

Education New Zealand
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21 July 2023

Michael Gunson
fyi-request-23257-a94e9d51@requests.fyi.org.nz

Dear Michael

Official Information Act 1982 request – Education New Zealand Board Member conflict of interest query

I acknowledge receipt of your official information request to Education New Zealand Manapou ki te Ao (ENZ), received on 26 June 2023, seeking information as below:

- 1. Whether there are any real or perceived conflicts of interest that have been identified and recorded for Ziena Jalil, who has a position as a board member at Education NZ and is working as Chief of Staff at Te Pūkenga – New Zealand Institute of Skills and Technology.*
- 2. Can you provide information on how this conflict is being managed on behalf of ENZ?*

ENZ maintains a Board Member Register of Interests. ENZ adheres to guidance issued by the Office of the Auditor-General and Te Kawa Mataaho Public Service Commission, which includes being guided by the concepts of integrity, honesty, transparency, openness, independence, good faith, and service to the public. Additionally, ENZ also follows the Crown Entities Act 2004 in regard to Board conflict of interest declarations, specifically sections 62-72 'Conflict of interest disclosure rules'.

Please find attached a copy of our Disclosure of Interest Policy, which is applicable to all ENZ staff, including Board members.

We can confirm Ms Jalil discussed the role with Te Pūkenga with the Board Chair and advised ENZ of the conflict of interest you referenced in your request.

It is not uncommon for members of the ENZ Board to hold interests in the education sector. Given this, we have robust processes in place to manage conflicts.

Once each individual Board member receives copies of Board papers due to be discussed, they are required to advise the Board Chair and Board Secretariat if the Board Member Register of Interests needs to be amended to reflect their current professional or personal circumstances and any real or perceived conflicts of interest.

Once informed, it is at the Board Chair's discretion as to how the conflict is managed, consistent with our policies and guidelines.

In preparing this information release ENZ has considered the public interest considerations in section 9(1) of the Official Information Act. You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at

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<https://www.ombudsman.parliament.nz/> or freephone 0800 802 602.

Please note that it is our policy to proactively release our responses to official information requests, where possible. We do not publish requesters' personal information. We will let you know when we respond to your request if we intend to publish it. Please contact us if you have any questions about this.

Yours sincerely

Di Solomon
General Manager
Government Relations

Disclosure of Interest – Policy and Declaration

What is the purpose of this policy?

This policy sets out the guidelines for the disclosure of interests that conflict or may conflict with the interests of Manapou ki te Ao Education New Zealand (ENZ) or our sector partners.

Disclosure of conflicts of interest – see page 3

You will be asked to update and/or disclose any conflict of interest on an annual basis.

Who is covered by this policy?

This policy covers all board members, advisory board members, assessment panel members, all staff globally, contractors, consultants, temporary and casual employees.

This is because our employees, board members and contractors to ENZ must uphold the highest level of ethical conduct, objectivity and professionalism. The sector and suppliers trust us with commercially sensitive information in confidence, which must not be used for personal gain or disclosed for the benefit of others.

What is a conflict of interest?

- A conflict of interest is any situation where your duties or responsibilities as an employee or office holder in a public organisation such as ENZ conflict or could be seen to conflict with some other interest you might have outside of work.
- Having a conflict of interest does not necessarily mean you have done anything wrong. It all depends on how you manage it.
- The “rules” for managing conflicts of interest in the public sector are generally stricter than the private sector. The public needs to have confidence that decisions you make:
 - are made impartially and for the right reasons; and
 - are not influenced by personal interests or ulterior motives.
- Conflicts of interest should be identified as being either:
 - **Actual** – where the conflict already exists; or
 - **Potential** – where the conflict is about to happen, or could happen; or
 - **Perceived** – where other people might reasonably think that a person has been compromised.

How can conflicts of interest arise?

A conflict of interest may arise through a relationship, an activity, or strong personal views. You may have a potential conflict of interest if, as part of your work duties, there is a **relationship** with an interest from your personal life, for example:

- Family or other close personal relationships within ENZ
- Personal relationships with people in other organisations which deal with ENZ
- Other professional or personal associations with ENZ
- Beneficial interests in related trusts
- Related debts
- Shares or some other investment or asset which is related to ENZ's work
- Receiving a gift, hospitality, free or subsidised travel/accommodation, an invitation to lunch, dinner/sporting event, or other benefit from someone who has dealings with ENZ
- Interests in related business partnerships or professional practices
- Secondary employment or your provision of services to another organisation while you are working with ENZ
- Directorships or engagement in other ventures that ENZ has dealings with
- Strong political views or religious beliefs where you have made public comments on that issue, including on social media. This will often mean the situation must be managed on the basis that there is a conflict (even where you think otherwise).

Tips for managing conflicts of interest

1. Make sure you have read both this policy and ENZ's Code of Conduct.
2. Declare any interests that might pose a conflict. This shows you are being open. It will also help ENZ avoid putting you in a compromising situation.
3. Follow any guidance provided by ENZ when deciding how to manage a conflict.
4. As a minimum, declare any conflicts you have as soon as you become aware of them, preferably in writing.
5. Think about how to manage the conflict. Get advice if you need to. Talk to your manager, or if you are on a board, the chair.
6. You need to consider ethics as well as legal rules. Just because it is lawful to participate, that does not necessarily mean it would be appropriate to participate.
7. **If in doubt, declare.**

Support

- Talk to the People Culture and Capability team.
- Any questions on procurement matters, please see our [Procurement Policy](#).

Different types of conflict of interest

When you have to make a decision, ask yourself these questions.

<p>FINANCIAL</p> <p>Do you stand to gain or lose financially from the decision?</p> <p>Does somebody close to you – like an immediate family member – or a business you are involved with stand to gain or lose financially from the decision?</p>	<p>A situation does not need to involve cash changing hands to be considered a financial interest. A financial interest could, for example, relate to an effect on the value of property.</p> <p>A financial interest might be direct or indirect. In situations that someone close to you or a business you are involved with has a financial interest, you might be considered to share their interest.</p> <p>Commercial interests are generally treated more strictly than other types of interest. If you have a financial conflict of interest, the law presumes you are biased. Therefore, you should automatically treat a financial conflict of interest seriously, even if it seems trivial to you.</p>
<p>NON-FINANCIAL</p> <p>Is someone close to you or an organisation you are involved with likely to be affected by the decision you make?</p> <p>If so, is there a risk that you will be seen to be biased in your decision because of this relationship or association?</p>	<p>If you have a conflict of interest, but not one from which you stand to gain or lose financially, the law does not automatically assume you are biased.</p> <p>This does not necessarily mean a non-financial conflict is less serious than a financial conflict – but there is generally more room for judgement about whether it is acceptable for you to participate.</p> <p>Questions you need to think about include:</p> <ul style="list-style-type: none"> • How close is your relationship with this other person or organisation? • Will they be directly affected by the decision? • How seriously will they be affected?
<p>CONFLICT OF ROLES</p> <p>Will a second organisation you have a role in (entity B) be affected by the decision you are making for ENZ?</p> <p>If so:</p> <ul style="list-style-type: none"> • Is there a risk that you will be seen to be acting in the interests of entity B rather than ENZ? • If you participate in this decision, is there a risk that you might breach obligations you owe to either entity – for example, a duty of loyalty or confidentiality? 	<p>The issue with a conflict of roles is not so much whether you personally have a conflict, but whether the interests of the two organisations conflict. If you have a conflict of roles, you will need to consider whether it is appropriate for you to participate in the decision-making process “on both sides of the table”. You will also need to think about whether you are going to be able to fulfil your obligations to both entities at the same time.</p> <p>If there is a risk that there might be conflicts at some point during the decision-making process, you should discuss your situation with both entities. This gives each an opportunity to consider the risks from their perspective and decide whether they are comfortable with you participating on both sides.</p>
<p>PRE-DETERMINATION</p> <p>Is there anything you have previously done or said that might make people think you are not going to listen fairly to all the relevant information before you make your decision?</p>	<p>It is accepted that people working for public entities will have their own views on many matters, and, in many cases, might already have views on what the “right answer” to an issue is.</p> <p>You are not required to approach every decision as though you have given it no prior thought or have no existing knowledge or opinion. However, you are required to keep an open mind, and you must be prepared to change or adjust your views if the evidence or arguments warrant it.</p> <p>That means you need to take care that what you do or say does not make it look like you have already made your decision (pre-determination) before you have considered all relevant information and evidence.</p>



Declaration of Interest(s) under ENZ’s Disclosure of Interest Policy

Full Name _____

Position _____

Office location _____

Manager Name _____

Manager’s Position _____

As an employee / contractor / board member of Education New Zealand (ENZ), please declare any conflicts of interest by **circling** what applies to you:

I DO	I DO NOT	Have direct or indirect interest in an arrangement, agreement, or contract made or entered into by ENZ or that (as far as I am aware) ENZ is proposing to make
I DO	I DO NOT	Have personal interests that may give rise to a conflict, potential conflict of interest, in relation to ENZ or any of its current clients

Disclosure of interest	Assessment and steps to be taken
<ul style="list-style-type: none"> Describe the conflict of interest below Attach a page if you need more space (please initial any additional pages) 	<ul style="list-style-type: none"> Assessment of interest: comment on impact of conflict Controls: detail steps to be taken to manage conflict.

Employee signature

Date

Managers assessment

A conflict of interest exists? YES / NO

For manager to complete:

If a conflict exists, mitigating action/controls taken e.g. *Referred to General Manager (GM) / Chief Executive (CE); removed from assessment panel etc.*

Controls: _____

Manager to sign

Date

If escalated by manager:

Relevant GM or CE to assess interest disclosed and request further/approve controls (dependent on impact of disclosure):

Controls: _____

Name _____

Date _____

GM/CE signature _____

Once approved, this declaration should be returned to the People, Culture and Capability Team.