

Conflict of Interest

Policy, Principles and Guidelines

Category: University Management
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Table of Contents:

Definitions:	2
Policy Statements:.....	2
Legislation:	5
Principles:	5
Guidelines:.....	7
Disputes Procedures:	8
Breach:	8
Related Policies, Procedures and Forms:.....	8
Appendices:	8
Notes:.....	9

Introduction:

The Conflict of Interest Policy Principles and Guidelines [hereafter, The Conflict of Interest Policy] seeks to ensure that in decision-making there is no conflict between personal or professional interests, or duties of trust or obligations of good faith of University members on the one hand and their obligations to or with the University on the other.

The purpose of this policy is to document the University's expectations of its Members and to ensure compliance with the provisions of the following legislation and good practice guidelines:

- [Local Authorities \(Members' Interests\) Act 1968](#);
- Section 175 of the [Education Act 1989](#); and
- Good practice guidelines from the Office of the Auditor-General - [Managing Conflicts of Interest: Guidance for Public Entities \(Controller and Auditor-General\)](#), June 2007.

This policy should be read in conjunction with related University policies, including the following:

- [Consulting Policy: Commercial Laboratory Activities and Short Course Teaching By University Staff and Students](#)
- [Gifts Policy](#)
- [Intellectual Property: Policy for Staff and Students](#)
- [Procurement Policy and Procedures Manual](#)
- [Sensitive Expenditure Policy](#)
- [UC Code of Conduct](#)

Definitions:

Conflict of Interest – a situation in which financial or other personal, employment or professional considerations have the potential to compromise or bias professional judgment and objectivity; see also Appendix A.

Interest in a Matter – a direct or indirect connection to another matter separate, but related to, the relevant matter (either in the Member’s personal capacity, professional capacity outside the University, or, in some cases, with respect to another role held at the University); see also Appendix A.

Material Interest – any pecuniary interest in a company or organisation or a non-pecuniary interest or passive interest or an involvement which could give the appearance of potential bias; see also Appendix A.

Members – members of the University of Canterbury and shall include members of Council, Council committees and other committees, staff, committee appointees and the University’s companies’ staff and board members and other persons contracted to the University.

Pecuniary Interest – a conflict of interest that involves an actual or potential financial gain; see also Appendix A.

Non-pecuniary Interest – a conflict of interest that does not appear to have an apparent financial component but may involve close personal relationship(s); see also Appendix A.

Policy Statements:

1. Obligations Applying to any University of Member

1.1 Every Member has an obligation to declare any material interests relevant to any University of Canterbury activities and to ensure that any conflict arising from the material interests is noted and managed appropriately.

Note: This sentence will be incorporated under the ‘Conflict of Interest’ item on all UC Council committee agendas.

1.2 Every Member who has a material interest as described in this policy must declare that interest in writing and ensure that any conflict arising from the declared interest is managed appropriately.

- 1.3 No Member may take part in discussions, deliberations, decision-making or voting on a matter in which s/he (or a member of his/her immediate family or a dependent) has a material interest, except with consent of Council/Committee/Manager.
- 1.4 Every Member must monitor any business interactions between the University of Canterbury and any company or organisation in which the Member has a material interest and ensure that such business does not exceed \$NZ25,000 - including GST in value without the prior approval of the Auditor-General.
- 1.5 The University maintains both a Register of Interests and a Conflict of Interest Register which are updated annually in relation to members of Council, senior management and other University Council committees. Declarations can be made to the Registrar at any time by any staff for inclusion in these registers; see Appendices C and D.

2. Requirements Specific to Various Sectors of the University

➤ Council and Council Committees

- 2.1 The Minister of Tertiary Education expects that any Council or Council committee member advises the Chair immediately of any circumstances, conflicts of interest, or perceived conflicts of interest that may prevent the Council member from performing his/her role in a fair and impartial way, in the best interests of the institution.
- 2.2 As a mechanism for recording conflicts of interest or the types of ongoing interests that may give rise to a conflict of interest, the University maintains Registers (see 1.5 above).
- 2.3 As part of the induction process, new Council members will receive advice on how to identify, report and manage conflicts of interest.
- 2.4 Council and Committee agendas will include a 'standing' item for the disclosure of any interest relating to any agenda item.

➤ Staff

- 2.5 Unless otherwise authorised in writing, University staff are prohibited from the following:
- being involved in a decision to appoint or employ a relative;
 - conducting business on behalf of the entity with a relative's company;
 - owning shares in (or working for) any organisation that has dealings with (or that are in competition with) the University;
 - being involved in any public consultation process on behalf of the University where the Member is involved in the same process on behalf of him/herself or another entity;
 - accepting gifts in connection with their official role (see Gift Policy for parameters); or
 - influencing or participating in a decision to award grants or contracts where the Member is connected to a person or organisation that submitted an application or tender.

- 2.6 As a mechanism for recording conflicts of interest or the types of ongoing interests that may give rise to a conflict of interest, the University maintains Registers (see 1.5 above).
- 2.7 Consulting work by staff must not create any conflict of interest with their University duties and where this may arise, it must be disclosed to the appropriate head of department or manager. See particularly Sections 11.1, 11.2 and 11.3 of the [Consulting Policy: Commercial Laboratory Activities and Short Course Teaching By University Staff and Students](#). See also the Conflict of Interest information in the [Procurement Policy and Procedures Manual](#).

➤ **Contractors/Consultants/Providers**

- 2.8 Conflicts of interest in relation to consultants, contractors and goods/service providers may arise as a result of:
- the contractor or service provider also being an employee of the University;
 - a University employee having an “interest” in a contractor or service provider and having the opportunity to be involved in discussions and/or decision making with respect to that consultant, contractor or service provider about any potential agreement or contract;
 - the consultant, contractor or service provider having an “interest in” or relationship with a third party outside of the University which could influence their relationship with the University.
- 2.9 Consultants, contractors and providers of goods and services are required to disclose to the University at the time of their engagement any potential conflicts of interest with their engagement. As an outcome of this disclosure, the University may insert an appropriate clause into any formal agreement/contract to manage the disclosed situation should that be possible. In some cases, the University will reserve the right to terminate agreements or contracts which are compromised as a result of a conflict of interest.

➤ **Joint Ventures/Partnerships/Companies**

- 2.10 Prior to commencing any involvement in a joint venture, partnership or company, the University will obtain assurances about the policies and practices to be adopted by those entities about conflicts of interest.
- 2.11 University of Canterbury appointments to any governance Board of such entities will be provided with advice and education to ensure that they are fully conversant with “good practice” in conflicts of interest and their responsibilities as a director.

➤ **Students**

- 2.12 Student representatives on Council or Council Committees are bound by the same obligations as other Members (see 2.1 – 2.4 above).
- 2.13 Consulting work by students should not create any conflict of interest with their University duties and where this may arise it must be disclosed to the appropriate head of department or manager. See particularly Sections 11.1, 11.2 and 11.3 of the [Consulting Policy: Commercial Laboratory Activities and Short Course Teaching By University Staff and Students](#).

Legislation:

In addition to general principles of administrative law and good governance, the University is also subject to the specific conflict of interest provisions of the:

- *Education Act 1989*
- *Local Authorities (Members' Interests) Act 1968.*

In summary, this legislation provides:

- *Education Act* (section 175) – summarised
 - A Member who has an interest in a matter being considered (or about to be considered) shall, as soon as possible after the relevant facts have come to the Member's knowledge, disclose the nature of the interest to the Council, a Committee Chair, or manager, as appropriate.
 - Disclosure should be recorded in the minutes of the Council/Committee.
 - Unless the Council/Committee decides otherwise:
 - the Member shall not be present during any deliberation of the matter
 - the Member shall not take part in any discussion relating to the matter.
- *Local Authorities (Members' Interests) Act* – summarised
 - A Member is disqualified from "office" who is concerned or interested in contracts with their authority which involve payments greater than \$25,000 in any financial year.
 - A Member must not participate in discussion or voting on any matter in which they have a direct or indirect pecuniary (financial) interest.

In applying this legislation, key responsibilities are:

- for individual Members to disclose an interest;
- for the Council/Committee to decide how the disclosed interest will be recorded and managed.

Other legislation relating to conflicts of interest within public entities is contained within the *Crown Entities Act 2004* and *NZ Public Health and Disability Act 2000*. In addition to the relevant legislation, there are other legal requirements relating to conflicts of interest which are derived from administrative law. These include the need to protect members of the public affected by poor decision-making, and the need to ensure procedural propriety to uphold public confidence in public decision-making.

Principles:

A number of principles should guide and underpin the management of conflicts of interest in the tertiary environment.

1. A conflict of interest may take a number of forms. It may be financial or non-financial. It may be direct or indirect. It may be professional or family-related. A conflict of interest may arise from:
 - Directorships or other employment
 - Interests in business enterprises or professional practices

- Share ownership
 - Beneficial interests in trusts
 - Existing professional or personal associations with the Crown body concerned or with other tertiary education providers
 - Professional associations or relationships with other organisations
 - Personal associations with other groups or organisations
 - The holding of multiple roles within the University or
 - Family relationships.
2. A conflict of interest may be more perceived than actual. Perception is a very important factor in the public sector. Processes must be fair and ethical, and must be very clearly seen to be so.
 3. The determination about a perceived or actual conflict of interest may include legal, ethical, and/or good practice requirements – see Appendix B "Ethical Expectations". See also the June 2007 good practice guide from the Office of the Auditor-General, [Managing Conflicts of Interest: Guidance for Public Entities \(Controller and Auditor-General\)](#), June 2007.
 4. Conflicts of interests can not always be avoided. Unavoidable conflicts of interest need to be identified, disclosed and effectively managed.
 5. Managing conflicts of interest well is not only good practice, but it also protects the public entity and the Member or official involved. A conflict of interest that is hidden, or that is poorly managed, creates a risk of allegations or perceptions of misconduct, or of other adverse consequences such as litigation. Ensuring that the public interest is not compromised should be an overriding objective in any management strategy for conflicts of interest.
 6. Conflicts of interest must be seen to be managed fairly and effectively. To achieve this, the processes for identifying, disclosing and managing conflicts of interest must be transparent – that is, the processes should be open to scrutiny and should help maintain accountability.
 7. All Members are individually responsible for arranging their private affairs as far as reasonably possible to prevent conflicts of interest arising.
 8. Just because a Member has an interest outside work, it does not necessarily follow that there is a conflict of interest. A conflict of interest only occurs if something arises at work that overlaps with the other interest.
 9. Conflicts of interest may be discovered and may still have an impact after a Member has left the University.
 10. The University will facilitate education and training opportunities for all Members in respect of conflicts of interest.

Guidelines:

Flowchart: Identifying and Disclosing a Conflict of Interest

– see Appendix E

Flowchart: Deciding on Actions to Take to Avoid or Mitigate the Conflict of Interest

– see Appendix F

Options for Avoiding or Mitigating a Conflict of Interest

There are a broad range of options available to Members for avoiding or mitigating a conflict of interest. The options (listed roughly in order of lowest to highest severity) include:*

- acting upon a suspected or possible conflict by disclosing the same to Council/Committee chair or manager and requesting guidance; enquiring as to whether all affected parties will consent to the member's or official's involvement;
- seeking a formal exemption to allow participation (if such a legal power applies);
- imposing additional oversight or review over the official;
- withdrawing from discussing or voting on a particular item of business at a meeting;
- exclusion from a committee or working group dealing with the issue;
- re-assigning certain tasks or duties to another person;
- agreement or direction not to do something;
- withholding certain confidential information¹, or placing restrictions on access to information;
- transferring the member or official (temporarily or permanently) to another position or project;
- relinquishing the private interest; or
- resignation or dismissal from one or other position or entity.²

* This list was compiled, in part, from guidelines published in Controller and Auditor-General, *Managing Conflicts of Interest: Guidance for Public Entities*, June 2007, New Zealand (page 31).

¹ This might sometimes include post-employment restrictions, such as those imposed under a restraint of trade agreement.

² It might even be necessary to refrain from having further dealings with a person or organisation.

The [Minister for Tertiary Education](#) has also provided guidelines and while similar, these provide useful context and examples.

Education/Advice/Training

The University of Canterbury is committed to the following education and training on conflict of interest matters for its Members⁺

- The Registrar will provide new Council/Committee members with an induction about the University policy and guidelines and their personal obligations relating to conflicts of interest.
- Council/Council Committees will include in their annual plan, a workshop to provide a Conflict of Interest Policy refresher with an opportunity to discuss any issues.
- As part of the induction of new staff to the University, information will be provided and guidance given on the University's Conflict of Interest Policy.

- HODs/HOS/Managers will be invited to attend an annual workshop, facilitated by the Registrar, to provide a refresher on the Conflict of Interest Policy and Member responsibilities relating to conflicts of interest.
- + See the State Services Commission [resource kit](#); available through the State Services Commission: Walking the Line: Managing Conflicts of Interest, November 2005.

Disputes Procedures:

In the event of any dispute arising in relation to this policy, or in relation to any allegation of bias, conflict of interest, or other potential breach of this policy, resolution shall be sought in accordance with the following procedure:

- a) the issue should be raised in the first instance with the Committee Chair;
- b) if a resolution can not be reached, the matter should be referred in writing to the Registrar.

Breach:

Any breach of this policy by a Member may constitute a breach of that Member's employment agreement and could invoke disciplinary procedures by the University. Any breach of this policy by a non-employee of the University may result in similar consequences, consistent with their relationship with the University, including the possible termination of rights to study, or termination of contracts or agreements, as the case may warrant.

Related Policies, Procedures and Forms:

- [Consulting Policy: Commercial Laboratory Activities and Short Course Teaching By University Staff and Students](#)
- [Gifts Policy](#)
- [Intellectual Property: Policy for Staff and Students](#)
- [Managing Conflicts of Interest: Guidance for Public Entities \(Controller and Auditor-General\)](#), June 2007
- [Procurement Policy and Procedures Manual](#)
- [Sensitive Expenditure Policy](#)
- [UC Code of Conduct](#)

Appendices:

- Appendix A: Explanation of Terms and Examples of Interests
- Appendix B: Ethical Expectations
- Appendix C: Register of Interests
- Appendix D: Conflict of Interest Register
- Appendix E: Flowchart: Identifying and Disclosing a Conflict of Interest
- Appendix F: Flowchart: Deciding on Actions to Take to Avoid or Mitigate the Conflict of Interest

- Appendix G: Conflict of Interest and Confidentiality Declaration, UC Procurement Manual
Notes:

The Conflict of Interest Policy was developed in 2010 following an external review of conflict of interest policies and practices at the University of Canterbury. Legal advice was sought in the development of this policy.

Version Control Table		
Action	Approval Body	Date uploaded
New Policy	Chair, Council	2 August 2010
Annual Review – no changes (rolled over)	Chair, Council	13 July 2012

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Appendix A

Explanation of Terms and Examples of Interests

Conflict

A conflict of interest can occur when the activities of a Member outside their employment with the University leads, or could lead, to material benefit for the Member concerned, either directly or indirectly. This can also occur when the Member has competing internal interests due to them holding different roles within the University. A conflict of interest may also relate to activities which interfere, or could interfere, with a Member's fulfilment of their employment obligations. Any reference to a conflict is a reference to a real, perceived or potential conflict.

Determining an Interest

In determining whether a Member has an "interest" in a "matter" requires consideration of two issues, namely:

- Is there a "relevant matter" in which there may be an "interest"?
- Does the Member have an "interest in" the matter?

The scope of "relevant matters" is considered to encompass:

- The exercise or performance of a function or duty of the Council/Committee
- An arrangement, agreement or contract to which the University is a party
- A proposal that the University enters into an arrangement, agreement or contract.

As a guideline, a University Member could be considered as having an "interest" in a matter when the member:

- Is a party to or will derive financial benefit from the matter;
- Has a financial interest in another party to the matter;
- Is a director, member, official, partner or trustee of another party or person who will or may derive a financial or some other non-pecuniary benefit from the matter;
- Is the parent, child, spouse or partner of another person who will or may derive a financial or some other non-pecuniary benefit from the matter;
- Is involved with a political organisation for whom the matter is politically significant;
- Is otherwise directly or indirectly interested in the matter.

The above list draws upon matters of conflict identified, in part, in the *Public Health and Disability Act 2000*. Of further assistance in understanding what types of interest might be relevant to an inquiry into conflicts is the *Local Authority (Members' Interests) Act 1968*. This Act provides further parameters which may assist Members determine whether they have a pecuniary interest in a matter; including when a Member is deemed to have a personal connection with a third party and when a Member is considered to benefit from an arrangement, agreement or contract. Non-pecuniary interests are considered to arise from conduct that indicates prejudice or predetermination about a matter or when there is a non-pecuniary but close relationship or involvement with an individual or organisation impacted by or likely to benefit from a matter.

It is important that Members remember that the question of whether one has an interest in a matter can be highly subjective, and whilst this policy, and the legislation referred to above can help provide a Member with a feel for when a conflict might arise, this is not an area where Members should assume that hard and fast rules apply. Conflicts of interest involve judgement calls, and if a Member considers that they may have an interest in a matter, they should take steps to declare and resolve the possible conflict.

Materiality

The materiality of a concern or interest depends on the context and is a matter of judgement. The amount of financial benefit or loss involved, the level of involvement as a percentage of the total operation of the company or organisation, and the degree to which the person is able to make or influence a University decision are relevant. Everyone covered by this policy should opt for disclosure if in doubt.

Pecuniary interest

A Member has a direct pecuniary interest in a discussion relating to the setting of fees for services from which that Member would receive income should they provide those services. They have an indirect pecuniary interest if their partner, close relative or friends would receive income or other benefits from the services.

Involvement in a company

A Member has an interest which must be declared if they are employed by a company, or are a director or owner or controller of a company, or have shares in a company or their family trust, partner, or close relative or friend has such shares in a company which is seeking to do business with the University.

Family interest

A Member has a family interest in a matter if their partner or another person in their family is employed by a company, or they or their family or family trusts are a director or owner of a company which is seeking to do business with the University.

This means, for example, that a disclosure of interest is required when:

- a) The Member becomes involved with a matter which relates to duties undertaken as a University consultant or in the exercise of rights of private professional practice;
- b) The Member is a consultant, director, shareholder or an employee of or to a third party in some current or proposed relationship with the University;
- c) The Member is providing professional advice or services to a third party in some current or proposed relationship with the University;
- d) A decision of the University might affect a consulting or other relationship (e.g. board membership, directorship) of a Member with a third party;
- e) A Member is involved in a third party which is active in the same sphere of activity as the University or one of its subsidiaries;
- f) A Member has a close relationship with a person who in their own right or through a company is transacting business with the University;
- g) A Member has accepted gifts (including loans of money or property) from a party seeking to do business with the University, or that party provides services which compete with those provided by the University;
- h) A Member is on a committee which is to consider an appointment, scholarship or other matter for which a person in their family, or a person with whom the Member has (or has had) a close relationship, is an applicant or candidate;
- i) A Member is on a non-University committee, government board or similar where there is, for example, control over allocation or awarding of research funding, receivable by the University or any other benefit income or consequences flowing to the University.

Non-pecuniary interest

A Member has a non-pecuniary interest if they have publicly stated, or are well known as having, a view on a particular issue and where participation in a decision touching or concerning that view, might suggest the Member's mind is made up (bias). Also included would be cases where a Member showed an unwillingness to fairly consider the view of others, or was not prepared to be persuaded by evidence or argument, or took a fixed view where that view precluded a balanced consideration.

Third party interests

A conflict of interest will arise when a Member is associated with a party which takes actions that affect the University through the various agreements, including purchase agreements and alliances, the University has with third parties. It is crucial that a Member with such an interest in a matter is not perceived to be representing the interests of the University and that a Member's outside activities do not compromise the integrity of their teaching or research or employment as a Member. Members should not take any actions which might be perceived as promoting the interests of the third party in a matter of themselves.

[Reference for Examples of Interest: The University of Auckland Policy on Conflict of Interest, June 2009, 7.0]

Appendix B Ethical Expectations

- Public business ought to be conducted with a spirit of:
 - integrity
 - honesty
 - transparency
 - openness
 - independence
 - good faith; and
 - service to the public¹

- These principles should guide any decision-making about conflicts of interest.

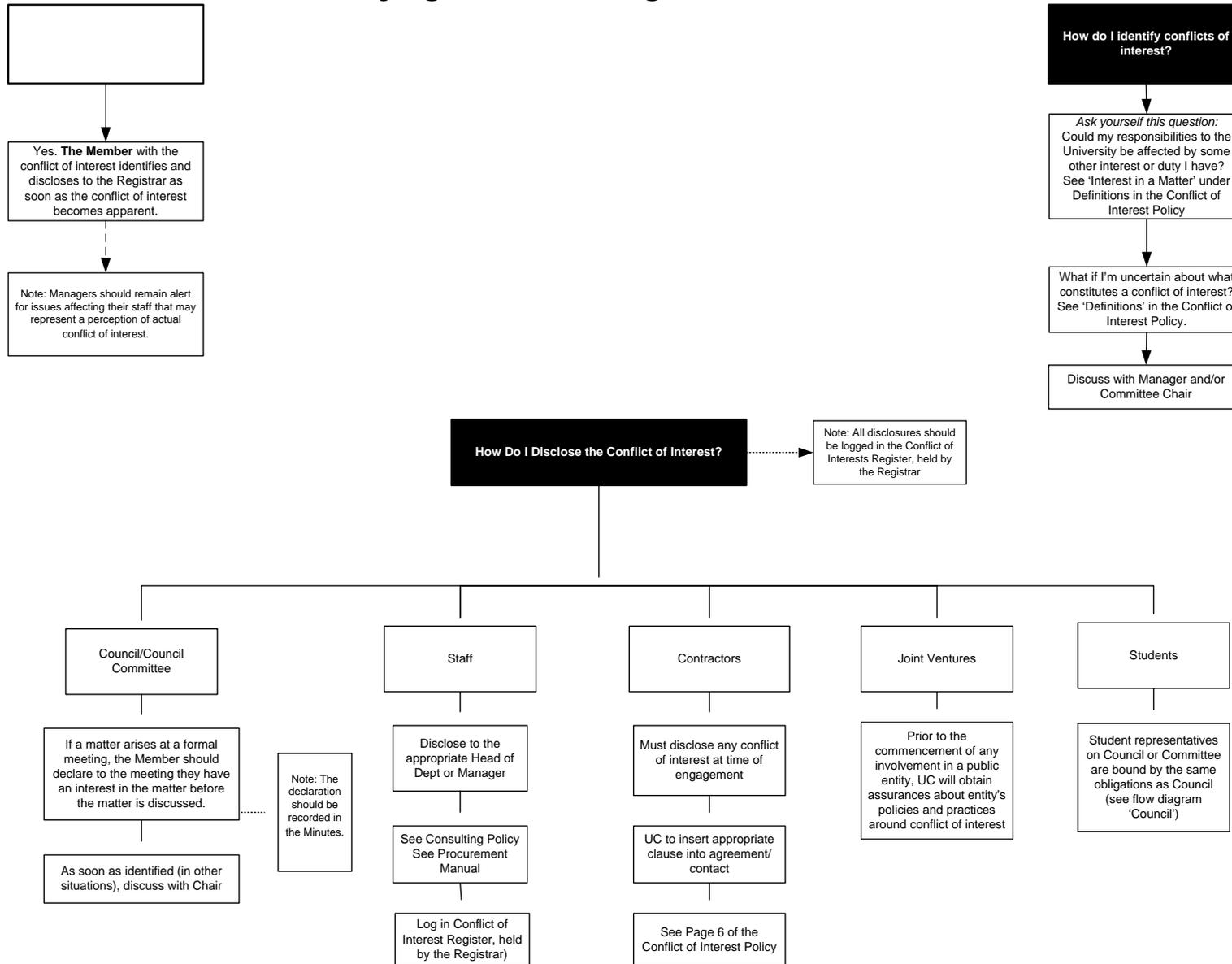
- There is no single source of rules or expectations specifying what constitutes ethical behaviour for all situations or all public entities. Any rules or expectations applying to a particular situation, public entity, member, or official may come from a variety of sources, including:
 - the entity’s founding or constituting document;
 - the entity’s code of conduct or relevant internal policies and procedures;
 - other sets of mandatory requirements that apply to the public sector or a particular part of it (such as the Code of Conduct for the State Services, or the Cabinet Manual, or the State Services Commission’s Board Appointment and Induction Guidelines);
 - relevant clauses in an employment agreement or contract for services;
 - rules of conduct or codes of practice applying to members of a profession or industry;
 - general guidance or best practice publications (such as this one);
 - customary practice and behaviour in the public sector or a particular part of it;
 - commonplace understandings of the concepts of integrity, honesty, transparency, openness, independence, good faith, and service to the public; and
 - analogies drawn from legal rules that apply to similar situations.

*[Reference: Controller and Auditor-General:
Managing Conflicts of Interest: Guidance for Public Entities, June 2007, NZ, pp 15-16]*

¹ The State Services Commission’s *Code of Conduct for the State Services* summarises the key principles as being fair, impartial, responsible, and trustworthy.

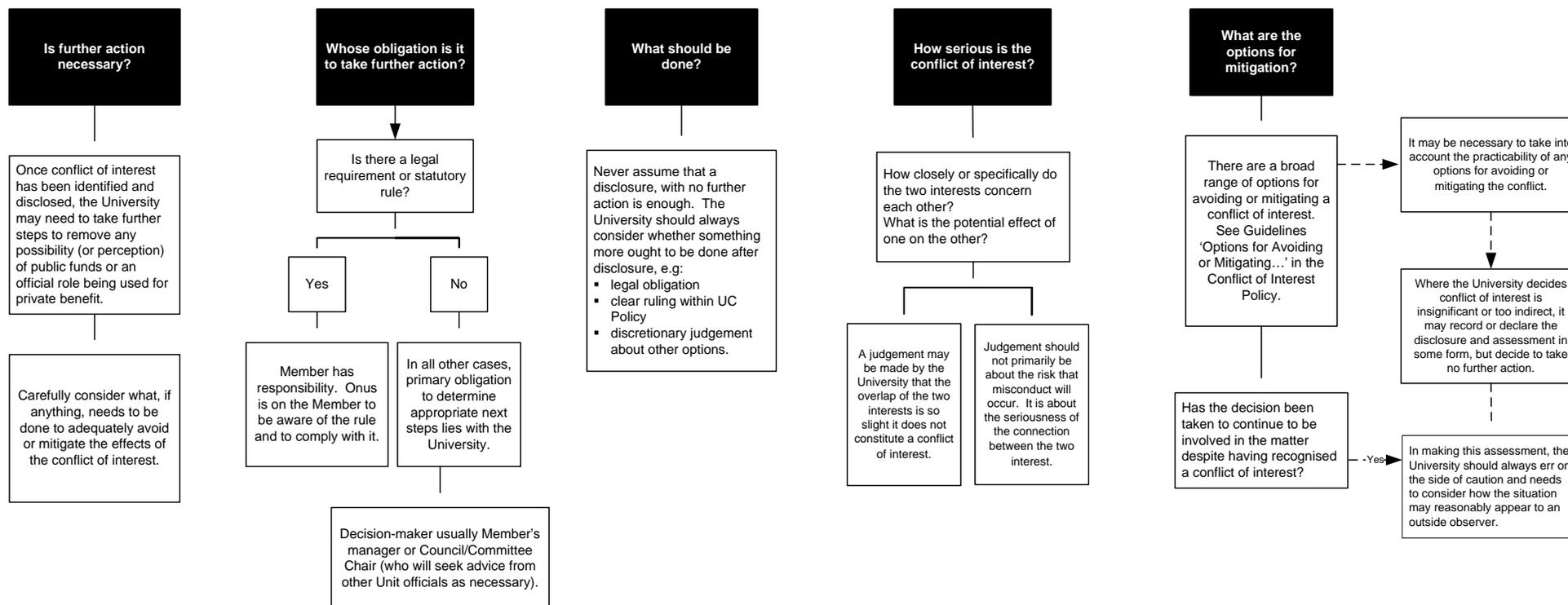
Appendix E

Identifying and Disclosing a Conflict of Interest



Appendix F

Deciding on Actions to Take to Avoid or Mitigate the Conflict of Interest



Appendix G
Conflict of Interest and Confidentiality Declaration
UC Procurement Policy and Procedures Manual

CONFLICT OF INTEREST AND CONFIDENTIALITY DECLARATION
Evaluation panel for the **insert project name**

Panel member's name: _____

Suppliers requested to respond to RFP:

1. _____
2. _____
3. _____

CONFLICT OF INTEREST DECLARATION

I hereby declare that, to the best of my knowledge, I do not have:

- Any financial interest (this can be in terms of major shareholdings, financial arrangements, etc.) in the supply of goods or services for **insert project name**;
- Any relatives or friends with a financial interest in the supply of goods or services for **insert project name**;
- Any personal bias, inclination, personal obligation, allegiance or loyalty that would in any way affect my ability to remain impartial when carrying out my role as a member of the evaluation panel;
- Any involvement in works or services carried out in the recent past for any of the potential tenderers;
- A managerial or governance relationship with any potential tenderer, such as a seat on the Board.

Except as set out below:

I undertake to make any further declarations detailing any conflict, potential conflict or apparent conflict that may arise during the duration of my involvement with **insert project name**. I agree to abstain from any discussion and decision where such a conflict arises.

CONFIDENTIALITY AGREEMENT

I am aware that all discussions, meetings and written and electronic material relating to **insert project name** are confidential and are subject to conditions of the Confidentiality Agreement that I have signed as part of my employment at, or engagement, with University.

I will take all necessary precautions to prevent unauthorised access to, or copying of, any written and/or electronic material in my control relating to the project.

CONTACT WITH TENDERERS

During the period that the tender is open, and during the subsequent tender evaluation (up until formal announcement of the successful tenderer(s)), I will not:

- Pass on any information to;
- Receive any gift, gratuity, hospitality or any other form of inducement from;
- Make any comments to; or
- Meet with any potential tenderers, in relation to **insert project name**, unless conducted as part of the procurement process in the role of Project Manager, and conducted in a formal way.

I will pass any requests for information and meetings that I receive from any potential tenderer relating to the **insert project name** to the Project Manager for managing in a formal way.

If I am involved in other University business activities with a potential tenderer, I will not discuss any matter relating to **insert project name** without the approval of the Project Manager.

In signing this undertaking, I understand the importance of the need to safeguard myself and other members of this evaluation panel against allegations of commercial or professional impropriety.

Signed by: _____	Witnessed by: _____
Name: _____	Name: _____
Date: _____	Date: _____

MANAGEMENT REVIEW

I have reviewed this Conflict of Interest Declaration and (*delete as appropriate*):

- Accept the signatory as part of the tender evaluation panel and/or as an advisor to the tender process;
- Note the declared Conflict of Interest and accept that there is a low risk of conflict of interest; or
- Note the declared Conflict of Interest and recommend that this person is not to be part of the evaluation team.

Signature: _____

Name: _____

Date: _____