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## Conflicts of Interest Statute

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### 1 Purpose

The purpose of this statute is to set out principles to ensure that in making decisions for, or on behalf of, the Victoria University of Wellington (‘the University’), members of the University Community exercise discretion in their personal and professional capacities so that they manage any conflicts of interest, are not in breach of fiduciary or good faith obligations, and act in a manner consistent with institutional responsibilities and the public interest.

### 2 Organisational Scope

This statute applies to all members of the Victoria University of Wellington Council; members of University committees; University staff; staff, board members or trustees of subsidiaries; independent contractors to the University; adjunct and visiting staff; visiting scholars and interns; emeritus professors; and any other persons providing services to the University.

### 3 Definitions

For purposes of this statute, unless otherwise stated, the following definitions shall apply:

**Conflict of Interest:** A conflict of interest exists where the responsibilities of a member of the University community could be affected by some other separate interest or duty that the member may have in relation to a particular matter. That other interest or duty might exist because of a relationship or role that the member has; or something the member had said or done.

Conflicts of interest are governed by the common law of bias: whether a reasonably informed fair-minded lay observer would reasonably apprehend that the decision-maker might not bring an impartial mind to the resolution of the question.

**Pecuniary Interest:** The test used by the Office of the Auditor-General is whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned.

**Non Pecuniary Interest:** The test is whether, to a reasonably informed fair-minded observer, there is a real danger of bias on the part of a member of the decision-making body, in the sense that he or she might unfairly regard (with favour or disfavour) the case of a party to the issue under consideration.

Member/Member of the University Community:	Member of the Victoria University of Wellington, including members of Council; members of University committees; University staff; staff, board members or trustees of subsidiaries; independent contractors to the University; adjunct and visiting staff; visiting scholars and interns; emeritus professors; and any other persons providing services to the University.
Multiple relationships:	A multiple relationship occurs when a member is in a professional role with another person and: <ul style="list-style-type: none"><li>(a) at the same time is in another role with the same person;</li><li>(b) at the same time is in a relationship with a person closely associated with, or related to, the person with whom the member has the professional relationship; or</li><li>(c) wishes or promises to enter into another relationship in the future with the person or a person closely associated with, or related to, the person.</li></ul>
Relationship:	A connection that could affect how other people view the member's impartiality. For example, if the matter involves or affects a family member, or an organisation to which the member belongs, or a business of which the member is an employee.
University:	The Victoria University of Wellington and its subsidiaries.

## 4 Statute Content

### 4.1 Identification of Conflicts of Interest

- (a) Members are obliged to ensure that any identified conflict of interest is disclosed and managed in accordance with this statute and the associated Procedures for Managing Conflicts of Interest.
- (b) The guiding principles and responsibilities for identification and management of conflicts of interest in any situation are:
  - (i) the member should identify and assess any actual or potential conflicts of interest;
  - (ii) those conflicts should be disclosed; and
  - (iii) unless the group or person to whom the disclosure is made decides otherwise, after an assessment of the facts, the member should withdraw from involvement in any decision or exercise of discretion on behalf of the University.

### 4.2 Disclosure of Interests

- (a) Members of the University Council are required to disclose as best they can a list of external interests which may raise issues of conflict of interest and to update this list as necessary. The supplying of information does not constitute a disclosure as required in other sections of this document. Each conflict of interest must be dealt with as it arises and the onus is on the member to disclose. Disclosures of interests will be securely held in an Interests Register maintained by the Secretary to the Council, updated on a yearly basis or as required.
- (b) The Vice-Chancellor requires members of the Senior Leadership Team, and may require other members employed by the University, to disclose as best they can a list of external

interests which may raise issues of conflict of interest. The supplying of information does not constitute a disclosure as required in other sections of this document. Each conflict of interest must be dealt with as it arises and the onus is on the member to disclose. Disclosures of interests will be securely held in an Interests Register maintained in the Office of the Vice-Chancellor and updated on a yearly basis, or as required.

- (c) In relation to academic supervision and assessment of students, staff members in a decision making role are required to disclose to their Head of School any personal or financial relationship, and where such a relationship exists, shall not normally have any assessment responsibility, nor act as supervisor nor, as the case may be, a joint supervisor or advisor of the student.
- (d) In relation to employment, staff members are required to disclose to their Head of School or Manager any personal or financial relationship with another person, where the staff member has responsibility for or may directly influence decisions about the appointment, promotion, leave or discipline of that other person.
- (e) In relation to other activities, staff members are required to disclose to their Head of School or Manager any affiliation with, family connection to, or financial involvement in, any organisation or business entity which may be in conflict with the discharge of his or her University duties or responsibilities.

### 4.3 *Examples of Interests and Conflicts of Interest*

**Note: The examples given below are indicative and not exhaustive.**

- (a) **Pecuniary interest:** A member has a direct financial interest in a discussion relating to the setting of fees for services from which income would be received if they provided those services. There is also an indirect pecuniary interest if a partner, close relatives or friend would receive income or other benefits from the services.
- (b) **Involvement in a company:** A member has a known interest that 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.
- (c) **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.
- (d) **Bias and perception of bias:** A member will, or may be, perceived as biased if they are in a relationship (personal, family, civil union) with another member and either member is participating in a process, decision or exercise of discretion that involves the other member. Bias may also be perceived where statements are made or a position is taken where impartiality in the process, decision or exercise of discretion is apparently inconsistent with the statement made or position taken.

**Pecuniary Interest:** a disclosure of interest is required when:

- (a) A member becomes involved with a matter which relates to duties undertaken as a consultant at the University or in the exercise of rights of private professional practice.
- (b) A 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) A 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 person 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 (also refer to clause 4.6 of this statute relating to outside work).
- (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 academic or other advancement in the University, 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 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 consequence flowing to the University.
- (i) 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.

**Non-pecuniary interest:** a disclosure of interest is required when:

- (a) Two members are in a personal or family relationship and they are seeking to jointly supervise a research degree candidate. This relationship may also be perceived as a position of possible bias.
- (b) A member enters a personal relationship, or has a familial relationship, with a research student under their supervision. This relationship may also be perceived as a position of possible bias.

**Bias:** a conflict of interest may arise, or may be perceived, when:

- (a) A member has publicly stated, or is 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 has predetermined the issue.
- (b) A member shows an unwillingness to fairly consider the view of others, or is not prepared to be persuaded by evidence or argument, or takes a fixed view where that view precludes a balanced consideration.
- (c) A member is associated with a party which takes actions that affect the University through the various agreements and alliances, the University has with third parties (*alliances* would include arrangements such as Memoranda of Understanding).

#### 4.4 Procedures

The procedures to be followed in managing conflicts of interest can be found at:

[Procedures for Managing Potential Conflicts of Interest](#)

#### 4.5 Compliance

- (a) Statutory and governance requirements must be observed at all times and a member who has made a disclosure shall not (unless the group or person to whom the disclosure is made decides and records otherwise):
  - (i) be present during any deliberation with respect to the matter at hand; or
  - (ii) take part in any decision with respect to that matter; or

- (iii) continue activities associated with the matter whether administrative or otherwise.
- (b) A breach of this policy by a member who is an employee may constitute misconduct or serious misconduct and, depending on the circumstances, be dealt with under the [Staff Conduct Policy](#).
- (c) Under Section 295 of the Education and Training Act 2020, the Vice-Chancellor may delegate functions and powers to staff holding particular positions. These general delegations are recorded in the HR Delegations Framework. Conflict of interest situations will normally be managed in accordance with these delegations. From time to time, the Vice-Chancellor may delegate powers, in writing, for the management of a particular conflict of interest situation to a named member of staff.
- (d) Where any person who is a manager wishes to sub-delegate the power to manage a particular conflict of interest situation they may do so only after the Vice-Chancellor has approved the sub-delegation in writing to a named member of staff.

### 4.6 Related Matters

University staff members should note that the University has a policy covering outside work, the [Entitlement to Undertake Private Work Policy](#), which covers a wide range of interactions with third parties. Compliance with this policy is essential to minimise the risks of conflicts of interest and to protect both the staff members' interests and those of the University.

### 4.7 Disputes Resolution

In the event of a dispute arising between persons or organisations (including the University itself) having an interest in decisions or processes governed by this statute, resolution shall be sought in the following way:

- (a) On notification of the dispute, in writing, to the University, the parties will use best endeavours to resolve the dispute through negotiation.
- (b) Should the dispute remain unresolved within ten (10) working days, it will be referred to mediation.
- (c) If resolution still cannot be reached within thirty (30) working days, then either party may refer the matter to arbitration in accordance with and subject to the [Arbitration Act 1996](#). The arbitrator or arbitrators should be agreed upon by the parties and, failing agreement, shall be nominated by the President of the Arbitrators' and Mediators' Institute of New Zealand Inc. Such arbitration shall be regarded as final and binding.

## 5 Legislative Compliance

The legislation governing this statute is the:

[Arbitration Act 1996](#)

[Education and Training Act 2020](#)

[Companies Act 1996](#)

[Crown Entities Act 2004](#)

[Local Authority \(Members' Interests\) Act 1968](#)

[Protected Disclosures Act 2000](#)

[Public Service Act 2020](#)

**6 References**

[Gift and Koha Policy](#)

[Procedures for Handling Conflicts of Interest](#)

[Conduct Policy](#)

HR Delegations Framework

[Disclosure of Wrongdoing \(Whistleblower\) Policy](#)

[Entitlement to Undertake Private Work Policy](#)

Guidance for members of local authorities about the Local Authorities (Members' Interests) Act 1968 – Office of the Auditor General

**7 Approval Agency**

University Council

**8 Approval Dates**

This statute was originally approved on: 27 June 2011

This version was approved on: 27 June 2011

This version takes effect from: 27 June 2011

**9 Statute Sponsor**

Vice-Chancellor

**10 Contact Person**

The following people may be approached on a routine basis in relation to this statute:

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