

Conflicts of Interest Policy

Purpose

The purpose of this policy is to ensure that employees making decisions on behalf of Nelson Marlborough Health (“NMH”) disclose and manage any conflict of interest they may have, and act in a manner consistent with their responsibilities to NMH and the public.

Scope

This is an NMH wide policy and applies to all NMH employees who are involved in a contracting or purchasing decision process. It covers all types of contracting or purchasing decision including employment arrangements.

Background

NMH encourages employees to have diverse interests and contacts across the local, national and international communities. Collaborations between members and outside bodies are, generally speaking, both in the public interest and beneficial to NMH.

It is possible however, that a member’s interests may at times give rise to an actual, potential or perceived conflict of interest with their role and responsibilities at NMH.

Ensuring that conflicts of interest are properly managed is crucial to reducing legal and reputational risk and demonstrating the integrity of individual members and of NMH. Conflicts of interest that are not properly managed have the potential to damage the reputation of individual members and NMH as a whole.

Note - There are additional policy documents included as an appendix to this policy that support the implementation and interpretation of this policy in areas where conflicts of interest are most likely to arise. In the event that another policy document provides inconsistent direction in relation to conflicts of interest, this policy will prevail.

Policy

Principles

The guiding principles for the identification and management of conflicts of interest in any situation are:

1. Employees acting on behalf of NMH must be seen at all times to behave in an impartial and transparent manner.
2. It is important to understand that the existence of a conflict of interest does not necessarily imply wrongdoing on the part of any person. However, any interests which could give rise to a conflict of interest must be disclosed.
3. Employees need to be alert to situations in which they, or the people that they manage or supervise, may have a conflict of interest and ensure that the situation is recognised and handled appropriately.
4. Conflicts of interest must be dealt with quickly and transparently, that is they must be:
 1. Acknowledged,
 2. Disclosed,
 3. Put on record, where appropriate, and
 4. Effectively managed or avoided.
5. If an employee has any doubt as to whether a conflict of interest exists, they must disclose the matter to their manager or supervisor.
6. Employees must consider how an impartial observer might reasonably perceive a conflict of interest situation or relationship, whether or not any wrongdoing is involved.

7. Conflicts of interest may raise complex issues and employees and their managers or supervisors must judge each situation that arises in a prudent manner.
8. Disclosure of conflicts of interest may involve disclosing personal information. This information must be handled with due regard to the privacy of the individual concerned.
9. If a person has a conflict of interest in the matter being considered, they must not take part in any discussion or decision on the matter giving rise to the conflict unless the relevant manager decides otherwise.
10. However, a person who has a direct or indirect financial interest in the matter being considered must not take part in any decision about the matter.

Identification and effective management of conflicts of interest

1. Employees must identify and disclose any actual or potential conflict of interest that may affect, or may be seen to affect, their impartiality when acting on behalf of NMH.
2. Each conflict of interest situation must be dealt with as soon as reasonably practicable after it is identified.
3. Conflicts of interest must be disclosed to the appropriate person in the circumstances (see Appendix A - Conflict of Interest Procedures). The appropriate person in most circumstances will be the employee's immediate manager or supervisor.
4. The situation must then be reviewed, managed and recorded by the relevant manager in a manner that is appropriate to the circumstances.
5. Managers and supervisors across NMH must help to build awareness of conflict of interest situations, and support those who report to them to comply with their obligations under this policy.

Register of interests

1. All conflicts of interest and relevant manager responses are to be submitted for inclusion in the relevant conflicts of interest register maintained for NMH by the GM Finance, Performance & Facilities.

Definitions

Conflict of interest	Exists where the responsibilities of an employee of NMH is, or could be, affected by some other personal, financial or other interest or duty that the employee may have in relation to a particular matter or person. The term includes actual, potential or perceived conflicts of interest.
Employee	Means anyone employed, or contracted, by NMH.
Relationship	Means a connection that could affect how other people view a member's impartiality.

Procedure

All staff involved in the contracting process are required to follow the procedure and guidelines outlined in the Conflict of Interest Procedure and Guidelines included as Appendices A and B of this Policy.

Responsibilities

GM Finance, Performance & Facilities	Maintain the conflicts of interests register for all staff
Managers	<p>Help employees to comply with their obligations under this policy by:</p> <ul style="list-style-type: none"> • building general awareness of the risks of conflicts of interest inherent in the work of the people they manage, • making employees aware of the policy and procedures regarding conflicts of interest, • advising and directing employees as necessary about appropriate ways to manage any conflict of interest, • ensuring that conflicts of interest involving their employees are managed appropriately, • assisting any employee who discloses a conflict of interest to develop an appropriate strategy to manage the situation, • reviewing and endorsing plans to manage any conflict of interest, and • monitoring the work of their employees and the risks associated with a conflict of interest.
Employees	<p>Disclose to their manager:</p> <ul style="list-style-type: none"> • Any personal or financial relationship with another person, where the employee has responsibility for or may directly influence decisions, including, but not limited to, decisions about the appointment, promotion, remuneration/reward, leave or discipline of that other person, and • Any relationship to suppliers or potential suppliers of goods or services to the NMH that may conflict with the discharge of their NMH duties or responsibilities.

References

NMH policies:

- Delegations Policy
- Procurement Policy

External:

- Acting in the Spirit of Service: Conflicts of Interest (State Services Commission)
- State Sector Code of Conduct
- Managing conflicts of interest: Guidance for public entities (Controller and Auditor-General)
- NZ Government Quick-Guide: Conflicts of Interest

APPENDIX A – CONFLICTS OF INTEREST PROCEDURES

Application

All employees of NMH.

Purpose

These procedures support the Conflict of Interest Policy and provide employees clear direction for dealing with predictable conflict of interest situations, as well as a process for dealing with more difficult situations.

The procedures also detail the action to be taken following disclosure of a conflict of interest.

The supporting Conflict of Interest Guidelines (refer Appendix B) also offer advice on frequently asked questions and case studies.

Background

NMH, as a public sector organisation, is guided by principles of:

- integrity
- honesty
- transparency
- openness
- independence
- good faith
- service to the public

in the way each conducts its dealings.

Conflicts of interest can undermine these principles if they lead, or appear to lead, to decisions or actions that are biased, unreasonable or unfair, or if decisions made appear to have been influenced by the interests of the employee(s) making them.

Conflicts of interest may vary in both nature and impact, and those concerned with managing them must judge each situation that arises in a prudent manner. The main responsibilities are:

- employees – identifying and disclosing a conflict of interest,
- managers – deciding what action is to be taken,
- managers – dealing with breaches of policy.

In most situations, employees will readily recognise a conflict of interest and will want to ensure that there can be no perception that their objectivity may be compromised, or that they may appear to be biased when making decisions on behalf of NMH.

In many cases potential conflicts of interest will be easily avoided or resolved by the individual concerned or through discussion with their manager.

Procedures

Management responsibilities

1. Managers across NMH have a responsibility to help employees to comply with their obligations under this policy by:
 - building general awareness of the risks of conflicts of interest inherent in the work of the people they manage,

- making employees aware of the policy and procedures regarding conflicts of interest,
- advising and directing employees as necessary about appropriate ways to manage any conflict of interest,
- ensuring that conflicts of interest involving their employees are managed appropriately,
- assisting any employee who discloses a conflict of interest to develop an appropriate strategy to manage the situation,
- reviewing and endorsing plans to manage any conflict of interest, and
- monitoring the work of their employees and the risks associated with a conflict of interest.

Individual responsibilities

1. In relation to employment, employees must disclose to their manager any personal or financial relationship with another person, where the employee has responsibility for or may directly influence decisions, including, but not limited to, decisions about the appointment, promotion, remuneration/reward, leave or discipline of that other person, and
2. Employees must disclose to their manager any relationship to suppliers or potential suppliers of goods or services to the NMH that may conflict with the discharge of their NMH duties or responsibilities.

Managing a conflict of interest situation

1. As soon as an employee becomes aware that they have a conflict of interest or a potential conflict of interest in the process of making a decision in their role at NMH, they must declare it to their immediate manager.
2. If the employee's manager has a conflict of interest in the matter, the employee must disclose the conflict of interest to the next higher level of authority.
3. The relevant manager, in consultation with the employee who has disclosed the conflict of interest, must determine whether a conflict of interest exists and, if so, what further action needs to be taken.
4. If the relevant manager decides that further action needs to be taken, the employee must have no involvement, or further involvement, in the matter giving rise to the conflict of interest unless the manager decides otherwise.
5. Where it is determined that further action needs to be taken, the manager, in consultation with the employee will decide on a course of action to manage or avoid the conflict of interest.
6. Any decisions and action taken must be recorded in writing and filed by the relevant manager on the conflicts of interest register.
7. If the employee does not agree with the decision of their manager they may raise the matter with their General Manager, the GM Finance, Performance and Facilities or the GM People and Capability.
8. The decision and action is to be recorded in the NMH conflicts of interest register
9. To avoid doubt, the convenor of a procurement process must deal with and record any conflict of interest that arises in the same manner as a manager would do.

Managing the conflicts of interest register

1. All conflicts of interest that require further action by managers are to be submitted to the relevant conflicts of interest register using the required on-line form
2. Submissions to the conflicts of interest register by managers are to contain:
 - name of the person/ person(s) involved,
 - the nature of the disclosure,
 - the decisions taken on the disclosure by the relevant manager, and
 - any subsequent action taken on the issue.

Appendix B – Conflict of Interest Guidelines

Application

All employees of NMH.

Purpose

These guidelines support the Conflict of Interest Policy and the related Conflict of Interest Procedures.

The guidelines examine how the principles may be applied to specific, and often complex situations. They offer a variety of frequently asked questions (FAQ's) and illustrative cases to assist employees in considering the best way forward when dealing with situations that they encounter.

Background

NMH, is working to strengthen understanding and improve clarity around conflict(s) of interest. The aim is to protect employees and NMH by encouraging openness and avoiding behaviour that may cause any perception of bias or compromised objectivity.

For managers this means taking a developmental approach to improving their own and their employees' understanding of:

- what leads to a conflict of interest,
- how to recognise a conflict of interest,
- situations where a conflict of interest might easily occur,
- what to do if a conflict of interest arises.

Conflicts of interest vary widely in type and degree of seriousness. While some can be handled easily, others can be very difficult to interpret and manage. The guiding principles for managing all conflicts of interest are outlined in the Conflict of Interest Policy. These guidelines and case studies support their implementation across NMH.

Frequently asked questions

What leads to conflict of interest?

In 'Managing conflicts of interest: Guidance for public entities' the Auditor-General suggests a range of circumstances where a conflict of interest can arise for people working in a public entity, such as NMH. A conflict of interest arises where:

'an employee's or official's duties or responsibilities to a public entity could be affected by some other interest or duty that the employee may have'

How do I recognise a conflict of interest?

Simply put, you will have a conflict of interest if your duties and responsibilities to NMH could be affected or be perceived to be affected by some other interest or duty that you may have.

If your other interest or duty could lead you to make a different decision, or take a different course of action, then, you have a conflict of interest.

The same applies to any other employee.

What if I know that I won't let my interests get in the way of my duty to NMH and to other members?

Perception is very important. An employee may conscientiously avoid letting their external interests influence their role at NMH, but even so, you should ask: could a reasonable observer in the circumstances still consider that your decision or action could be biased or affected by some other interest you might have?

Employees have to be fully aware of the reputational damage that a potential conflict could cause to themselves, to NMH.

It is far better to be open and proactive in managing a potential conflict of interest than to have to deal later with any accusation of bias or covering up something.

How can I help my staff to be aware of situations in which they may have a potential conflict of interest?

You can help by raising general awareness of the likelihood and the effects of a conflict of interest in your area. If there is a specific instance where this might happen, you should bring this to the person's attention for appropriate consideration, and then discuss with them their proposed strategy for resolving the issue.

If conflict of interest is a major concern in specific activities conducted by any employee of your team, you may also look to provide them with additional education and training in recognising and resolving conflicts of interest.

Who is responsible for identifying and disclosing a conflict of interest?

The individual employee is responsible for identifying and disclosing a conflict of interest as soon as they become aware of it.

The manager to whom a conflict of interest is properly disclosed is responsible for deciding what action (if any) is needed to deal with the situation, and to record any action taken.

What if the issue is complex and it's not obvious whether any action needs to be taken, or what that action should be?

Many situations are not clear cut. This requires employees to assess the seriousness of the issues and use discretionary judgement relating to a particular situation. Seeking advice from your manager is usually a good first step.

Who else can I go to at NMH for help in dealing with a conflict of interest situation?

There are a number of people at NMH who have a wide range of experience in dealing with conflicts of interest. You could seek advice from senior colleagues in the relevant professional areas, or the HR or Finance teams.

Conflict of interest - case examples

The following case studies illustrate some situations where a conflict of interest could arise at NMH. These include:

- Direct and indirect financial interests
- Gifts and hospitality
- Access to information
- Personal relationships

Direct and indirect financial interests

Situation	Response
<p>I work at NMH and I am also a director and shareholder of a small company that produces highly specialist measuring equipment. Our company is seeking to supply this equipment to NMH.</p> <p>Can I take part in the normal decision-making process for the selection of this measuring equipment at NMH?</p>	<p>This situation presents a clear conflict between your roles in each organisation as you have a direct financial interest in the outcome of this selection process. Where your duties to NMH could oblige you to select a competitive supplier, your personal interest and duty to the company of which you are a director may reasonably be interpreted as pushing you towards favouring that company, or potentially giving it an advantage over others.</p> <p>Being completely open allows your manager to ensure that any decision about the equipment is unbiased and reduces the risk of any bias or perception of bias in the decision itself.</p> <p>The first step to take is to disclose your interest to your manager.</p> <p>You should then take no part in the discussion concerning that equipment. It may be that your knowledge about the equipment could be useful to NMH in making a decision, and in such case your manager may approve your being asked to provide input concerning this matter but only so that you can provide specific information. You should not be involved in making the decision.</p>
<p>I am a member of a procurement process at NMH.</p> <p>My partner is a director of a company that is submitting a proposal to carry out public relations work for NMH. I understand that I will need to declare my interest to the manager running the procurement process but because I have a particular skill set I think that I should be involved in the assessment of the various applicants.</p> <p>Does my interest prevent me from participating in any part of the procurement process?</p>	<p>In this case you have an indirect financial interest in this matter, and, as you have already identified, you are clearly required to disclose this interest.</p> <p>It would not be appropriate for you to be present during any deliberation with respect to the matter, unless the manager running the procurement process decides otherwise. This might happen if you have particular expertise that the manager running the procurement process believes would be of considerable assistance to the decision makers, but this would rarely be the case in these particular circumstances.</p> <p>You certainly should not take part in any decision about the matter.</p> <p>The most appropriate course of action would be for you to withdraw from all discussion and decision making in relation to this particular procurement process. You could provide input separately to the manager running the procurement process, but this would be appropriate only if the manager running the procurement process asked you to do so.</p>
<p>I work as in a clinical area and my son has developed a really good software system for tracking patients</p>	<p>While you have no direct involvement in your son's commercial activities, the best way to proceed in this case would be to disclose the situation to your manager. Then everything is 'out in the</p>

Situation	Response
<p>around the hospital. His system is now used across several leading hospitals around the world. I have no role or influence at all regarding the usage or purchase of software. My son has mentioned to me that he intends to approach NMH to see if it wants to purchase a licence to use his system. Do I need to take any action?</p>	<p>open', right from the start. If any questions are asked down track then it will be easy to respond, especially if there are any allegations of impropriety. Therefore, simply disclosing your interest to your manager and having it recorded by him/her is likely to be sufficient in this case.</p>

Gifts and hospitality

Situation	Response
<p>As part of my role I am involved in selecting contractors to carry out work for NMH and managing the relationship with those selected. The project manager of one of our current developments has offered to fly me to another city to look at a similar project that they have just completed. He has also kindly offered to get me tickets for a local rugby game, with hospitality at the company's corporate box. I'm concerned that this could be seen to bias my judgement in their favour should they apply to undertake further contracts in the future.</p>	<p>This is potentially a significant conflict situation. As a manager who influences decision-making in this area you cannot be seen to be either receiving gifts or hospitality, or socialising with any one party to the potential disadvantage of others.</p> <p>You should report this matter to your manager who in turn should discuss the matter directly with the supply company.</p> <p>Further explanation of this area can be found in the NMH Sensitive Expenditure Policy.</p>

Access to information

Situation	Response
<p>I run a research programme that will potentially be of great benefit to industry. Because of my role at NMH I am privy to certain information in this area that is not in the public domain. I have been approached by a key player within the industry to take on a directorship with a company involved in this sector. However, I am concerned that they will then expect access through me to information that is currently not available to them by other means. What should I do?</p>	<p>In the first instance you should talk directly with your manager. If you accept the offer of a director's role, you will need to discuss your concerns with the company, and get assurances from the outset that they will not put you in a position that conflicts with your role at NMH.</p> <p>It may end up that you will have to decide which role you will keep, and which you will drop.</p>

Personal relationships

Situation	Response
<p>I have recently found out that a colleague of mine who works in procurement has been involved for some time in an intimate relationship with a senior manager of a supply company that bids for and delivers major contracts at NMH. As far as I am aware the relationship has never been disclosed. It seems to me that their undisclosed relationship compromises their impartiality significantly. What should I do?</p>	<p>In the first instance it would seem appropriate to speak to your colleague about your concerns and about their personal responsibility both to disclose the matter to their manager and to follow whatever steps are agreed to avoid or manage appropriately any potential conflict of interest that could arise.</p> <p>If this is not a suitable option in the circumstances, then you should speak to your own manager about your concerns. Your manager will then to talk directly to your colleague's manager, who should deal with the matter in accordance with the relevant provisions of the Conflict of Interest Policy and the Conflicts of Interest Procedures.</p>
<p>I represent radiology on a procurement selection committee and the committee is currently deciding on appointing a new piece of radiology equipment. As a radiologist by training, this is an area in which I have a great deal of specialist knowledge. However I see</p>	<p>You need to disclose your position to the chair of the committee as soon as the matter comes to light. It would be best to do that before the meeting, however, if that is not possible then you should disclose your relationship with one of the companies at the beginning of the meeting. The chair can then decide whether, given your specialist knowledge, you may contribute at all to the discussions and decision making process.</p>

Situation	Response
<p>from the next agenda that a choice between three companies will be discussed and agreed.</p> <p>A very old personal friend of mine is the owner of one of the three companies and I feel that my impartiality in this instance might be called into question.</p>	<p>The chair may, for example, ask you to disclose your relationship to other members of the committee and participate in the discussion, but withdraw or remain silent for the decision. Or the chair may decide that in this particular case you should absent yourself during that part of the meeting.</p>
<p>I have a vacant position for a junior member of staff. My manager has approached me to interview his nephew for the position. I feel very compromised as I would not wish to embarrass my manager if the young man were not to be selected.</p>	<p>The best way to proceed would be to point out (politely) to your manager that his nephew will need to participate in NMH's usual open recruitment process, making him aware that this will be arranged. You could also point out that both you and he will be conflicted and therefore neither of you should participate in the recruitment process, at least not in the parts where his nephew is involved. You could also (or alternatively) raise the matter directly with HR.</p>
<p>I am currently serving as a member of a recruitment interview panel. My niece has applied for the role. I am quite certain that given all of my previous experience I am well able to fulfil my role on the panel without bias towards her. Do I really need to step down?</p>	<p>In this case you need to be aware that outside observers may still reasonably perceive that you have a conflict of interest. For example, how would other candidates feel if it came to light that you played a part in a process that subsequently appointed your niece ahead of them? In fairness to them and to your niece, you need to disclose your interest and step down from any involvement in this selection process. This allows her to compete on an equal footing and to be assessed impartially.</p>
<p>I am a member of the clinical team at NMH, and my grown-up daughter has arrived at the hospital to receive treatment here. This may mean that she will be admitted to the area where I work. What should I do?</p>	<p>The best course of action would be to disclose your relationship to your manager. Your manager may request that you not attend work whilst your daughter is receiving treatment or ask that you be seconded to another department for the time that your daughter is in hospital.</p>
<p>My previous spouse has applied for a position in my department. I no longer have any contact with him and we do not have the same name. Do I need to declare the relationship to anyone?</p>	<p>It is important that you make this information known to the department head or manager and that you refrain from being involved in decision making about the appointment. Previous close relationships can be seen as biasing one either for or against a candidate and in the interests of fairness in the process are to be declared as a possible conflict of interest. The basis of your conflict need not be divulged to anyone other than the responsible manager if you do not wish it to be.</p>

Where can I find further good examples of dealing with complex situations?

The Office of the New Zealand Controller and Auditor-General provides further illustrative case studies which describe some complex potential conflict of interest situations, and provide helpful guidance on their resolution:

- Case study 1: Funding for a club
- Case study 2: Family connection to a tenderer for a contract
- Case study 3: Employment of a relative
- Case study 4: Public statements suggesting predetermination
- Case study 5: Decision affecting land
- Case study 6: Gifts and hospitality
- Case study 7: Making a public submission in a private capacity
- Case study 8: Mixing public and private roles
- Case study 9: Personal dealings with a tenderer for a contract
- Case study 10: Duties to two different entities
- Case study 11: Professional connection to a tenderer

Appendix C – Conflict of Interest Declaration

In accordance with NMH’s Conflict of Interest Policy, all staff members must disclose any actual, potential or perceived conflict of interest.

The completed form is to be submitted by the Manager to the Conflict of Interest register.

PART A: Nature of conflicts

Outline the actual, potential or perceived conflict of interest.

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PART B: Proposed action(s) agreed by staff member and manager

Outline what action(s) is proposed to resolve the conflict or reduce the risks it may pose to the individual’s duties, and/or to NMH.

(Please consider whether a more senior manager may need to be consulted)

Actions	By Who	By When

I declare that the disclosure in Part A is true and correct and that I agree to the action plan outlined in Part B.

Staff member name		Staff member Signature	
Department		Date	

I approve the action plan outlined in Part B.

Manager name		Manager Signature	
Position		Date	

Office use only

ID		Date	
Entered by name		Position	