

**Questions and Answers about the
Student Information Attestation and
Conflict of Interest Statutory Declaration forms**

Question	Answer	Rationale/ Background
<p>Do PTEs that provide training that is paid for or subsidised by employers have to provide information to students as outlined in the <i>Student Information Attestation</i> form?</p>	<p>PTEs do not have to comply with the section 234B requirement to provide student information if they have a contract with the employer that states:</p> <ul style="list-style-type: none"> • the employer agrees to pay for the full cost of the training, and, • the delivery of the training is for the employer's benefit. <p>If this is the case for all training that they deliver, the PTE can cross out the attestation section of the <i>Student Information Attestation</i> form and write "<u>Not applicable: contract with employer to meet all costs of training</u>"</p> <p>In all other cases, PTEs must provide a written statement to students as required by section 234B. If the PTE does not know how much of the training is being paid for by the student, they must indicate in some way the maximum that students would have to pay.</p>	<p>The Education Act requires that all students enrolling with a PTE are provided with the stated information.</p> <p>There is flexibility for PTEs to determine how best to do this in their circumstances, however the Act is intended to protect students by ensuring that they are fully informed before choosing to enrol.</p>
<p>If one or more of the items on the Student Information Attestation are not applicable (eg the provider does not charge student service fees, or the governing members have no conflicts of interest), does the provider still have to provide a written statement to prospective students about them?</p>	<p>No, the PTE is not required to make a statement to students about these if they do not apply.</p> <p>They do however still need to complete and submit the Student Information Attestation form to NZQA by 29 February 2012. They can annotate the form to indicate points that are not applicable, if they wish.</p>	<p>NZQA considers that it is prudent for providers to explicitly advise prospective students if the items do not apply.</p>
<p>Does a <i>Conflict of Interest Statutory Declaration</i> have to be submitted by governing members of a PTE who do not reside in New Zealand (eg overseas directors)?</p>	<p>Yes. It should be witnessed by a person who is authorised to witness statutory declarations in the country in which the governing member resides. Refer to section 11 of the Oaths and Declarations Act 1957 – available from www.legislation.govt.nz.</p>	<p>The obligation is on the PTE. The PTE is NZ based. It has to provide a declaration for all governing members whether resident in NZ or overseas or it becomes non-compliant.</p>

<p>When is a PTE required to give the written statement referred to in the <i>Student Information Attestation</i> to prospective students? Can it be included with the enrolment form at the time of enrolment or is it a separate process?</p>	<p>PTEs can determine the most appropriate way to provide prospective students with this information, as long as they are ensuring that each student receives the information before their enrolment is accepted and that they can provide evidence of this to NZQA if requested.</p>	
<p>What costs are included in "the total costs and other financial commitments associated with the programme or training scheme"?</p>	<p>All costs charged by the PTE to the student must be disclosed as a dollar figure, including accommodation where the PTE would be arranging that. Any other financial commitments that the student would have to make as a result of enrolment in the course (regardless of who these are paid to) must also be itemised, even if they cannot be quantified.</p>	<p>The intent is that students are able to enrol with full knowledge of the costs that they will incur as a result of participation in the programme or training scheme.</p>
<p>Is it sufficient to provide students with a written statement that refers students to the PTE's website for the detailed information that is required (eg a list of governing members' conflicts of interest)?</p>	<p>In principle this is acceptable. However:</p> <ul style="list-style-type: none"> • the costs/financial commitments aspect will be in the written contract which will be provided separately either in hard copy or electronically (eg scanned signed contract) • the PTE should include a link to the particular page(s) on the website • the PTE should ensure that cached pages are retained so if there are any disputes it can establish what page applied at the particular time. 	
<p>How specific does the declaration to students need to be, ie do governing members and the organisations they have an interest in need to be named? Does this breach their right to privacy?</p>	<p>It is not sufficient to make a generic statement – the declaration must be made for individual, named governing members, and the organisations they have an interest in need to be disclosed by name.</p>	<p>In this respect, the Education Act overrides the Privacy Act.</p>
<p>Do governing members have to declare interests that they have in "organisations in the immigration or education sector" that are outside of New Zealand?</p>	<p>Declarations are required for interests held in organisations in the New Zealand education and immigration sectors. However if an overseas organisation had some involvement in these New Zealand sectors (directly or through a subsidiary), it would need to be declared.</p>	

Are the following material conflicts of interest?

Situation	Conflict of interest?
A governing member is also Trustee for the trust that leases premises to the PTE	Not a material conflict of interest
A governing member has a shareholding/ directorship in another PTE	<p>It is an interest in another education organisation so must be declared as such. Whether it is a material conflict of interest depends on how close the two PTEs are, and the nature of the closeness.</p> <p>For example:</p> <ul style="list-style-type: none"> • if a director on the board of PTE 1 should declare their interests in PTE 2 when making decisions for PTE 1 and not participate in voting on the decision (in accordance with directors' best practice), there may well be a material conflict. • If PTE 1 is referring students to PTE 2 for extra services there is likely to be a material conflict <p>If the two PTEs operate in entirely different education markets and students are not being referred from one to the other (e.g. where further revenue will be earned from the student) there is unlikely to be a material conflict.</p>