

Ngā Hātepe | Conflict of Interest Procedure

Mō wai me te whānuitanga | Audience and scope

These Procedures apply to:

- a) all employees of Te Pūkenga, including contracted staff, consultants and secondees providing services for Te Pūkenga, and those on fixed-term contracts (collectively referred to as kaimahi in these Procedures); and
- b) where appropriate, Ohu Kaitiaki, which extends to all those operating at a governance level, including Council members and members of council’s advisory committees.

Mokamoka whakaaetanga | Approval details

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Approval authority		Date of approval	
Procedure sponsor (has authority to make minor amendments)	Chief People Officer	Procedure owner	Chief People Officer
Contact person		Date of next review	November 2024

Ngā whakatikatika | Amendment history

Version	Effective date	Created/reviewed by	Reason for review/comment
1		Sam Shannon/Simon Karipa	Creation of procedures to guide decision-making in determining how conflicts of interest should be managed
		People, Culture and Wellbeing	Review of created document and application specifically for kaimahi conflicts of interest

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Ngā Hātepe | Conflict of Interest Procedures

1. Pūtake | Purpose

- 1.1. The purpose of these Procedures is to support Te Pūkenga Conflict of Interest Policy by:
 - a) setting out a clear process for how conflicts of interests (perceived, actual or potential) are to be handled at Te Pūkenga; and
 - b) guiding managers in deciding how conflicts of interests held by Te Pūkenga kaimahi are to be managed; and
 - c) guiding Ohu Kaitiaki in deciding how conflicts of interests held by Te Pūkenga Ohu Kaitiaki are to be managed.
- 1.2. The purpose is also to ensure conflicts of interest are handled in a way that maintains public trust in Te Pūkenga, its kaimahi and Ohu Kaitiaki, and to mitigate any legal, commercial, political, and/or reputational risk that may result from those conflicts. A conflict of interest is described more fully in the Definitions section (clause 7 below).

2. Ngā Mātāpono | Principles

- 2.1. As part of good public conduct, all decisions made relating to conflicts of interest should be made with a spirit of:
 - a) integrity
 - b) impartiality
 - c) accountability
 - d) trustworthiness
 - e) respect
 - f) responsiveness.
- 2.2. When a conflict of interest is declared, Te Pūkenga will consider whether something should be done to manage that conflict. In doing so, Te Pūkenga will have regard to the principles at 2.1, these Procedures and any possible reputational risk arising from how observers might reasonably perceive the situation.
- 2.3. Kaimahi or Ohu Kaitiaki seeking advice on conflicts of interest should contact their line manager or Chair (as applicable). Advice may also be sought from Te Pūkenga legal advisors. People, Culture and Wellbeing are also available to provide advice to managers.

3. Tirohanga Whānui | Overview

- 3.1. These Procedures should be read in conjunction with Te Pūkenga Conflict of Interest Policy.
- 3.2. All conflicts of interest should be declared as soon as they arise and dealt with in accordance with these Procedures as soon as reasonably practical.
- 3.3. For kaimahi, decisions on how to manage conflicts of interest are made

- a) by their manager. Managers should consult with People, Culture and Wellbeing in the application of these Procedures as appropriate.3.4
- b) For Ohu Kaitiaki, where the person holding the interest is a Council member, decisions on how to manage conflicts of interest are made by the Council or, where the person holding the interest is a member of an advisory committee, the advisory committee.

4. Ngā Hātepe | Procedure

PART A: PROCEDURES FOR KAIMAHI

This section applies to all Te Pūkenga kaimahi.

Declaring an interest

- 4.1. Kaimahi declare conflicts of interest by completing a Conflict of Interest Declaration Form (Appendix A) and submitting it to their manager.
- 4.2. A conflict of interest includes an intimate relationship or a close personal relationship between kaimahi and their colleagues, ākonga or stakeholders particularly where such a relationship might influence a person's judgement or ability to make impartial or objective decisions and may be financial, non-financial or a conflict of roles. Kaimahi must disclose any conflicts of interest, actual, potential or perceived arising from any such relationship.
- 4.3. Kaimahi must complete and submit a Conflict of Interest Declaration Form:
 - a) On commencement of their employment with Te Pūkenga
 - b) As part of an annual process where the kaimahi holds a senior leadership position (even if they don't have a conflict of interest)
 - c) Whenever their personal or work situation changes in a way that would or could create a conflict of interest. If there is any doubt about whether a conflict of interest exists, you should still complete and submit a Conflict of Interest Declaration Form
 - d) Where there are significant changes to an existing conflict of interest
 - e) Before becoming involved in a procurement process where the goods or services being procured are valued at \$50,000 or more. For the avoidance of doubt, those "involved in a procurement process" includes:
 - Everyone on the procurement team (including but not limited to kaimahi, contractors, and consultants)
 - All members of the evaluation panel
 - Any consultant asked to advise the procurement team
 - Anyone involved in making a recommendation
 - Anyone involved in approving a recommendation or making an important decision
 - Anyone making a financial approval for the procurement.
- 4.4. Once completed, the Declaration must be submitted to their manager. Declarations will be held on the kaimahi personnel file

- 4.5. If a conflict ceases to exist, kaimahi must notify their manager so that the Interests Register can be updated.

Interests Register

- 4.6. A register of kaimahi conflicts of interests (the “Interests Register”) will be maintained by People, Culture and Wellbeing as a record of conflict of interest declarations.
- 4.7. The Interests Register will include notes on the assessment of each conflict of interest and action taken (or not) to manage a conflict of interest.

Managing conflicts of interest

- 4.8. Each conflict of interest situation must be dealt with as soon as reasonably practicable after it is identified.
- 4.9. Te Pūkenga will assess conflicts of interest declared to them in accordance with clause 4.10 and determine whether further action is required in order to manage a conflict of interest. In determining this, Te Pūkenga will consider:
- a) the seriousness of the conflict of interest including:
 - the type or size of the conflict of interest held by the kaimahi concerned
 - the nature or significance of the particular decision or activity being carried out by Te Pūkenga, in which the kaimahi is involved; and
 - how an impartial observer might reasonably perceive the conflict of interest, whether or not any wrongdoing is involved.
 - b) the level of risk, or perceived risk the conflict of interest gives rise to
 - c) the range of possible mitigation options available, including (but not limited to):
 - no action
 - declare the conflict of interest publicly (taking into account privacy considerations)
 - asking whether all affected parties will agree to the person’s involvement
 - seeking a formal exemption to allow participation (if such a legal power applies)
 - imposing additional oversight or review over the person
 - withdraw from discussing or voting on a particular item of business at a meeting, or taking some other steps to limit influence or decision-making powers (for example, they might not take part in decisions but could still provide advice)
 - exclusion from a committee or working group dealing with the issue
 - re-assigning certain tasks or duties to another person
 - agreement or direction not to do something
 - withholding certain confidential information
 - placing restrictions on access to information (including, if applicable, post-employment restrictions, such as restrictions under a restraint of trade agreement)
 - relinquishing the private interest
 - refraining from having further dealings with a person or organisation.
- 4.10. Where a manager determines that there is an actual or potential conflict of interest that impacts on the kaimahi role, the manager, in consultation with People, Culture and Wellbeing, will discuss with

the kaimahi the required restrictions on their role to prevent bias or personal gain (perceived, actual or potential) and make a written record about any decision.

- 4.11. Where restrictions are unlikely to avoid a conflict of interest the kaimahi may be offered an alternative position or project within Te Pūkenga (temporarily or permanently), or be required to resign from their position (either with Te Pūkenga or otherwise), to remove the conflict of interest.
- 4.12. All discussions relating to conflicts of interest will be documented by the manager and a copy of the notes included in the kaimahi personnel file. Decisions made, including a decision to take no further action, must be recorded in the Interests Register.

Secondary Engagements

- 4.13. Kaimahi will not accept other employment, contract, or assignment (paid or unpaid) without the prior written approval of their Te Pūkenga manager where any of the following may apply:
 - a) the employment, contract or assignment could give rise to a conflict of interest;
 - b) the employment, contract or assignment such work or activity involves paid private coaching or teaching of ākongā enrolled with Te Pūkenga;
 - c) Te Pūkenga kaimahi and/or Te Pūkenga are unduly inconvenienced or have their workload increased because of the other employment, contract or assignment;
 - d) such employment, contract or assignment is done at the expense, or to the detriment, of the quality of the performance of the kaimahi Te Pūkenga duties;
 - e) such employment, contract or assignment may directly or indirectly damage the reputation of Te Pūkenga; or
 - f) the kaimahi uses Te Pūkenga resources for the employment, contract or assignment (beyond reasonable and occasional use approved by their manager).
- 4.14. Any application for secondary engagement will be considered in accordance with these Procedures before approval is provided.
- 4.15. Te Pūkenga may decline to approve the other employment, contract or assignment where it considers there is a conflict of interest or where Te Pūkenga reasonable considers that the effect of the other employment, contract or assignment on Te Pūkenga (including kaimahi and ākongā) is or may be detrimental.
- 4.16. Where approval is given:
 - a) The impact on you (and your ability to perform work for Te Pūkenga) and those with whom you come into contact, will be monitored by Te Pūkenga.
 - b) The arrangement will be reviewed annually, when circumstances change, or at the sole discretion of Te Pūkenga. You must actively participate and engage in this review to enable Te Pūkenga to assess what impact, if any, the arrangement is having on Te Pūkenga, you or those you come into contact with, in the course of performing your duties.
 - c) If any change to the approved arrangement is to occur, or a new arrangement is to commence, you must seek further prior written approval.

PART B: PROCEDURES FOR OHU KAITIAKI

This section applies to all Te Pūkenga Ohu Kaitiaki.

Obligations under the Education and Training Act

- 4.17. Schedule 11 of the Education and Training Act requires that Council members or Council committee members who have an interest in a matter being considered or about to be considered by the Council or the committee, must disclose the nature of the interest at a Council or committee meeting, as soon as possible after the relevant facts have come to the member's knowledge.
- 4.18. For the purposes of Schedule 11 of the Education and Training Act, a person has an interest in a matter if, and only if, the matter relates to the conditions of service of the person as the chief executive or a member of the kaimahi of Te Pūkenga or the person has any other direct or indirect pecuniary interest in the matter.

Declaring an interest

- 4.19. Ohu Kaitiaki must complete and submit a Conflict of Interest Declaration Form:
 - a) On commencement of their engagement with Te Pūkenga; and
 - b) As part of an annual declaration process (even if they don't have a conflict of interest).
- 4.20. In addition to the Conflict of Interest Declaration Form required under section 4.19, conflicts of interest will be a standing agenda item at all Council and committee meetings. At the meeting, Ohu Kaitiaki must disclose any updates or changes to their conflict of interest declaration, and any conflicts of interest with any item on the agenda. A disclosure by a Council or committee member must be recorded in the minutes of the meeting.
- 4.21. In addition to the requirements of Schedule 11 of the Education and Training Act, Council and committee members must also disclose any conflicts of interest that would meet the broader definition in the Conflicts of Interest Policy.

Managing conflicts of interest

- 4.22. Each conflict of interest situation must be dealt with as soon as reasonably practicable after it is identified.
- 4.23. The Council or committee member must comply with any strategies and monitoring procedures for managing a conflict of interest determined by the Council or the committee.
- 4.24. Without limiting section 4.23 above, the Council or committee member must not be present during any deliberation, nor take part in any decision, of the Council or the committee with respect to the matter unless the Council or committee otherwise agrees.

Secondary Engagements

- 4.25. Council members are not permitted to undertake consultancies for Te Pūkenga in accordance with the Fees Framework (see the Council Fees and Expenses Guide).

5. Ngā Haepapa | Responsibilities

Role	Responsibilities
All Te Pūkenga kaimahi	<ul style="list-style-type: none"> • Declare any conflicts of interest in accordance with these Procedures. • Be alert to any situations where any further conflict of interest could exist and declare any further conflicts of interest as soon as they arise. • Where necessary, work alongside their manager to manage a conflict of interest. • Comply with any plans, mitigations or strategies to manage conflicts of interest as directed by their manager.
Managers	<ul style="list-style-type: none"> • Promote awareness and understanding of Te Pūkenga Conflict of Interest Policy and Procedures within their teams. • Ensure their direct reports complete a Conflict of Interest Declaration in accordance with these Procedures. • Remain alert to situations where the people that they manage or supervise may have a conflict of interest and ensure that the situation is recognised and managed appropriately. • Assess all conflicts of interest in accordance with these Procedures to determine whether further action is necessary to manage the conflict. • Where necessary, work with the kaimahi concerned to develop a plan to manage the conflict in consultation with People, Culture and Wellbeing. • Ensure all conflicts of interests held by kaimahi under their management are recorded in the Interests Register, along with notes relating to assessment and decisions to take (or not take) further action to manage conflicts of interest.
People Culture and Wellbeing	Support managers in managing conflicts of interest for kaimahi.
All Te Pūkenga Ohu Kaitiaki	<ul style="list-style-type: none"> • Declare any conflicts of interest in accordance with these Procedures. • Be alert to any situations where any conflict of interest could exist and declare any further conflicts of interest as soon as they arise. • Where necessary, work alongside Council or committee members (as applicable) to manage a conflict of interest. • Comply with any plans, mitigations or strategies to manage conflicts of interest as determined by their fellow Council or committee members (as applicable).

6. Ngā Tikanga | Definitions

Term	Means
Conflict of Interest	A conflict of interest is where the responsibilities you have as Te Pūkenga kaimahi or Ohu Kaitiaki overlap with some other interest you have in your private life.

	<p>That other interest could be a non-financial interest such as a relationship (family, friends, acquaintances), a financial interest (role in another organisation, or a business interest as a shareholder, partner, director or owner) or other personal commitments or responsibilities. They may also include the interests of whanau or friends if those interest overlap with your own professional duties.</p> <p>It is any situation where your independence, objectivity or impartiality could potentially be doubted or challenged, even if you have no intention of acting improperly, and are confident that you can think and act impartially.</p>
Financial conflict	<p>A financial conflict of interest is any situation where you stand to gain or lose financially from a decision you are asked to make. A financial interest means anything of monetary value, including but not limited to:</p> <ul style="list-style-type: none"> • Salary or payment for services (for example: consulting fees and honoraria); • Equity interests (for example shares, share options and other ownership interests); • Gifts; • Allowances, forgiveness of debts, interests in real estate, or personal property, dividends, rents, capital gains; and • Intellectual property rights (for example: patents, copyrights and royalties from these rights). <p>These interests can be direct (you will gain or lose personally) or indirect (a person close to you will gain or lose).</p>
Non-financial conflict	<p>A non-financial conflict of interest is any situation where you are not affected financially by a decision but are affected in some other way that might make you biased or appear to be biased. A non-financial conflict of interest might arise, for example, from a family relationship, friendship, or any other sort of personal relationship, or if you are involved with another organisation outside of work.</p>
Conflict of roles	<p>A conflict of roles can arise in any situation where you are a decision-maker for two different organisations about the same matter. The question you need to consider is not so much whether your interests conflict, but whether the interests of the two organisations you work for do.</p>

7. Ngā Hononga ki Tuhinga kē | Links to Other Documents

Ngā Kaupapa-Here e Hāngai ana | Related policies

- Te Pūkenga Conflict of Interest Policy
- Te Pūkenga Code of Conduct
- Privacy Policy

Ngā Tukanga me ngā Hātepe | Processes, procedures

- Te Pūkenga Conflict of Interest Procedures
- Privacy Procedures
- Disciplinary Procedures

Ture whai take | Relevant legislation/guidance

- [Education and Training Act 2020](#)
- <https://oag.parliament.nz/2020/conflicts/docs/conflicts-of-interest.pdf>

Appendix A

Kaimahi Declaration of Conflict of Interest Form

Remember, a conflict of interest is an interest which is sufficient to influence, or appear to influence, the impartial exercise of your official duties or professional judgments and can be:

Actual: you already have a conflict

Potential: a conflict of interest is about to happen or could happen

Perceived: where other people might reasonably think you may not be or are not being objective

When declaring a conflict of interest, please provide as much information as possible. If you have more than one potential conflict of interest, please report each one on a separate line.

I declare the following interests:

Who does the conflict of interest belong to? (e.g. self, whanau member)	What is the nature of the potential conflict of interest? (e.g. financial, non-financial e.g. close/intimate relationship, conflict of roles, shareholding, etc)	Who/what is the other party to the conflict of interest? (Name of organisation, company, person etc.)	Nature of conflict of interest held (e.g., shareholder, beneficiary, board member, close friendship, gift received etc)	Suggested management of existing or potential conflict of interest

I, undertake to make any further declarations detailing any actual, potential or perceived conflicts of interest as soon as they arise while I am a Te Pūkenga kaimahi.

I agree to comply with any directions from my manager required to manage any conflict of interest including refraining from any discussion and making any decision related to the conflict of interest and/or any other requirement.

Name

Signature

Date

Record of mitigating actions taken

Manager Name

Manager Signature

Date

Submit the completed form to your People, Culture and Wellbeing Team to be included in the Conflicts of Interest Register.