



<b>OTAGO POLYTECHNIC COUNCIL POLICY</b>		<b>Number: CP0012.05</b>
Title:	<b>Conflict of Interest</b>	
Baldrige Criteria:	<b>Workforce</b>	
Chief Executive Approval:	Effective Date: 3 November 2017	Review Date: 3 November 2018
Previous Policy No:	<b>MP0441</b>	Status: Current
Contact Authority:	<b>Secretary to Council</b>	

**Purpose** To clearly outline what Otago Polytechnic considers to be a 'conflict of interest' and to provide guidance on how potential conflict of interest situations should be managed including the giving and receiving of gifts in the course of Polytechnic business.

**Statutory Compliance** Employment Relations Act 2000  
State Sector Act  
Local Authorities (Members' Interests) Act 1968

**Scope** This policy applies to all Otago Polytechnic Council and staff members ("Member"). In this policy "staff member" and "manager" includes the Chief Executive and anyone engaged under a Contract for Services.

- Policy**
1. Otago Polytechnic is committed to demonstrating and providing an equitable and transparent working and learning environment for its staff students and stakeholders.
  2. The objectives of this policy are:
    - To ensure appropriate declaration if potential conflict of interest occurs.
    - To provide procedures for dealing with potential conflicts of interest.
    - To ensure the giving and receiving of gifts is appropriate and transparent.

**Definitions**

1. **Conflict of interest** means a situation in which the activities or relationships of a Member other than their relationship with Otago Polytechnic:
  - Leads, might lead, or might appear to lead, to a direct or indirect benefit for the Member to the detriment or potential detriment of Otago Polytechnic; or
  - interferes, might interfere, or might appear to interfere with the Member's obligations to Otago Polytechnic.
 except when that activity or relationship results from the proper exercise of the Member's academic freedom.
  - Personal Relationship is a close relationship with any person including but not limited to a partner or ex-partner, spouse or ex-spouse, relative, close friend, or business associate past or present.

- 1.1 Situations of Conflict of Interest include but are not limited to:
  - **Personal relationships** as defined above may impinge on a Member's obligations to Otago Polytechnic in relation to employment matters such as recruitment and staff management, or in relations to academic matters such as student assessment.
  - **Relationships** with other organisations where the interests of the other organisation has the potential to conflict with the interests of Otago Polytechnic. Having financial or other interests outside Otago Polytechnic which could directly or indirectly have an adverse effect on the discharge of the Member's obligations to Otago Polytechnic or which could otherwise



damage the interests of Otago Polytechnic.

- **Accepting or giving gifts**, entertainment, or any other personal favours (goods, services, vouchers, tickets, and cash) which go beyond minor and common business courtesies. (Refer to policy CP0008 Sensitive Expenditure for Otago Polytechnic requirements to accepting and giving gifts).

## Procedures

1. Members must follow the requirements of *CP0008 Sensitive Expenditure* for any giving or receipt of gifts.
2. Members must disclose any conflict of interest as soon as they become aware that a situation may give rise to such a conflict or may appear to do so. That disclosure should be made to their manager, to the Chief Executive, or to the Council whichever is most appropriate in the circumstances.
  - a. Any Member who is unsure if a conflict (real, potential or perceived) exists, must declare the possible conflict to an appropriate person in authority and until that person notifies them otherwise the Member must assume that an actual conflict exists and act accordingly.
3. It is not appropriate for any Member to be present during any discussion, or take part in any decision, relating to a matter in which the Member has a conflict of interest as it is defined in this Policy.
4. It is not appropriate for a subordinate to report either directly or indirectly to a manager with whom they have a personal relationship unless the manager has reported the conflict of interest to the Chief Executive or the Deputy Chief Executive, People Performance and Development and the reporting relationship has been authorised in writing.
  - a. For the avoidance of doubt, this requirement applies to all personal relationships whether they arise before, during, or after the reporting relationship is established, and whether the relationship is current or past.
  - b. The manager must immediately report the existence of any performance issue, disciplinary matter, or dispute to the Deputy Chief Executive, People Performance and Development or to the Chief Executive, and take no part in any related investigation or decision making process unless expressly required to do so in writing by the Chief Executive or the Deputy Chief Executive, People Performance and Development.
5. When a subordinate manager reports to a more senior manager and that senior manager has a personal relationship with a staff member who reports to the subordinate manager:
  - a. Any communication about the staff member between the senior and subordinate managers must not relate to performance or disciplinary issues, or to other matters which could directly advantage or directly disadvantage the staff member in their employment. The senior manager must not be involved in any other way with any such matters involving the staff member unless expressly required to do so in writing by the Chief Executive or the Deputy Chief Executive, People Performance and Development; and
  - b. When the relevant senior manager is the Chief Executive and a performance issue, disciplinary matter or dispute arises in relation to a staff member with whom the Chief Executive has a personal relationship:
    - i. The Chief Executive will immediately delegate his or her



powers as employer in the matter to the Deputy Chief Executive, People Performance and Development, who will exercise all the authority of the Chief Executive and act independently of the Chief Executive who will have no further involvement in the matter other than the right to be advised of the outcome.

- ii. If the Chief Executive or the Deputy Chief Executive, People Performance and Development believes that the input of the Chair of Council would assist in resolving the matter, he or she will have absolute discretion to seek that assistance.
  - iii. If the Chief Executive or any affected staff member has a complaint about the decision made or the process followed by the Deputy Chief Executive, People Performance and Development, they may appeal the decision by notice to the Deputy Chief Executive, People Performance and Development. The Deputy Chief Executive, People Performance and Development will then reconsider the original decision taking into account the reasons given for the appeal.
  - iv. The Deputy Chief Executive, People Performance and Development may make whatever amendments to the original decision he or she considers appropriate, and if that does not resolve the complaint the Chief Executive or the affected staff member may refer the complaint to the Chair of Council who will determine the manner in which it should be resolved.
6. The disclosure and authorisation requirements of paragraph 3 above apply also to personal relationships between Members and students. In such situations it is the Member's responsibility to disclose the existence of the relationship.
- i. Otago Polytechnic strongly discourages Members from allowing personal relationships with students to develop.
  - ii. When a personal relationship does develop, or when it already exists, the Member's manager will ensure that any perceived or real conflict of interest or imbalance of power is adequately addressed and that impartial assessment and integrity of academic processes is maintained.
  - iii. This may include involving an independent person in marking and assessment
7. Conflict of interest register is to be maintained for the Executive Leadership Team, Directors, and Heads of School/College, and kept by the Chief Executive's office.
8. Where an Executive Leadership Team member, Director, or Head of School/College discloses a conflict of interest, the Chief Executive will determine, depending on the nature and extent of the conflict, the appropriate way of dealing with it. If the Executive Leadership Team member, Director, or Head of School/College with a conflict is not happy with the Chief Executive's decision, he or she may refer the matter to the Chair who will decide how to proceed.
9. A separate conflict of interest register is to be maintained for Council members and included in the papers as a standing item.
- a. Where a Council member discloses a conflict of interest, the Chair will determine, depending on the nature and extent of the conflict, the

appropriate way of dealing with it. If the Chair is conflicted or is unavailable that determination will be made by the Deputy Chair.

10. Staff members must disclose any conflict of interest to their manager as soon as it arises and the manager is then responsible for formulating an appropriate plan to manage the situation.
  - i. The manager will consult the employee before deciding how the conflict of interest should be managed but the final decision is at the manager's discretion.
  - ii. The staff member may challenge the manager's decision by referring it to the Deputy Chief Executive, People Performance and Development who will either uphold the manager's decision or substitute his or her own decision after considering the relevant circumstances at the time.
  - iii. Any agreements or decisions on the management of conflicts of interest must be recorded in writing and placed on the staff member's personnel file.
  
11. When an applicant for a position at Otago Polytechnic has a personal relationship with a Member, that Member must take no part in, or seek any information relating to, the recruitment or appointment process for the position whether before the appointment is made or later.

#### **Relationship to Disciplinary Procedure**

12. In the absence of a reasonable explanation, failure by a staff member to declare a potential conflict of interest to their manager could be deemed misconduct and may be investigated as per policy *MP0444 Resolving Performance Problems*.

#### **Disputes**

13. In the event of a dispute relating to this policy arising between staff members and their manager, either may refer to matter to the Chief Executive for review or if the Chief Executive has a conflict of interest or is unavailable, to the Deputy Chief Executive, People Performance and Development.

#### **Referral Documents**

CP0008 Sensitive Expenditure  
CP0013 Procurement and Purchasing Policy  
MP0444 Resolving Performance Problems  
Council Code of Conduct

**Approved by Council**  
**Date: 3 November 2017**

