

# Performance-Based Research Fund Sector Reference Group: Consultation paper #5 – Peer review panel establishment and conflict of interest policy

## Sector feedback and TEC decisions

### Purpose

The Performance Based Research Fund (PBRF) Sector Reference Group (SRG) sought feedback from the sector and other stakeholders on the proposed approach to selecting chairs and members of peer review panels for the 2018 Quality Evaluation, and proposed changes to the conflict of interest policy that governs panellists.

This document provides:

- a summary of the responses received;
- details of any concerns raised relating to the proposals; and
- the Tertiary Education Commission's (TEC's) decisions on each aspect of the proposal.

### Introduction

*Consultation paper #5 – Peer review panel establishment and conflict of interest policy* provided the sector and other key stakeholders with background information on previous selection processes and the conflicts of interest policy, the proposed approach to selecting chairs and members of peer review panels for the 2018 Quality Evaluation, proposed changes to the conflict of interest policy that governs panellists, and invited feedback on the proposed approach and changes and any other matters not raised in the paper.

The paper excluded the approach to the appointment of Moderators.

Feedback on this consultation paper was invited through the Tertiary Education Commission (TEC) from 10 March to 20 April 2015. Consultation has now closed.

A total of 13 responses were received. These were from:

- Auckland University of Technology
- Christchurch Polytechnic Institute Of Technology
- Eastern Institute of Technology
- Massey University
- Tertiary Education Union Te Hautū Kahurangi o Aotearoa
- University of Auckland
- University of Canterbury
- University of Otago
- University of Waikato
- Victoria University of Wellington
- 3 individual staff members

Callaghan Innovation also provided feedback. Feedback has been anonymised.

### Process information

The SRG has considered the feedback from the sector and other stakeholders relating to each of the matters identified in the consultation paper. The SRG has indicated its preference, which has been recommended to the TEC for approval.

## Next steps

The TEC will use the decisions as the basis of the appointment process for panels for the 2018 Quality Evaluation and the conflicts of interest policy will be included in the draft guidelines for the 2018 Quality Evaluation. These guidelines will be provided to the sector and other stakeholders for consultation before they are finalised in June 2016. The purpose of the consultation on the draft guidelines is to ensure that the guidance is clear and unambiguous, not to re-consult on matters already consulted upon and agreed.

## Organisation of summary

Each of the 13 responses has been analysed. Feedback is summarised according to the following sections:

- A. Panel composition
- B. Chair selection process
- C. Panel selection process
- D. Conflicts of interest policy
- E. Conflicts of interest raised by staff members
- F. Any other matters

### A. Panel composition

The SRG proposed changes to the general goals regarding the composition of panels for the 2018 Quality Evaluation. These changes included specific reference for members to be able to represent early career researchers and applied/practice-based researchers.

The responses received have been reviewed and summarised below.

| <b>Do you recommend any changes to the proposed statement for panel selection?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Yes  | 54%                     | 7                     |
| No   | 46%                     | 6                     |

There was a good level of support for the proposed approach to panel selection. The feedback recommended some changes of a minor nature.

Some concerns were raised including setting a goal of 25% of international representation, the balance of new and previous panellists (including limiting the number of terms a person can serve on a PBRF panel), representation of new and emerging researchers, and representation from a variety of sectors and other organisations.

The SRG has considered the feedback and determined that the goal of 25% international representation will be maintained. This is consistent with previous Quality Evaluations, and overseas panellists are seen as particularly beneficial in the New Zealand context as they provide international comparisons and manage potential conflicts of interest within the research community.

Applying a limit of two or three terms for former panellists has been considered but the SRG has decided not to mandate this. It recommends that this is considered by Chairs, the Moderators and the TEC when appointments are made.

### **Decision**

The SRG has considered the feedback provided and finalised the approach to panel selection as set out below.

*PBRF peer review panel members are appointed for their specific expertise and knowledge, and do not act as representatives of their employer or discipline. In the appointment of a peer review panel, the goal will be to achieve the highest calibre of panel members, who jointly represent a comprehensive range of subjects and interests. Each panel will have, where possible;*

- *an appropriate mix of new and previous panel members;*
- *gender representation;*
- *international representation of at least 25%;*
- *representation from across different tertiary education sectors and other research organisations; and*
- *panel members who have the ability to represent the interests of:*
  - *applied/practice-based researchers;*
  - *early career researchers;*
  - *inter-disciplinary researchers;*
  - *Māori researchers; and*
  - *Pasifika researchers.*

The SRG also recommended providing panel Chairs with more specific advice on the composition of their panel.

The responses received have been reviewed and summarised below.

| <b>Do you agree that panel Chairs should be provided with more specific advice on panel composition outside of the general statement on panel composition?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Yes  | 100.0%                  | 13                    |
| No   | -                       | -                     |
| Possibly   | -                       | -                     |

This proposal received unanimous support.

The SRG recommends that this advice include information such as subject areas covered by the panellists, skills and applied research, and reflects the EPs submitted to the 2012 Quality Evaluation. The TEC will also ask participating TEOs for information on their submissions in February 2018 which will help inform panel appointments.

Feedback recommended that any information provided to Chairs on their specific panel composition should be made publicly available. The SRG agrees with this as it will be useful

to those submitting nominations. Panel-specific composition information will be included in the nomination material released by the TEC.

**Decision**

Implement the proposal for more specific advice to be provided to Chairs on panel composition and make it available on the TEC website as part of the two-stage panel nomination and selection process.

**B. Chair selection process**

The SRG proposed an open nomination process using the existing selection criteria for identifying and appointing panel Chairs for the 2018 Quality Evaluation.

The responses received have been reviewed and summarised below.

| <b>Do you agree that there should be an open nomination process for panel Chairs for the 2018 Quality Evaluation peer review panels?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Yes  | 100.0%                  | 13                    |
| No   | -                       | -                     |

This proposal received unanimous support.

**Decision**

Implement an open nomination process to select Chairs of peer review panels for the 2018 Quality Evaluation.

Some concern was raised about the potential for Chairs to completely step aside from their other TEO management responsibilities in relation to PBRF. Feedback indicated that this may be too difficult for some individuals. As the Chair holds a key position within the panel, they are at risk of being perceived as unfairly influencing their panel in favour of their employing organisation. As such, the TEC will retain this provision.

The SRG also proposed using the existing Chair selection criteria but sought feedback on any potential changes to the criteria.

The responses received have been reviewed and summarised below.

| <b>Do you recommend any changes to the existing selection criteria (paragraph 9 of the consultation paper)?</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| Yes   | 27.3%                   | 3                     |
| No  | 72.7%                   | 8                     |

There was a good level of support for using the existing criteria for selecting Chairs with some changes of a minor nature suggested.

### **Decision**

The SRG has considered the feedback provided and finalised the criteria for Chair selection. These revisions aim to provide clarity regarding the criteria.

*The preferred attributes and qualities of a panel Chair are that they will:*

- *have proven chairing skills, especially previous experience in chairing assessment panels\*;*
- *be considered a highly esteemed researcher;*
- *have limited conflicts of interest; and*
- *be from a different subject area and/or TEO to the previous Chair (where feasible).*

*It will also be desirable for them to have been a previous New Zealand-based panel member.*

*Attention will be paid to ensuring an appropriate balance in terms of institutional affiliation, gender and ethnicity.*

*\*This refers to any form of relevant assessment panel, not only the PBRF Quality Evaluation panels.*

### **C. Panel selection process**

The SRG proposed maintaining the open nomination process for panel members but identified a need for a wider range of nominations from non-university based candidates.

This proposal received supported and feedback suggested that all stakeholders in the assessment including funding agencies and research users are asked to put forward nominations. The SRG and the TEC supported this suggestion and there is evidence of increased awareness of the panel nomination process as a result of this consultation. It is expected that there will be further engagement in the nomination process from all parts of the tertiary sector and other research organisations, and TEC will actively support this.

The SRG also proposed maintaining the specific panel selection criteria, the subject areas to be assessed by each panels, and the two-stage selection process. However, it proposed two key changes to the two stage assessment process:

- initiating the first stage of the selection process to appoint Chairs and an initial cohort of five panel members for the purpose of developing the panel-specific guidelines for release in June 2016; and
- initiating the second stage of the selection process later in the process, finalising this once EPs are received (July/August 2018 based on the timeline of the previous exercise) with a second targeted (but open) nomination process to be undertaken to identify candidates that meet the specific gaps identified by Chairs and Moderators.

The responses received have been reviewed and summarised below.

| <b>Do you support a two-stage selection process for panels, including the timing of this process?</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| Yes   | 100.0%                  | 12                    |

|    |   |   |
|----|---|---|
| No | - | - |
|----|---|---|

This proposal received unanimous support.

Some feedback indicated that more than five members should be appointed in the initial cohort to ensure fair representation of all relevant disciplines when the panel-specific guidelines are developed (especially for panels with broad discipline requirements).

Questions were also raised about how the selection process will operate and information on the process has been provided in [Appendix 1: Proposed timetable for panel establishment and panel-specific guidelines](#).

Two submissions also recommended that TEOs have the opportunity to respond to the final panel selection, specifically in regard to challenging the appointment of panellists and raise issues regarding specific subject areas that are missing or not covered due to conflicts of interest. The SRG and the TEC do not support including this as an additional step in the process for the following reasons:

- a. TEOs have the ability to submit conflict of interest notices regarding specific panellists and any interests they may have that could affect their ability to be a panellist.
- b. Advice on panel composition will be made public which will allow all stakeholders to consider their nominations, for both the initial cohort and the second cohort.
- c. It is the responsibility of the Chairs and the Moderators to review the range of Evidence Portfolios submitted and determine the final composition of each panel in order to ensure panels are fit for purpose.

The SRG and the TEC would also like to clarify that neither nominations nor selected panellists are expected to have a PBRF rating or be rated “A” in a previous PBRF assessment round. The panel selection process seeks experts in both the subject area and in assessment.

### ***Decision***

Implement a two stage selection process for panels.

The initial cohort of panellists will be at least five members who provide fair representation of all relevant disciplines covered by the panel.

The following information on expectations of panel members, and the criteria used to select panel members will be incorporated into the nominations material:

### ***Expectations of panel members***

*Panel members are expected to both commit and participate fully in the Quality Evaluation process within their panel and specifically to:*

- *understand the broad criteria under which the assessments are made, to help revise and update panel-specific criteria where required, and to apply these objectively to the work of the panel;*
- *be diligent in their preparation for meetings and in completing tasks allocated to them by the panel Chair;*
- *contribute fully, constructively and dispassionately to all panel processes and take collective ownership for the panel decisions;*
- *maintain confidentiality of both the deliberations and decisions of the panel;*

- *exercise due skill and care in the performance of their responsibilities;*
- *devote adequate time to participate fully in the activities of the panel;*
- *identify instances where they may have a conflict of interest, raise these with the panel Chair prior to the conflict occurring, and undertake any and all actions required by the panel Chair; and*
- *understand the role and status of the Treaty of Waitangi in the New Zealand research context.*

**Panel member selection criteria**

*The preferred attributes and qualities of a panel member are that they will:*

1. *have substantial experience in a peer review or research evaluation role;*
2. *have significant and broad research expertise;*
3. *have sufficient levels of knowledge and expertise to be able to apply expert judgements about quality against widely recognised standards of excellence;*
4. *be able to give appropriate consideration to the significance, quality and impact of professional and applied research (where relevant);*
5. *have limited conflicts of interest;*
6. *be committed to operating within the guidelines in an objective, fair and dispassionate manner;*
7. *be able to operate effectively and productively as a member of a small, multi-disciplinary team over a pressured time period; and*
8. *have the confidence of their peers.*

**D. Conflicts of interest policy**

The SRG proposed a number of changes to the conflicts of interest policy and sought feedback on the proposed policy

The responses received have been reviewed and summarised below.

| <b>Do you recommend any changes to the proposed conflicts of interest policy?</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| Yes   | 58.3%                   | 7                     |
| No  | 41.7%                   | 5                     |

There was a good level of support for the proposed conflict of interest policy statement, as suggestions for change were relatively minor.

Feedback proposed adopt aspects of the conflict of interest management approach used by the United Kingdom’s Research Excellence Framework (REF) 2014, including defining interests as major and minor and making the register of interests publicly available. The

SRG and the TEC have considered the approach used by the REF 2014 and believes that the proposed policy is consistent with the REF 2014 at a principle level.

Including employment relationship issues and known professional differences as examples of possible conflicts of interest has been suggested. The SRG does not support including these as this has the potential to impugn the panellist's integrity. The SRG does recognise the concerns raised and has revised the initial questions to be asked when determining whether a conflict is present or not.

**Decision**

The SRG has considered the feedback provided and revised the conflicts of interest policy.

[Appendix 2: Revised conflict of interest policy.](#)

**E. Conflicts of interest raised by staff members**

The SRG reviewed the process which allows staff members submitting an EP for assessment to submit a notice of conflict of interest in relation to a panellist under exceptional circumstances. While the SRG proposed no change to the process itself, it recommended that notices that do not contain information on the potential conflicts of interest or cite circumstances that do not meet the definition of a conflict of interest are returned to the TEO.

The responses received have been reviewed and summarised below.

| Do you support the recommendation to return conflict of interest notices? |                  |                |
|---|------------------|----------------|
| Answer Options  | Response Percent | Response Count |
| Yes   | 100.0%           | 12             |
| No  | -                | -              |

This proposal received unanimous support.

Some recommendations about the process were suggested, including an opportunity to submit additional information if a notice is rejected, clarifying the overall timing of the process and which potential conflicts of interest a staff member may raise, and removing the requirement for the Chair to discuss the notice with the relevant panel member.

**Decision**

Implement the proposal to return conflict of interest notices, with an amended timeframe that allows ten working days to provide additional information if the initial notice is returned.

## F. Any other matters

Other matters raised by the sector are identified below.

1. Some concern was raised regarding the composition of the Creative and Performing Arts Panel, specifically how to ensure that this panel is sufficiently broad and appropriate for the New Zealand practitioners and schools across the disciplines that it represents/assesses.

*The SRG and the TEC have noted this and will raise the issue with the Chair of the panel when they are appointed.*

2. It was suggested that like the UK REF, the panel meetings are attended by independent 'Observers' whose role would be to explicitly observe the behaviour of the panel meetings to ensure equitable and un-biased input by members.

*In the Quality Evaluation exercise, the TEC's Probity Advisor leads this process. The Internal Audit report is included in the final report on results following each Quality Evaluation. In addition to the Probity Advisor, each panel has a TEC Secretariat that supports the processes and raises any concerns while the three Moderators and the TEC's Moderation Secretariat also attend the panel meetings to ensure that the final assessment is being undertaken in a fair and robust manner.*

## Appendix 1: Proposed timetable for panel establishment and panel-specific guidelines

| Activity   | Indicative timeframe  |
|--|-----------------------|
| Nomination period for Chairs and Panel members (initial cohort) opens – including initial panel composition advice | <i>August 2015</i>    |
| Nomination period closes   | <i>September 2015</i> |
| Chairs announced   | <i>November 2015</i>  |
| Initial cohort of members including Deputy Chair announced   | <i>February 2016</i>  |
| Draft panel-specific guidelines released for consultation  | <i>March 2016</i>     |
| Consultation closes on panel-specific guidelines   | <i>May 2016</i>       |
| Panel-specific guidelines released   | <i>June 2016</i>      |
| Information requested from TEOs on EP estimates  | <i>February 2018</i>  |
| Nomination period for Panel members (second cohort) opens – including revised panel composition advice             | <i>February 2018</i>  |
| Nomination period closes   | <i>February 2018</i>  |
| Second cohort of members announced   | <i>April 2018</i>     |
| EP submissions close   | <i>June 2018</i>      |
| Other appointments made to address specific gaps in panels if required   | <i>July 2018</i>      |

## Appendix 2: Revised conflict of interest policy

### **Definition**

In the PBRF Quality Evaluation process, individuals are appointed as peer review panellists in their own right, for their specific skills and expertise in both research and the assessment of research.

In this context, a conflict of interest is any situation where a panellist has an interest which conflicts, might conflict or might be perceived to conflict with the interests of the TEC in running a fair, impartial and effective peer review process.

While the conflict of interest itself is unlikely to be improper, it could lead to improper conduct or allegations of such conduct if not declared.

Note: In this context the term 'panellists' should be read to include panel Chairs, panel members, the TEC Secretariat, and other staff involved in the TEC processes.

### **Principles**

The TEC's policy on conflict of interest is guided by the following principles:

- all conflicts of interest must be declared and recorded;
- a conflict of interest can be declared at any time during the process but must be done as soon as practicable;
- the panel Chair has discretion to take decisions on the action required in any situation;
- the action required depends on the nature of the conflict;
- all actions on declared conflicts will be recorded; and
- individual panellists can exclude themselves from panel discussions even if this is not required by the policy.

The policy is also guided by the fact that the Quality Evaluation process, through the use of panel pairs and wider panel assessment, ensures that no single panellist is responsible for the decision on the final Quality Category given to an EP.

### **Identifying a conflict of interest**

In determining whether a conflict is present or not, there are two questions to ask:

- Would a fair-minded reasonably informed observer have a reasonable apprehension that the panellist's professional judgement would be compromised in evaluating another researcher's evidence portfolio?
- Does the interest create an incentive for the panellist to act in a way that would be contrary to the objectives of a fair, impartial and effective peer review process?

If the answer to these questions is 'yes', then a conflict exists.

### **Examples of possible conflicts of interest**

Examples of possible conflicts of interest can include, *but are not limited to*:

- assessment of one's own Evidence Portfolio (EP)
- assessment of the EP of:
  - a family member/partner or close personal friend;

- a current colleague within the same small academic unit or research team;
- a close colleague or someone reporting directly to the panellist or to whom the panellist currently reports;
- a colleague with whom the panellist has, or has had at any time in the assessment period, a research collaboration and/or direct teaching collaboration; or
- an academic who is undertaking Doctoral work under the supervision of the panellist.
- assessment of an EP where the panellist may receive a personal financial benefit from a high Quality Category.
- any situation where the panellist considers they might not provide an objective review of another researcher's EP because of a direct, indirect, potential or perceived conflict of interest, or where a reasonable observer would consider the panellist to be conflicted.

### ***Conflict at institutional level***

The following activities can be perceived as representing a conflict of interest for panellists:

- involvement in the internal assessment process the TEOs use to determine which EPs to submit to the TEC; and
- the provision by panellists of either general or specific advice or guidance on the preparation of EPs within their TEO.

The provision by panellists of general information and guidance about the assessment process within or outside their employing TEOs is not considered a conflict of interest by the TEC; however to ensure that the peer review process is perceived as fair, impartial and effective the TEC has determined the following principles generally apply to panellists:

- If the panellist is involved in the internal assessment of their TEO's EPs, or they have provided specific advice or guidance on individual EPs at their TEO while serving on a panel, they cannot assess EPs from their TEO at the individual assessment stage and can only contribute to panel discussions at the request of the Chair.
- If the panellist has no involvement in the internal assessment of their TEO's EPs, they have not provided specific advice or guidance on individual EPs at their TEO while serving on a panel and they have no other conflict of interest, they cannot be a Lead assessor for EPs from their TEO but they may be assigned as a second assessor.

### ***When to declare a conflict of interest***

A panellist may declare a conflict of interest at any time during the Quality Evaluation process. Conflicts must be declared as soon as practicable after the person concerned realises that a conflict exists however, the TEC would expect any new known or potential conflicts to be declared at the following points in the Quality Evaluation process:

- when first appointed;
- on assignment of EPs;
- at the beginning of peer review panel meetings; and
- when discussing an individual EP at the panel meeting.

### ***Responsibilities***

All interests must be recorded within the PBRF IT system, which will create an Interests Register.

All panellists are responsible for registering interests and undertaking any action required by the panel

Chair.

The TEC's Secretariat is responsible for registering any interests submitted by TEOs, recording any action(s) that may be required, and monitoring the Interests Register.

The Chair of each panel, on the advice of the TEC Secretariat, is responsible for deciding whether a conflict of interest exists in any instance.

The Chair of each panel is also responsible for ensuring that:

- all conflicts and any action(s) that may be required have been recorded in the Interests Register;
- appropriate action(s) is taken in respect of the conflict of interest during assignment, assessment and/or panel meetings; and
- the action(s) taken with respect to declared conflicts as part of the panel meeting process is recorded in the panel meeting minutes.

The Principal Moderator is responsible for considering conflicts of interest for Chairs and determining the appropriate action to be taken.

The TEC is responsible for undertaking an independent review of the Interests Register and the actions taken.

### ***Actions to take***

The nature of any action(s) to be undertaken by a panellist will depend on the extent of the conflict of interest. Most potential conflicts will be managed at the assignment stage of the assessment process, with conflicted panellists not being assigned individual EPs.

Actions may include, but is not limited to, one or more of the following:

- not receiving or being able to access an individual or group of EPs.
- having no involvement in the EP assessment at any stage and leaving the room when the EP is being discussed and decisions made at the panel meeting.
- having no involvement in the EP assessment at the individual assessment stage but remaining in the room when the EP is being discussed by the panel at the panel meeting, and participating in the discussion and/or decision-making if asked by the panel Chair.
- possible involvement in the EP assessment at the individual assessment stage (although not as the Lead assessor) and full participation in the discussion and decision-making on the EP.

The TEC may determine that a panellist's conflicts of interest are at a level that they may impact on the operation of a fair, impartial and effective evaluation process. In such a situation, the TEC reserves the right to stand-down a panellist.

### ***Chair conflicts***

Where the Chair has a conflict of interest, this must be declared to the Principal Moderator and the TEC's Secretariat assigned to that panel. The decision on what action, if any, should be taken will rest with the Principal Moderator.

In these circumstances, the Principal Moderator may ask the deputy Chair to act as Chair for the period if it is decided that the Chair is unable to participate. If this is not appropriate, the Principal Moderator will ask another panellist to act as Chair for the period the Chair is unable to participate.

The TEC's Secretariat will be responsible for recording any action(s) undertaken in the panel meeting minutes.

### ***Assessment of panellists own EPs***

A member of the Moderation Panel, the TEC's Moderation Secretariat, or the TEC's internal auditor will be present during panel meetings when the EP of a panellist is being assessed.

When a panellist's own EP is being assessed by the panel, the panellist will leave the room. Other panellists from the same institution may also be required to leave the room. The Chair will be responsible for determining an appropriate quorum and seek the Principal Moderator's approval of this.