

 <p>KAIPARA DISTRICT The Oceans The Harbours</p>	<b>Title of Policy</b>	<b>Conflict of Interest – Staff</b>		
	<b>Sponsor</b>	Peter Marshall, Human Resource Manager		
	<b>Written By</b>	Peter Marshall	<b>Authorised/Adopted by</b>	Council
	<b>Type of Policy</b>	Operational	<b>Date Adopted</b>	30 September 2013
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## 1 Background

Every person working for or with Kaipara District Council (Council) has a number of professional and personal interests and roles. A Conflict of Interest arises when the personal interests of Staff or representatives of the Council overlaps with their duty to the Council. A Conflict of Interest, whether actual, perceived or potential must be declared and managed in accordance with the principles, procedures, guidelines and rules outlined in this document.

## 2 Objective

The purpose of this document is to clarify for Council Staff and representatives what constitutes a Conflict of Interest, their obligation to declare any conflict when it arises, how conflicts will be managed and the potential consequences if Staff and/or representatives do not comply with their obligations.

This document applies to all Council Staff and representatives (as defined in this document and as defined in the Procurement Policy). Commissioners are not subject to this Policy.

## 3 Definitions

- **Conflict of Interest**

A Conflict of Interest exists where the official duties of Staff or representatives of the Council come into conflict with some other interest or duty that person may have. A Conflict of Interest can be an actual, a perceived or a potential Conflict of Interest.

- **Representatives**

For the purposes of this document “representatives” means any agent or volunteer working for the Council and includes, but is not limited to, Council consultants, contractors and appointed Advisory Board members.

## 4 Policy Statement

The Council’s Conflict of Interest Policy is based on the following principles:

- Decision-making and/or any action (or inaction) by Council Staff and representatives should be guided by the principles of integrity, honesty, transparency, openness, independence, good faith and service to customers and the public.
- Public decision-making and actions of the Council should also be procedurally fair and free from bias or predetermined outcome.
- Decision-makers, or those that influence decision-making, must not participate in decisions that relate to a matter in which they have a personal interest. They must also declare their conflict.

Each conflict needs to be managed having regard to both ethical and legal dimensions and in consideration of the individual circumstances.

As a public organisation, it is very important that the Council is seen to be observing these principles. This means that Staff need to be just as careful about perceived conflict situations as they are about actual conflict situations. Even if an employee has not actually received a benefit or advantage, they need to think about how the situation might look to those outside the Council.

#### 4.1 When does a Conflict of Interest arise?

There is always potential for Conflicts of Interests, so Council Staff and representatives need to be alert to possible situations where they have an opportunity to gain advantage or benefit. The advantage or benefit can be:

- **Personal** eg power, prestige, money or opportunity (not necessarily financial).
- **Professional** eg advances their career or business interests.
- **Family related** eg help for their family or friends.
- **Community** eg enabling a community or stakeholder group to receive assistance or favour.

Some examples of the types of interest that may cause a conflict are set out in both [Attachment 1](#) and [Attachment 2](#).

To minimise undue influence and protect the integrity of processes and decision-making, the Council has developed the procedures set out in this document. The procedures apply in all cases where there is a Conflict of Interest. These cases may include (but are not limited to):

- 4.1.1 Direct reporting relationships** are not allowed between people who have a domestic relationship (marriage, civil union or de facto relationship) outside of work. The Council also reserves the right to review other relationships if these have the potential to impact upon the ability of the organisation to run its business with integrity or bring the organisation into disrepute.
- 4.1.2 Staff of Council should not also act in a contracting or consulting capacity** for the Council. This also applies to representatives where they are closely identified with Council or the relationship warrants it.
- 4.1.3 Staff or representatives of the Council should not take secondary employment** or engage in other business interests either inside or outside the Council without prior approval by the Staff's, or representative's, General Manager. Approval will not be given where that other interest or employment could either bring Kaipara District Council into disrepute or prejudice the ability of the Staff or representatives to carry out their responsibilities to the Council.
- 4.1.4 Staff or representatives must not:**
- a) **Evaluate** or make a decision to **procure** goods or services from someone (or an organisation) with whom they have a relationship (personal, professional, business or community).
  - b) In a **regulatory capacity** process, review or signoff an activity for someone (or and organisation) with whom they have a relationship (personal, professional, business or community).

- c) In a **funding or sponsorship decision-making capacity** process, review or signoff an activity for someone (or and organisation) with whom they have a relationship (personal, professional, business or community).
- d) **Peer review** their own work or peer review someone (or an organisation) with whom they have a relationship (personal, professional, business or community).

**4.1.5 Commissioners or Elected Members** are not subject to this Policy. However, senior Staff have an obligation to monitor and, on occasion, to guide Governance members to manage potential, actual or perceived conflicts. [Note: The applicable Act and guidelines for Councillors and community board members are set out the Local Authorities (Members' Interest) Act 1968 and the Office of the Auditor General's good practice guide "Guidelines for members of Local Authorities about the law on Conflicts of Interest"].

## 4.2 Procedures for dealing with Conflict of Interest

Staff or representatives with a Conflict of Interest, or potential Conflict of Interest, have the primary obligation to identify the conflict and disclose it in a timely and effective manner. Thereafter, that Staff member or representative, working with the Council, has an obligation to manage the conflict in accordance with the procedures, guidelines and rules set by the Council.

Council has the following requirements in place:

- 4.2.1** In all cases where an actual, perceived or potential Conflict of Interest arises, all Staff or representatives must notify and obtain the authority of the relevant General Manager before proceeding with the proposed activity.
- 4.2.2** If Staff or representatives believe there is, or could be, either a real, perceived or potential Conflict of Interest they must:
  - Discuss the matter with their General Manager.
  - Work with their General Manager to establish how the conflict will be declared and managed.
  - Complete and sign the Interest disclosure ([Attachment 3](#)) and send it to the Human Resources Manager (this form is reviewed then held in the central Interests register).
- 4.2.3** If Staff or representatives believe a Commissioner has a real, perceived or potential Conflict of Interest they must:
  - Discuss their concerns with their General Manager or the Human Resources Manager; and
  - If appropriate, the relevant Manager must then notify the Chief Executive for consideration.
- 4.2.4** All Council Staff who hold financial delegations must prepare an annual Conflict of Interest declaration ([Attachment 4](#)), send it to their Manager and copy it to the Human Resources Manager. The Chief Executive must prepare an annual Conflict of Interest declaration and send it to the Human Resources Manager.
- 4.2.5** Any breach of the above requirements or of any part of this Policy will be dealt with as follows:
  - In the case of Staff, a breach may constitute serious misconduct and will be dealt with in accordance with the Council's disciplinary procedures.

- In the case of representatives, as a serious issue which may result in termination of their contracts with the Council.

#### 4.3 Responsibility

Staff	Adherence to this Policy, procedure and guideline.
Representatives	Adherence to this Policy, procedure and guideline.
All Managers and General Managers	Promote the principles of this Policy. Notify applicable representatives of the requirements of the Policy, procedures and guideline.
Human Resources Manager	Maintain central Interests register Administer the annual Conflict of Interest declarations by Council Staff. Monitoring and updating of this Policy, procedure, guideline and rules.

#### 4.4 Related documents

- Code of Conduct
- Commissioners' Conflict of Interest
- Fraud Policy
- Gift Policy
- Procurement Policy and Strategy
- The Procurement Policy requires consideration be given to Conflicts of Interest regarding tenders, purchases etcetera.

## 5 Legislation

**Human Rights Act** - S 31 and S 32 provide for specific exemptions from the law against discrimination based on:

- The employment of a person who is married to, in a civil union with, in a de facto relationship with or is a close relative of another Staff member, where there would be a reporting relationship between them or a risk of collusion to the detriment of the employer.
- The employment of a person who is married to, in a civil union with, in a de facto relationship with or is a close relative of a Staff of a different employer if there is a risk of collusion to the detriment of the employer.
- Employment of a political nature.

## 6 Authoritative References

Controller and Auditor-General, good practice guides:

- Managing Conflicts of Interest: Guidance for Public Entities
- Guidance for Members of Local Authorities about the law on Conflicts of Interest

- Procurement Guidance for Public Entities
- Public Sector Purchases, Grants And Gifts: Managing Funding Arrangements with External Parties
- Controlling Sensitive Expenditure: Guidelines for Public Entities.

## 7 Forms / Templates

- Interest Disclosure
- Annual Conflict of Interest Declaration

## 8 Records

The Human Resources Manager holds the central register of Interests.

## 9 Attachments

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|--------------|--|
| Attachment 1 | Types of interests that may cause a conflict   |
| Attachment 2 | Conflict of Interest examples and implications |
| Attachment 3 | Interest Disclosure (form)                     |
| Attachment 4 | Annual Conflict of Interest Declaration (form) |

## Types of interests that may cause a conflict<sup>1</sup>

A Conflict of Interest can arise in a wide range of circumstances. The other interest that overlaps with official Council duties could be, for example:

- Being a Staff member, advisor, director or partner of another business or organisation.
- Pursuing a business opportunity.
- Being a member or executive of a club, society or association.
- Having a professional or legal obligation to someone else (such as being a Trustee).
- Owning a beneficial interest in a Trust.
- Owning or occupying a piece of land.
- Owning shares or some investment or asset.
- Having received a gift, hospitality or benefit from someone else.
- Owning a debt to someone.
- Holding another public office.
- Holding or expressing strong political personal views that may indicate prejudice or pre-determination for or against a person or issue (or being a relative or close friend of someone who has one of these interests).
- Being a relative or close friend of someone who could be personally affected by a decision of the Council.

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<sup>1</sup> Adapted from the OAG good practice guide on 'Managing Conflicts of Interest: Guidance for Public Entities'

## Conflict of Interest examples and implications

Examples are set out below.

**Note:** This list is illustrative only, not exhaustive, and may be added to at any time.

- 1 *Direct reporting relationships between people who have a domestic relationship (marriage, civil union or de facto relationship) outside of work are not allowed. The Council also reserves the right to review other relationships if these have the potential to impact upon the ability of the organisation to run its business with integrity or bring the organisation into disrepute.*

### Examples

<ul style="list-style-type: none"> <li>• Direct reporting relationships between people who have a domestic relationship outside of work are not allowed.</li> </ul>
<ul style="list-style-type: none"> <li>• A Staff member recruiting a spouse or partner into a position at Kaipara District Council which either reports to them or is in the same work division of their group.</li> </ul>
<ul style="list-style-type: none"> <li>• Staff or representatives in a recruitment situation should not make a decision about someone with whom they have a relationship (personal, professional, business or community).</li> </ul>

### Rule

Seek advice from your Manager and/or Human Resources Manager. Manage any conflict in accordance with the policy and procedures in this document and complete the Conflict of Interest disclosure form as required.

- 2 *Staff of Council must not act in a contracting or consulting capacity for the Council without prior approval by their General Manager. This also applies to representatives where they are closely identified with Council or the relationship warrants it.*

### Examples

<ul style="list-style-type: none"> <li>• Staff tendering for work within Council in the name of a company in which they have an interest.</li> </ul>
<ul style="list-style-type: none"> <li>• Staff doing casual work elsewhere for Council.</li> </ul>
<ul style="list-style-type: none"> <li>• Staff, in their own right, or in the name of a company in which they have a significant interest should not tender for work within Council (or elsewhere).</li> </ul>

### Rule

Seek advice from your General Manager and/or Human Resources Manager advice (if Staff) and/or procurement advice. Manage any conflict in accordance with the policy and procedures in this document and complete the Conflict of Interest disclosure form as required.

- 3 *Staff or representatives of the Council must not take secondary employment or engage in other business interests either inside or outside the Council without prior approval by their General Manager. Approval will not be given where that other interest or employment could either bring Kaipara District Council into disrepute or prejudice the ability of the Staff or representatives to carry out their responsibilities to the Council.*

### Examples

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|---|
| <ul style="list-style-type: none"> <li>Staff or representatives undertaking secondary employment either inside or outside Kaipara District where that employment may impact on their position in Council.</li> </ul>                  |
| <ul style="list-style-type: none"> <li>Staff or representatives undertaking secondary employment either inside or outside Kaipara District where that employment may impact on the reputation of Kaipara District Council.</li> </ul> |

### Rule

Staff to seek advice from their General Manager. Manage any conflict in accordance with the policy and procedures in this document and complete the Conflict of Interest disclosure form as required.

- 4 *Staff or representatives must not evaluate or make a decision to procure goods or services from someone (or an organisation) with whom they have a relationship (personal, professional, business or community).*

### Examples

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| <ul style="list-style-type: none"> <li>Staff or representatives negotiating for Kaipara District Council to do business with a company in which they have a personal shareholding or a close relative has a shareholding (eg. negotiating a preferred supplier relationship with your brother's company).</li> </ul> |
| <ul style="list-style-type: none"> <li>Staff or representatives providing assistance or advice to a customer where that advice may result in personal advantage e.g. accepting kickbacks or incentives for providing works, services or advice.</li> </ul>   |
| <ul style="list-style-type: none"> <li>Staff or representatives submitting a tender, or entering into any contact for works or services (in a private capacity) to/with Kaipara District Council, resulting in a personal pecuniary advantage.</li> </ul>  |
| <ul style="list-style-type: none"> <li>Staff or representative accepting any gift or favour (regardless of the value) from a potential supplier or contractor during a tender, evaluation or negotiation for services process.</li> </ul>  |

### Rule

Consult applicable procedural guidelines. Staff to seek advice from their General Manager. Manage any conflict in accordance with the policy and procedures in this document and complete the Conflict of Interest disclosure form as required.

- 5 *Staff or representatives in a regulatory capacity must not process, review or signoff an activity for someone (or an organisation) with whom they have a relationship (personal, professional, business or community).*

### Examples

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|---|
| <ul style="list-style-type: none"> <li>Staff or representatives whose work duties involve matters in which they have either a private, family or business interest (eg. approving a liquor license for their sister's restaurant).</li> </ul> |
| <ul style="list-style-type: none"> <li>Staff or representatives processing an application (eg Building or Resource Consent) for someone who they have a relationship (eg friend, family, neighbour).</li> </ul>                               |
| <ul style="list-style-type: none"> <li>Staff or representative processing or undertaking an inspection (eg Building Consent) for someone who they have a relationship (eg friend, family, neighbour).</li> </ul>                              |
| <ul style="list-style-type: none"> <li>A company acting as agent applies for a consent cannot subsequently inspect the work.</li> </ul>   |



- Staff or representative providing assistance or advice to a customer where that advice may result in personal advantage eg accepting kickbacks or incentives for providing services or advice.

### Rule

Consult applicable procedural guidelines. Seek advice from your General Manager. Manage any conflict in accordance with the policy and procedures in this document and complete the Conflict of Interest disclosure form as required.

- 6 *Staff or representatives in a funding or sponsorship decision-making capacity must not process, review or signoff an activity for someone or any organisation with whom they have a relationship (personal, professional, business or community).*

### Examples

- Staff or representatives must not process a funding or sponsorship application in which he or she has a personal interest in (eg community group that he or she belongs to).

### Rule

Consult applicable procedural guidelines. Staff to seek advice from their General Manager. Manage any conflict in accordance with the policy and procedures in this document and complete the Conflict of Interest disclosure form as required.

- 7 *Staff or representatives must not peer review their own work or peer review someone (or an organisation) with whom they have a relationship (personal, professional, business or community).*

### Examples

- An individual must not peer review their own work.
- An individual must not peer review the work of a close associate (excluding normal managerial and reviewing situation).
- A company must not engage a peer to review work the same company produced.
- A company acting as agent applies for a consent must not subsequently inspect the work.

### Rule

Staff to seek advice from their General Manager. Manage any conflict in accordance with the policy and procedures in this document and complete the Conflict of Interest disclosure form as required.

- 8 *Commissioners are not subject to this policy. However, Executive Staff have an obligation to monitor and, on occasion, to guide elected representatives to manage potential, actual or perceived conflicts<sup>2</sup>.*

### Rule

Discuss any concerns with the Human Resources Manager or the Chief Executive for consideration.

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<sup>2</sup> [Note: The applicable Act and guidelines for councillors and community board members are set out the Local Authorities (Members' Interest) Act 1968 and the Office of the Auditor General's good practice guide: "Guidance for members of local authorities about the law on conflicts of interest"].



## Attachment 4

## Annual Conflict of Interest Declaration

**To:** Direct report<sup>3</sup>

**Copy:** Human Resources Manager

I have reviewed the Code of Conduct, and Conflict of Interest policies.

Either

This is to certify that I have no actual, perceived or potential Conflict of Interest to disclose.

Or

This is to certify that I have no actual, perceived or potential Conflict of Interest to disclose, other than those set out in the confidential attachment.

(delete one)

I understand I am under continuing obligations to disclose any Conflicts of Interest that may arise during my employment.

Name of person making declaration	Title	Signature	Date

<sup>3</sup> Chief Executive to address to the Human Resources Manager