
CONFLICT OF INTEREST

Overview

This Document

This document outlines the policy to ensure decisions made by our District Health Board are not influenced by the personal interests of its employees. The DHB acknowledges that conflicts do exist from time to time; with openness and transparency, these can be managed positively.

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CONFLICT OF INTEREST

Introduction

Purpose

Our District Health Board is committed to providing a fair, ethical and accountable environment for the conduct of health system operations. All employees are expected to perform duties in a fair and unbiased way and not to make decisions which are affected by private interests or personal gain. The integrity and fairness of the decisions and actions taken by employees could be undermined if, when performing their duties, a conflict between the DHBs and private interests exists or appears to exist.

To protect the integrity of the DHB and its employees, conflicts of interest need to be properly managed. Employees have an ongoing obligation to disclose any conflict of interest.

Conflicts of interest must be as transparent as possible. The generally accepted view is that where conflict between the organisation's duty requirements and private interest exists, matters must be resolved in the organisation's interest.

Scope

This policy applies to all DHB employees. It includes commercial transactions and recruitment of employees, as well as clinical research and related activities such as funding, research grants.

Associated Documents

The table below indicates other documents associated with this policy.

Type	Document Titles
NZ Legislation	<ul style="list-style-type: none">• Crown Entities Act 2004• NZ Public Health and Disability Act 2000
Board Policies	<ul style="list-style-type: none">• Conduct - Standards• Discipline & Dismissal• Gifts & Gratuities
Other	<ul style="list-style-type: none">• Interests Register• Managing Conflicts of Interest – Good Practice Guide (2007) – Office of the Auditor General

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Policy Statements

Policy Statements

Where an employee has an interest (or potential interest) in a transaction – financial, professional or personal – which may potentially conflict with their obligations to the DHB, they must declare that interest to the appropriate Manager or Clinical Head.

Where an employee has a (potential) conflict of interest, this must be discussed with the appropriate Manager/ Clinical Head, and they are to decide whether any change to the employee's activities is required to mitigate any conflict.

Where an employee has a conflict of interest and has knowingly withheld this information, and/or acted to their own advantage, the employee may be subject to disciplinary action up to and including dismissal.

Key Words

Key words to be recorded for Intranet search functions related to this topic are as follows:

- Transaction
 - Interest in a transaction
 - Conflict of Interest
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Conflict of Interest

The Meaning of Conflict of Interest

Conflict of interest exists when it is likely that an employee could be influenced or could be perceived to be influenced by a personal or private interest **in any transaction** whilst carrying out their responsibilities for the DHB.

Transaction means:

- The exercise or performance of a function, duty, or power of the DHB; or
- An arrangement, agreement, or contract to which the DHB is a party; or
- A proposal that the DHB enter into an arrangement, agreement, or contract.

The functions the relevant individual performs, and delegated authorities that employee holds at the DHB, will need to be considered to determine how a conflict of interest may arise.

A personal or private interest are those interests that can bring benefit or disadvantage to an employee as an individual, or to others whom the employee may wish to benefit or disadvantage.

An Interest in a transaction, that can lead to a conflict of interest, may exist where an employee:

- Will derive financial benefit from the transaction
- Has financial interest in another party to a transaction
- Is a director, officer or trustee of another party to the transaction, or is a person who will or may derive a material financial benefit from the transaction
- Has an interest in another party tendering for work which the DHB is contesting
- Is a shareholder of another party to the transaction
- Is the parent, child, or spouse of another party to the transaction, or a person who will or may derive a financial benefit from the transaction.

See Appendix 1 for a list of situations where conflicts of interest may potentially occur. Be aware that these are examples only and that the list is not exhaustive.

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Conflict of Interest, Continued

Perceived & Potential Conflicts of Interest

Conflicts of interest can be actual, perceived or potential.

An actual conflict of interest involves a direct conflict between an employee's current duties and responsibilities and existing private interests.

A perceived or apparent conflict of interest can exist where it could be perceived, or appears, that an employee's private interests could improperly influence the performance of their duties, whether or not this is the case.

A potential conflict of interest arises where an employee has private interests that could conflict with other official duties in the future.

For advice, please contact the head of the decision making group to which you belong or your relevant manager or Clinical Head.

Competing Interests or Conflict of Duties

Conflicts of interest can also arise where an individual has official roles in more than one public organisation. In these situations, it may be difficult for a public official to keep the roles separate and this can lead to poor performance of one of the roles, at least, and unlawful or improper decision making at worst, or improper use of information to give advantage to the second organisation etc.

These types of conflict are not always recognised because no private interest is involved or apparent. These situations are usually described as one of competing interests or a conflict of duty, and are best managed on the same basis as conflict of interest.

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Disclosure & Documentation

Disclosure of Conflict of Interest

After determining that a conflict of interest may exist in a particular situation, the individual employee must disclose any actual or potential interest they have (whether pecuniary or non-pecuniary).

The employee should disclose to their manager, or Clinical Head, and any relevant decision making group, or the responsible decision making person, his or her conflict of interest at the first available opportunity, for a decision as to what action should be taken to avoid or deal with the conflict. Disclosures are to be treated as confidential if appropriate.

Documentation

The existence of a conflict of interest by a member of staff must be documented in an Interests Register.

This documentation should note:

- The name of the employee
- The nature of their interest in the transaction, and
- What role they had in the transaction e.g. No role, only involved in the discussion but not the decision, full involvement.

In circumstances where issues have been discussed and it has been decided that there is no conflict of interest then there is no need to declare this, unless this is the expressed wish of the employee involved.

It is best practice for the DHB to acknowledge that interests have been declared and recorded appropriately.

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CONFLICT OF INTEREST

Disclosure & Documentation, Continued

Interests Register

An Interests Register is to be maintained by the Legal Advisor/
Board Administrator/Internal Auditor to record all interests (actual or
potential).

The Register is to incorporate as a minimum the following
information:

- Name of the person declaring the interest
 - Name of the person the interest was declared to
 - Date of declaration
 - Organisation or individual involved
 - Brief description of matter
 - Action taken/comments.
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Options & Appeals

Options for Dealing with a Conflict of Interest

Generally, if a pecuniary interest is disclosed, the individual with the interest must not be involved in consideration or discussion of the matter in which he or she has the interest and must not vote on any question relating to the matter.

In rare situations this may not be possible, for example, if a conflict of interest is identified at or near the conclusion of a process. Appointing an independent person to be involved in decision-making would minimize the actual or perceived influence or involvement of the person with the actual or reasonably perceived conflict.

However, a broader range of options exists for dealing with conflicts of interest that do not have a pecuniary component. Choosing the right option to deal with the situation will depend on the circumstances and an objective assessment of it.

Options can include:

- Take no action because the conflict is assessed as being minor in nature or is eliminated by disclosure or effective supervision
- Allow limited involvement (e.g. Participate in discussion, but not in decision making)
- Prohibit any involvement
- Request the individual concerned relinquish or divest the personal interest which creates the conflict
- Appoint an independent person to manage the process to provide assurances of fairness and equity in the matter

Appeals Process

If an employee and their manager/Clinical head disagree with respect to any Conflict of Interest issue, an appeal may be made for a review to the General Manager Human Resources, or the Chief Medical Officer, or through other options available to the employee.

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Appendix 1: Deciding if a Conflict of Interest Exists

How to Decide

Employees should ask themselves the following questions to help decide if a conflict of interest exists or could be perceived by any person to exist:

- Do I, a relative, friend or associate stand to gain/lose financially from the DHB's decision or action on this matter?
 - Do I, a relative, friend or associate stand to gain/lose in any way from the DHB's decision/action?
 - Am I in a position to influence decision making about a matter related to a potential personal or professional interest?
 - Have I made any promises or commitments in relation to this matter?
 - Have I received a benefit or hospitality from someone who stands to lose or gain from the DHB's decision/action?
 - Am I a member of an association, club or professional organisation, or do I have particular ties or affiliations with organisations or individuals, who stand to lose or gain from the DHB's consideration of the matter?
 - Could there be benefits for me in the future that could cast doubt on my objectivity?
 - If I do participate in assessment or decision-making, would I be happy for my colleagues and the public to be aware of any association or connection?
 - Would a fair and reasonable person perceive that I was influenced by personal interest in performing my public duty?
 - Do I need to seek advice or discuss the matter with an objective party?
 - Am I confident of my ability to act impartially and in the public interest?
 - Do I need to declare the matter to my manager or to the relevant decision making group?
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Appendix 2: Conflict of Interest Examples & Recommended Actions

Listed below, under various classifications, are situations where conflicts of interest may potentially occur and a recommended action to avoid or deal with the conflict.

Purchasing of Goods and Services or Letting of Contracts

Situation	Recommended Action
Accepting gifts or benefits from suppliers, or other individuals, involved in the provision of goods and/or services could present a conflict of interest or obligation. Gifts and benefits can take many forms e.g. Lucky door prizes, raffles, travel, meals. It also includes opportunities to attend educational conferences or meetings and attendance at or participation in sports events.	Refer to your policy on gifts and gratuities. Best practice is to accept the gift on behalf of the unit for which you work. If it is expressly for you, report that you received the gift to your manager/clinical head to record the details appropriately. Note that there are limits placed on the value of gifts that can be received.
Selection of Tenders: Preferring tenderer with whom there is a private relationship	Where there is a private interest with any tenderer, the employee must withdraw from the selection process.

Recruitment

Situation	Recommended Action
Sitting as a member on selection panels where applicants for the position are known to the member personally, as family, friend or close associate, to an extent that could be considered to be a conflict of interest.	Declare the interest and withdraw from any part of the recruitment process is the preferred option; however in some situations it may be necessary to include the person with the conflict on the panel (for example in cases where they have specific expertise that is required). In these cases it may be an option to include an independent person in the recruitment process.
Being in a position to influence the selection , or non-selection, of an applicant for a position where the applicant is known personally and involvement could be perceived to be a conflict of interest.	Declare the interest. Other choices as noted above.

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Appendix 2: Conflict of Interest Examples & Recommended Actions, Continued

Staff Administration

Situation	Recommended Action
Having a close personal and/or family relationship with another employee over whom control is exercised.	All employees are to be treated equally and fairly and any relationships that could be perceived to be of possible concern should be brought to the attention of the appropriate senior employee. If it appears that employees are being given preferential treatment, these concerns should be addressed through the disciplinary process.

Improper Actions

Promoting friends or relatives where other employees are more deserving.

Preferentially rostering staff to the advantage of particular individuals due to personal association with those persons. This can have financial (penalty rates etc) advantage to the favoured individuals to the disadvantage of other employees.

Allocation of overtime regularly to particular individuals to the disadvantage of other persons equally entitled and equally efficient.

Assessment and/or inappropriate recommendation of particular individuals over others because of personal associations, for such things as:

- Training courses
- Attending conferences
- Job or advancement opportunities

Recommending incremental progression, or non-progression, of particular employees due to personal interests, or attitudes, that are not aligned to the work situation.

Giving preference for the taking of leave by individuals to the detriment of others due to personal association.

Not applying the same rules equally to all employees because of personal association e.g. Failure to address issues of late attendance, non-performance, etc.

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Appendix 2: Conflict of Interest Examples & Recommended Actions, Continued

Client/Patient Relationship

Situation	Recommended Action
Providing information or making recommendations to client/patient re service providers where one of the service providers is a close friend/relative , etc. Providing information or making recommendations to patients by recommending yourself in a private capacity.	Staff are not to give preferential treatment to personal associates at the expense of others. (Wherever practicable, staff are not to recommend any one service provider or firm. They should provide "lists" of available service providers/firms.) If a staff member is found to have received a financial return for recommending one service provider, or firm, or oneself, disciplinary action taken may include dismissal.

Membership of Associations or Clubs, Professional Organisations, Political Parties

Situation	Recommended Action
Being involved in decision-making processes of the DHB or a professional body, association etc that could have an effect on the method of operation of the DHB or that association, club, professional organisation etc that the employee is a member of, or has an interest in.	Declare the interest and allow management to determine the extent of involvement. If an employee is found to have made or influenced a decision to the DHB's detriment, then that employee could be subject to disciplinary action and possible dismissal depending on the circumstances.

Clinicians and Other Health Professionals

Health professionals encounter a variety of circumstances in their day-to-day work which could give rise to potential conflicts of interest.

Situation	Recommended Action
Establishing a relationship with a pharmaceutical company or medical equipment supplier where it could be perceived that preference was given to that particular company during a procurement / tendering process.	Declare any potential conflict of interest to the Chief Executive Officer (CE) or authorised delegate(s) e.g. Your Manager or Clinical Head.

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Appendix 2: Conflict of Interest Examples & Recommended Actions, Continued

Situation	Recommended Action
Accepting travel and accommodation fees to present research findings.	Obtain approval from CE or authorised delegate(s) for accepting travel and accommodation fees and releasing of possible confidential information.
Accepting payment of fees and/or honorariums for sitting on committees	If a fee-for-service is received and the service is provided during working hours , then the income must be declared and provided to the organisation. (Also refer to Secondary/Additional Employment Policy)
Participating on professional boards, committees, societies , etc. Which could constitute a conflict of interest with position held in health organisation.	Obtain approval from CE or authorised delegate(s) to participate in external boards etc where there is any or could be a perception of a conflict with the duties or functions performed in the health organisation.
Having directorships and share holdings in private companies, associations, etc which deal with the health organisation.	Declare the interest to the CE or authorised delegate(s) who would then decide whether a conflict of interest existed and possibly restrict the person's involvement in the DHBs processes or request resignation from external involvement.
Evaluating new products / drugs where decisions may be influenced by personal associations/offers of samples or equipment, whether to the individual or the organisation	Declare any potential conflict of interest to the CE or authorised delegate(s).
Evaluating new products / techniques devices developed by employees also involved in clinical trials of same; or when a company licensed to use an employee's invention is sponsoring trial to be undertaken with the DHB	This must be approved by the Clinical Review Board and the Research Review Committee, who will decide on how to manage the conflict and legal responsibilities.

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