



## NZFC Staff Conflict of Interests Policy

Last reviewed: May 2023

### 1. Overview

- 1.1 This policy outlines the procedures for NZFC staff, including the Chief Executive, to disclose interests which may compromise their role with the NZFC. It also sets out the procedures for managing conflicts of interest.
- 1.2 As a government entity, the NZFC must act impartially and with transparency. The NZFC carries out several functions, including developing careers, marketing New Zealand's screen production industry, investing in films and administering grants. In doing so, the NZFC must make decisions on how to distribute its resources and those decisions must be made fairly, impartially, and in an open and transparent manner.
- 1.3 The NZFC recognises that Aotearoa is a small place and its staff and external contractors will have a range of interests, as well as personal and other connections, outside of the workplace. This policy is designed to balance the value of having access to practitioners within the industry who hold specialist skills and knowledge with the need to ensure transparency and equity in our decision-making.
- 1.4 This policy is written in line with the Controller and Auditor General's 'Managing Conflicts of Interest: A guide for the public sector 2020' and the Public Service Commission's 'Conflict of Interest Model Standards.'

### 2. Who is covered by this policy?

- 2.1 This policy covers NZFC staff. NZFC staff is defined as all NZFC employees, including the Chief Executive, who are employed under an Individual Employment Agreement with the NZFC. For the purposes of this policy, NZFC staff also includes all *internal* contractors engaged by the NZFC under a Contract for Services.
- 2.2 The reason *internal* contractors are covered by this policy is because they generally have access to NZFC information and files beyond limited information needed to do a particular piece of work. Generally, *internal* contractors will have access to NZFC premises and may use an NZFC computer for their work.

- 2.3 *External* contractors, by contrast, are engaged for specific pieces of work and will only have access to information needed to complete that work. They will not have access to NZFC premises or use an NZFC computer. For information on conflicts of interest for *external* contractors, see 'Conflicts of Interest Policy: External Contractors.'

### 3. What is a conflict of interest?

- 3.1 A conflict of interest exists when a work-related matter conflicts with a personal interest. Personal interests can be financial or relate to family, friends and associates. These types of interests are discussed below under the headings Financial interests; Personal interests; and Access to information.
- 3.2 Having an interest can result in an actual conflict, a perceived conflict or may simply present a potential conflict.
- (a) An **actual conflict** arises when there is a direct conflict between a staff member's duties and responsibilities and their interest. An actual conflict of interest is usually financial in nature and is generally disqualifying in nature, i.e. requiring recusal, unless it is minor, trivial or remote.
  - (b) A **perceived conflict** includes situations where it could be perceived, or appear to a reasonable person, that an interest could be viewed as a conflict. Perceived conflicts of interest are usually non-financial in nature, for example, arising from a relationship which an objective third party would perceive as likely to affect the impartiality of a decision maker.
  - (c) A **potential conflict** is a situation that while not an actual conflict right now, could eventuate into an actual or perceived conflict in the future. For example, a staff member has a personal relationship with a film maker, but that film maker has no immediate plans to apply for NZFC funding.
- 3.3 Potential and perceived conflicts of interest do not necessarily eventuate to actual conflicts. Mismanaged potential and perceived conflicts, even when they do not turn into actual conflicts of interest, may undermine the trust and public confidence in the NZFC. It is therefore important that potential and perceived conflicts are identified and managed appropriately.

### 4. Financial interests

- 4.1 A financial interest is a situation where an NZFC staff member stands to gain or lose financially. Financial conflicts of interest are always an actual conflict and should be treated more strictly than non-financial conflicts of interest.

- 4.2 Financial interests require recusal from decision-making on matters to which the conflict relates.
- 4.3 Financial interests may cover situations where a staff member has a directorship, shareholding, real estate holding or role in a trust that has the potential to conflict with NZFC duties. Examples include, but are not limited to:
- (a) Using your position at the NZFC to influence a decision that will lead to direct financial personal gain;
  - (b) Being an employee, advisor, director or partner of another business or organisation that receives NZFC funding;
  - (c) Holding shares in a private company and your NZFC duties include a decision-making role which could result in benefits for that company;
  - (d) Owing a debt to someone (such as a person in the film industry); or
  - (e) Being materially involved in a group/entity that is applying for NZFC funding.

## 5. Personal interests

- 5.1 A personal interest may arise from personal relationships or personal endeavours outside of your work at NZFC.
- 5.2 A personal relationship is defined as your spouse, partner, close family member, close friend or a recent colleague. You do not need to disclose a relationship with a person if you are only acquainted with them or have worked with them once, a long time ago.
- 5.3 Some cultures, including Māori culture, have a broad concept of family. A conflict of interest will not often arise where the connection is a common ancestor, such as another iwi or hapū member. However, there are no absolute rules that can be applied, so you should consider the closeness of your relationship with the family member when determining whether to disclose the relationship. If in doubt, speak with your manager.
- 5.4 Examples of conflicts arising from personal interests include, but are not limited to:
- (a) having a personal relationship with someone who provides services to NZFC;
  - (b) having a personal relationship with someone who is applying for funding from NZFC;

- (c) your duties at NZFC directly affect a person you have a personal relationship with;
- (d) being previously attached to a funding application for a film;
- (e) applying for screen sector, media or arts funding from another government agency where there is a perception your position at NZFC could influence the outcome of that application;
- (f) receiving a gift, hospitality or benefits from someone (such as a person in the film industry) – please also see the NZFC Gift Policy;
- (g) holding or expressing strong political or personal views that may indicate prejudice or predetermination for or against a person or issue – please also see the NZFC Political Neutrality Policy;
- (h) being a member of a club, society, or association, which has a relevant interest in/relationship with the NZFC; or
- (i) having a professional or legal obligation to someone else (such as being a trustee) who might be affected by a decision made by the NZFC.

## **6. Access to information**

6.1 Conflicts related to Access to information could arise if you have access to confidential information that affects you or someone you have a personal relationship with. Examples include, but are not limited to:

- (a) using your position to gain access to confidential information or to influence a decision-making process;
- (b) undertaking multiple official roles that have a competitive relationship; or
- (c) belonging to a group seeking confidential information you have access to.

## **7. Process for disclosing conflicts of interest during recruitment**

7.1 During the interview process, all candidates applying for a role with the NZFC, whether as an employee or internal contractor, will be advised as to what a conflict of interest is, and asked whether they have any conflicts of interest.

7.2 Candidates are advised that if they are successful in the recruitment process, they will also be required to complete a Conflict of Interest Disclosure Form, and if they do have a conflict of interest, they will be required to establish a management plan with their manager.

- 7.3 If the candidate does not have any conflicts of interest, this will be recorded in the interview guide.
- 7.4 If a conflict of interest is raised, the candidate will be asked to provide further details. The interviewer must take this information into account when determining the suitability of the candidate for the role, and how the conflict may be managed if they were successful.
- 7.5 When recruiting, the right person for the job will be selected. However, if a candidate declares a conflict of interest that will significantly impact their ability to do the job, this will be taken into consideration.
- 7.6 When someone is offered employment at the NZFC, a Conflict of Interest Disclosure Form will be sent with the employment contract and must be signed by the employee and manager prior to commencement of employment. Any management plans will be agreed on as part of this process. If any conflicts are declared that were not disclosed during the interview process, the employee will be contacted by the People and Culture Manager to discuss.

## **8. Process for disclosing conflicts of interest on an ongoing basis**

- 8.1 At the start of each Financial Year, all staff are required to complete an Interests Disclosure Form. In this form staff declare any interests they have, or have had, in the past 12 months.
- 8.2 When identifying an interest, staff should ask themselves:
  - (a) *“could my judgement, motivations and behaviour in my role for the NZFC be influenced by a relationship I have with people or organisations?”*
  - (b) *“does someone close to me stand to financially gain from a NZFC decision I will help make?” If the answer is yes, a declaration must be made.*
- 8.3 Conflicts of interest are determined on a case-by-case basis. If staff are unsure of whether a relationship or connection constitutes an interest relevant to their role at the NZFC, they should declare it to their manager. Just the mere relationship they have might cause them to have a ‘blindspot’ to the potential for conflict. It is better to err on the side of caution when deciding whether something should be disclosed. The relevant question to consider is *“what would an observer make of the situation?”*
- 8.4 If any of your interests change, you become aware of any new interests relevant to your role with the NZFC, and/or the nature of an existing interest alters, you must notify your manager as soon as practicable and complete a new Interests Disclosure Form.

8.5 Once the NZFC Staff Interests Register has been updated at the start of a new financial year, the Senior Policy Advisor will present it to the Finance, Audit and Risk Committee for review at their next available Committee meeting.

## 9. Completing a Conflicts of Interest Disclosure Form and developing a management plan

9.1 Declaring an interest is not enough. Once it has been identified and disclosed, further steps need to be taken to appropriately manage the conflict of interest.

9.2 The table below sets out the parties responsible for determining how a conflict of interest is managed:

Person with an actual, potential or perceived conflict	Person primarily responsible for determining management
Staff member or internal contractor	Manager (with approval of the Chief Executive)
Manager or internal contractor reporting to the Chief Executive	Chief Executive
Chief Executive	Board

9.3 If you **have not identified** any interests:

- (a) advise your manager, and discuss if they are aware of any interest(s) you may have failed to identify;
- (b) if you and your manager agree that you do not have any relevant interests, complete and sign an Interests Disclosure Form (if you have an existing form, and there has been no change, the existing form can be re-signed and re-dated);
- (c) once completed and signed by you and your manager, email the Interests Disclosure Form to the Senior Policy Advisor and your manager. The Senior Policy Advisor will record the relevant details in the NZFC Staff Interests Register.

9.4 If you **have identified** any actual, perceived, or potential interests:

- (a) disclose the nature of the interest(s), its monetary value (if any) and describe the nature and extent of the interest to your manager;

- (b) arrange a meeting with your manager to discuss and agree whether there is a conflict and if so, agree on a plan to manage the conflict(s);
- (c) once you and your manager have determined the appropriate way to manage the conflict(s), you must complete and sign the Interests Disclosure Form, paying particular attention to the management plan section. Please specify on the form whether the conflict is actual, perceived or potential;
- (d) once completed and signed by you and your manager, email the Interests Disclosure Form to the Senior Policy Advisor and your manager.

9.5 The Chief Executive reviews all management plans:

- (a) the Senior Policy Advisor is responsible for providing signed Interests Disclosure Forms that contain management plans to the Chief Executive for approval;
- (b) if approved, the Senior Policy Advisor will record the relevant details on the NZFC Staff Interests Register and inform all parties who need to be aware of the conflict and management plan;
- (c) if the Chief Executive does not agree with the proposed management plan, a meeting will be arranged with the Chief Executive, manager and staff member to agree on an appropriate management approach.

## **10. Information for managers to assist in developing a conflicts management plan**

10.1 If you are responsible for managing a conflict of interest, the following process must be followed:

- (a) assess your staff member's self-identified interest(s) and discuss whether there is a conflict and if there are any additional interest(s) that they have failed to identify.
- (b) assess whether the identified interest is an actual, perceived or potential conflict.
- (c) assess the directness of the interest (how closely it concerns the NZFC) and its significance (the size of the effect it could have on the NZFC).
- (d) consult with the person who has an interest and decide what actions are required to resolve or manage the matter (if any).

10.2 There are several options for resolving conflicts of interest, these include, but are not limited to:

- (a) formally recording that there is no actual, potential or perceived conflict or no need to take action in the NZFC Staff Interests Register;
- (b) obtain written consent from the appropriate person (Manager, Chief Executive or Board) to allow continued participation in the matter;
- (c) impose additional oversight or review;
- (d) withdraw the ability to discuss or contribute to decision-making on a particular matter;
- (e) exclude the employee or contractor from a particular committee or working group;
- (f) re-assign tasks or duties to another person;
- (g) withhold certain confidential information or place restrictions on the employee or contractor's access to information;
- (h) transfer the employee or contractor (temporarily or permanently) to another project; or
- (i) if it is an extremely significant conflict of interest, requiring the employee or contractor to relinquish a personal interest.

## **11. Conflicts of interest for external contractors**

- 11.1 The NZFC often engages external contractors to undertake specific pieces of work, for example, external assessors to provide a perspective on funding applications. External contractors are engaged by the NZFC under a Services Agreement.
- 11.2 If you are responsible for engaging an external contractor, please refer to the Conflict of Interest Policy for External Contractors.
- 11.3 External contractors' conflicts of interest are not recorded in the NZFC Staff Interests Register. The Head of Department (HOD) who engages an external contractor is responsible for recording and managing any actual, perceived or potential conflict of interests for an external contractor. The HOD must ensure they follow the Conflict of Interest Policy for External Contractors.

## **12. Restrictions to applying for NZFC funding**

- 12.1 For the purposes of this section, "NZFC funding" includes any funding from the NZFC as part of a NZFC funding strand, programme or initiative. This includes devolved funds (e.g. Seed funding); NZFC discretionary funding (e.g. production



finance), funds administered by the NZFC (e.g. NZSPG); and funds administered in partnership with other agencies (e.g. the Premium Fund).

- 12.2 All NZFC employees who are employed under an Individual Employment Agreement and all internal contractors engaged by the NZFC under a Contract for Services cannot apply for NZFC funding while working at the NZFC.
- 12.3 **Permanent employees** cannot apply for NZFC funding within 90 days of finishing their employment with the NZFC unless they have the Board Chair's prior written approval.
- 12.4 **Employees on a fixed-term contract** may apply for NZFC funding within 90 days of their contract termination at NZFC provided:
- (a) they have emailed the Chief Executive and presented a case as to why their funding application is not based on any information gathered while employed by the NZFC;
  - (b) the Chief Executive is satisfied that the application is not based on any information gathered while employed by NZFC; and
  - (c) no other circumstances exist that would give the applicant an unfair advantage over other applicants.
- 12.5 **Internal contractors** engaged by the NZFC on a Contract for Services may apply for NZFC funding within 90 days of finishing a piece of work for/at the NZFC provided:
- (a) they are not providing any ongoing services to the NZFC and have not begun any new pieces of work for the NZFC;
  - (b) they have emailed the Chief Executive and presented a case as to why their funding application is not based on any information gathered while engaged by the NZFC;
  - (c) the Chief Executive is satisfied that the application is not based on any information gathered while employed by the NZFC; and
  - (d) no other circumstances exist that would give the applicant an unfair advantage over other applicants.

### **13. Applying for screen sector, media or arts related government funding from agencies other than NZFC**

- 13.1 NZFC Staff may be interested in an application for screen sector, media or arts funding or investment from government agencies other than NZFC. This could include (but is not limited to) funds administered by:

- (a) Manatū Taonga — Ministry for Culture and Heritage
- (b) Hīkina Whakatutuki — Ministry for Business Innovation and Employment
- (c) Toi Aotearoa — Creative New Zealand (Arts Council of New Zealand)
- (d) Irirangi Te Motu — NZ On Air
- (e) Te Māngai Pāho
- (f) Whakaata Māori – Māori Television
- (g) Te Reo Tātaki — Television New Zealand
- (h) Radio New Zealand.

13.2 Due to Staff members’ potential positions of influence, an application to another government agency for funding may create a conflict of interest, whether potential, perceived or actual.

13.3 If a Staff member anticipates applying for funding from another agency, they should disclose this intention to their manager or Board Chair, as appropriate, before commencing the application. A management plan will be developed accordingly if the conflict is able to be managed.

## 14. Breach of policy

14.1 If you have concerns about the way in which an interest is being managed, or you think this policy may have been breached by you or by someone else, contact your manager or the Chief Operating Officer.

Review Log:

Date updated	Notes	Approved by
May 2023	Policy re-written and workshopped in 2022 and 2023 following 2022 Independent Review of COI policies	NZFC Board
August 2020	Policy re-written to be in line with Public Service Commission	NZFC Board – August 2020