

District Health Board Conflict of Interest Statements

- All District Health Board nominations must be accompanied by a statement completed by the candidate that discloses any conflicts of interest that the candidate has with the District Health Board at the time of nomination or any conflicts of interest the candidate believes are likely to arise in the future.
- Further information as provided by the DHB is set out below.
- The conflict of interest statement is required to be included with the voting paper sent to each elector by the Electoral Officer.
- Section 6 of the New Zealand Public Health & Disability Act 2000 states the following:
Candidate to declare conflicts of interest
When a candidate gives the responsible Electoral Officer notice of the candidate's consent to being nominated as a candidate, the candidate must also give the Electoral Officer a statement completed by the candidate in good faith that –
 - (a) discloses any conflicts of interest that the candidate has with the District Health Board as at the date of the candidate's notice of consent, or states that the candidate has no such conflicts of interest as at that date; and*
 - (b) discloses any such conflicts of interest that the candidate believes are likely to arise in future, or states that the candidate does not believe that any such conflicts of interest are likely to arise in the future.*



DISTRICT HEALTH BOARD ELECTIONS GUIDELINES FOR CONFLICTS OF INTEREST STATEMENTS

THE REQUIREMENT

When lodging a nomination with an electoral officer, candidates for election to a district health board (DHB) are required by law to provide a statement of their current and any likely future conflicts of interest.

THE LEGAL BASIS FOR THE REQUIREMENT

This is the law that applies

Clause 6 of Schedule 2 of the New Zealand Public Health and Disability Act 2000 (the "Act") **requires that the candidate to provide a statement**

"completed by the candidate in good faith that –

- (a) discloses any conflicts of interest that the candidate has with the DHB as at the date of the candidate's notice of consent, or states that the candidate has no such conflicts of interest as at that date; and
- (b) discloses any such conflicts of interest that the candidate believes are likely to arise in future, or states that the candidate does not believe that any such conflicts of interest are likely to arise in the future."

If the candidate does not provide a statement of material conflict of interest s/he may be disqualified from membership of the DHB board.

Clause 17(1) of the Act states that "None of the following persons may be elected or appointed as a member of a board, or appointed as a member of a board committee, of a DHB:" and included in this list of disqualifications is Clause 17(1)(f) which states "a person who has failed to declare a material conflict of interest before accepting nomination as a candidate for an election to a DHB held in conjunction with the immediately preceding triennial general election".

THE LEGAL DEFINITION OF A CONFLICT OF INTEREST

A conflict of interest (COI) is defined in Section 6 of the New Zealand Public Health and Disability Act 2000 (the "Act") as follows:

- “conflict of interest** in relation to a person and a publicly-owned health and disability organisation, includes –
- (a) the person’s interest in a transaction (within the meaning of subsection (2)) of the publicly-owned health and disability organisation; and
 - (b) the person’s interest that would, if the person were a member of the board of the publicly-owned health and disability organisation or a member of a committee of that board or a delegate of that board, be an interest in a transaction (within the meaning of subsection (2)) of the publicly-owned health and disability organisation; and
 - (c) to avoid any doubt, the employment or engagement of the person, or of the person’s spouse, as an employee or contractor of the publicly-owned health and disability organisation”.

A ‘publicly-owned’ health and disability organisation is defined in the Act as follows:

“publicly-owned health and disability organisation means a DHB, PHARMAC, NZBS and RHMU”.

Subsection 2 referred to above is subsection 2 of Section 6 of the Act and reads as follows:

“For the purposes of this Act, a person who is a member of a board of a publicly-owned health and disability organisation or a member of a committee of such a board or a delegate of such a board is interested in a transaction of the publicly-owned health and disability organisation if, and only if, the board member or the member of the committee of the delegate -

- (a) is a party to, or will derive a material financial benefit from, the transaction; or
- (b) has a material financial interest in another party to the transaction; or
- (c) is a director, member, officer, or trustee of another party to, or a person who will or may derive a material financial benefit from, the transaction, not being a party or person that is –
 - (i) the Crown; or
 - (ii) a publicly-owned health and disability organisation; or
 - (iii) a body corporate that is wholly owned by 1 or more publicly-owned health and disability organisations; or
- (d) is the parent, child or spouse of another party to, or person who will or may derive a material financial benefit from, the transaction; or
- (e) is otherwise directly or indirectly materially interested in the transaction.”

material interest or benefit is not defined and is open to interpretation. The employment by the board of a distant relative is probably not a conflict of interest, and in most cases nor would be owning a small number of shares in a company which once a year provides a minor service to the board.

However the candidate’s employment by the board, or their spouses employment by the board, would clearly be a conflict of interest EVEN THOUGH it does not prevent their being elected or appointed to the board.

What is or is not ‘material’ for the purposes of COI statements requires the application of common sense and relies on an assumption of the candidate’s desire to be as transparent in their candidacy as possible.

A practical test is whether the voters would consider the interest to be relevant to their voting decision. In other words would they care whether or not the interest is disclosed. If they would care, then it should be. Where there is any doubt as to the materiality of an interest, disclosure should be made.

AFTER ELECTION

Once a candidate to a DHB board is elected (or appointed) they are required to disclose any interests in transactions of the board, and in some circumstances not to take part in the deliberations of the board in relation to the conflict of interests (Clause 36, Schedule 3 of the Act). The disclosure of this conflict must be recorded in the minutes of the board and entered in a separate interests register.

WHY THESE LEGAL REQUIREMENTS EXIST

The legal provisions and requirements referred to above were established to protect the interests of the Crown and the public, and to protect the interests of individuals standing as candidates or serving as board members.

They were also established to make sure that when the public is electing members of their DHB boards they are fully aware, prior to voting, of the conflicts of interest that the candidates may have.

Together with the Candidate Profile Statements, the Conflicts of Interest statements will be made available to all electors with their voting papers.

IN PRACTICAL TERMS, WHAT DOES THIS MEAN FOR CANDIDATES?

In the interests of the public and in their own interests, candidates for election will wish to be as open and as frank with the public as they can be so that there can be no suggestion that the public was not made aware of actual or potential conflicts of interest when considering candidates for election.

Many DHB candidates will have connections to the health service through their employment, or a family member’s employment. They may also have business connections to the DHB, through the provision of services purchased or subsidised by the DHB.

Candidates will need to consider not only their current circumstances, but also the possibility of there being a change in their circumstances that will result in a future conflict of interest.

Advice given to current DHB board members, when they have made their statements of conflicts of interest, is “if in doubt declare it”. In most cases a relatively simple statement can be made by candidates along the lines of the following models:

Example 1

“CONFLICT OF INTEREST STATEMENT

To the best of my knowledge and belief, I have no conflicts of interests with the District Health Board at the date of my notice of consent to being nominated as a candidate for membership of the board of the DHB, and I do not believe that any such conflicts of interest are likely to arise in future.

Signed
Full name of Candidate
Dated

Example 2

“CONFLICT OF INTEREST STATEMENT

To the best of my knowledge and belief, I have no conflicts of interests with the District Health Board at the date of my notice of consent to being nominated as a candidate for membership of the board of the DHB.

I do not believe that any such conflicts of interest are likely to arise in future, except that my current employer, the ABC company, is tendering for the provision of cleaning services for the District Health Board and in the event that they are successful in this tender I may have a conflict of interest in this regard.

Signed
Full name of Candidate
Dated

Example 3

“CONFLICT OF INTEREST STATEMENT

To the best of my knowledge and belief, I have no conflicts of interests with the District Health Board at the date of my notice of consent to being nominated as a candidate for membership of the board of the DHB except that I am an employee of the board.

I do not believe that any conflicts of interest are likely to arise in future other than my intended continued employment by the board as a medical radiologist.

Signed
Full name of Candidate
Dated

Example 4

“CONFLICT OF INTEREST STATEMENT

To the best of my knowledge and belief, I have no conflicts of interests with the District Health Board at the date of my notice of consent to being nominated as a candidate for membership of the board of the DHB other than the employment by the board of my husband.

I do not believe that any conflicts of interest are likely to arise in future other than my husband’s continued employment by the board in his nursing role.

Signed
Full name of Candidate
Dated”

Example 5

“CONFLICT OF INTEREST STATEMENT

To the best of my knowledge and belief, I have no conflicts of interests with the District Health Board at the date of my notice of consent to being nominated as a candidate for membership of the board of the DHB other than that:

- (a) I am a senior employee of the DEFA Company, a Health Service Provider which is funded in large part by the board;
- (b) my wife is currently employed by the District Health Board as a medical specialist;
- (c) my brother is a community pharmacist in XXGGHH which is subject to a contractual arrangement with the District Health Board; and
- (d) my daughter is a community health advocate.

I do not believe that any conflicts of interest are likely to arise in future other than the continuation of the conflicts of interest stated above.

Signed
Full name of Candidate
Dated”