

MANUAL:	Governance
POLICY AREA:	General Governance & Board Policies
POLICY NAME:	Trustee and Staff Conflict of Interest
AUDIENCE:	Board, Chief Executive and Staff
EFFECTIVE DATE:	29 <sup>th</sup> March 2022
REVIEW PERIOD:	Three yearly
NEXT REVIEW DATE:	March 2025



## TRUSTEE AND STAFF CONFLICT OF INTEREST

### PURPOSE

To set the framework within which the Board, Chief Executive and Staff must disclose and manage conflicts of interest. Trustees are also bound by the provisions of the Trust Deed and by their duties as Trustees.

### POLICY

#### 1. Introduction

- a. It is common for Trustees and staff members to have several professional and personal interests and roles. Conflicts of interest sometimes cannot be avoided and can arise without anyone being at fault. They need not cause problems as long as they are promptly disclosed and well managed. The Trustee Code of Conduct requires Trustees to disclose to the Board any actual, potential or perceived conflicts of interest which may exist or might reasonably be thought to exist between the interests of the Trust and the interests of the Trustee and persons associated with the Trustee. This also applies to staff.
- (b) There are two types of disclosure:
  - standing disclosure on a Register of Interests; and
  - disclosure of an actual conflict arising in a particular matter, which is recorded in a separate Conflicts of Interest Register.
- (c) If there is doubt about whether disclosure is required or a conflict exists, disclosure should be made nevertheless and the Board can discuss the matter. Responsibility for disclosing conflicts always remains with the Trustee or staff member affected.

#### 2. Trustees and Staff Register of Interests

- a. At the commencement of their appointment/employment, Trustees and staff shall submit their interests into a Register of Interests (which is stored on Board Pro). Placing interests on record is consistent with the principle of transparency. A declaration in the Register of Interests is not, in itself, a declaration of a conflict of interest. In most cases, it is simply a declaration that someone has an interest that have potential to lead to a conflict of interest. It enables other Trustees and the Chief Executive to be aware of most relevant ongoing interests and acts as a reminder to people of the need to be alert for conflicts of interest.
- b. Material interests in transactions and potential transactions can arise even where there is no relevant financial interest. To allow consideration of whether a Trustee is interested in a relevant transaction or potential transaction under this Policy, Trustees

are expected to disclose to the Chair any involvement or association with a party to a transaction where that involvement or association could influence, or be seen as capable of influencing, that Trustee's views. Where an involvement or association falls short of meaning that the Trustee is interested in the transaction, it is for the Trustee to decide whether they should withdraw from the meeting and/or not to participate in a discussion or vote.

- c. The Register of Interests is available for public inspection. Trustees and staff waive their rights under the Privacy Act in respect of information disclosed in the Register of Interests.

### **3. Trustees campaigning for public office**

- a. A Trustee shall promptly notify the Chairperson if he or she is campaigning or intends to campaign for public office.
- b. If a Trustee is campaigning for public office there may be a material conflict of interest that may materially adversely affect the reputation of the Trust e.g. if the Trustee's campaign is funded by someone who has applied for or received funding from the Trust or other circumstances apply that could cause questions about whether the Trustee's decisions are made for the right reasons or are influenced by personal interests or ulterior motives.
- c. If a Trustee is campaigning for public office and there is a material conflict of interest that may materially adversely affect the reputation of the Trust, then, unless the conflict of interest cannot be effectively mitigated, the Chairperson and the relevant Trustee shall promptly meet to discuss the matter in good faith, with a view to consensually addressing and resolving the concerns.
- d. Under the Trust Deed, one of the circumstances in which a Trustee can be suspended is if they are campaigning for public office and there is a material conflict of interest that:
  - cannot be effectively mitigated; or
  - otherwise may materially adversely affect the reputation of the Trust as outlined under a Trust policy and where the Trust Chair and the relevant Trustee have not been able to consensually address and resolve the concerns [clause 5.1(a) of the Trust Deed].

### **4. Interested Trustees and Staff**

- a. Any actual, potential or perceived conflicts arising during a Trustee's term of appointment or a staff member's employment shall be declared to the Chairperson and noted in the minutes of the meeting (if disclosed during a meeting) and recorded in the Conflicts of Interest Register (including the nature and extent of any monetary value of that interest) ..\..\TRUSTEES\Register of Conflicts of Interest.doc.
- b. Conflicts of interest should be viewed within the context of good faith, honesty and impartiality. It is important that Trustees are aware of the definition of being "interested in a transaction" so they can monitor situations that could give rise to a conflict of interest, identify conflicts of interest at an early stage and comply with the disclosure requirements under this Policy and the Trust Deed.

- c. A Trustee or staff will be interested in a transaction to which the Trust is a party if the Trustee:
- is themselves a party to the transaction, or will derive or may derive a material financial benefit from the transaction;
  - has a material financial interest in a party to the transaction;
  - is a director, officer or trustee of a party to the transaction, or of a person who will or may derive a material financial benefit from the transaction (other than a party that is wholly owned by the Trust);
  - is the parent, child, spouse, civil union partner, or de facto partner of a party to the transaction, or a person who will or may derive a material financial benefit from the Transaction; or
  - is otherwise directly or in directly materially interested in the transaction

A Trustee or staff member is not interested in a transaction solely by virtue of being a member of the community in the Trust's Specified Area (as defined in the Trust Deed) that will derive a benefit from the transaction [clauses 9.1 and 9.2 of the Trust Deed].

- d. As soon as a Trustee or staff member becomes aware that he or she is interested in a transaction or proposed transaction to which the Trust is a party, they must disclose the following information to the Board:
- the fact of their interest in the transaction;
  - if the monetary value of their interest is able to be quantified, the nature and monetary value of that interest; and
  - if the monetary value of the Trustee's interest cannot be quantified, the nature and extend of that interest
- [clause 9.3 of the Trust Deed].

**5. Interested Trustee/Staff may not vote, be counted in quorum or sign documents**

- a. A Trustee/staff member who is interested in a transaction entered into or proposed to be entered into by the Trust may not:
- in the case of a Trustee, vote on a matter relating to the transaction;
  - attend the portion of a meeting of Trustees at which a matter relating to the transaction arises, and be included among the Trustees present at the meeting for the purpose of a quorum for the part of the meeting discussing and voting on the transaction;
  - sign a document relating to the transaction on behalf of the Trust; and
  - do anything else as a Trustee/staff member in relation to the transaction;
- except that a Trustee may vote, be counted in a quorum, sign a document or do anything else in respect of the following matters:
- policies relating to payments and reimbursements to trustees generally;
  - the authorisation of such payments and reimbursements (whether or not the Trust has a policy in place);
  - insurance for Trustees; and
  - if at any time permitted and only to the extent permitted, the granting of indemnities to Trustees

[clause 5.1 of the Schedule to the Trust Deed].

Subject to clause a and to the Schedule of the Trust Deed, each Trustee may act as a Trustee and still contract or otherwise deal with the Trustees in his or her personal capacity or in any other capacity as if he or she had not been appointed as a Trustee. This right to continue to act as a Trustee applies even though a Trustee's interest or

duty in a particular matter may conflict with her or her own duty to carry out the Trust's Purposes, or his or her duty to the beneficiaries of the Trust, as the case may be [clause 9.5 of the Trust Deed].

**6. Privacy waiver**

- a. In disclosing any conflicts, Trustees/staff acknowledge and agree that the conflict (and the nature and extent of any monetary value of that interest) will be entered into the Conflict of Interests Register and be available for public inspection. They waive any rights under the Privacy Act for the purpose of this public disclosure.
- b. Members of the public seeking to inspect the Conflicts of Interest Register must provide in writing their name, address and contact phone number. There shall be no obligation to allow inspection if this information is not provided.
- c. Subject to the information in paragraph 5.j. being provided, the appropriate extract(s) of the Conflicts of Interest Register may be supplied by photocopying, if requested.
- d. The Conflicts of Interest Register shall be in a form as approved by Trustees from time to time.

**7. Related duties**

- a. A Trustee shall also be mindful of, and comply with, their duties:
  - under the Trusts Act 2019 to not exercise their powers as a trustee directly or indirectly for their own benefit; and
  - under the Trusts Act 2019 not to profit from the Trust and to act for no reward, as modified by clause 10 of the Trust Deed.

**RELATED DOCUMENTS**

- Trusts Act 2019
- Te Tiriti O Waitangi
- Trustee Code of Conduct
- Register of Interests
- Conflict of Interests Register