

Summary of submissions on draft “Policy for managing conflicts of interest when providing official assurances for exports of live animals and animal germplasm”

Five written submissions and 1 oral set of comments were received from external submitters by MAFBNZ. One internal submission from the New Zealand Food Safety Authority was also received.

Key issues raised

- Most submitters appeared comfortable with the draft policy (“declare and manage”). Concerns were raised, however, about how MAFBNZ was interpreting the policy in some of the case studies. Two submitters commented that some of the options for managing conflicts of interest used in the case studies would cost too much for small businesses.
- External submitters
 - agreed that owning animals or genetic material when signing documents leading to official assurances for the same animals/materials was a clear conflict of interest;
 - held differing views about if owning a semen centre or the facilities for an embryo team was also a conflict of interest; and
 - disliked the use of \$ income values to determine if a conflict of interest was significant or not (because any threshold is arbitrary).
- The New Zealand Food Safety Authority was concerned that the proposed approach to implementing the policy:
 - Was inconsistent with its approach to managing conflicts of interest for registered exporters; and
 - Would result in excessive paperwork for MAFBNZ (adding unnecessary costs).

Response

Signing documents leading to official assurances while owning a semen centre or the facilities of an embryo team is a conflict of interest because any level of remuneration is an incentive to most people, and continued and repeat business is also an incentive to inappropriately manage certification. The key is how these conflicts of interest are managed. At least three options have been identified:

- A second approved veterinarian could be engaged to sign germplasm declarations;
- owners could arrange amongst themselves on a reciprocal basis to sign documents leading to official assurances; or
- a Recognised Person could sign the eligibility documents where a conflict of interest cannot be successfully managed within a business.

These options maintain the integrity of the Official Assurance Programme and the integrity of those working under it.

This approach also removes the need to distinguish between situations based on arbitrary \$ or percentage income figures.

We have modified the approach proposed for registered exporters so that it is consistent with the approach used by the New Zealand Food Safety Authority. This means that conflicts of interest for all registered exporters will be managed in a consistent way, regardless of the industry the exporter is working in.

We have also modified the approach for other participants so that use is made of existing procedures (for example, procedures already required by law or established within organisations) wherever possible to effectively manage any identified conflicts and minimise the costs involved.

We have modified the terms used in the policy to be consistent with the Official Assurance Programme.

Comments received/responses on draft “Policy for managing conflicts of interest when providing official assurances for exports of live animals and animal germplasm”

Section	Comment (paraphrased in some cases)	Response
General	<p>Embryo transfer is an industry that relies on services being provided by very small businesses. The clients are farmers and the cost is high. When times are tough for farmers, embryo transfer is the first cost to be removed. Businesses that have not kept their operations lean simply do not survive the bad times. Because of this, the veterinarians that perform embryo transfer are almost always Team Veterinarians for their export centre. Running an export centre is more a service to clients and not very profitable compared to domestic embryo transfer work. Export centres tend to charge for the collection of and freezing of the embryos with no charge being dependent on the embryos being able to be exported. Team Veterinarians will all have conflicts of interests as defined in this document.</p>	<p>It is a conflict of interest for veterinarians to own centres/facilities and gain income from semen/embryos going through the centre/facility while at the same time signing documents leading to official assurances because any level of remuneration is an incentive to most people, and continued and repeat business is also an incentive to inappropriately manage certification (see comment/response to Case Study 2, para 5; Case study 3, para 4).</p> <p>The key is how unavoidable conflicts of interest are <u>managed</u> to maintain the integrity of the Official Assurance Programme and the people involved in it (the examples provide some possible approaches).</p>
	<p>Veterinarians have ethical responsibilities under the Veterinary Code of Conduct</p> <p>The code is currently under review and MAFBNZ policy on conflicts of interest should reflect the nature of the new code.</p> <p>Sections of the current Code provide for managing conflicts through declaring them to the relevant recipients of the declaration (this has been effectively ignored by MAFBNZ).</p>	<p>Noted.</p> <p>MAFBNZ consulted VCNZ to ensure the approaches are as aligned as far as possible. The MAFBNZ policy applies also to persons than veterinarians, and so has to take into account other relevant guidance as well as the VCNZ code.</p> <p>Informing relevant recipients is one option for managing conflicts of interest under the proposed policy (see Appendix 2 - “register”).</p>
	<p>The new OAP proposes that Centre Veterinarians can mitigate a conflict of interest by using a Recognised Person to prepare and sign an Eligibility Document on their behalf. This is a good option because it is cost-effective for the export company. It should also reduce compliance costs because the auditing veterinarian (Recognised Person) has already viewed and signed off on all the eligibility documents and supporting documentation.</p>	<p>Noted</p>

	If this is a preferred pathway, MAFBNZ must make it mandatory for the Recognised Person to sign and issue the eligibility documents on behalf of germplasm centres. It is currently an optional function in the draft OAP. This contradicts other parts of the OAP relating to Centre Veterinarians and Certification	This cannot be made mandatory because it is only one option for managing a conflict of interest, and it is a commercial arrangement.
2 onwards	<p>The sections on managing conflicts of interest are open-ended.</p> <p>The limits of what can be labelled a conflict are not defined e.g. a Team Veterinarian owning and embryo transfer service business should not constitute a conflict if he/she has no financial interest in the animals or genetic material. Otherwise most practising vets would be in conflict every time they signed a certificate). The limits must be defined or future people in charge of applying this policy could disqualify most Team Veterinarians in New Zealand.</p> <p>There needs to be a procedure whereby a Team Veterinarian can be confident that once a conflict is declared and managed it will not be revisited unless there is a change in circumstance.</p>	<p>Clear cut examples are given in 2.1.1 – it is not possible to be more specific now. Issues must be considered case-by-case. We expect to have more examples over time as we gain more experience and norms are established.</p> <p>The MAFBNZ (internal) record system will list the agreed actions and establish norms and consistency.</p> <p>The MAFBNZ (internal) record system will list the agreed actions and help to establish norms and consistency.</p>
2.1.1 (definitions, point 1)	States financial reward must be <u>significant</u> and be obtained from <u>successful export</u> . Has no issue with where income is linked to animals owned by person issuing the official assurance or directly to successful export, but see no conflict where fees or income derived from the process which is not directly linked or dependent on the export.	We have removed reference to “significant” because any level of remuneration is incentive to most people, and continued and repeat business is also an incentive inappropriately manage certification (see comment/response to Case Study 2, para 5; Case study 3, para 4).
2.1.1, (definitions, point 3)	<p>(“blurred” roles) - Unless MAFBNZ staff intend to contradict the advice they have already given, how can this be a conflict of interest?</p> <p>If the industry operators cannot ask those who administer policies for interpretation, who do they go to? The auditor is the logical person to ask.</p>	<p>MAFBNZ does not intend to contradict its advice. It is a conflict of interest because the person involved in the later auditing process would not be independent of the advice they have previously given, and an auditor may have different information and wish to make a different decision based on that information in future.</p> <p>Operators can ask MAFBNZ (who administers policy) for advice (Case Study 4) with the auditing being carried out by an independent person (located in another part of MAF) – this maintains the integrity of the Official Assurance Programme and the people working in it.</p>
5.2.3 (no conflict,	Does this mean that the Recognised Agency must notify MAFBNZ of all conflicts of interest?	No – only those that involve participants that sign documents that will be relied on by government agencies to issue official assurances (see 5.3.4).

report outcome to MAFBNZ)	Will the AB be notified as well?	. Yes, the Accrediting Body will be notified of any conflicts of interest before audit.
5.2.6	The examples quoted of how conflicts would be managed suggest an all or nothing response. The submitter seeks allowance for varying situations with the register recording how the conflict is managed differently given the different situations. This will be in the form of restrictions.	5.2.6. doesn't exist, but MAFBNZ certainly intends that conflicts of interest will be handled in a manner appropriate to the circumstances of the case, and not generically.
Appendix 2 (case studies)	<p>The tone of the examples doesn't reflect the pragmatic approach of the policy or the Auditor general's report (small country, need to manage issues pragmatically).</p> <p>Liked proposal in OAP for a Recognised Person to sign eligibility documents where there was a conflict for the business owner (would like to see this approach reflected more in examples).</p> <p>Didn't like \$ amounts in the examples.</p>	<p>We intend to be pragmatic. We have revised the examples based on the comment received.</p> <p>See above.</p> <p>We have removed references to any threshold amount of income because it is arbitrary (see also comment/response to Case Study 2, para 5; Case study 3, para 4).</p>
Case Study 1	Case Study 1 fails to identify the declaration process available in section 3.12 of the VCNZ code, so could be deemed incomplete	The cited section of the VCNZ code is a general ethical principle requiring veterinarians to declare situations where they have a vested interest, especially when testing and treating their own animals. We have added this in as suggested.
Case Study 2	<p>Doesn't accept that MAFBNZ should be able to make decisions based on % income because it would be arbitrary and hard to maintain transparency and consistency. This policy conflicts with the policy of the International Embryo Transfer Society</p> <p>Embryo industry is so small that it is nearly impossible to separate veterinary ownership from certification. Does not see that Centre Veterinarian ownership in a business should preclude him/her from certification</p>	<p>Agree it is arbitrary. We have removed reference to any threshold amount of income.</p> <p>Conflicts of interest should be avoided where possible, but where unavoidable must be declared and managed.</p>
Case Study 2	Case Study 2 is seriously flawed. Suzanne should not have to remove herself from signing certificates. To recruit another veterinarian is completely impractical. It is inconsistent with Part 8 of the OAP for embryo teams since in most cases a recruited veterinarian would not have the experience or knowledge to supervise the process to a satisfactory standard. The training	The recruited veterinarian could be in another practice not necessarily "recruit" as take on to a centre's staff. For example, owners could arrange amongst themselves on a reciprocal basis to sign documents leading to official assurances. Another option is to use a Recognised Person to sign the eligibility documents.

	required is extensive and impractical. A requirement to recruit an outside TV if the current one has a financial interest in the embryo collection business or centre will put most embryo export centres out of practice	
Case Study 2, para 5, Case Study 3, para 4	The studies demonstrate a logical conclusion but some of the steps to reach the conclusion are not logical. For example, the remuneration of any shareholder of embryo exporting company is directly linked to successful exportation whether there is a guarantee of eligibility for export of each consignment or not. If the embryos are successfully exported, the customer will be satisfied, and are more likely to return for repeat business. If the embryos are not eligible for export, there will be significant costs to the clients involved. Word will spread rapidly among these clients and their colleagues and their clients who will be reluctant to use the company. Every shareholder of any company has a vested interest that every job it undertakes is successful. This ensures the profitability of the company.	Agreed. We have modified the policy and example accordingly.
Case Study 2, para 12	There are incentives (continued and repeat business) to inappropriately manage certification. Any level of remuneration is an incentive to most of us.	Agreed, see comment/response to Case Study 2, para 5; Case study 3, para 4.
Case Study 4 , para 4 (2 nd last sentence)	Add a few more facts to clarify the study. "Stephen has no direct financial interest in the ewes, <u>the embryos or the successful exportation of the consignment</u> "	Agreed
Case Study 4, para 5 (last sentence para 4)	Add a few more acts to clarify the study. "Stephen will receive a daily rate as his fee for embryo transfer service, <u>a fee for the use of the collection centre and for the management of the ewes</u> "	Agreed
Case Study 4 , para 9 (para 8)	Para 9 is confusing. Suggests rewording as "MAFBNZ concludes that <u>since Stephen's financial interest is totally independent of the success of exportation he can become a certifying veterinarian...</u> "	We have amended to clarify.
Case Study 5	See comments 2.1.1 point 3 also.	See responses 2.1.1 point 3