



# Policy Guideline on the management of conflict of interests

## 1 Purpose

To establish a transparent and consistent conflict of interest policy that can be practically used to identify and manage conflicts of interest, to ensure integrity in carrying out the functions of the Veterinary Council.<sup>1</sup>

## 2 Legislation

Section 3 of the Veterinarians Act 2005 states the purpose of the Act is to:

“ ... protect the public interest by aiming to ensure that veterinarians are competent to practise ...”

Schedule 1, section 14 of the Veterinarians Act 2005 states that:

- (4) A member must not be present at, or vote at, or otherwise participate in a meeting if the member has a direct or indirect pecuniary interest in the matter being considered.
- (5) If a member is a veterinarian, the member must not be present at, or vote at, or otherwise participate in a meeting if either or both of the following matters are being considered:
  - (a) a matter relating to disciplining the member under this Act;
  - (b) a matter relating to the member's registration.

## 3 Background

Conflicts of interest cannot always be avoided, some are natural and unavoidable in small countries like New Zealand<sup>2</sup>.

All Council and Council Committee members are also private individuals, and may have more than one professional role. There will be occasions where members private or other professional interests come into conflict with their Council responsibilities and could potentially affect their ability to be or to be perceived as being neutral or impartial.

The Veterinary Council needs to have confidence that a system exists to prevent or manage any conflict of interest.

## 4 Policy

### 4.1 Context

Council and Council Committee members should perform their functions in good faith, honestly and impartially, and avoid situations that might compromise their integrity or otherwise lead to conflicts of interest.

The ethical context is explained further in the State Services Commission (SSC) *Board Appointment and Induction Guidelines* (1999):

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<sup>1</sup> Pursuant to section 75 of the Veterinarians Act 2005

<sup>2</sup> Managing conflicts of interest: Guidance for public sector entities. 2007. Office of the Auditor General. <http://www.oag.govt.nz/2007/conflicts-public-entities/>

- *good faith*: members of Crown boards and offices have an obligation to act at all times in good faith and in the best interests of the body to which they have been appointed;
- *honesty*: members of Crown boards and offices have an obligation to act honestly at all times in relation to all matters concerning the body to which they have been appointed;
- *impartiality*: members of Crown boards and offices must observe the principles of fairness and impartiality in all official dealings. No individual or Organisation with which board members or officers are involved may be given improper preferential or detrimental treatment - whether by access to goods and services, or access to information, or anything similar.

## 4.2 Definition

Schedule 1, section 14 of the Veterinarians Act 2005 is limited to pecuniary/financial interests only. The section prevents members from having any involvement in the matter in such circumstances.

However, a conflict of interest may take a number of forms. It may be financial or non-financial. It may be direct or indirect. It may be professional or family related.

Council must bear in mind its overriding purpose is to protect the public interest in carrying out the functions of the Veterinary Council.<sup>3</sup>

The Veterinary Council has therefore agreed that<sup>4</sup>:

A conflict of interest arises where a Council or Council Committee member has an interest which conflicts (or might conflict, or might be perceived to conflict), with the interests of the Veterinary Council.

A conflict of interest may arise from (but is not necessarily limited to):

- Directorships or other employment
- Interests in professional practices or business enterprises
- Professional associations or relationships with other organisations or persons
- Personal associations with other groups or organisations or persons; or
- Family relationships

Conflicts of interest should be avoided wherever possible, and where this is not possible, conflicts must be declared fully and promptly by the member with the conflict, and managed to the satisfaction of the Veterinary Council.

## 5 Disclosure of conflicts of interest

Council and Council Committee members before their appointment and at every Council or Committee meeting, must disclose any financial, professional or personal interests (direct or indirect), which may conflict with their Council responsibilities.

Wherever possible, Council and Committee members should declare any conflicts to the Registrar on receipt of the agenda papers for the meeting, so that any concerns about maintaining a quorum or around meeting procedures, can be addressed before the meeting.

<sup>3</sup> Section 3 of the Veterinarians Act 2005

<sup>4</sup> This wider conflict of interest interpretation is consistent with the approach taken by the Ministry of Agriculture and Fisheries; and the State Services Commission *Board Appointment and Induction Guidelines*

The disclosure will be recorded in the minutes of the Council or Committee meeting. The disclosure (if not already disclosed) will also be entered into the separate Council and Committee Interest Register.

The disclosure should include the nature and extent of any interest (and/or if relevant the monetary value), including professional organisations the member is involved in and whether they are an office-holder in the professional organisation.

This disclosure provision requires members to disclose a very broad range of interests, including many current interests that may provide the foundations of their involvement in the Council. However, it is important for all interests to be disclosed to allow the issue of materiality to be determined. In the interest of openness and fairness (and to minimise the risk of having to defend allegations of improper conduct) Council encourages members to take a cautious approach to these matters and, if in doubt, to err on the side of prudence by declaring the interest.

Members are also encouraged to seek advice from the Registrar.

Members must advise the Council immediately of any change in their interests that occurs.

Current membership of the New Zealand Veterinary Association (NZVA) Board is not normally considered compatible with membership of the Council or a Council Complaints Assessment Committee. In such circumstances the individual concerned will be involved in NZVA or Council matters that could potentially affect their ability to be, or to be perceived as being, neutral or impartial.

## **6 Management of conflicts of interest**

Conflicts of interest involve difficult judgements that need to balance a number of factors (for example, the type and size of the private interest; the degree to which the members' private interest could influence their professional role; and what approach should be used to avoid or mitigate the risk).

The existence of other interests does not necessarily cause a conflict. A conflict occurs when there is an overlap between the interest and the functions of the Veterinary Council. A good test is:

*“Would a reasonable person, aware of all the facts, consider that the Council member carrying out their functions pursuant to the Veterinarians Act 2005, would be adversely affected by the other interest or duty the member has?”*

Another way to look at the test is to ask:

*“Would the member’s other interests create an incentive to act in a way that may not be in the best interests of the Council?”*

A conflict of interest may be more perceived than actual. Perception is a very important factor; the processes of the Veterinary Council must be fair and ethical and must be very clearly seen to be so. Accordingly, in managing conflicts of interest careful attention must be given to ensure that the management of the conflict is perceived as resulting in a fair and transparent process.

It is the Chair’s responsibility (or the Acting Chair’s if the conflict is the Chair’s), in consultation with members, to decide whether a member’s interest constitutes a material (significant) direct or indirect interest, and, if so how this conflict should be managed, eg by the member abstaining from discussion and/or voting.

In cases where the conflict of interest may be regarded as remote or insignificant, it will be reasonable to formally record or declare the conflict, but to decide to take no further action.

Whether an interest is material (significant) or not will depend on the nature and degree of the interest as it relates to the matters before the Council or Committee and will be considered on a case by case basis. Relevant factors in deciding how serious the conflict on interest may be:

- The type and size of the member's interest;
- the nature or significance of the decision or activity being carried out;
- the extent to which the member's other interests could specifically affect, or be affected by, the Council's decision or activity;
- the nature and extent of the member's current or intended involvement in the Council's decision or activity.

While members may freely converse with any veterinarian, they must decline invitations to represent or accompany a veterinarian in any investigation, assessment or disciplinary matter undertaken by the Council or provide support to an individual's application for registration eg by writing a letter of support or reference. This is to avoid any compromise to the role of the Council and/or any suggestion of pressure from a Council member during such a procedure.

## Options for managing conflicts of interest <sup>5</sup>

Strategy	Possible action	When most suitable
<p><b>Register</b></p> <p>To formally record details of a conflict of interest</p>	<ul style="list-style-type: none"> <li>- decide there is no conflict of interest or very low risk from the conflict</li> <li>- inform affected parties that a disclosure has been made and of the action taken</li> </ul>	<ul style="list-style-type: none"> <li>- for low-risk conflicts of interests</li> <li>- where the act of transparency through disclosing the conflict of interest is sufficient</li> </ul>
<p><b>Relinquish</b></p> <p>To give up the private interest</p>	<ul style="list-style-type: none"> <li>- the member agrees to divest or withdraw support from the interest that is creating the conflict.</li> <li>- the member agrees to leave an employment position or an organisation which gives rise to the conflict</li> </ul>	<ul style="list-style-type: none"> <li>- when the person's commitment to their Council duties outweighs their attachment to the private or other interest</li> </ul>
<p><b>Restrict</b></p> <p>To put restrictions on the member's involvement</p>	<ul style="list-style-type: none"> <li>- limit the member's involvement by requiring the member to: <ul style="list-style-type: none"> <li>• withdraw from the discussion and/or</li> <li>• abstain from voting and/or</li> <li>• leave the relevant part of meeting and/or</li> </ul> </li> <li>- Ensuring the member does not receive relevant/confidential information</li> </ul>	<ul style="list-style-type: none"> <li>- the member can be effectively separated from parts of the activity or process giving rise to the conflict</li> <li>- the conflict of interest is not likely to arise frequently</li> </ul>
<p><b>Recruit</b></p> <p>To use a third party to oversee part or all of the process</p>	<ul style="list-style-type: none"> <li>- engage an independent third party to oversee or review the integrity of the process</li> <li>- increase the number of people on decision making committees to balance the influence of the person with the conflict</li> <li>- seek the views of those likely to be concerned and ask whether they object to the person being involved</li> </ul>	<ul style="list-style-type: none"> <li>- it is not feasible or desirable to remove the member from the decision-making process</li> <li>- in small or isolated communities where the member's expertise is necessary and not easily replaced</li> </ul>
<p><b>Remove</b></p> <p>To remove the member from the matter</p>	<ul style="list-style-type: none"> <li>- remove the member from any involvement in the matter</li> </ul>	<ul style="list-style-type: none"> <li>- for ongoing serious conflicts of interest, where restrictions or recruitment of others is not appropriate</li> </ul>
<p><b>Resign</b></p> <p>To leave Council</p>	<ul style="list-style-type: none"> <li>- resign from the Veterinary Council</li> </ul>	<ul style="list-style-type: none"> <li>- where serious conflicts of interest exist and no other options are workable</li> </ul>

These methods of managing a conflict of interest may be used singularly or in combination, depending on the nature and extent of the conflict of interest that is being considered.

Policy last reviewed: May 2010

<sup>5</sup> Based on "Managing conflicts of interest: Guidance for public sector entities. 2007". Office of the Auditor General. <http://www.oag.govt.nz/2007/conflicts-public-entities/>