



# CONFLICT OF INTEREST POLICY AND PROCEDURES

Date of Issue	Review Date
31 January 2018	1 February 2019

## Purpose

The purpose of this policy is to set out the Agency's requirements for employees, contractors and others to identify, declare and manage conflicts of interest to ensure that:

- Decisions are made and are seen to be made on proper grounds, for legitimate reasons and without bias arising from actual, perceived or potential conflicts of interest or acceptance of gifts, receipt of personal benefits, gains or favours
- The confidence the public and the Government hold in the Agency is protected by ensuring that employees, contractors and others are aware of what is, or what may be perceived to be, a conflict of interest and that there is a process in place to declare and appropriately manage such conflicts.

## Scope

This policy and the related procedures apply to all Agency employees (including casual and fixed term employees), contractors, consultants, secondees, interns and volunteers in New Zealand and offshore. It must be read in conjunction with the Discretionary Expenditure Policy, the Procurement Policy and Entertainment and Hospitality Expenditure procedure.

## Help

Should you require help or information about this policy please contact the Chief of Staff<sup>1</sup> for assistance.

## Definition of terms

The following definitions apply when interpreting this policy:

**conflict of interest** is when an employee's, contractor's or other person's private interests or obligations conflict, or can be perceived to conflict, with the performance of their duties or the responsibilities of their job or position. A conflict of interest can be:

- **actual**, where the conflict already exists  
(for example, an engineer is providing advice to both the Agency and the Families Reference Group)
- **potential**, where the conflict is about to happen, or could happen  
(for example, a contractor who responds to an Request of Proposal by the Agency has provided services to Solid Energy Ltd regarding the Pike River mine)
- **perceived**, where other people might reasonably think that a person has been compromised  
(for example, a contractor for the Agency used to work for Pike River Coal Ltd)

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<sup>1</sup> The Policy was updated on 1 March 2018 with editorial changes including change in title of role.



**conflict of interest register (CIR)** is the Agency's register for recording and managing all declared conflicts of interest

**private interests** are private interests and obligations held by employees, contractors and others outside of their role at the Agency. Private interests may be of a financial, personal or a business nature.

## Part One – Conflict of Interest Policy

### Policy statements

#### 1. Principles

The confidence in the Agency held by the public, our clients, stakeholders and the Government is protected by ensuring that employees are aware of what is, or may be perceived to be, a conflict of interest and that there is a process in place to declare and appropriately manage such conflicts. The Agency is responsible for ensuring that decisions are made and are seen to be made on proper grounds, for legitimate reasons and without bias arising from conflicts of interest. "Proper grounds" means that decisions are made in accordance with the following principles:

- **Integrity** – the Agency maintains its reputation with the Government, its clients, stakeholders and the public by employees acting with integrity
- **Honesty** – employees are expected to be honest about their private interests and how these might affect or be perceived to affect the performance of their duties
- **Transparency** – actual, potential and perceived conflicts, gifts and management responses are declared and documented
- **Accountability** – employees are accountable for declaring all interests that may conflict with their work and their manager is accountable for managing a declared conflict following consultation with the employee
- **Public interest** - the 'public interest' is the collective interest of the entire community. All Agency employees have a public duty to put public interest above their personal or private interests when carrying out their official duties
- **Political neutrality** – all public servants are required to serve the government of the day, by keeping politics out of their job, and their job out of politics.

There is nothing wrong with having a conflict of interest. What is important is how it is managed, as an undisclosed or poorly managed conflict of interest may undermine public trust and confidence in the Agency.

#### 2. Declaration of conflicts and personal interests

All employees working at the Agency are required to declare any actual, perceived or potential conflicts and personal interests on joining the Agency and as they arise during their employment at the Agency and record them in the CIR, as well as:

- Employees or third parties involved in procurement (purchasing or tendering on behalf of the Agency) must complete or review their conflict of interest declarations
- Employees are periodically requested to update declarations relating to conflicts and personal interests
- Interview panel members must declare a possible conflict of interest and step down, where necessary, if they have a personal relationship with a candidate
- Twice yearly conflict of interest conversations between managers and employees.



### 3. Active management of conflicts of interest and gifts

A conflict of interest if not disclosed and well-managed, may have an outcome that undermines public trust and confidence in the Agency and/or its employees and could ultimately lead to resignation or dismissal. Failure to disclose or appropriately manage a conflict of interest could amount to serious misconduct and may result in disciplinary action up to and including dismissal.

Active management includes:

- Employees who are unsure about whether a conflict of interest exists (or the potential for one to arise) should seek advice from their manager before deciding that no conflict exists
- Agency managers must uphold the Agency's high professional standards, lead by example, and be a role model and mentor for the people around them and the people they interact with, internally and externally, as they manage/declare their own and their team's conflicts
- Gifts accepted by employees over the value of \$50 are Agency property and must be declared in the CIR by the employee
- Managers must complete the CIR with the agreed response for managing the conflict or gift disposal within 5 business days of receiving the declaration.

#### Mandatory procedures

The Conflict of Interest Procedure in Part Two of this Policy provides the process for defining, declaring and managing conflicts of interest as well as registering conflicts of interest in the CIR.

#### Related policies and documents

- Procurement Policy
- Discretionary Expenditure Policy (including Travel Costs, Sensitive Expenditure, Entertainment, Purchase Cards)
- Entertainment and Hospitality Expenditure Procedures
- New Zealand Public Service Code of Conduct, 2005
- Standards of Integrity and Conduct for the State Services, 2017.

#### Measures of the success of the policy

The policy will be monitored by the Chief of Staff and measures for success are:

- All declared conflicts of interest are recorded in the CIR through regular monitoring and reporting against entries in the CIR
- Managers are aware of their conflict of interest responsibilities and are having at least twice yearly conflict of interest discussions with their employees
- Conflicts have an active conflict management plan in place where appropriate, and recorded in the CIR.
- Conflicts are a standing agenda item for discussions at Management meetings.

#### Consultation processes in developing or reviewing this policy

This policy has been approved by the Chief Executive and must be reviewed at least annually to ensure any organisational changes are accounted for.

#### Compliance management

The Chief of Staff will oversee the general compliance with this policy to minimise the risk of breaches of this policy. This will include:



- Monitoring of compliance with the Conflict of Interest Policy and Procedures through regular checking of the CIR
- Random checking of employee agreements to ensure conflict of interest conversations are being held at least twice per year and any conflicts declared have been entered into the CIR
- Compliance information regarding the performance of this policy will be incorporated in the Risk Register on a quarterly basis.

## Training and communication

Communications will be issued periodically to remind employees of their obligations under this policy.

All staff should have access to the Agency's policies either by being referred to a hardcopy held on site, to the Agency's document management system (MAKO) or intranet. Due to the size of the Agency and the defined period of time the Agency has been established for, access to the Agency's policies should be a pragmatic solution.

## Key accountabilities and responsibilities

Role	Description of responsibility
Chief Executive	Accountable for the Agency meeting its obligations under this policy Authority to approve the Conflict of Interest Policy and Procedures
Chief of Staff	Reviewing the policy annually and recommending appropriate changes Monitoring compliance through regular checking of the CIR Random checking of employee agreements to ensure conflict of interest conversations are being held at least twice per year and any conflicts declared have been entered into the CIR Compliance information regarding the performance of this policy incorporated in the Risk Register on a quarterly basis
Managers	Ensuring Agency employees are given appropriate information and training to assist them to comply with their obligations to this policy Being aware of the risks of conflicts inherent in the work of the employees they manage Monitoring the work of employees and the risks they are exposed to Making employees aware of this policy and the procedures for complying with it Having twice yearly conflict of interest conversations with each of their employees Advising employees when they are covered by the Procurement Policy requirements for disclosure and ensuring this policy is complied with Receiving declarations of conflicts of interest from the CIR and completing this within 5 days of the conflict being disclosed



	Discussing with employees the options for managing the conflict, deciding on the most appropriate course of action in consultation with the Chief of Staff, and implementing this
All staff	<p>Reading, understanding and complying with this policy and its related policies and procedures</p> <p>Disclosing any actual, potential or perceived conflict of interest in line with this policy, as soon as it comes to their attention</p> <p>Make declarations promptly, fully and appropriately in the CIR</p> <p>Staff involved in procurement activities for goods and services for the Agency should review their conflict of interest declaration each time they commence a new procurement project</p> <p>Declaring any gifts, hospitality or entertainment accepted over the value of \$50 in the CIR</p>
Recruitment Panel Member	Declaring a possible conflict of interest and stepping down, where necessary, if they have a personal relationship with a candidate.
Employees involved in procurement activities	Completing a conflict of interest declaration under the Procurement Policy before they commence any procurement work.

## Part Two – Conflict of Interest Procedures

This Part provides guidance on helping to define a conflict of interest and then explains the procedure for declaring and managing conflicts of interest. It also explains the process for registering and updating conflicts of interest in the Conflicts of Interest Register (CIR).

### 1. Defining a conflict of interest

#### 1.1 What is a conflict of interest?

A conflict of interest occurs when a staff member’s (includes employees, contractors, consultants, secondees, interns and volunteers) private interests or obligations conflict, or can be perceived to conflict, with the performance of their duties or the responsibilities of their job or position. Where that is the case their independence, objectivity or impartiality can be called into question.

Some examples of some common types of conflict of interest that could arise in respect of the Agency’s activities are:

- an employee or contractor previously provided services in relation to the Pike River Mine, for example, worked for Pike River Coal Ltd, Solid Energy Ltd or one of the other contractors or entities that had involvement with the mine
- an employee or contractor has previously or is currently providing advice to the Pike River families
- an employee or contractor engages a family member or friend to assist the Agency.

#### 1.2 Types of conflicts of interest

##### Private interests



The Agency recognises that staff hold private interests and obligations outside of their role at the Agency. It is important when there is an actual, potential or perceived conflict in relation to these private interests that these be declared. Private interests may include financial or private interests.

### Financial interests

- Where staff hold a financial interest (for example, shares in a company) and may stand to financially gain from a work decision or action they are involved in that affects the value of that interest, for example through an increase in the value of the shares or other investments
- Where staff may receive money, gifts, favours, gratuities, employment opportunities or contracts in connection with the provision of goods or services to the Agency.

### Personal interests

- Where staff have a close relationship with another person, for example a spouse, partner or family/whanau member, friend, or someone within their community who holds a position, owns assets or represents a viewpoint that may put them in conflict with the staff member's work obligations or there may be a reasonable perception of influence. It is also important that close personal relationships within the Agency are declared at the point that such a relationship arises.
- Where staff are in a position where they could provide or could be perceived as being able to provide a professional, personal, or financial advantage or benefit to whanau/family or friends
- Where staff have a personal interest in a particular matter, for example a strongly held personal view, cultural or religious perspective, or political stance which may or may not have been shared in a public forum
- Where staff are a director, owner, partner, or significant shareholder in a business, or has a close relationship with a person who is a director, owner, partner or significant shareholder in the business, or undertakes secondary employment whether on a paid or voluntary basis
- Where staff have previously been involved in something that they now need to consider or work on as part of their role at the Agency.

### Gifts and hospitality

Staff could also be compromised if they're given something from a person who stands to benefit from their decision. This might be the case if they accept:

- a gift
- an invitation to lunch, dinner or a sporting event
- free or subsidised travel or accommodation
- any other sort of benefit, including money.

Gifts, hospitality or entertainment should not be accepted by staff, and the Entertainment and Hospitality Expenditure Procedures set out the exceptions for when such gifts, hospitality or entertainment may be accepted. All gifts, hospitality or entertainment over \$50 that are accepted by staff must be declared in the CIR.

### Recruitment panel members

Interview panel members must declare a possible conflict of interest and step down, where necessary, if they have a personal relationship with a candidate.



Candidates with a close personal relationship with the recruiting manager will not normally be considered for appointment. For an appointment to proceed:

- Chief Executive approval must be obtained
- The decision maker who is related to the candidate must have had no involvement or influence in the appointment process, and
- A risk assessment is undertaken which identifies relevant and likely risks and ensures mitigation measures are manageable.

## 2. Conflict of interest management process

The following steps will be taken to identify and manage any conflict of interest.

### 2.1 Declaring a conflict of interest

When they start working at the Agency staff are required to declare any interests that may cause an actual or potential conflict of interest. A conflict of interest disclosure form is attached to these procedures. In addition to this they are required to ensure that they declare all new actual, potential or perceived conflicts of interest that arise during their time at the Agency in the Conflict of Interest Register (CIR).

Managers are required to have a conflict of interest discussion with each of their staff at least twice a year as part of the performance review process (or the contract review process), and to review and update the CIR to ensure it is complete and accurate.

Staff involved in procurement activities for goods and services for the Agency should review their conflict of interest declaration each time they commence a new procurement project. In addition to this, prior to beginning involvement in particular processes where a conflict might arise (such as asset sales, resource auctions or tender processes) there should be a conflict of interest review with those staff who will be, or who are likely to be, involved, to identify staff who may have a potential interest in the process (for example through shareholdings or relationships with external participants).

### 2.2 Logging a conflict of interest

The CIR is a document that staff (including employees, contractors, consultants, secondees, interns and volunteers) must use to declare any interests that may lead to actual, potential or perceived conflicts of interest with the performance of the duties or responsibilities of their position. The CIR records all conflict of interest declarations, and tracks management responses.

When staff identify a conflict they should declare it in the CIR and select the appropriate categories of conflict of interest from the options below:

#### **Gifts or favours received**

As a public servant, should a staff member personally accept a gift or hospitality, a sense of obligation may be created, which may influence, or be perceived to influence, the way they fulfil any future decision making role in relation to the gift giver. All gifts and hospitality over the value of \$50 that are accepted must be declared in the CIR.

For any questions about gifts and hospitality, please refer to the Discretionary Expenditure Policy.

#### **Near relative in reporting line**

This is where staff are in a position where they exercise delegated powers (financial or human



resources), which could potentially benefit their partner, a relative or friend.

### **Personal or financial interest**

This is where staff hold an interest or position (other than secondary employment which is a separate category) that could result in a professional, personal, or financial advantage or benefit to them, or be seen by others as being able to give them such a benefit.

### **Family or friends**

This is where staff are in a position where they could provide or could be perceived as being able to provide a professional, personal, or financial advantage or benefit to whanau/family or friends. This includes partners (including de facto and civil union partners), parents and children, extended family (in-laws, aunts, uncles, cousins, nieces, nephews etc) and others with whom there is a close association (e.g. close friends or neighbours).

### **Community or Cultural Group**

This is where staff are in a position where they could provide, or could be perceived as able to provide, a professional, personal, or financial advantage or benefit to members of their community, sporting, cultural or faith based group, or a stakeholder group such as fellow trust or board members.

### **Secondary Employment**

The Agency doesn't prohibit staff from having other jobs, however it is important that secondary employment is declared in order to ensure there is no actual, potential or perceived conflict with the staff member's role at the Agency. Even if there is no scope for confusion because the two roles are different, issues must be resolved in relation to the potential for impairment to safety, wellbeing or performance as a result of working extended hours.

### **Political**

This is where staff have a personal interest in a particular matter, for example a strongly held personal view, cultural or religious perspective or political stance that may conflict or has the potential to conflict with the performance of the duties of their role or their position at the Agency.

## **2.3 Managing a declared conflict of interest**

A conflict of interest, if not disclosed and well-managed, may have an outcome that undermines public trust and confidence in the Agency and/or its workforce. Failure to disclose or appropriately manage a conflict of interest could amount to serious misconduct, and may result in disciplinary action up to and including dismissal.

Once a staff member has logged a conflict of interest declaration in the CIR the manager will need to determine whether there is a conflict of interest, and if there is one, how the conflict is best managed. The options for managing a conflict of interest include:

- **Restricting** – imposing restrictions on the staff member's further involvement in the matter
- **Reviewing** – organising a review of the process to verify its integrity by an independent person
- **Removing** – the staff member chooses, or is asked, to be removed completely from the matter
- **Relinquishing** – the staff member relinquishes (or divests) the private interest that created the conflict where that is practicable.



The manager should meet with the staff member to discuss their declaration and determine whether or not a conflict of interest exists, and if one does, what steps can be put in place to manage it.

The manager is responsible for deciding on the most appropriate way to manage the conflict, having consulted the staff member and having sought advice from the Chief of Staff, if appropriate. The manager must then record the actions they will take in the CIR and complete these within the required timeframe.

If there is no conflict of interest the manager then closes the declaration in the CIR but the declaration record will remain in the CIR for audit purposes.

If there is a conflict of interest the manager enters the response to the conflict into the CIR, and a confirmation of the conflict of interest is provided to the staff member for confirmation.

If the staff member doesn't agree on how a manager proposes to respond to a conflict of interest they can escalate the matter to the Chief of Staff or Chief Executive.

### **Managing a close personal relationship**

Once a close personal relationship declaration is made in the CIR, the manager must ensure that it is managed as with any other conflict of interest.



## CONFLICT OF INTEREST DISCLOSURE

A conflict of interest arises when personal interests compromise (or appear to compromise) the Agency. Disclosure of any actual or potential conflict of interest is important. All employees, contractors, consultants, secondees, interns and volunteers must disclose any conflict of interest, or potential conflict of interest, before commencing employment or work for the Agency.

Employees and others must also disclose any conflict of interest that arises during the time they are working for the Agency.

Please think carefully about the following questions and respond honestly.

<p>1. Do you have other employment/interests that may be perceived to be in conflict with the Agency, for example, any employment or interests that may concern the Pike River Mine or persons associated with the mine?</p> <p>If yes, please provide details:</p>	Yes / No
<p>2. Do you have a spouse, partner, relative, household member or close friend working within the Agency or as a contractor for the Agency where there would be an indirect or direct reporting relationship?</p> <p>If yes, please provide details:</p>	Yes / No
<p>3. Do you have a spouse, partner, relative, household member or close friend working with an organisation that has some involvement with the Agency?</p> <p>If yes, please provide details:</p>	Yes / No
<p>4. Do you have a financial or other interest in any organisation which could be associated with the Agency during the course of carrying out your duties for the Agency?</p> <p>If yes, please provide details:</p>	Yes / No
<p>5. Do you have any interests, or have a spouse, partner, relative, household member or close friend who have interests, in relation to the Agency fulfilling its objectives of working in close partnership with the Pike River families to plan for decisions on the re-entry and recovery of the Pike River mine drift?</p> <p>If yes, please provide details:</p>	Yes / No



**By signing this form I am confirming that I have disclosed any potential conflict of interest that may affect my ability to perform the duties required of this position effectively.**

<b>Date:</b>			
<b>Employee Name:</b>		<b>Employee Signature:</b>	
<b>Manager Name:</b> <small>(only required if a conflict of interest exists)</small>		<b>Manager Signature:</b> <small>(only required if a conflict of interest exists)</small>	

Please return the completed form to Chief of Staff- [Michelle.Wessing@pikeriverrecovery.govt.nz](mailto:Michelle.Wessing@pikeriverrecovery.govt.nz)