

# Acting in the Spirit of Service

## Conflicts of Interest



**Te Kawa Mataaho**  
Public Service Commission



New Zealanders need to have confidence that public servants work to the highest standards of integrity in everything they do. Public servants need to exercise a high standard of judgement around the management of conflicts of interest.

- Peter Hughes, Te Tumu Whakarae Mō Te Kawa Mataaho | Public Service Commissioner

New Zealand is held in high regard for the standards of honesty, openness, transparency and integrity in the Public Service<sup>1</sup>, but our reputation depends upon our ability to be impartial in our decision making, and to exercise a high standard of judgement in relation to real and perceived conflicts of interest.

In a small country like New Zealand, conflicts of interest in our working lives are natural and unavoidable. The existence of a conflict of interest does not necessarily mean that someone has done something wrong. But organisations need good policies and processes to deal with conflicts of interest appropriately and staff need to be alert to the possibility of conflicts of interest and notify any conflicts promptly.

These model standards outline the Public Service Commissioner's minimum expectations for staff and organisations in the Public Service to support effective reporting and management of conflicts of interest. The standards should be read alongside other relevant rules and standards including the Crown Entities Act 2004 and the Office of the Auditor-General's [Managing conflicts of interest: A guide for the public sector](#).

All Public Service organisations should ensure that these standards are integrated into policies and processes for managing conflicts of interest within their human resource, employment relations, and operational management systems.

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<sup>1</sup> For the purposes of these model standards Public Service refers to the organisations these model standards have been issued to as set out in section 19(1) of the Public Service Act 2020, excluding school boards and Crown entity subsidiaries.



## Te korahi o ngā paerewa | Scope of the standards

A conflict of interest means a conflict between a public duty and private, personal and/or other interests. Personal interests can be financial or relate to family, friends or associates. Conflicts of interest may be actual, potential or perceived.

There are three key elements to these standards:

1. **Getting the foundations right from the start:** organisational commitment to leadership, raising awareness, and supporting staff and managers through regular communication and training.
2. **Making sure processes are robust:** ensuring systems are in place for identifying, disclosing, managing, monitoring, and reporting on conflicts of interest.
3. **Supporting staff when issues arise:** ensuring there are channels in place for people to raise concerns about how their declared conflict(s) of interest are being managed or breaches of the conflicts of interest policy.



## Getting the foundations right from the start

### Organisational commitment, leadership and culture

There is a range of policies and guidance which all public servants, including chief executives, need to be aware of and comply with.

Each agency will have policies to cover such situations.

#### Model standards:

- Organisations need regular statements from senior leadership of their expectations of people within the organisation to act honestly and ethically, and to disclose conflicts of interest fully and openly.

### Appointment and engagement

Organisations need to ensure that people who are applying for a role or contract (including those applying for senior leadership roles, casual or contract staff, secondees, consultants, board members or volunteers) are alert to the possibility of conflicts of interest and disclose these prior to appointment. Organisations may need to take a potential conflict of interest into account when considering an individual's suitability for a role.

#### Model standards:

- Organisations ensure that candidates are alert to the possibility of conflicts of interest and its expectations that people will act honestly and ethically, and fully and openly disclose actual and potential conflicts of interest and this is formally recorded.
- Organisations have procedures to allow candidates to review and disclose potential conflicts of interest as part of the pre-selection process.
- Expectations relating to conflicts of interest are explicitly referred to and recorded in contractual agreements; individuals are required to sign that they have read and understood the expectations and accept responsibility for identifying and recording their relevant private interests.

### Training and awareness

It is important that people have access to good information and training that is regularly reviewed and updated so they are clear about what to do if they think they have a conflict of interest at any stage, and fully understand their responsibility to identify and disclose it.

Policies and procedures for full disclosure are the foundation of good management. It is a continual process as interests and conflicts change over time. Active management by the organisation is also needed to ensure that people regularly review their own interests and fully disclose any conflicts as early as possible.

#### Model standards:

- There are processes in all organisations for ensuring that existing and potential staff understand and are alert to the possibility of conflicts of interest and the requirement to disclose them.
- Training on recognising and disclosing conflicts of interest is covered in induction for staff and contractors, as well as following any changes to policies or procedures, supported by regular reminders of individuals' ongoing responsibility to identify and disclose.
- Training for managers includes receiving and dealing with disclosures of conflicts of interest, knowing how and when to access professional advice and support, and handling complaints or breaches of the policy.
- There are designated people or teams that staff can talk to when they think they may have a conflict of interest.
- All conflicts of interest disclosed to an organisation are assessed and either avoided or actively managed in a timely way.



## Making sure processes are robust

### Roles, responsibilities and accountability

Organisations need to have in place effective conflict of interest policies and processes that support robust and timely decision-making and foster public confidence in their integrity, the integrity of officials and public decision-making.

Everyone working in the Public Service has a duty to put the public interest above their personal or private interests when carrying out their official duties.

#### Appointment and engagement

- Do you require individuals to sign an acknowledgement accepting responsibility for disclosing interests?
- Are candidates required to disclose potential conflicts as part of pre-selection?

#### Ongoing disclosure

- Do your managers encourage teams to be alert to conflicts of interest?
- Do you have designated people or teams that staff can talk to when they think they may have a conflict of interest?

#### Managing conflicts

- Is there a central mechanism in place for recording conflicts of interest?
- Is there support in place to assist managers receiving and managing conflict of interest situations?

#### Raising concerns

- Do you have processes in place where people can raise concerns about the management of their disclosure?
- Can people find information on how to raise a concern, such as the 'Speaking Up' standards?

### Senior leaders

Those in senior roles (such as Board members or senior managers) are expected to set an example in identifying and disclosing any interests relevant to their work, given their level of influence on decisions about matters of public significance or value and their higher public profile.

Crown entity Board members must disclose any interests in accordance with the Crown Entities Act 2004. Directors of Crown owned companies must disclose any interests in accordance with the Companies Act 1993. Public Service chief executives must disclose any interests to the Public Service Commission. Crown entity and Crown company chief executives must disclose any interests to the Board chairperson. Senior staff should disclose any interests to their manager or other designated person.

### Model standards:

- Internal policies and processes designate clear roles and responsibilities and are readily available for people to access.
- Internal policies provide clear rules that define inappropriate conflicts, such as involvement in the appointment of a family member.
- There is a mechanism for recording private interests that may give rise to a conflict of interest, which is frequently updated and monitored while appropriately protecting privacy.
- The policy makes it clear that the disclosure of a private interest does not in itself resolve a conflict and measures to resolve or manage the conflict must be considered.
- When a conflict of interest is suspected to involve criminal activity, organisations will report the matter to the Police or the Serious Fraud Office.



### Partnerships with other stakeholders

When working with other stakeholders, including contractors, consultants and service providers, organisations need to take care to communicate expectations, identify potential conflict of interest areas before the contract starts, and develop and document appropriate responses to manage risks to all parties in a potential conflict situation.

### Procurement

Conflicts of interest can particularly arise in procurement. Conflicts must be identified and managed so that public sector procurement is always seen to be fair, ethical and provide value for money. To assist in identification, agencies should discuss with prospective contractors and suppliers any interests that may be relevant. The agency can determine whether those interests give rise to any conflict, which can then be recorded in a formal declaration.

Conflicts can occur at an agency, not just individual, level. It is important to consider contractors' and suppliers' relationships with agency senior leaders and Ministers. If a conflict of interest is identified that relates to a Minister, the matter should be escalated to, and managed by, the agency chief executive in a timely way.

The New Zealand Government Procurement (NZGP) has government template contracts and guidance on identifying and managing conflicts of interest. See also guidance on managing conflicts of interest in procurement from the Office of the Auditor-General.

### Secondary employment

Secondary employment can create a conflict of roles, a type of conflict of interest. Employees should be able to participate in secondary employment if there is no conflict of interest or where there is a conflict of interest that can be managed. Employees must be open and honest with employers about secondary employment. Employers should consider:

- Conflicts of interest including whether the secondary employment conflicts with the primary role. This includes the duties owed to each organisation, the powers exercised, the information the employee has access to and whether it is clear to others which role the person is undertaking.
- Whether the time commitment required allows the employee to maintain an acceptable level of performance, manage their own safety and the safety of others, and preserve their wellbeing. This includes considering whether the payment for roles is consistent with the time and effort commitment required.





## Policies, processes and channels

The main goal of identifying and managing conflicts of interest is to ensure that all operational decisions are made – and are seen to be made – legitimately, justifiably, independently and fairly.

Integrated management processes and internal controls will support timely and appropriate identification and management of any risk.

### Managing conflicts

Processes for managing conflicts of interest need to be robust, understood by people in the organisation, actively managed and fit together as a whole within the organisation's framework of management policies and internal controls. Conflicts of interest need to be well managed so that public trust and confidence in the individual or the organisation is not undermined.

Assessing a situation to identify whether a conflict of interest exists and must be avoided or is able to be managed, involves weighing up the interests of the organisation, the public interest, and the legitimate interests of the individual concerned, as well as other factors such as the position the individual holds and the nature and seriousness of the conflict.

Disclosure of conflicts of interest is a continuous process as interests change and new conflicts may emerge in the course of day-to-day business. An example of this is where it becomes apparent before or at a meeting that an attendee has a conflict of interest with regard to an item on the agenda.

### Monitoring and evaluating

Organisations' ability to understand the nature of conflicts of interest in their operational environments relies on their ability to identify particular at-risk areas for potential conflict of interest situations, track and monitor any risks, and learn from them.

Centralised tracking and monitoring requires that managers, supervisors and other designated people to whom conflicts of interest are made are able to log and provide auditable details.

### Model standards:

- There are policies and processes in place for disclosing, recording and responding to conflicts of interest. Policies and processes reflect the organisation's particular functions, context and statutory requirements.
- There is a process for managing conflicts of interest which includes what constitutes a conflict, options for managing it (including considering whether or not an individual should continue to be involved with work in the potential area of conflict), who makes decisions, and potential consequences of non-compliance.
- There are clear and documented responsibilities and actions for managers receiving, assessing, managing and monitoring disclosed conflicts of interest.
- There are support mechanisms for assisting managers in reviewing and improving their skills in identifying and avoiding or managing conflicts.
- The arrangements for dealing with conflicts are clearly recorded in formal documents to enable the organisation concerned to demonstrate, if necessary, that a specific conflict has been appropriately identified and managed.
- Decision-making processes at all stages can be audited and justified.

### Model standards:

- All conflicts of interest are centrally recorded and organisations have designated people responsible for tracking, monitoring and reporting to senior leadership.
- Conflicts of interest are included in organisation's risk management programmes and reporting, including any internal or external risk and assurance committees.
- There are training and systems in place to enable centralised tracking, monitoring, auditing practices and continuous improvement of policies and processes.
- The conflict of interest register is regularly reviewed, updated and included as part of the organisation's audit programme.
- Monitoring agencies regularly discuss conflicts of interest with Crown entity Board Chairs, including recorded conflicts and applicable policies.

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It is important that there is ongoing monitoring and review of interests that are disclosed. Where there is a management plan in place for a conflict, the plan should specify a manager who is responsible for monitoring the plan and evaluating how it is working.



## Raising concerns

It is important that people have a channel to make a complaint about how the organisation is managing their declared conflict(s) of interest.

People must also be able to raise concerns about wrongdoing, including suspected impropriety in relation to disclosure/non-disclosure of interests or the management of declared interests.

The Public Service Commissioner's model standards for organisations to support staff on speaking up in relation to concerns about wrongdoing can be found [here](#).

### Model standards:

- Internal policies and processes include mechanisms to allow individuals to raise concerns about how the organisation is managing their declared interest.
- All concerns raised about management of declared interests are assessed, recorded and acted on in a timely way.
- There is appropriate separation of duties and well-defined roles that underpin organisations' processes in relation to concerns raised by individuals.

## Useful links

- Office of the Auditor-General's Managing conflicts of interest: A guide for the public sector
- Crown Entities Act 2004 (sections 31 and 62)
- Te Kawa Mataaho's Board Appointment and Induction Guidelines