

## Disclosure and Management of Conflicts of Interest

First Produced:	16/7/03	Authorisation:	Te Kāhui Manukura;
Current Version:	09/09/21	Endorsement	Board.
Past Revisions:	13/12/06/02/05/2012, 29/09/17, 27/03/19	Officer	Board Secretary
Review Cycle:	5-year cycle	Responsible:	
Applies From:	Immediately		

# 1 Introduction

## 1.1 Purpose

The purpose of this policy is to ensure:

- a Compliance with the provisions of the following:
  - i Local Authorities (Members' Interests) Act 1968
  - ii s12 of the Education and Training Act 2020
  - iii Ara Ltd's Board Standing Orders [SO1.6]
  - iv requirements of the Office of the Auditor General
  - v and all aspects as set out in this policy
- b That any significant material interests relevant to any Ara Ltd activities are disclosed and that any conflicts of interest are managed appropriately.

There are different obligations and requirements for different categories of people Board members; Board members/support; providers/managers; other employees/persons contracted for service; and members of Capital Works governance groups e.g. PPT, PCG, and other specified manager, as specified in this policy.

## 1.2 Scope and Application

- a This policy applies to all Ara Ltd Board members, all Ara Ltd employees and all persons contracted for service by Ara Ltd, divided into three categories as below. Each category carries different obligations and requirements, based largely on the person's ability to influence significant decisions at Ara Ltd.
  - i **Board members**
  - ii **Board Officers, supporting staff, and managers**
  - iii Members of Te Kāhui Manukura,
  - iv Heads of Departments. including designated Department deputies,
  - v Capital Works Governance Group members
  - vi Purchasing officers
  - vii Other employees and persons contracted for service.
- b Some requirements apply to all the persons listed above and some to Board members and officers only. (refer Section 2 of this policy for further details).

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### 1.3 Formal Delegations

- a The collection and management of information relating to disclosures of material interest and conflicts of interest is delegated to the Board Secretary.
- b Responsibility for the monitoring of payments to companies or organisations is delegated to the Chief Operating Officer.

### 1.4 Definitions

- a **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.
- b **Conflict of Interest:** Conflict or potential for conflict arising when someone has a material interest in a matter or with a party with which Ara Ltd is negotiating or doing business; that is, where the person or a member of her or his immediate family or a dependent has a direct or indirect pecuniary interest or a relevant non-pecuniary or passive interest or may be perceived to have a bias or may gain a significant personal benefit or loss.
- c **Board member:** Any member of the Ara Ltd Board as constituted under the Education and Training Act 2020.
- d **Board officer/support provider:** An Officer of the Board as defined in the Board's Statute 2010/1 and the Board's Standing Orders or any employee who provides advice or executive or secretarial services directly to the Board or any of its committees.
- e **Designated Department Deputy:** A person formally designated by a Manager/Head of Department of a Division as his or her deputy.
- f **Disclosure of Interest:** Any declaration whether verbal or in writing made by a person to whom this policy applies in which a material interest is disclosed.
- g **Employee:** Every person employed by the Chief Executive of Ara Ltd.
- h **Employer:** Every person employed by the Chief Executive of Ara Ltd who may also be an employer of Ara Ltd Students or staff.
- i **Gift:** A gift with a value in excess of \$100 given by a third party to a person covered by this policy because they are a member of the Ara Ltd Board, or an Ara Ltd employee, or have a contract for service with Ara Ltd. A gift may take the form of hospitality especially if it is frequent or lavish.
- j **Head of Department:** Person formally appointed as the Head of a Department at Ara Ltd or a person acting in that position.
- k **LA(MI)A limit:** A \$25,000 inclusive of GST in any financial year limit is set under the Local Authority (Members' Interests) Act (LA(MI)A) on business transacted between Ara Ltd and any company or organisation in which a Board member has a material interest. A member is disqualified from office if the limit is exceeded without the prior approval of the Auditor-General. In terms of the Act it is the member's responsibility to ensure that the limit is not exceeded.
- l **Te Kāhui Manukura member:** Deputy Chief Executive Academic, Innovation and Innovation, Deputy Chief Executive Corporate Services Chief Operating Officer;; Deputy Chief Executive People and Culture; Deputy Chief Executive Customer Experience and Engagement; Kaiārahi.
- m **Capital Works Governance Group member;** Ara Ltd Capital Works programmes have a governance structure that includes a Project Planning Team, and a Project Control Group administered by the Project Management Office. The Capital Works

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programme operates a Conflict of Interest Register centrally recorded by the Board Secretariat.

- n **Material interest:** Any pecuniary interest in a company or organisation, non-pecuniary interest, passive interest or an involvement giving the appearance of potential bias. The materiality of a concern or interest depends on the context and is a matter of judgment. The amount of financial benefit or loss involved, the level of involvement as a percentage of the total operation of the company or organisation, and the degree to which the person is able to make or influence a Ara Ltd decision are relevant.
- o **Non-pecuniary interest:** A concern or interest which is not principally or solely about financial involvement. Non-pecuniary interest includes being a member of a board or a trustee or a director of any business or organisation even if there is no financial involvement. The definitions of bias and passive interests are relevant.
- p **Passive interest:** The Audit Office definition of passive interests includes, among other things, employment with another organisation, involvement in another business, professional or legal obligations owed to someone else, holding another office, membership of another organisation, investments and property ownership, beneficial interest in trusts, receipt of gifts or hospitality, or debts.
- q **Pecuniary interest:** An involvement in a matter which could give rise to an expectation of or an actual significant gain or loss of money on the part of the person concerned, or a member of her or his immediate family or a dependent.

The formal definition of a pecuniary concern or interest applying to Board members is that the member has a concern or interest if she or he or a member of her or his immediate family or a dependent, singly or together, owns 10% or more of the shares in a company or in another company which controls that company or is a shareholder in a company or a controlling company AND either the member or a member of her or his immediate family or a dependent is the managing director or general manager of the company or the controlling company. This also applies to trusts and business partnerships.

- r **Person contracted for service by Ara Ltd:** Any person who is not an employee but who is contracted by Ara Ltd to deliver educational, administrative, management, research or capital works services.
- s **Purchasing Officer:** Any person whose primary duties include the purchasing of goods and services for Ara Ltd,
- t **Register of disclosed material interests:** The register is kept by the Board 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.

<p><b>Related Ara Ltd Procedures</b> (indicate if attached to policy or where they can be found)</p> <ul style="list-style-type: none"> <li>• Disclosure of Interests [2017] (Annual Declaration Form)</li> </ul>	<p><b>Related Ara Ltd Policies</b></p> <ul style="list-style-type: none"> <li>• CPP211 Code of Professional Practice</li> <li>• CPP110 Legislative Compliance</li> <li>• CPP304 Discretionary Expenditure</li> </ul>
<p><b>Related Legislation or Other Documentation</b></p> <ul style="list-style-type: none"> <li>• Conflicts of Interest: A guide to the LA (MI) Act 1968 and Non-Pecuniary Conflicts of Interest</li> <li>• Local Authorities (Members' Interests) Act 1968</li> </ul>	<p><b>Good Practice Guidelines</b> (indicate if attached to policy or where they can be found)</p>
<p><b>References</b></p>	
<p><b>Notes: A guide to managing conflicts of interest for TEI Boards councils is available on the Te Pūkenu Website.</b></p>	

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## 2 Principles

### 2.1 The general principles Ara Ltd has adopted for managing conflicts of interest are:

- a Full and open disclosures of real or perceived, actual or potential conflicts.
- b Ensuring any participation by the conflicted person in any discussions, deliberations, decision-making or voting relevant to the matter is managed appropriately to avoid actual or potential conflict and to support compliance with legislation.
- c Resolution by transferring duties from the conflicted person to another person not affected by the circumstances.

### 2.2 Overall Obligations and Requirements

- a Every Ara Ltd Board member, manager, employee, and person contracted for service has an obligation to declare any material interests relevant to any Ara Ltd activities and to ensure that any conflict arising from the material interests is noted and managed appropriately.
- b No Ara Ltd Board member, employee, or person contracted for service may take part in discussions, deliberations, decision making or voting on a matter in which she or he (or a member of her or his immediate family or a dependent) has a material interest.
- c Every Ara Ltd Board member, Board officer/support provider, manager and purchasing officer who has a material interest as defined in this policy must declare that interest in writing and ensure that any conflict arising from the declared interest is managed appropriately.
- d If a new conflict of interest becomes apparent while a meeting is in progress, you must acknowledge this immediately by disclosing the nature of the conflict and remove yourself. The interest must be recorded in the minutes of the meeting. From the point of disclosure, you must not (unless the Board or the Chair decides otherwise) be present in any deliberation, or take part in any decision with respect to that matter.
- e For all conflicts of interest, the Board Secretary must be formally advised in writing and the Conflicts of Interest register updated.
- f Everyone covered by this policy should opt for disclosure if in doubt.
- g Disclosures may result in restricting or abandoning the conflicting interest or activity.
- h Every Ara Ltd Board member must monitor any business interactions between Ara Ltd and any company or organisation in which the Board member has a material interest and ensure that such business does not exceed \$25,000 including GST in value without the prior approval of the Auditor-General.
- i Any Board member is disqualified from office under the LA (MI)A if Ara Ltd does business exceeding \$25,000 inclusive of GST in any financial year with a company or organisation in which the member has a material interest; prior approval of the Auditor General to exceed this limit can be given.

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## Associated procedures for

# Ara Ltd Corporate Policy on: Disclosure and Management of Conflicts of Interest

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Contents:	3.1	Annual Disclosure Declarations
	3.2	Employment Letters and Contracts
	3.3	Meetings
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	3.6	Quick Reference Summary

### 2.3 Annual Disclosure Declarations

- a The following people are required to complete an Annual Disclosure Declaration administered from the Corporate Services unit.
  - i **Board members**
  - ii **Board officers and supporting staff**
  - iii Members of Te Kāhui Manukura
  - iv Heads of Departments. (including designated Division deputies)
  - v Capital Works Governance Group members
  - vi Purchasing officers
- b All of the above people are required to complete and sign annually a 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.
- c Every person who is required to complete an annual Conflict of Interest form, is also required to update this declaration in writing to the Board Secretary if her or his circumstances relevant to this policy change. Board members may do this at any Board or committee meeting and it will be recorded in minutes, and in the Board register by the Board Secretary

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

### 2.5 Meetings

- a The agenda for every Board, Board Committee, Te Kahui Manukura, 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 she or he has 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.)*

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- 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 Board 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 Board meeting.

## **Board Secretary and Finance Section**

- e The Board 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 Chief Operating Officer for the use of the staff of the Finance Section.
- f All companies and organisations identified in the register will be marked in Ara Institute of Canterbury Ltd's financial systems in such a way that payments cannot be made to those companies without the knowledge of the Chief Operating Officer.
- g The Chief Operating Officer will monitor payments to the companies and organisation's on the register and will notify the Chief Executive and the Board Secretary of any concerns.
- h As payments to any of those companies in which a Board member has a concern or interest approach \$25,000 including GST in any financial year, the Chief Operating Officer will notify the Board Secretary who will notify the Board member concerned and, will confer with the Board Chair and the Chief Executive and, if appropriate, apply to the Office of the Auditor-General for prior approval to exceed the limit.

## **2.6 Management of Declared Conflicts of Interest**

- a 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.
- b The mechanisms for implementing the principles 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 Abstinance from voting or decision making
  - viii Non-receipt of relevant information
  - ix Agreement not to act
  - x Decline of gifts or hospitality
  - xi Resignation

## **2.7 Quick Reference Summary**

- a Every person covered by this policy:
  - i Must declare any material conflict of interest which arises during the course of their employment or term of office.
  - ii Must declare any material interest which arises in the course of carrying out any duty for Ara Ltd or at any meeting or during any discussions or deliberations

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- b In addition, Board members, Board officers/support providers, managers and purchasing officers
  - i Must make an annual disclosure of material interests (pecuniary and non-pecuniary).
  - ii Must update their declaration if further interests are added before the next declaration is called for.
  
- c Board members must also monitor any business transactions between Ara Ltd and any company or organisation in which they have a material interest as defined in the *Local Authorities (Members' Interests) Act 1968* to ensure that such business does not exceed the limit of \$25,000 (inclusive of GST) without the prior approval of the Auditor-General.
  
- d The text for inclusion in letters of appointment or election is as follows:

*Ara Ltd has strong links with its communities and it is not uncommon for employees, persons contracted for service, managers, Board officers and Board members to have involvement in businesses or organisations which could give rise to real or perceived conflicts of interest. We cannot hope to avoid or eliminate all possible conflicts but we have a responsibility to declare them and to manage them effectively by being aware of our obligations and following Ara Institute of Canterbury Ltd's policy, 'Disclosure and Management of Conflicts of Interest'.*

The wording for use at Board Committees, Te Kahui Manukura, or Capital Works Governance Group meetings is as follows:

  - i Agenda item: *Disclosure of Conflicts of Interest.*
  - ii Disclosure question: *Does any voting or non-voting member or officer or support person present have any conflict of interest arising from the business to be considered at this meeting?*

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