

Purpose	<p>This policy sets out the Ministry's expectations for disclosure of any conflicts or potential conflicts of interest.</p>
Policy Statement	<p>The Ministry expects us to perform our duties honestly and impartially. We must not be involved in any personal, financial, or professional situations that might compromise our integrity or otherwise cause a conflict, or a perceived conflict, between our personal interests and our responsibilities to the Ministry, Ministers and the public. We must not use our position in the Ministry for personal gain or to advantage or benefit any other person or organisation with whom we have a relationship or connection, whether directly or indirectly.</p> <p>The Ministry requires us to declare any actual or potential conflicts of interest at the earliest possible opportunity.</p>
Scope	<p>This policy applies to all Ministry employees (whether permanent, fixed-term or casual) and for the purposes of this policy, the following are also included:</p> <ul style="list-style-type: none">• Persons seconded to the Ministry;• Contractors and consultants (individuals, employees of contractors or consultants or sub-contractors);• Volunteers working for the Ministry without reward. <p>Read this policy in conjunction with the <u>Ministry's Conflict of Interest Guidelines</u>, its Code of Conduct and the State Services Commission Standards of Integrity & Conduct.</p> <p>This policy does not apply to the judiciary, as they are not Ministry employees.</p>
Our Policy	<p>A conflict of interest arises when personal interests compromise or may be seen to compromise our responsibilities to the Ministry. The existence of a conflict of interest does not necessarily mean that we have done something wrong and it need not cause problems. However, conflicts of interest do need to be identified and managed carefully in order to maintain public trust and confidence in the justice system.</p> <p>Conflicts or perceived conflicts involve ethical considerations, which encompass the <u>Ministry's Values</u> and <u>Code of Conduct</u>. They can arise in a variety of ways: from financial or non-financial interests, personal or professional relationships, family or community expectations; and they can exist whether or not money is involved. A conflict may be actual, potential or perceived.</p> <p>We must disclose actual or potential conflicts of interest in a timely manner to our immediate manager. Where the actual or potential conflict of interest relates to our</p>

involvement in a procurement process or being a member of a project team, the disclosure must be to either our project manager/procurement advisor or our substantive manager.

All conflicts other than for procurement activity must be declared using the Ministry's 'Conflicts of Interest Declaration' form (refer Appendix A). The declaration must include any personal interests or circumstances we encounter as part of our role, that either directly or indirectly compromise or appear to compromise our responsibilities within the Ministry, the Public Service, or our relationships with the general public.

For conflicts or perceived conflicts relating to our involvement in a procurement process, the disclosure requirements of the Ministry's Procurement Policy apply. Where disclosure of a conflict of interest is required under the *Procurement Policy* we must complete the procurement "Conflict of Interest and Confidentiality Agreement".

Once a conflict of interest has been declared, your manager (or procurement advisor / project manager as may be appropriate) will determine how to manage the conflict in consultation with you. We are required to follow all reasonable instructions from the Ministry in this regard. Considerations will include the public perception of the relationship, the transparency and independence of any transaction involved and the integrity of the Ministry and the wider justice system. If necessary, advice should be sought from senior management or specialist support groups.

If the conflict cannot be managed or where there is likelihood that the situation could undermine public trust and confidence in us or the Ministry, then we may be required to cease any involvement in the activity relating to the conflict.

Failure to disclose an interest that may give rise to a conflict of interest will be regarded as a disciplinary matter. Action will be taken in accordance with Ministry's Disciplinary Process Policy and the Fraud and Corruption Policy (if applicable).

Where a conflict exists, our manager, project manager or procurement advisor must forward the conflict of interest declaration to Risk and Assurance to record on the Ministry's Conflicts of Interests Register. A copy will also be held on our personnel file held in National Office.

Responsibilities

Employees

It is the responsibility of every employee or contractor to inform their immediate manager (or procurement advisor / project manager as appropriate) as soon as possible when an actual, perceived, or potential conflict of interest arises, or when they are uncertain or concerned about a possible conflict.

Notification for non-procurement related conflicts is completed using the attached Conflicts of Interest Declaration form "Appendix A".

Notification for procurement related conflicts is completed using the "Conflict of Interest and Confidentiality Agreement".

Managers and Project Managers

Once a conflict of interest is declared, the immediate manager (or procurement advisor / project manager as appropriate) is responsible for deciding, in consultation with the person and if necessary other senior managers, the action required to resolve or manage the

situation effectively.

Each declared conflict of interest should be considered on a case by case basis, according to the particular circumstances and the level of seriousness and sensitivity. Judgement and careful assessment are important.

Managers and project managers (or procurement advisors) must periodically review management plans to ensure they are still managing the conflict effectively. This review must be documented and recorded.

For declared conflicts or perceived conflicts, managers and project managers (or procurement advisors) must forward a copy of the completed Conflicts of Interest Declaration form (appendix A) or Conflict of Interest and Confidentiality Agreement (where procurement related) to Risk & Assurance.

Senior Managers

Once a year, Risk & Assurance will request that all members of the Ministry's Senior Management Team complete the Annual Conflicts of Interest Declaration form attached as "Appendix B". All senior managers must return this annual declaration to Risk & Assurance and provide a nil return if there are no known conflicts.

The Senior Management Team must also complete this annual process with their direct reports. They must also ensure all employees are regularly reminded to review their individual situations.

Any new declared conflicts or changes to existing declared conflicts relating to this policy must be provided to Risk & Assurance.

Director, Risk & Assurance

The Director, Risk & Assurance, is responsible for ensuring that:

- All reported conflicts are recorded on the conflicts register
- Periodic review of management plans and assurance activity is being completed
- Unreported conflicts (where subsequently discovered) are investigated where appropriate in accordance with Ministry policies.

Resolving Conflicts

Most conflicts of interest are expected to be resolved between the person concerned and their manager. One-up notification is required, in line with a 'no surprises' principle, where the manager considers the conflict of interest or the potential risk is of sufficient significance that their manager should be aware of the risk.

The Ministry's Procurement Policy outlines escalation processes that apply where procurement activity is involved.

Further advice and support can be sought from senior line management, or specialist teams such as Risk & Assurance, People & Performance, Procurements & Contracts or the Office of Legal Counsel. The responsibility for making the decision about the management of the conflict of interest lies with the line manager of the person with the conflict of

interest (or project manager / procurement advisor where applicable).

Protected Disclosures

If you are concerned about an undisclosed interest you may make a protected disclosure under the Protected Disclosures Act 2000. Please refer to the Ministry's Protected Disclosure Policy.

RELATED POLICIES AND PROCEDURES

- Ministry Conflicts of Interest Guidelines
- Conflict of Interest Declaration form (appendix A)
- Annual Conflict of Interest Declaration by Senior Management Team (appendix B)
- Ministry Procurement Policy
- Procurement Conflict of Interest and Confidentiality Agreement
- SSC Standards of Integrity and Conduct
- Ministry Code of Conduct
- Ministry Fraud and Corruption policy
- Ministry Disciplinary process policy
- Contractors and Consultants Policy
- Protected Disclosures Act 2000 & Policy
- Secondary Employment Policy

CONTACT	Risk & Assurance	OWNER(S)	Director, Risk & Assurance
LAST REVIEWED	Dec 2015	NEXT REVIEW	Dec 2017
LAST UPDATED	Dec 2015	STAKEHOLDERS CONSULTED	Advisors Group Corporate GMs Procurement Team



Conflicts of Interest Guidelines

General Information

Introduction

These guidelines support the Ministry's Conflicts of Interest Policy and are to assist employees, contractors, consultants or volunteers working at the Ministry identify, report, and manage a conflict of interest. Properly managing an actual or potential conflict of interest will ensure we continue to be seen as trusted public servants, ensuring public trust and confidence in the Justice System.

Read these guidelines in conjunction with the Ministry's Code of Conduct, Ministry Values and the State Services Commission's Standards of Integrity and Conduct.

What is a Conflict of Interest

A conflict of interest includes actual and/or potential conflicts of interest.

Our Code of Conduct defines a conflict of interest as follows:

"A conflict of interest arises when personal interests compromise or may be seen to compromise our responsibilities to the Ministry"

The Office of the Auditor General defines a conflict in the public sector to be a situation in which:

"A member's or official's duties or responsibilities to a public entity could be affected by some other interest or duty that the member or official may have".

Conflicts of interest can arise in a variety of ways: from financial or non-financial interests, personal or professional relationships, family or community expectations, and they can exist whether or not money is involved, and whether the conflict is actual, potential, or perceived.

The existence of a conflict of interest does not necessarily mean that someone has done something wrong, and it need not cause problems. However, conflicts of interest do need to be identified and managed carefully to ensure we do not bring ourselves, the Ministry or the public service into disrepute. This is particularly important where we are exercising decision making responsibilities.

Anyone who is unsure whether a conflict or potential conflict exists, should talk to their immediate manager or contact Risk and Assurance.

Examples of conflicts of interests

Conflicts of interest can arise during the normal course of our work. Knowing how to identify and manage such conflicts is important to maintaining the integrity of individuals and the Ministry's decision-making processes. Situations where conflicts of interest may arise include, but are not limited to:

- secondary employment (this must be approved in accordance with the Ministry's secondary employment policy)
- private business interests or involvement (shareholdings, board memberships, investments),
- property ownership relating to government contracts
- professional or legal obligations or debts owed to someone else
- holding another office
- gifts, benefits and hospitality (offered, received and declined)
- personal relationships within the Ministry (siblings, partners, etc working in the same business group)
- strong beliefs, political views (including membership of political parties) or public statements that may indicate predetermination.

We should also consider, in the context of our work, conflicts of interest that could arise due to:

- family, friends or other personal relationships (for example if a family member, or friend is appearing before the court and in some way our work activities overlap, this must be discussed with our immediate manager)
- appointment of contractors and consultants (when we have a personal or a business relationship)
- acquiring goods or services for the Ministry from a family member or friend's business
- membership of a club, society or association, or iwi or hāpu affiliations that may compromise policy work /contracts we are involved in
- accessing confidential information such as CMS or court records
- inspecting, regulating or monitoring of standards, businesses, equipment or premises
- carrying out regulatory tests and procedures
- issuing qualifications or licences
- issuing, or reviewing the issue of, fines or other sanctions
- allocating grants of public funds

Conflicts or perceived conflicts of interest involve ethical considerations in line with the Ministry's values. If not effectively managed, this can weaken legitimate decision making, which in effect, undermines public trust and confidence in the justice system.

The above list is not exhaustive. To be a conflict of interest there needs to be a link between the interest and our role at the Ministry. For example, completing a criminal records check on someone we are associated with outside of work, would be a considered a conflict of interest.

Programmes/Projects, Secondments and Procurement

Wherever there is a potential conflict of interest relating to secondments, procurement or being a member of a project team, this must be disclosed to either, the project manager, procurement advisor, our substantive manager or the person to whom we report.

The conflicting interest must be recorded on the *Conflicts of Interest Declaration Form* or (where applicable) the procurement related *Conflicts of Interest and Confidentiality Agreement*.

The Ministry's *Procurement Policy* requires that 'every person involved in a procurement activity, whether on procurement teams, or separately engaged in making financial approvals or accepting an evaluation panel recommendation, must make a conflict of interest declaration if they are aware of any real, potential or perceived conflict of interest'. This declaration must be completed using the procurement specific *Conflicts of Interest and Confidentiality Agreement form*. In addition, for procurements over \$100k the procurement policy requires such declarations from every person involved 'whether or not' a conflict situation exists.

Programme or project managers, procurement advisors etc are required to notify all conflicts or perceived conflicts of interest to Risk and Assurance by forwarding a copy of the completed declaration form. Nil returns are not required to be forwarded.

Process for managing disclosure of a conflict of interest

For the purpose of this guidance, an employee's immediate manager or their project manager / procurement advisor / person they report to, are herein after referred to as 'manager' or 'managers'.

1. We are required to advise our manager (or the person to whom we report) as soon as practically possible whenever we become aware of an interest that could potentially amount to a conflict or perceived conflict of interest or when the circumstances around a disclosed conflict change or cease. To do this the *Conflicts of Interest Declaration form* needs to be completed.
2. Where the conflict or perceived conflict involves procurement related activity, the requirements of the Ministry's *Procurement Policy* must be followed. For disclosure of procurement related conflicts the *Conflicts of Interest and Confidentiality Agreement* must be completed instead.
3. Our manager will assess the information and determine whether there is a conflict or perceived conflict of interest. They may need to meet with us to obtain further information.

When considering whether a personal interest might create a conflict, the Ministry will assess whether the interest creates an incentive for us to act in a way which may not be in the best interests of the Ministry. **Whether or not we would actually act on the incentive is irrelevant, as perception and the existence of the incentive are sufficient to create a conflict.**

Each declared conflict of interest should be considered on a case by case basis, according to the particular circumstances and the level of seriousness and sensitivity. Judgement and careful assessment are important.

Consideration is likely to include, for instance:

- the type and size of the private interest
- the nature or significance of the activity being undertaken by the Ministry, and the nature and extent of our involvement in this area
- the degree to which our private interest could influence, or be influenced by, the Ministry's decision or activity, and the actual (or potential or perceived) impact of this
- the practicality and possible consequences of different options for avoiding or mitigating the conflict, and
- whether, to an outside observer, the situation could undermine public trust in us or in the Ministry, or the wider justice sector.

Your manager is required to advise you of their decision. If they determine a conflict of interest exists they must also explain the reasons why. This should be provided in writing.

4. Our manager will also talk to us about ways to mitigate or avoid the conflict.

Managers are expected to provide leadership and guidance by fairly managing conflicts of interest with us. Our Manager will discuss with us ways to mitigate and/or if necessary avoid conflict. This will be formally documented on the declaration form and our manager must ensure the plan is periodically assessed and modified when or if circumstances change.

The expected outcome is that the conflict of interest is removed or managed appropriately so that the risk is reduced to an acceptable level.

Where a conflict or perceived conflict can be effectively managed, then all steps should be taken to do so. This could mean that we are removed from undertaking certain work. For example we may be restricted from reviewing documents where we have an interest.

There may also be rare circumstances where the only way to manage the conflict is for us to cease our involvement in the other interest. For example, it is not appropriate for employees to be shareholders in consulting companies providing services to the Ministry.

5. Where a Manager determines there is a conflict or a perceived conflict of interest, this will be registered on the Conflicts of Interest Register. The manager must complete and forward to Risk & Assurance the entire Declaration form including the management plan that will be implemented to ensure the conflict is managed. This must be signed by the manager and affected employee.

The Conflicts of Interest Register is kept by Risk & Assurance and may only be accessed for business reasons related to a conflict of interest issue.

6. A record of the conflict of interest and what is being done to manage it will also be placed on our personnel file.
7. Our manager will meet with us on a regular basis to discuss the conflict of interest until the conflict no longer exists. When the conflict or potential conflict has been resolved, our manager will forward an updated Declaration to Risk and Assurance outlining how the conflict has been resolved. A copy of this will also be placed on our personnel file.

Protected Disclosures

If you have concerns that conflicts of interest have not been declared through the prescribed process and you are not willing to discuss this with your manager, you are encouraged to complete a Protected Disclosure under the Ministry's *Protected Disclosures Policy* detailing your concerns.

Alternatively you can contact Risk and Assurance for confidential advice.

Privacy of information

The Ministry collects the information provided under these guidelines for the purpose of ensuring the integrity of the justice system is maintained. Accordingly, the information will be held under secure conditions and will only be used and accessed by the Ministry to manage risks associated with actual and potential conflicts of interest. There must be a genuine reason to access the register. All requests will be considered by Risk and Assurance with the employee's privacy in mind.

The information provided is placed on your personnel file held at national office and on the Conflicts of Interest Register. You are able to request access to the information and correct any information that is not correct.

Related documents

- [Conflicts of Interest Policy](#)
- [Procurement Policy](#)
- [Procurement Conflict of Interest and Confidentiality Agreement](#)
- [SSC Standards of Integrity and Conduct](#)
- [Code of Conduct](#)
- [Fraud and Corruption policy](#)
- [Disciplinary process policy](#)
- [Contractors and Consultants Policy](#)
- [Protected Disclosures Act 2000 & Policy](#)
- [Secondary Employment Policy](#)
- [OAG Conflict of Interest Guidelines](#)

Appendix A: Conflicts of Interest Declaration Form (non-procurement)

For procurement conflicts complete *Conflict of Interest and Confidentiality Agreement*.

DECLARATION

I _____ (Insert first and last name) wish to declare a conflict of interest. I understand a conflict of interest to be a situation where my personal interests compromise or may be seen to compromise my responsibilities to the ministry.

Categories of Interest

Financial	The interest has a financial value. I am expected to gain some financial benefit or loss from the interest.
Professional	I have professional contacts with other organizations, association and trusts.
Whanau / Relationship	I have family relationships, acquaintances and/or friendships which could be perceived as a conflict.
Non-Financial	My position or authority is or may be used to influence or make decisions that lead to any form or personal gain for me, my family members or personal associates.
Political	I have political involvement that could conflict with my duty to act in a politically neutral manner, or my political involvement could appear to compromise my ability to make decisions in the best interests of the Ministry.
Other	I have an interest that does not fit in any of the above categories but I believe this interest may raise a conflict or potential conflict of interest to the Ministry.

Category	Name of other party	Details – outline and nature of the conflict
<i>Example: Financial</i>	<i>ABC Limited</i>	<i>Director, and shareholding (20%) of company supplying goods to the Ministry</i>
<i>Example: Whanau/Relationship</i>	<i>Jo Blogs</i>	<i>I am a court registry officer. A family member is going to be appearing in court for which I have the list.</i>



- I will seek the specific approval of Ministry Management before pursuing any interest that could involve a real, potential or perceived conflict of interest.
- I will update this declaration if any of my interests change. If I have any questions, I will discuss these with my manager (who will consult with Risk and Assurance, OLC, People and Performance, as necessary).

Signed: _____

Date: _____

Business unit: _____

Management Plan - Assessment of interest disclosed and development of controls:

Manager details: _____

Date: _____

Signature: _____

Agree a conflict of interest exists?

YES

NO

Manager to complete the following details in the space below :

- Assessment of conflict (comment on specific details and implications)
- Controls (detail steps to be taken to manage conflict)

Assurance (Detail the follow-up steps taken to review and assess the effectiveness of your management plan)

Appendix B: Annual Conflicts of Interest Declaration Form

Senior Management Team (tiers 1-3) only. Refer to Ministry's Conflict of Interest policy and guidance material.

DECLARATION

Other than as set out below, I _____ (Insert first and last name) declare that to the best of my knowledge, I do not have any:

- interest (direct or indirect) in any arrangement, agreement, or contract made or entered into by the Ministry or that (as far as I am aware) the Ministry is proposing to make; or
- other interests that may give rise to a conflict of interest or potential conflict of interest in relation to my responsibilities at the Ministry of Justice

Categories of Interest

Financial	The interest has a financial value. I am expected to gain some financial benefit or loss from the interest.
Professional	I have professional contacts with other organizations, association and trusts.
Whanau / Relationship	I have family relationships, acquaintances and/or friendships which could be perceived as a conflict.
Non-Financial	My position or authority is or may be used to influence or make decisions that lead to any form or personal gain for me, my family members or personal associates.
Political	I have political involvement that could conflict with my duty to act in a politically neutral manner, or my political involvement could appear to compromise my ability to make decisions in the best interests of the Ministry.
Other	I have an interest that does not fit in any of the above categories but I believe this interest may raise a conflict or potential conflict of interest to the Ministry.
No Conflict/NIL	I have reviewed the above categories and I do not have any interests to declare.

Category	Name of other party	Details – outline and nature of the conflict
<i>Example: Financial</i>	<i>ABC Limited</i>	<i>Director, and shareholding (20%) of company supplying goods to the Ministry</i>
<i>Example: Whanau/Relationship</i>	<i>Jo Blogs</i>	<i>I am a court registry officer. A family member is going to be appearing in court for which I have the list.</i>

- I will seek the specific approval of Ministry Management before pursuing any interest that could involve a real, potential or perceived conflict of interest.
- I will update this declaration if any of my interests change. If I have any questions, I will discuss these with my manager (who will consult with Risk and Assurance, OLC, People and Performance, as necessary).

Signed: _____

Date: _____

Business unit: _____

Management Plan - Assessment of interest disclosed and development of controls:

Manager details: _____ Date: _____

Signature: _____

Agree a conflict of interest exists?	YES	NO
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Manager to complete the following details in the space below :

- Assessment of conflict (comment on specific details and implications)
- Controls (detail steps to be taken to manage conflict)

Assurance (Detail the follow-up steps taken to review and assess the effectiveness of your management plan)

