Conflict of Interests

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1 Introduction

1.1 Purpose

The purpose of this Policy is to set out the expectation that all conflicts of interest held by Ara Institute of Canterbury (Ara) employees and Council and advisory committee members are identified, declared and managed responsibly, and comply with the legal, ethical and good practice expectations regarding the management of conflicts of interest expected of a public sector organisation.

In the course of our work at Ara, employees and Council and advisory committee members make decisions on behalf of the public about how to spend public funds. To maintain public trust and confidence, we need to assure the public that Ara employees and Council and advisory committee members are making those decisions –

a Impartially

b In the public interest; and

c Not to benefit their whanau, friends, business associates, or themselves.

In addition to maintaining public trust, application of this policy is to protect Ara from perceived, potential and/or actual conflicts of interest and legal, commercial, political, and/or reputational risk.

1.2 Scope and Application

This policy applies to all Ara employees and persons contracted for service by Ara, members of the Ara Council, and any other relevant party. To clarify, this includes –

a Council members

b Council officers, supporting employees, and managers

c Members of TKM

d Portfolio and Faculty Operations Managers – including designated deputies

e Capital Works Governance Group members

f Purchasing officers

g Other employees and persons contracted for service.

1.3 Formal Delegations

The collection and management of information relating to disclosures of material interest and conflicts of interest is delegated to the Council Secretary. Responsibility for the monitoring of payments to companies or organisations is delegated to the Chief Executive Officer.

1.4 Definitions

a **Abuse of power**: Abuse of power is where someone uses their position of power or authority in an unacceptable manner. Abuse of power can take various forms and may include, but is not limited to, grooming, manipulation, coercion, putting pressure on others to engage in conduct that they do not feel comfortable with.

b **Bias**: Bias exists if there is, to a reasonable, fair-minded, and informed observer, a real danger that a person making a decision might unfairly regard (with favour or disfavour) the case of a party to the issue under consideration.

c **Capital Works Governance Group member**: Ara Capital Works programmes have a governance structure that includes a Project Planning Team (PPT), and a Project Control Group (PCG) administered by the Project Management Office. The Capital Works programme operates a Conflict of Interest Register centrally recorded by the Council Secretary

d **Close personal relationship**: A close personal relationship is a non-intimate relationship but is of a nature where the connection goes beyond a casual acquaintance. Without limiting the types of relationships, examples include:

i Relatives or close family friends,

ii A relationship of financial dependence,

iii Sharing a domestic living arrangement (e.g. a flatting situation).

e **Conflict of Interest**: A conflict of interest is where the responsibilities you have as Ara colleagues or Council and advisory committee members overlap with some other interest you have in your private life. It is any situation where your independence, objectivity or impartiality could potentially be doubted or challenged, even if you have no intention of acting improperly.

f **Other Interest:** That other interest could be a non-financial interest such as a relationship (family, friends, acquaintances), a financial interest (role in another organisation, or a business interest as a shareholder, partner, director or owner) or other personal commitments or responsibilities. They may also include the interests of whānau or friends if those interests overlap with your own professional duties.

g **Employee**: Every person employed by the Chief Executive of Ara.

h **Employer**: Every person employed by the Chief Executive of Ara who may also be an employer of Ara learners or employees.

i **Financial conflict**: A financial conflict of interest is any situation where you stand to gain or lose financially from a decision you are asked to make. These interests can be direct (you will gain or lose personally) or indirect (a person close to you will gain or lose). A financial interest means anything of monetary value, including but not limited to:

i Salary or payment for services (for example: consulting fees and honoraria),

ii Equity interests (for example shares, share options and other ownership interests),

iii Gifts

iv Allowances, forgiveness of debts, interests in real estate, or personal property, dividends, rents, capital gains; and

v Intellectual property rights (for example: patents, copyrights and royalties from these rights).

j **Intimate relationship**: An intimate relationship is a consensual romantic or sexual relationship. An intimate relationship could be brief and includes a one-off or sporadic occurrence.

k **Non-financial conflict**: A non-financial conflict of interest is any situation where you are not affected financially by a decision but are affected in some other way that might make you biased or appear to be biased. A non-financial conflict of interest might arise, for example, from a family relationship, friendship, or any other sort of personal relationship, or if you are involved with another organisation outside of Ara.

l **Register of disclosed material interests**: The register is kept by the Council Secretary of all disclosures made under this policy. The register is a publicly available document, made available on request. The public register includes the names of those declaring concerns or interests and the companies or organisations with which they are involved.

Related Ara Procedures • Disclosure of Interests (Link to be updated)	**Related Ara Policies** • CPP211 Code of Professional Practice • CPP110 Legislative Compliance • CPP304 Discretionary Expenditure
Related Legislation or Other Documentation • Conflicts of Interest: A guide to the Local Authorities (Members' Interests) Act 1968 and Non-Pecuniary Conflicts of Interest • Local Authorities (Members' Interests) Act 1968 • Education and Training Act 2020	**Good Practice Guidelines**
References •	
Notes	

2 Principles

2.1 All employees and Council and advisory committee members have a professional responsibility to act in a fair and impartial manner in all employment dealings, perform their duties honestly and impartially, and avoid situations which may compromise their professional integrity or lead to conflicts of interest.

2.2 Ara employees and Council and advisory committee members are in a position of trust. Accordingly, particular attention needs to be paid to relationships where there is an imbalance of power (which may lead to an abuse of power), intimate and close personal relationships, or the potential for impact on ākonga or less senior employees or Council and advisory committee members.

2.3 Employees and Council and advisory committee members should not participate in processes related to academic progress, assessment, recruitment, selection, promotion, performance appraisal, termination or transfer of any person with whom they have, or have had, a close personal relationship.

2.4 Employees and Council and advisory committee members enrolled as ākonga have an additional responsibility to model the highest professional conduct as conflicts of interest, or perceptions of conflict, can be common in these situations. Employees and Council and advisory committee members enrolled as ākonga must not use their position as employees or Council and advisory committee members (whichever applies) in any way to gain advantage.

2.5 Where possible conflicts of interest should be avoided; this includes entering into an intimate relationship or a close personal relationship with other Council and advisory committee members, employees, ākonga or stakeholders, where such a relationship might influence your judgement or ability to make impartial or objective decisions.

2.6 As part of good public conduct, all decisions made relating to conflicts of interest should be made with a spirit of –

a Integrity

b Impartiality

c Accountability

d Trustworthiness

e Respect

f Responsiveness.

2.7 Ara recognises that conflicts of interest will arise from time to time. Proper disclosure and management of conflicts enables Ara and employees to remain safe.

2.8 Ara expects managers, employees, senior leaders, and Council members to remain alert to situations which may create a conflict of interest for employees and ensure that the situation is recognised and handled in accordance with this Policy and its associated Procedures.

2.9 Ara acknowledges that declarations may involve disclosing personal information. Any information of this nature will be held in line with the Privacy Act 2020 so far as the law allows.

3 Associated procedures for Ara Corporate Policy on: Conflicts of Interest

Contents:

3.1 Annual Disclosures Declaration
3.2 Management of Conflicts of Interest
3.3 Employment Letters and Contracts
3.4 Meetings
3.5 Council Secretary and Finance

3.1 Annual Disclosure Declarations

a The following people are required to complete a Disclosure of Interests form (annually) administered from the Corporate Services unit

i Council members.

ii Council officers and supporting staff.

iii Members of TKM.

iv Portfolio and Operations Managers within Faculties (including designated Division deputies).

v Capital Works Governance Group members.

vi Purchasing officers.

b Ara expects all employees who hold a conflict of interest to declare that upon commencement of employment with Ara or as soon as it arises and in accordance with the Conflict of Interest Procedures. All Council and advisory committee members who hold a conflict of interest are expected to declare that upon commencement of their role with Ara or as soon as it arises and in accordance with the Conflict of Interest Procedures.

c Where a employees or Council and advisory committee members is unsure whether something constitutes a conflict of interest, in the interests of transparency they should disclose the conflict of interest.

d All of the above people are required to complete and sign annually *the **CPP102b Disclosure of Interests*** Form on which they declare any material interests/concerns or interests as defined by the **Local Authorities (Members' Interests) Act 1968** or in this policy.

e Every person who is required to complete an annual Disclosure of Interests Form, is also required to update this declaration in writing to the Council Secretary if their circumstances relevant to this policy change. Council members may do this at any Council or committee meeting, and it will be recorded in minutes, and in the Council register by the Council Secretary.

3.2 Management of Conflicts of Interest

a Conflict of interest situations will be dealt with as soon as reasonably practicable after they are identified.

b Decisions on how to manage a conflict of interest are made in accordance with Ara **CPP102a Conflict of Interest Procedure** on behalf of Ara by –

i For employees, the manager of the employees who holds the interest in consultation with People, Culture and Wellbeing as appropriate; and

ii For Council and advisory committee members, where the person holding the interest is a Council member, the Council or, where the person holding the interest is a member of an advisory committee, the advisory committee.

c Ara will implement strategies and monitoring procedures for managing a conflict of interests. Employees and Council and advisory committee members are required to comply with any such procedures.

d The management of a declared conflict of interest is a matter that is considered on a case-by-case basis according to the particular circumstances.

e The mechanisms for implementing the principles may include –

i Maintenance of an interests register

ii Monitoring of financial interactions with registered interests

iii Temporary or permanent transfer of duties

iv Divestment

v Increased transparency and scrutiny of decisions for impartiality

vi Withdrawal from discussions

vii Abstinence from voting or decision making

viii Non-receipt of relevant information

ix Agreement not to act

x Decline of gifts or hospitality

xi Resignation

3.3 Employment Letters and Contracts

a Every employment agreement and contract for service will include a brief statement about conflicts of interest and their management.

b Every Ara employee and person contracted for service has an obligation to declare any material interests relevant to any Ara activities and to ensure that any conflict arising from the material interests is managed appropriately.

3.4 Meetings

a The agenda for every Council, Council Committee, TKM, and Capital Works Governance Group meeting will include 'disclosure of conflicts of interest' so that the meeting can note any particular conflict declared by any person attending the meeting and manage that conflict appropriately. Any such declaration will be recorded in the minutes of the meeting.

b Any person covered by this policy who becomes aware that they have a conflict of interest as defined in this policy must declare that conflict of interest immediately and must not take part in any subsequent discussions, deliberations, decision making, or voting on the matter. (This clause should be read in the context of clause 2.2d.)

c The declaration of conflict of interest must include a brief statement of the matter concerned and the nature and extent of the conflict. Every such declaration of a conflict must be recorded in the minutes of the meeting at which it was made together with a record of the fact that the member or officer took no part in the discussions, deliberations, decision making, or voting on the matter. (This clause should be read in the context of clause 2.2a.)

d The Council Secretary must be advised of the declaration for the purposes of recording it in the register, which will form a part of the papers and record of every Council meeting.

3.5 Council Secretary and Finance

a The Council Secretary maintains a register of all disclosures made under this policy. The register is a publicly available document and is made available on request. The public register includes the names of those declaring concerns and interests and the companies or organisations with which they are involved. The details of the register will be provided to the Director of Finance for the use of the employees of the Finance Section.

b All companies and organisations identified in the register will be marked in Ara's financial systems in such a way that payments cannot be made to those companies without the knowledge of the Director of Finance.

c The Director of Finance will monitor payments to the companies and organisations on the register and will notify the Chief Executive and the Council Secretary of any concerns.

d As payments to any of those companies in which a Council member has a concern or interest approach $25,000 including GST in any financial year, the Director of Finance will notify the Council Secretary who will notify the Council member concerned and, will confer with the Council Chair and the Chief Executive and, if appropriate, apply to the Office of the Auditor-General for prior approval to exceed the limit.