' during her work time. She assures others that the products are being sold to the people living in these houses at a lower cost.

Case 3:

Simon is a Lifestyle Support Worker assisting people with a physical disability who live in a government-run institution. Most of Simon's day is spent helping people to access the wider community. On this particular morning, a pipe has burst in Simon's laundry and the tradesperson is only available to come between 10 am and midday to repair it. Simon is working in that area anyway that morning, so he takes the individual he is supporting to his home to wait for the plumber. While they are there he makes lunch for them both and they eat it while they are waiting.

One might well ask what these three scenarios have in common. Each of them tell a story that we have all heard a version of at some time or another. Some of

us may even be players in these stories, largely unaware of the wider implications of our actions and how they may appear to others.

In fact, all of these stories are examples of potential 'Conflict of Interest'. For staff working within government agencies, the expectations regarding Conflict of Interest are clearly defined. In Queensland, the Director-General of the Department of Family Services and Aboriginal and Islander Affairs advises staff working for the Department that ...

"... a conflict of interest usually arises when there is a tension between the private interest and the official duty of an officer ..."

The Divisional Head of Intellectual Disability Services further adds that ...

"... staff have a responsibility to avoid making decisions or acting on behalf of a client in any way that may appear to be for their own benefit ..."

The law is very clear about how it perceives the relationship between a disability support organisation and the person with a disability. Any organisation which is managing or using an individual's finances is officially seen to be in the position of 'trustee' for that person. The law defines this as a 'fiduciary relationship', denoting that the relationship is one of the utmost trust. This level of trust extends far beyond 'Duty of Care' to a direct accountability on the part of the trustee for any decision made on another's behalf. Any decisions made by the trustee should be done so with the understanding that they are first and foremost of primary benefit to the individual on whose behalf they are made.

Andrew may have thought that he was solving a problem in the most cost-effective and efficient way. Simon may feel that providing lunch for a person compensates for time spent dealing with his own domestic difficulties. Jill believes that a discount given to clients justifies the sale of products to them. In all these instances, staff may well feel that they are assisting clients in ways that go beyond their job description.

The fact remains that in all of these instances, the staff member concerned has put their own personal needs first. The message this gives to the person with a disability is the belief that their own needs do not have as high a priority as those of the staff member who is paid to support them.

Opening up issues for discussion between staff members can be the first step in preventing a potential Conflict of Interest. It is vital that human service managers be fully aware themselves of the issues and their implications, and constantly encourage staff to enter into debate about decisions.

If Andrew, for example, had openly discussed the matter of his brother with other staff and his supervisor, the following issues would have been quickly identified:

- that the relative of a staff member is benefiting financially from an exchange of services;

- that the service provided has not been seen to be compared with other services in the form of [competitive] quotes;
- that the service provided was not of a registered (and therefore insured) nature; and
- that Andrew, in making a decision of that nature without discussion with his supervisor, is then placing himself in a position of liability for that decision.

Open discussion of the issue can also do much to allay any suspicion that Andrew is acting in an improper manner.

One may at first glance miss the flaws in Jill's story. When any particular product is chosen over another, people need to be in agreement that this is a decision made in the consumer's best interests.

Secondly, Jill may state that individuals are receiving a discount on a reputable product, and therefore benefiting, but one needs to ask the question "In what way is Jill benefiting?". What of the phone calls that Jill is receiving via a telephone service paid for by someone other than herself? The incentives implicit in this style of marketing? The number of 'captive consumers' who then may unwittingly contribute to this incentive system? All of these questions raise some doubt that Jill is acting entirely in the interests of the individuals for whom she is a 'trustee'.

Much the same could be said in Simon's case. In effect, Simon is using the responsibility of his position to met his own domestic needs. He may rationalise this by saying that the individual he is supporting is receiving equal benefit in the form of lunch (which he would have had to eat anyway) and time spent in a community environment. The issue here is one both of benefit to Simon, whose actions may be perceived as addressing his own needs first, and of denying the individual the chance to make a choice for themselves about how they would like to spend their time.

This brings us to the critical issue within Conflict of Interest; namely, the perception that the needs of the person with a disability are in some way inferior to those of another - in this case, the staff person. However, the expectation of the trust relationship, (and more importantly, the fiduciary relationship), is that the staff person has a duty to act in such a way that they are receiving no personal benefit whatsoever. To do otherwise can be considered a direct violation of both relationships. This betrayal has two major outcomes.

Firstly, for the organisation which allows a Conflict of Interest to occur, the message that this organisation gives to the wider community reinforces any belief that people with a disability are not worthy of a status equal to you or I. This message might well be seen as a clear example of 'Do as I say, not as I do...'

The second outcome is of an even more serious nature. Our most important task as service providers is to assist people with a disability to become respected

and valued member of the community. Many people with a disability have been the silent victims of physical, emotional and sexual abuse. The damage to their self-esteem is no less than for a person who is non-disabled. In human service organisations, we are working now to heal those wounds.

While the actions which demonstrate Conflict of Interest do not constitute physical violence, they can be just as damaging to the individual. To feel good about ourselves, we need to trust and feel what it means to be respected by others. A person who constantly has their trust betrayed and their wishes not respected cannot learn to trust others. A person whose life choices are restricted to only those that others feel comfortable with cannot possibly experience life in all its fullness. By allowing Conflict of Interest to occur, we are placing further barriers in the path of individuals with a disability.

How then do we avoid Conflict of Interest? One method might be to consider the following five questions when we are making a decision on behalf of the person with a disability:

- 1. Am I, (as the service provider), benefiting directly or indirectly from this decision?*
- 2. Is this decision one that the person has made, or would make?*
- 3. Have all options been considered in an equal light?*
- 4. Have other important people in the individual's life been consulted, and are my actions open to public scrutiny?*
- 5. How would others perceive this decision?*

If the answers to any of these questions place doubt on my actions, then I am engaging in a potential Conflict of Interest. Perhaps the most essential question, though, (and the one that is often least asked) remains simply, "How would I feel if this decision were made on my behalf?".

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