



14 September 2016

IFS: 16/8017

IFS: 16/8017/1

Ms Jenny M

Email: [fyi-request-4522-ff354f45@requests.fyi.org.nz](mailto:fyi-request-4522-ff354f45@requests.fyi.org.nz)

Dear Ms Jenny M

**Re: Information Request for copy of New Zealand Police Professional Distance Policy and further query in relation to Employment Investigations**

I refer to your emails dated 30 & 31 August and 1 September 2016 which you requested:

- *Please provide under urgency a copy of the Professional Distance Policy as introduced around 2008.*
- *Additionally I also request a copy of the Policy or particular clause of the Employment Agreement which allows Police as an employer to continue a Disciplinary Process AFTER resignation of member, AFTER withdrawal of allegations, AFTER secret mediated payment and settlement with the original "complainant" (which obviously wasn't so confidential if she disclosed it to multiple third parties who in turn disclosed it to me) and in the absence of any Hearing and finally updating the file 15 months later....with no right of rebuttal no communication in breach of accepting resignation. If there are no allegations and no criminal activity there can be no investigation and no result.*

I have considered your request under the Official Information Act 1982 and provide a response.

Please find attached a copy of the New Zealand Police Professional Distance policy as of 2 December 2008.

In relation to your second query this is refused under Section 18 (e) 'the document alleged to contain the information does not exist, or cannot be found'.

Under the Employment Agreement there is no such clause which allows Police as an employer to continue with a Disciplinary process after the employee has resigned or been dismissed.

This only relates to the employee who has resigned or been dismissed it does not apply to those other employees who may have been subject to the same Disciplinary process relating to the same incident/allegation.

Without further information relating to a specific event I cannot provide any further information.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the way I have responded to your request.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A Jackson', written in a cursive style.

Superintendent Anna Jackson

National Manager Police Professional Conduct

# Professional distance policy

## Overview

### Introduction

Police are a professional body who interact with a wide range of people in their duties. The Code of Conduct sets out the standard of behaviour and adds further explanation of the values and goals of the New Zealand Police in how Police employees deal with others. These standards of behaviour are outlined under the following broad headings:

- Honesty and integrity
- Loyalty, good faith and professionalism
- Fairness and impartiality
- Respect for people and property, and
- Confidentiality.

This policy provides further guidance and clarification on the relationships between members of the public and Police employees and between two Police employees.

### Description

The nature of policing means conflicts of interests and power imbalances may occur. The purpose of this policy is to provide guidance on managing and limiting risks to individual employees and to Police where a conflict of interest or power imbalance may arise in relationships.

While some of these issues can be resolved by taking appropriate steps, other relationships will always be unethical.

In certain circumstances, the development of a personal relationship between Police employees and members of the public that they have come into contact with through a professional relationship may be inappropriate, particularly where a sexual relationship is formed.

Also, in some circumstances, the development of a personal relationship between employees where there is a reporting line or a decision making role may be inappropriate unless appropriate steps are taken.

Where a personal relationship occurs in situations covered by this policy, employees must take steps to manage any conflict of interest or imbalance of power, including, where necessary, declaring any such relationship, or potential relationship, to Police. Where appropriate, Police will take all reasonably practicable steps to manage any conflict of interest or imbalance of power that may arise.

Where a personal relationship already exists, Police employees will need to either avoid or take steps to manage any direct dealings with that person in a professional capacity where a conflict of interest or power imbalance may arise.

### Application of this policy

This policy applies to all employees of New Zealand Police. It relates to the formation of consensual relationships (sexual or otherwise). Where there are issues of consent, the Discrimination and harassment policy is to be used.

### Date of effect

This policy is effective from 2 December 2008.

**Breach of policy**

Any breach of this policy may be a breach of the New Zealand Police Code of Conduct, and may result in disciplinary action, including dismissal.

**Associated documents**

The following documents are related to this policy:

- Code of Conduct
- Discrimination and harassment policy
- Complaints policy
- Performance management policy

## **Principles**

The following principles apply to this policy:

- The formation of a personal relationship where a professional relationship exists, and vice versa, may potentially result in a conflict of interest or imbalance of power. Such relationships, depending on the circumstances, may be inappropriate.
- Police employees, as members of a profession, are required to maintain the appropriate professional boundaries and avoid conflicts of interest arising in the performance of their duties.
- Where an employee is in a relationship that may be covered by this policy the employee may be required to declare that relationship to Police.
- Police shall ensure that any relationship declared to them shall be treated with the utmost confidentiality and sensitivity and, will take all reasonably practicable steps to put in place appropriate safeguards to manage any conflict of interest or imbalance of power that may arise so a personal relationship can continue where appropriate.

## Relationships

### Definitions

For the purposes of this policy, the following definitions apply:

Term	Definitions
<b>Personal relationship</b>	A personal relationship may include (but is not limited to): <ul style="list-style-type: none"><li>• a sexual relationship</li><li>• conduct or contact that has an intimate as opposed to professional intention</li><li>• family members.</li></ul>
<b>Professional relationship</b>	A professional relationship is where the relationship has arisen out of the employee's work duties. This includes, but is not necessarily limited to, a relationship between two Police employees, or a Police employee and members of the public, or a Police employee and staff of external agencies or contractors.
<b>Conflict of interest</b>	A conflict of interest can be described as a situation in which a person has a private or personal interest which could or could reasonably be perceived to influence the objective exercise of their official duties as an employee.
<b>Reporting line relationship</b>	Reporting line relationship includes situations where the relationship is between employees in a line management relationship which does not involve a direct reporting relationship (e.g. a relationship between an employee and their manager's manager).

### Types of relationships

The following types of relationship are covered by this policy.

#### Pre-existing personal relationships

Employees must exercise judgement in any professional dealings with family members, friends or associates. There may be exceptional circumstances, such as working in a small community, but generally any professional involvement with people with whom the employee has a pre-existing personal relationship will need to be managed in accordance with the transitional provisions below.

#### External relationships

Members of the public interacting with Police employees professionally may be required to disclose private, confidential and highly personal information. This obligation to disclose is not reciprocal, so the relationship may be unequal. In addition, the ability and power that may be held by a Police employee to make decisions relating to some people may create a power imbalance. For example, an employee may have the power to arrest, to detain, to further a complaint or issue an infringement, or otherwise affect outcomes for that person.

#### Internal relationships

A personal relationship between Police employees can, in some instances, create an imbalance of power or conflict of interest, such as the relationship between a direct supervisor and staff member or where an employee has a decision-making role with respect to another employee. This could relate to performance appraisals, dealing with

any disciplinary matters and granting applications on a variety of matters. Relationships of this nature therefore have the potential for retaliation, favouritism, impaired judgement, or inappropriate influence in decision-making, or the reasonable appearance of that to others.



## **Management of relationships**

### **External relationships to be declared**

#### **Employee's obligations**

Police recognise that the formation of a personal relationship, and in particular, a sexual relationship with the following groups of people whilst they interact with the Police employee in a professional capacity, creates the greatest risk of a conflict of interest or imbalance of power arising and are therefore considered to be unethical.

Police employees must avoid entering into a personal relationship with the following groups of people whilst they are in a professional relationship and during any subsequent period of time during which an imbalance of power or conflict of interest could be perceived to exist:

- complainants when the employee is dealing with a complainant in a professional capacity and the power relationship could be perceived to influence decision making
- offenders when they have current charges and/or a known criminal history
- witnesses and their family members involved in a matter the employee is dealing with in a professional capacity where the power relationship could be perceived to influence decision making
- informants
- vulnerable persons where a duty of care exists
- any person in custody.

(This list is not exhaustive but is illustrative only)

In addition, there will be other circumstances where an employee contemplates entering into a personal relationship with an external person they are having professional dealing with, or where an employee is already in a personal relationship and may need to interact with that person in a professional capacity. This would include interactions with family, friends and associates in a professional capacity. These situations may also give rise to a conflict of interest.

If an employee intends to enter into a personal relationship of this nature or is uncertain as to whether the relationship is covered by this section, they must declare it to their local Human Resources Manager prior to the commencement of the relationship.

It is inappropriate to terminate a professional relationship in order to develop a personal relationship except in cases where the relationship is reported to Police and appropriate safeguards are put in place to remove the conflict of interest or power imbalance.

#### **Employer's obligations**

Where a relationship is raised with the Human Resources Manager, the manager must then assess whether or not steps can be taken to put in place safeguards to manage any conflict of interest or power imbalance. This could include removing the employee from any professional involvement with the person. Where appropriate all reasonably practicable steps will be taken to allow the relationship to continue.

Some relationships will, however, always remain unethical due to their nature as no appropriate safeguards can be put in place. All relationships will be considered on a case by case basis, taking into account all of the circumstances. Before a decision is made the employer will consult with the employee concerned.



## **Internal relationships where conflict of interest or power imbalance may arise**

### **Employee's obligations**

Police accept that relationships between employees exist and will continue to develop. This is only an issue where there may be (or may be reasonably be perceived to be) a conflict of interest or power imbalance.

Where an employee has a personal relationship with anyone that they have a professional relationship with, which may lead to the perception of a conflict of interest or power imbalance, they must:

- take steps themselves to manage any conflict of interest or imbalance of power, or
- discuss the matter with their supervisor or Human Resources Manager.

This policy does not apply to professional interactions between two colleagues of the same level or rank who are in a sexual relationship as it is unlikely a conflict of interest or power imbalance will arise.

Some internal personal relationships will always be unethical, for example:

- where a direct reporting line relationship develops or exists between the people and that has not been reported
- between instructors and recruits, and instructors and advanced trainees while attending training or undergoing assessment.

These relationships are to be avoided. If an employee intends to enter into a personal relationship of this nature, they must first declare it to their local Human Resources Manager.

### **Employer's obligations**

Where a relationship is declared, the Human Resources Manager must then assess whether or not steps can be taken to put in place safeguards to manage any conflict of interest or power imbalance. Where appropriate all reasonably practicable steps will be taken to allow the relationship to continue.

All relationships will be considered on a case by case basis, taking into account all of the circumstances. Before a decision is made the employer will consult with the employee concerned.

## **Transitional provisions**

Where an employee is in both a personal and professional relationship (refer to Types of relationships and Management of relationships) at the time that this policy comes into effect, consideration will be given to the appropriate manner in which to manage the professional relationship. This could include removal from an enquiry or operation, or a change in reporting lines, for example. An employee will not be required to end a pre-existing personal relationship pursuant to this policy.

An employee in an external relationship needing to be declared at the time this policy is introduced must:

- report that relationship to either their supervisor or the appropriate Human Resources Manager
- take steps themselves to manage any conflict of interest or imbalance of power, and
- discuss any issues relating to the management of conflicts of interest or imbalance of power with their supervisor or Human Resources Manager.

Where it is appropriate to put in place safeguards, relevant considerations to be taken into account in assessing the best possible way of managing a pre-existing personal relationship include:

- the nature of the relationship at the time the policy comes into effect
- whether the relationship is one that is to be avoided under this policy
- the extent to which there is potential for a conflict of interest (actual or perceived) or imbalance of power to arise, and
- the safeguards (if any) that can be put in place to manage any conflict of interest or imbalance of power.

Any other relationship does not need to be declared, unless a conflict of interest may arise.