



Investigation into the Teaching Council of Aotearoa New Zealand - Conflicts of interest and procurement practices

EXECUTIVE SUMMARY

1. In June 2025, the Minister of Education received an anonymous complaint which outlined serious allegations concerning the Chief Executive and other senior leaders at the Teaching Council of Aotearoa New Zealand (the Teaching Council). These allegations raised concerns around procurement, conflicts of interest and recruitment, as well as broader issues including change management, management of complaints, bullying and culture.
2. Following an initial review of the complaint by the Public Service Commission (the Commission), the Minister of Education requested that the Public Service Commissioner conduct an investigation into the Teaching Council's conflict of interest and procurement practices.
3. Our investigation examined the Teaching Council's procurement practices and related conflict of interest management for engagements involving: the advertising firm Clemenger UnLtd (Clemenger), digital engagement services, and te reo Māori instruction, translation, and Māori cultural advice. The terms of reference for the investigation are attached as **Appendix 1**.
4. Our investigation found that on multiple occasions between late 2018 and early 2025, the Teaching Council conducted procurement activities which did not comply with its internal policies and fell short of relevant system guidance. Some of these procurement activities also involved a conflict of interest which, in our view, was not appropriately identified or managed. This was not an issue of technical non-compliance. Key steps in the requisite processes did not occur, creating significant organisational and reputational risks. The Teaching Council's management of these activities fell short (and sometimes well short) of the standards expected in the public sector. This has the potential to undermine public trust in the organisation.

Procurement of services from Clemenger UnLtd

5. The Teaching Council Chief Executive has a conflict of interest in relation to Clemenger arising from her husband's role as the Managing Director, and his shareholding in the company. The Teaching Council has engaged Clemenger for three separate initiatives since 2018:
 - 5.1 2018 – 2020: Development and delivery of Unteach Racism campaign.
 - 5.2 2023 – 2024: Development and delivery of the Raising Awareness of the Teaching Council communications strategy.
 - 5.3 2024 – 2025: Relaunch of Unteach Racism campaign.
6. Across these engagements, we saw varying compliance with the Teaching Council's own procurement policy. Many of the contracts linked to these initiatives were not procured through

competitive processes, and the grounds for exemption from this requirement in the Teaching Council's procurement policy were not thoroughly considered, documented or approved. We have particularly serious concerns about a contract related to the communications strategy initiative, which was finalised for a value of \$570,000 (later varied to \$530,000) following a Request for Proposal (RFP) indicating a value of \$75,000. The description of services provided under this contract also differed significantly from the workstreams identified in the RFP.

7. For these engagements with Clemenger, the Chief Executive consistently declared the conflict arising from her husband's role, was not involved in awarding the contracts, and did not direct any person to award the contracts to Clemenger. We did not, however, see evidence that the Chief Executive's husband's shareholding was appropriately declared. We also consider that the Teaching Council's approach of simply excluding the Chief Executive from key parts of procurement processes involving Clemenger did not appropriately manage all aspects of the conflict of interest, including any perception risks.
8. Given the Chief Executive's conflict, we expected to see strict adherence to the agency's procurement policy and detailed documentation. This would have assisted in mitigating perception risks. As explained above that did not occur. We also expected greater involvement from the then Chair of the Teaching Council's Governing Council in managing the Chief Executive's conflict in relation to Clemenger. This would have assisted with an appropriate and more robust risk assessment, also ensuring that the risks arising from the conflict were managed at the right level.

Procurement of digital engagement expertise

9. Since 2024, the Teaching Council has engaged two contractors to provide digital engagement services, both following the recommendation of a Teaching Council Deputy Chief Executive. Under Teaching Council policy, the value of both contracts would have required a competitive procurement process or a documented and approved exemption request. Neither contract was procured through a competitive process and only one exemption request was documented, meaning the Teaching Council did not meet its policy requirement for one of these contracts.
10. In our view, the Teaching Council's approach to these engagements gave rise to perception risks of bias or favouritism which were neither identified nor managed. We did not see evidence of any conflicts of interest requiring management.

Procurement of te reo Māori instruction, translation and Māori cultural advice

11. The Teaching Council has entered into multiple contracts to for te reo Māori instruction, translation and Māori cultural advice. We did not see evidence that the Deputy Chief Executive sponsoring these contracts had any relevant conflicts of interest.
12. The Teaching Council's approach to these contracts did not comply with its internal procurement policy. These factors created a lack of transparency, and resulting perception risks for the Teaching Council.

Overall findings

13. We identified five overall themes in the Teaching Council's approach to the matters we investigated:
 - 13.1 Low maturity conflict management;

- 13.2 Incomplete conflict identification;
 - 13.3 Insufficient oversight of conflict management;
 - 13.4 Over-reliance on procurement policy exemptions with poor documentation; and
 - 13.5 Lack of responsible ‘tone from the top’.
14. Taken together, these issues contribute to significant, and unaddressed, risks for the Teaching Council across its conflict of interest and procurement practices.

BACKGROUND

The Teaching Council

15. The Teaching Council is New Zealand’s professional body representing teachers in early childhood education, primary and secondary schooling. The purpose of the Teaching Council is to:
- ensure safe and high-quality leadership, teaching, and learning for children and young people in early childhood, primary, and secondary schooling in English-medium and Māori-medium settings, and settings of other languages, through raising the status of the profession.*¹
16. The Teaching Council’s key responsibilities include registering and certifying teachers, setting and maintaining professional standards, approving teacher education programmes, maintaining the Code of Professional Responsibility and Teaching Standards, and investigating serious concerns about teacher conduct or competence. Given this regulatory role, and in particular the responsibility to set and uphold standards, it is important the Teaching Council meets high standards in its own operations.
17. The Education and Training Act 2020 establishes the Teaching Council as an independent statutory body. Over time, the Teaching Council has had different names including the Teachers’ Council and the Education Council. For the purposes of this report, we refer to the entity by its current name, ‘the Teaching Council.’
18. The Teaching Council’s governance body and board is called the Governing Council. The current Chair of the Governing Council was appointed on 29 August 2025. His predecessor held the role from July 2022 and that person is the Chair of the Governing Council referred to in this report.
19. The Teaching Council funds delivery of its functions through fees and levies paid by registered teachers. It also receives some funding directly from government to deliver certain functions.

Procurement in the public sector

20. Public sector procurement is governed by a framework of rules, principles, and guidelines designed to ensure fairness, transparency, and value for money. These standards are critical for maintaining integrity and accountability in the use of public funds.
21. The Government Procurement Principles provide organisations in the public sector with guidance to help make good procurement decisions. For procurements above \$100,000 in value, the key guidance is the Cabinet-approved Government Procurement Rules. The Government Procurement Rules set good practice for procurement planning, approaching the supplier community and

¹ Education and Training Act 2020, s478.

managing contracts. They support organisations to achieve public value while also ensuring integrity, transparency and accountability for the use of public funds.

22. In addition to this overarching guidance, each organisation should develop internal procurement policies tailored to its specific context. Compliance with these policies is essential. It is the key mechanism for agencies to manage any risks in procurement and to uphold public trust and confidence. Compliance with policies helps to demonstrate that procurement decisions are made responsibly, ethically, and in alignment with both legislative obligations and organisational values.
23. The Teaching Council has a high degree of operational independence and is primarily funded by professional registration fees received from teachers. The Teaching Council is not mandated to apply the Government Procurement Rules but is encouraged to have regard to the Rules as good practice guidance.
24. The Teaching Council has updated its Procurement Policy twice since 2018. In all iterations, it states:
We will follow good practice by applying the Procurement Principles (below) and, where appropriate, the Government Rules of Sourcing when planning, conducting and managing our procurements.²

Effective conflict of interest practices

25. Given our relatively small population, conflicts of interest are common in New Zealand, especially in areas of specialised or niche expertise. This context means that effective conflict of interest management is particularly important. At its most basic, a conflict of interest arises when a person carries out a particular function with two or more interests in conflict. *Managing conflicts of interest: A guide for the public sector* issued by the Office of the Auditor-General explains:
A conflict of interest is any situation where your duties or responsibilities as an employee or office holder in a public organisation conflict, or could be seen to conflict, with some other interest you might have outside of work.
26. There are three types of conflicts:
 - 26.1 Actual - where the conflict already exists.
 - 26.2 Perceived - where there is no actual conflict, but other people might reasonably think that a person is compromised.
 - 26.3 Potential - where the conflict is about to happen, or could happen.
27. Knowing whether the conflict of interest is actual, perceived or a potential helps individuals and their organisations to determine the right kind of mitigation to put in place:
 - 27.1 Actual - an actual conflict of interest cannot be managed by a declaration alone. It requires active mitigations to be in place. An actual conflict will usually also carry perception risks.
 - 27.2 Perceived - the management plan for a perceived conflict of interest (or perception risks arising from an actual conflict) needs to be transparent to counter the perception there is a conflict. This could involve declaring the perceived conflict at meetings or being ready to publicly release the management plan if questioned.

² The Government Rules of Sourcing were reissued as the Government Procurement Rules in 2019.

- 27.3 Potential - the management plan for a potential conflict of interest needs to identify the trigger for when the conflict would become an actual conflict of interest (for example, if a staff member's family company tendered for work with the agency) and what mitigations would then be required.
28. Conflicts can also arise from different types of interests. They could be due to another professional role, a relationship with an individual in another organisation or business, or a personal financial interest. The presence of a conflict does not necessarily mean that a person has done anything wrong. It is often possible to effectively manage a conflict of interest.
29. Financial conflicts of interest require strict management. The Auditor-General's guide describes a financial conflict as "any situation where you stand to gain or lose financially from a decision you are asked to make."
30. The Auditor-General's guide is clear that individuals may be deemed to share the same financial interests as a spouse or partner. It goes on to say that:
- Conflicts from roles in, or relationships with, other organisations can be difficult to mitigate or manage, especially if the conflict is financial as it can create the risk of divided loyalties. This is particularly true if the organisation's success or failure in the procurement affects the person's income or the value of any shares that they own.*
31. Conflicts of interest involving public functions and money rightly attract a high degree of scrutiny. The public should be confident that those exercising public functions, and using public money, do so for the right reasons and are not influenced by favouritism or personal benefit. Effective management of contracts and conflicts of interest is critical to maintain trust in public organisations. It is therefore fundamental that organisations in the public sector get this right.

SCOPE AND PURPOSE OF THE INVESTIGATION

32. As set out in the terms of reference, the purpose of this investigation was to support public trust and confidence and to establish whether the Teaching Council as an organisation has followed their own internal policies and applicable system guidance in relation to procurement and conflicts of interest. The scope was limited to the Teaching Council's:
- 32.1 Management of conflicts of interest involving the Chief Executive's family members, including procurement from the advertising company Clemenger UnLtd.
- 32.2 Procurement processes, and management of any conflicts of interest, related to the engagement of contractors for digital engagement support.
- 32.3 Procurement processes, and management of any conflicts of interest, related to the engagement of contractors for te reo Māori instruction, translation and Māori cultural advice³.
33. The matters within scope cover the time period of late 2018 to early 2025.
34. The focus of the investigation was on the Teaching Council's practices. This report does not form any views about the conduct of Clemenger or any individual contractors. It also does not make

³ Initially, the scope of this investigation was limited to the Teaching Council's management of conflicts of interest involving the Chief Executive's family members. Following further review of information, the scope was extended to cover procurements for digital engagement services and te reo Māori and Māori cultural advice.

findings as to criminal, civil or disciplinary liability, or broader issues identified in the complaint including change management, management of complaints, bullying and culture.

METHODOLOGY

35. Our investigation consisted of the following steps:
- 35.1 Document Review: We requested information from the Teaching Council on third-party procurement, conflict of interest management, recruitment, and staff complaints over the past five years. As the investigation progressed, we requested additional information from the Teaching Council.
 - 35.2 Commission interviews: We interviewed relevant individuals about the matters in scope. All interviewees were provided with copies of the interview transcripts for correction and comment.
 - 35.3 Request for response: We wrote to the Teaching Council to request a response on certain allegations in the complaint, including two specific allegations of bullying and workplace harm. The Chair of the Governing Council commissioned an independent investigator to assist the Teaching Council in preparing its response to the Commission. Following the response from the Teaching Council, we determined that the bullying and workplace harm allegations were better dealt with by the Teaching Council.
 - 35.4 Independent investigator interviews: The independent investigator engaged by the Teaching Council interviewed relevant staff, provided those staff the opportunity to check interview transcripts, and prepared a report. With the interviewees' consent, we have used these interview transcripts as part of our investigation.
 - 35.5 Assessment: We assessed the information gathered through interviews and documents for evidence of compliance with Teaching Council internal policies and alignment with recommended system guidance. We then prepared a draft report and undertook a natural justice process both with individuals and with the Teaching Council as an organisation.
36. The policies, rules and guidance against which we have assessed the Teaching Council's practices are detailed in **Appendix 2**. They comprise:
- 36.1 All versions of the Teaching Council's procurement and conflict of interest policies since 2018.⁴
 - 36.2 The *Guide to Procurement*, first issued by the New Zealand Government Procurement section of the Ministry of Business, Innovation and Employment in 2013 and periodically updated. This guide gives effect to the Cabinet-approved Government Procurement Rules, which were known as the Government Rules of Sourcing until 2019. The Teaching Council's procurement policy states that the Teaching Council will apply the Government Rules "where appropriate."
 - 36.3 *Managing conflicts of interest: A guide for the public sector*, issued by the Office of the Auditor-General in 2020.⁵ This is supplemented by a specific guide, *Managing conflicts of interest in*

⁴ The Teaching Council's procurement policy was updated in 2021 and again in 2024. The Teaching Council's conflict of interest policy was updated in 2022.

⁵ We assess the Teaching Council's practices against this guidance for procurements from 2020 onwards.

procurement. All agencies in the public sector are encouraged to have regard to this guidance. It is not specifically referenced in the Teaching Council's conflict of interest policy.

STRUCTURE OF THIS REPORT

37. This report is structured around the three matters within scope. It deals first with the issue of whether the Teaching Council appropriately managed conflicts of interest in relation to the current Chief Executive's family members.
38. The Chief Executive has held different roles at the Teaching Council over time:
 - 38.1 From 2016 until December 2018, she was a Deputy Chief Executive.⁶
 - 38.2 From December 2018 until December 2019, she was the interim Chief Executive following the departure of the former Chief Executive.
 - 38.3 In December 2019 she was appointed Chief Executive.
39. Since 2022, the Chief Executive has made annual written declarations of interests to the Chair of the Governing Council, in line with broader Teaching Council practice. Prior to this, she made written or verbal declarations to her one-up manager (initially the then-Chief Executive and then the Chair of the Governing Council) as the need arose.
40. The Chief Executive has declared three conflicts involving family members during her time at the Teaching Council:
 - 40.1 The Chief Executive's husband is the Managing Director of Clemenger UnLtd (Clemenger), an advertising company which has held contracts with the Teaching Council. The Chief Executive's husband has held this role since early 2017.
 - 40.2 The Chief Executive's brother-in-law is employed by the Teaching Council as the ICT Manager.
 - 40.3 The Chief Executive's son has worked for IT companies contracted by the Teaching Council.
41. Of the Chief Executive's conflicts of interest involving family members, the conflict presented by her husband's position at Clemenger (Managing Director) is the most significant to our investigation. We deal with this matter first, before briefly addressing the Chief Executive's other two conflicts.
42. The report then sets out our analysis in relation to two sets of procurement led by Deputy Chief Executives⁷, concerning the Teaching Council's engagement of contractors for:
 - 42.1 Digital engagement support, followed by
 - 42.2 Te reo Māori instruction, translation, and Māori cultural advice.
43. We conclude by setting out our summary of overall thematic findings.

⁶ The current Chief Executive was initially seconded from the Ministry of Education, before being permanently employed by the then-Education Council in 2017.

⁷ During the period of our investigation, the Teaching Council had three Deputy Chief Executive roles. The position titles for all three roles changed over time. In this report, we refer to the relevant individuals as Deputy Chief Executive A, Deputy Chief Executive B, and Deputy Chief Executive C. The current Chief Executive was a Deputy Chief Executive until December 2018, near the beginning of our review period. We refer to her as the Chief Executive throughout.

PROCUREMENTS INVOLVING CLEMENGER

44. The Chief Executive's husband has been Managing Director at Clemenger since 2017, a position which is listed on the publicly available New Zealand Companies Register. He also holds considerable shares in the organisation.⁸ This gives him, and by extension the Chief Executive, a financial interest in Clemenger and creates an actual conflict of interest for the Chief Executive in relation to Teaching Council contracts with Clemenger. It also created perception risks around a lack of impartiality that the organisation needed to address.
45. Our investigation identified that, since 2018, the Teaching Council has engaged Clemenger to deliver three initiatives involving various contracts with overlapping timeframes:
 - 45.1 2018 – 2020: Development and delivery of Unteach Racism campaign;
 - 45.2 2023 – 2024: Development and delivery of the Raising Awareness of the Teaching Council communications strategy; and
 - 45.3 2024 – 2025: Relaunch of Unteach Racism campaign.
46. A timeline of the contracts associated with these initiatives is provided at **Appendix 3**.

2018 – 2020: Development and delivery of Unteach Racism campaign

Facts

47. The Teaching Council first engaged with Clemenger in early 2018, to explore how the Human Rights Commission's (HRC) *Give Nothing to Racism* campaign could be adapted as a professional development tool for teachers. The proposal to undertake an anti-racism campaign for the education sector was made by the Teaching Council Chief Executive (then a Deputy Chief Executive). The then-Chief Executive approved this proposal, which was supported by the Governing Council. Clemenger was HRC's advertising partner for its campaign. The Teaching Council decided to leverage the HRC's existing anti-racism campaign.
48. From the outset, the Chief Executive declared the conflict arising from her husband's position as Managing Director at Clemenger. We were told that the then-Chief Executive was aware of the (current) Chief Executive's conflict arising from her husband's position, though we did not see evidence that he was aware of the shareholding.
49. The Chief Executive directly negotiated for Clemenger to undertake initial, exploratory work on a pro-bono basis. This initial work was undertaken with the understanding that any further work would require payment.
50. When the Teaching Council formally engaged Clemenger, the Chief Executive paused her involvement with the campaign. The Chief Executive stated she recognised the financial conflict and was very concerned about the perception risk involving the Teaching Council contracting with Clemenger given her position at the Teaching Council and her husband's position at Clemenger.
51. We were not provided with documentation setting out a management plan in relation to the Chief Executive's conflict. The Chief Executive told us she took active steps to mitigate the financial

⁸ Clemenger UnLtd is part of a multinational company, with a complex ownership structure. The Chief Executive informed us of her husband's shareholding, but we were not told which specific company (or holding company) these shares relate to. This does not change the nature of the financial interest.

conflict, which we discuss below, but not all of these mitigations were possible. We did not see any evidence that the Teaching Council undertook a risk assessment or sought external advice on management of this conflict.

52. At an early stage of the Teaching Council's engagement with Clemenger, the Chief Executive verbally informed Deputy Chief Executive A, who managed the contract, about her husband's shareholding in Clemenger. Deputy Chief Executive A confirmed that this occurred. Deputy Chief Executive A was not aware of the value of the shareholding.
53. According to the evidence we have, this is the only time that the Chief Executive disclosed her husband's shareholding.
54. Over 2018 – 2020, the Teaching Council entered into three contracts with Clemenger for development and delivery of the campaign, eventually titled *Unteach Racism*. The relevant contracts were as follows:

| No. | Description | Date | Value |
|-----|---|-------------|-----------|
| 1 | Give Nothing to Racism – Education Council | August 2018 | \$99,285 |
| 2 | Give Nothing to Racism in Education – Unteach Education Council | July 2019 | \$300,000 |
| 3 | Unteach Racism Consultancy Services | August 2020 | \$19,600 |

55. The overall campaign was endorsed by the then-Chief Executive and managed by Deputy Chief Executive A. The Chief Executive (who until this point was a Deputy Chief Executive) took up her current role during this period, becoming interim Chief Executive from December 2018. Until January 2021, the Teaching Council was supported by a procurement specialist who provided advice on managing the procurement and associated conflict of interest.

Did the procurement follow internal policies and system guidance?

56. The Teaching Council took a 'direct source' approach for all three contracts, directly engaging Clemenger without seeking proposals from other potential suppliers. We were informed that Clemenger was a 'unique supplier' for the campaign given their specialist expertise and intellectual property developed through their work on HRC's campaign.
57. Under the Teaching Council's procurement policy at the time, the value of the contracts required the following processes:

| Total Value (over life of procurement) | Process to use |
|--|--|
| < \$10k and low risk | Approach a suitable provider |
| ≥ \$10k but < \$100k and low risk | Evaluate 3 quotes/proposals |
| \$100k and above or high risk (of any value) | An open competitive tender process is required – talk with [internal] Procurement for assistance |

58. This policy allowed for exemptions, stating:

Any departure from the policy must be justified in a procurement plan or business case that is signed off by the business owner, endorsed by the Procurement Advisor and approved by the Chief Operating Officer.

59. The Government Procurement Rules (applicable for contracts above \$100,000) also allow for exemptions from competitive procurement under certain circumstances, including when only one vendor can provide the required goods or services. A vendor may be described as a 'unique supplier' if they hold particular intellectual property or expertise not available from other suppliers.
60. Under the Teaching Council's procurement policy, contracts over \$100,000 require an open competitive tender process. The first contract was very near this threshold at \$99,285, and it would have been good practice to apply the higher standard. The second contract incorporated work from the first contract which was not completed, but in our view constituted a fresh procurement process. The value of the second contract was \$300,000 and would have required an open competitive process. The third contract, for \$19,600 would have required the evaluation of three quotes/proposals. The Teaching Council took a direct source approach for all contracts and has not provided us with a procurement plan or business case documenting an exemption from policy for any of the contracts during this period.
61. For the first contract, we saw an email from the Teaching Council's internal procurement specialist referencing the Government Rules for Sourcing and providing advice that grounds for an exemption for the first contract were available under Rule 15, section 9 (c) ii - only one supplier: intellectual property. This email was sent to senior leaders, including the then-Chief Executive. While Teaching Council policy required more formal documentation, this email contains the information that we would have expected to see in an exemption request. The grounds for the exemption may have met the threshold required under Teaching Council policy and the Government Procurement Rules: Clemenger may have been a unique supplier based on their intellectual property. The lack of documentation, however, falls short of internal policy requirements. Given the existence of a significant conflict of interest, being financial and held by a senior staff member, clear documentation in this case was even more important than usual. We were informed that appropriate documentation covering key aspects of the procurement approach existed, and that the Governing Council was updated regularly. However, we did not receive any such documentation from the Teaching Council.
62. For the second contract, we were provided with an email advising that an exemption to open advertising was justified on the basis that the Teaching Council was receiving a heavily discounted rate for the services. We do not consider this met Teaching Council policy requirements. We were not provided with any documentation seeking (or approving) an exemption from policy for the third contract. While the unique supplier reasoning potentially applied for all three contracts, we did not see exemption requirements documented beyond the emails referenced above.
63. Under Teaching Council policy at the time, the reasons for an exemption to policy needed to be documented in a procurement plan or business case, signed off by the business owner, endorsed by the Procurement Advisor, and approved by the Chief Operating Officer. This level of documentation and approval would have helped to provide assurance that the Teaching Council's procurement at this time was appropriately managed. The value of the second contract, at \$300,000, made the

absence of documented reasons for an exemption to the open competitive tender requirement particularly problematic from a perception perspective.

Were any conflicts of interest appropriately managed?

64. The current Chief Executive promptly declared the conflict created by her husband's position at Clemenger in writing to the then-Chief Executive. She also verbally informed Deputy Chief Executive A about her husband's shareholding. To our knowledge, no other senior leaders were aware of the shareholding, which was not documented. No management plan was formally documented, and we saw no evidence that a risk assessment was undertaken in relation to the conflict.
65. The Teaching Council's approach to managing this conflict was for the Chief Executive to be excluded from the procurement process. The Chief Executive described the conflict as causing her significant concern and told us that she took independent steps to mitigate its impact. The Chief Executive told us that she:
 - 65.1 With the knowledge of the then-Chief Executive, proposed that initial work with Clemenger be provided on a pro-bono basis.
 - 65.2 Proposed that the then-Chief Executive take responsibility for financial decision-making relevant to Clemenger.
 - 65.3 Asked her husband to inquire with Clemenger whether it was possible for him to be divested of any proceeds from Teaching Council contracts.
66. We heard from the Chief Executive that her husband divesting proceeds was not feasible, so this mitigation was not applied. We also saw no evidence that additional mitigation steps were considered when the Chief Executive assumed her current role.
67. In our interview, the Chief Executive was clear that her conflict in respect of Clemenger was financial, as her husband held shares in the company. However, we did not see any records specifically identifying the financial interest created by her husband's shareholding or assessing how that aspect of the conflict would be managed.
68. We consider that the Chief Executive's conflict of interest was an actual conflict, created by her financial interest and her husband's role at Clemenger. This conflict also created considerable perception risks of bias or favouritism that required mitigation.
69. Excluding the Chief Executive from making procurement decisions did not effectively manage the conflict. This is because there was no proper consideration of the financial interest. Even if the shareholding had been adequately declared and then considered, it is questionable whether the remaining perception risks could be managed given the circumstances.
70. Given this was an actual conflict, additional mitigations beyond the declaration and exclusion were required. While an attempt was made to deal with the financial interest (by her husband seeking to divest himself from the proceeds from Teaching Council contracts), this was not possible. We did not see evidence of a back-up plan in relation to the financial interest.
71. The Teaching Council relied on ensuring the Chief Executive was excluded from procurement decisions. That was the minimum required. We would also have expected her to have no involvement whatsoever in negotiating work with Clemenger. The Chief Executive arranging for the

initial work to be pro-bono was a departure from this standard. Any organisation in the public sector should approach pro-bono offers (or negotiations) with a high degree of care, to avoid an allegation of favourable treatment or other improper conduct. The Chief Executive's conflict and involvement in the initial work exacerbated that risk.

72. The substantial perception risks arising from the conflict meant the Teaching Council needed to be as transparent as possible in its engagement of Clemenger and follow a robust and thoroughly documented procurement process. Instead, the Teaching Council chose not to run the standard competitive process, failed to properly document the exemptions to its procurement policy and later overlooked policy requirements altogether. This exacerbated the existing perception risks arising from the Chief Executive's conflict.
73. It is common practice for public sector leaders to have specific employment obligations concerning declaring and managing conflicts of interest. For Chief Executives outside the core public service this would generally involve a requirement to declare conflicts to their employer, in this case the board (in practice this would normally be the chair), who would also be responsible for approving management plans. The Teaching Council Chief Executive's employment obligations are outside the scope of our investigation. We nonetheless consider that a more active role for the Chair of the Governing Council would have been appropriate given the significance of the Chief Executive's conflict.
74. We did not see evidence that the Chair of the Governing Council was consistently involved in managing the Chief Executive's conflict at this point. From the point of the Chief Executive taking on the interim Chief Executive role in December 2018 the Chair of the Governing Council needed full information about the extent of the conflict and financial interest, and to understand the risk arising from that conflict. The Chair should have agreed on the steps taken to manage those risks and been involved in monitoring compliance with the management plan. The Teaching Council could have also benefited from seeking an independent, external review of their identification and management of the Chief Executive's conflict. Having an external view on the matter would have been a prudent and proportionate response given the nature of the conflict and value of the contracts.

Findings

75. The Teaching Council's practices over this period **fell short of the standards expected of a public sector organisation**. Specifically, the Teaching Council:
 - 75.1 Did not follow its internal procurement policy or recommended system guidance. It used a direct source approach to engage Clemenger for three contracts, and could not provide appropriate documentation or approved reasons for exemptions.
 - 75.2 Did not adequately manage the Chief Executive's conflict of interest in respect of Clemenger. It did not correctly identify the full nature of the conflict, conduct a risk assessment, or document an effective management plan. The failures identified above exacerbated the perception risks arising from the conflict.
76. We would have expected to see:
 - 76.1 Compliance with the Teaching Council's procurement policy, and clear documentation of exemptions with accompanying approvals.

76.2 Thorough documentation of the actual conflict (including the financial component), associated perception risks, and a management plan.

76.3 Greater involvement from the then-Chief Executive, and later the Chair of the Governing Council, in managing the Chief Executive's conflict of interest.

2023 – 2024: Development and delivery of the Raising Awareness of the Teaching Council communications strategy

Facts

77. The Teaching Council entered into two contracts with Clemenger over 2023 and 2024 to develop and deliver a new communications strategy. These contracts were separate to work undertaken by Clemenger on the Unteach Racism campaign. The relevant contracts were as follows:

| No. | Description | Date | Value |
|-----|---|----------|--|
| 1 | Raising Awareness of the Teaching Council | May 2023 | \$50,000 (indicative RFP and initial contract value) \$66,630 (after variation) |
| 2 | 2024 Stakeholder Engagement Action Plan | May 2024 | \$75,000 (indicative RFP value) \$570,000 (initial contract value) \$530,000 (after variation) |

78. The Governing Council had identified the communications strategy as a key priority for the Teaching Council. The communications strategy and associated procurement were managed by Deputy Chief Executive B.

79. The first contract, in May 2023, was for development of the campaign and initially valued at \$50,000. The Chief Executive approved the procurement plan, which was implemented by Deputy Chief Executive B. Following an open tender process the Teaching Council shortlisted three suppliers and evaluated their applications by inviting presentations and conducting site visits. At this stage, the Teaching Council excluded one supplier (not Clemenger) on the basis of an irreconcilable conflict of interest.

80. The Chief Executive advised us that she did not initially know that Clemenger had submitted a tender and ceased involvement with the procurement process when she was informed. We were not provided with a management plan or other documentation formalising her exclusion.

81. Following evaluation, Clemenger was selected as the preferred supplier. The contract fell within Deputy Chief Executive B's financial delegation and did not require Chief Executive approval. It was increased once by variation to \$66,630 but remained within Deputy Chief Executive B's financial delegation.

82. The Chair of the Governing Council was later informed that Clemenger had been awarded the first contract when the Chief Executive completed her annual conflict of interest declaration that year. This declaration disclosed the Chief Executive's husband's role, but not his shareholding in Clemenger. The Chair noted the perception risks of engaging Clemenger and asked to be informed

about future procurement events that could involve Clemenger. We did not see evidence that a formal arrangement was put in place to ensure this happened, or that others were notified of this request. As discussed in relation to later procurements with Clemenger, this lack of information sharing led to an inconsistent approach when engaging Clemenger and managing the risks arising from the Chief Executive's conflict.

83. In November 2023, the Teaching Council initiated another procurement process to select a supplier to implement the communications strategy. In keeping with the first contract, the Chief Executive approved the procurement plan and it was implemented by Deputy Chief Executive B. When approving the plan, the Chief Executive noted to Deputy Chief Executive B that "any COI [conflict of interest]" would be managed by the Chair of the Governing Council in line with the one-up principle. She did not specify that she had a conflict with Clemenger, though we accept that the conflict was well-known among the leadership team by this stage.

84. The Teaching Council's Request for Proposal (RFP), advertised in December 2023, stated that the overall value of work was estimated to be \$75,000. It explained:

This RFP relates to the purchase of communications services and advice that will help us raise awareness of who we are and what we do with teachers through creative execution and implementation of our newly developed communications strategy and creative brief. The outcomes we want to achieve are a significant and measurable increase in the awareness of teachers on the role and value of the organisation (who we are and what we do).

85. The Teaching Council ran a competitive process, inviting presentations from potential suppliers and establishing a panel to evaluate proposals. On 29 March 2024, a notice was posted on the Government Electronic Tender Service (GETS) announcing that Clemenger had been awarded the tender.

86. On 4 April the Chair of the Governing Council subsequently approved the decision to select Clemenger and begin negotiating a contract. While the value indicated in the RFP would have been within Deputy Chief Executive B's financial delegation, approval was sought from the Chair of the Governing Council due to the sensitivity of the project and the Chief Executive's declared conflict in relation to Clemenger.

87. We were not provided with a contract matching the value (\$75,000) or the work described in the RFP.

88. Instead on 3 May 2024, the Chair of the Governing Council approved a contract with Clemenger for \$570,000 named 'Communications Strategy Implementation / 2024 Engagement Action Plan'. The contract identified the following workstreams:

88.1 Workstream 1 - Implementation of the Communications Strategy.

88.2 Workstream 2 - Develop and deliver creative concepts that will form the basis of a campaign to strengthen the mana of teaching.

88.3 Workstream 3 - Address the misconceptions highlighted in the 2023 TRA [the Research Agency] research on the independence and makeup of the CAC [Complaints Assessment Committee], DT [Disciplinary Tribunal], CA [Competence Authority], and Governing Council.

88.4 Workstream 4 - Boost the engagement and participation rate in Council Elections for 2025.

89. The Chair of the Governing Council approved a variation to the contract on 3 December 2024. The variation:
- 89.1 Renamed the contract to ‘2024 Stakeholder Engagement Action Plan.’
 - 89.2 Amended the overall value to \$530,000.
 - 89.3 Removed workstreams three and four, above.
 - 89.4 Added a new workstream: Digital Engagement Pilot – Practising Certificate Renewal.

Did the procurement follow internal policies and system guidance?

90. Under the Teaching Council’s procurement policy at the time, the value of the contracts required the following processes:

| Total Value (over life of procurement) | Process to use |
|---|--|
| < \$10k and low risk | Approach a suitable provider |
| ≥ \$10k but < \$100k and low risk | Evaluate 3 quotes/proposals |
| \$100k and above or high risk (of any value) | An open competitive tender process is required – talk with [internal] Procurement for assistance |

91. For the first contract, the Teaching Council undertook a single stage, open competitive procurement process. The value of the first contract increased by variation after signing. Contract variations are common and generally do not present significant issues if they remain close to the contract’s original scope and are approved following a clear process. The variation of the first contract is an example of a routine, appropriately managed variation.
92. The second procurement process for the \$75,000 RFP was also a single stage, open competitive procurement process. We have serious concerns about the Teaching Council’s approach to the December 2023 RFP and the second contract for \$570,000, later changed by variation to \$530,000.
93. The value and workstreams of the \$570,000 contract significantly differ from the December 2023 \$75,000 RFP. Our view is that, given those differences, the Teaching Council cannot rely on the December 2023 RFP for the procurement of the services and the \$570,000 contract agreed in May 2024 should be treated as being directly sourced without documented reasons for exemption from the competitive process required under Teaching Council policy.
94. Deputy Chief Executive B characterised the \$570,000 agreement as the outcome of December 2023 RFP, describing the increase in amount as a ‘variation’. During the investigation, Deputy Chief Executive B provided the following reasons for not initiating a new procurement process:
- 94.1 The Governing Council was placing a high priority on urgently delivering the work.
 - 94.2 The Teaching Council had effectively tested the market through the two prior procurement processes (for the \$50,000 and \$75,000 RFPs), and a third process would not have added to this market knowledge.
 - 94.3 Few suppliers would see a further RFP to implement the strategy as “genuine,” given Clemenger’s earlier involvement in developing the strategy.

- 94.4 New suppliers would be unable to effectively deliver the work without revisiting earlier phases.
- 94.5 Government procurement guidance provides for variation of agreements within a closely related scope and with proper approvals.
95. The Teaching Council did not provide any contemporaneous documentation addressing the decision to enter into a contract with a significantly different value and workstream description to the RFP without running a fresh procurement process. The reasoning above and the lack of documentation demonstrates a serious misunderstanding of the need for a proper process. We consider this reasoning is not sufficient to support the Teaching Council's decision because:
- 95.1 The Teaching Council's December 2023 RFP was for a different scope of work with a significantly different value to the final contract. It therefore did not sufficiently test the market with an accurate RFP.
- 95.2 Stating that a new RFP would not be seen as "genuine" undermines the value of undertaking the initial \$75,000 RFP.
96. The Teaching Council's decision to proceed with the \$570,000 contract without a fresh procurement process created material disadvantage for other suppliers. Those suppliers who had responded to the \$75,000 RFP were not able to respond to the expanded scope or value, and likewise suppliers who had not responded to the initial RFP were not given the opportunity to reconsider their decision.
97. The Teaching Council's approach to procurement of the second contract created a complex risk profile:
- 97.1 Clemenger could be perceived as a preferred supplier for the Teaching Council, having delivered the first contract for the communications strategy.
- 97.2 The Chief Executive had an acknowledged conflict of interest due to her husband's role, but the financial aspect of that conflict (arising from her husband's shareholding) had not been disclosed.
- 97.3 The absence of a procurement process for the \$570,000 contract did not meet Teaching Council policy requirements or the Government Procurement Rules.
98. For the second contract, the Chair of the Governing Council had stepped into a management function in place of the Chief Executive and was the approval authority for both the contract and the later variation. This required her to have confidence that the procurement process had been conducted appropriately. In her role as Chair, she needed to have active oversight of the complex risk profile described above. From our document review and interviews it is not clear that she was engaged at the right time, or with the right information and support.
99. The GETS notice that Clemenger had been awarded the contract was posted on 29 March, before the Chair of the Governing Council approved the decision to appoint Clemenger on 4 April. While a GETS notice is not binding, it is not best practice to post a notice before a decision has been approved. In our view, this indicates that the Chair was endorsing the decision, not making it.
100. The Chair of the Governing Council understood that the May 2024 contract with Clemenger was based on the 2023 procurement process undertaken by Deputy Chief Executive B. On 4 April 2024,

she signed a decision paper approving the selection of Clemenger as preferred provider. The decision paper explained that the indicative value of the services was \$75,000 and included a note from the Chair of the Governing Council thanking Deputy Chief Executive B for the opportunity to talk about the procurement process. However, in our interview the Chair of the Governing Council indicated that she “didn’t see” the initial procurement at \$75,000 and was not across the detail of the procurement process.

101. Based on the information provided to us, it is difficult to establish whether the Chair of the Governing Council fully understood the procurement process for the \$570,000 contract. We did not see any documentation explaining to the Chair of the Governing Council why a \$570,000 contract was agreed on the strength of an RFP for \$75,000. The documentation she approved is a standard Advertising Services Order which does not indicate it is a variation of an earlier contract. In contrast, the later variation in November 2024 clearly states it is a variation of the May 2024 contract.
102. While management functions are not normally the responsibility of a Chair, their involvement and that of the Governing Council, can be critical for effectively managing conflicts involving Chief Executives. In such circumstances, organisations should assess whether additional support for the Chair is warranted, such as engaging external legal or risk expertise. For the Teaching Council, such support may have helped identify the risks arising from these contracts.
103. At this time, the Chief Financial Officer was the Teaching Council’s procurement lead and was the independent chair for the procurement panel for the \$75,000 RFP. We did not see evidence that he was involved or consulted in the decision to agree the \$570,000 contract.
104. We note that an external financial audit of the Teaching Council for the year ended June 2024 identified this contract as a ‘related party’⁹ transaction with Clemenger and found that it did not require disclosure under relevant accounting standards. It is not within the scope of our investigation to peer review this external audit. Our terms of reference require us to assess the underlying facts ourselves with reference to a different benchmark, namely the Teaching Council’s policies and applicable system guidance.

Were any conflicts of interest appropriately managed?

105. As described above for the Unteach Racism initiative, the Teaching Council’s approach to managing the Chief Executive’s conflict of interest in relation to Clemenger during this period involved two steps: declaration, then exclusion. We did not see a documented management plan or risk assessment.
106. A clearly documented management plan was critical for this initiative as it would have been impractical for the Chief Executive to be excluded from delivery of the communications strategy. A management plan could have documented the parameters for her involvement and accompanying risk mitigations. Without a risk assessment or management plan, we are unable to assess whether the actual conflict, or related perception risks, were manageable.
107. We also saw no evidence that relevant individuals (the procurement panel, Deputy Chief Executive B, the Chair of the Governing Council) were informed of the Chief Executive’s husband’s

⁹ Under the relevant standard, parties are considered to be related if one party has the ability to (a) control the other party, or (b) exercise significant influence over the other party in making financial and operating decisions, or if the related party entity and another entity are subject to common control.

shareholding. Without this knowledge, the Teaching Council could not effectively manage the conflict created by this financial interest.

108. Beyond excluding the Chief Executive from the procurement process, we did not see evidence that the Teaching Council considered how to mitigate the perception risk arising from the conflict. Given the requirement for the Chief Executive to be involved in delivering the communications strategy, and Clemenger's emerging position as a preferred supplier for the Teaching Council, it was especially important for the Teaching Council to maintain a high degree of transparency in their engagement. This perception risk increased significantly when the value of the second contract far exceeded the value indicated in the December 2023 RFP.
109. Over this period, we saw evidence that the Chair of the Governing Council had reason to consider whether the Teaching Council's conflict of interest practices were effective. In October 2023, a member of the Governing Council contacted the Chair to suggest that the Teaching Council review its conflict of interest policy and specifically clarify that the Governing Council should approve transactions where the Chief Executive has a conflict of interest. In response, the Chair of the Governing Council prepared a memorandum to the Chair of the Human Resources and Remuneration Committee noting that the management team, including the Chief Executive, had, in her view, adhered to policy in managing the Chief Executive's conflict in respect of Clemenger. She recommended not reviewing the policy that year, saying that doing so would signal doubt about the management team's actions. In reaching this decision, the Chair noted that she had reviewed the Auditor-General's conflict of interest guide for the public sector, as well as a practice guide published by the Institute of Directors. She had also consulted another member of the Governing Council with extensive governance expertise.

Findings

110. We have **serious concerns about the Teaching Council's practices during this period**. We consider that the decision to enter into the \$570,000 contract without a fresh procurement process **fell well short of the standards expected of a public organisation**. This was exacerbated by the continuing incomplete management of the Chief Executive's conflict of interest.
111. We would have expected to see:
 - 111.1 Compliance with the Teaching Council's procurement policy, and clear documentation of exemptions with accompanying approvals. In our view, compliance with policy would have necessitated a fresh procurement process for the implementation of the communications strategy contract at the higher value.
 - 111.2 As part of interest declaration, disclosure of the Chief Executive's husband's shareholding.
 - 111.3 Thorough documentation of the actual conflict (including the financial component), associated perception risks, and a management plan.
 - 111.4 A properly informed and documented risk assessment in relation to the Chief Executive's conflict.
 - 111.5 Involvement of the Chair of the Governing Council in all Clemenger engagements, supported by full information and additional or external expertise if required.

2024 – 2025: Relaunch of Unteach Racism campaign

Facts

112. The Teaching Council engaged Clemenger through two contracts in 2024 and 2025 to refresh and relaunch its Unteach Racism campaign. Deputy Chief Executive C managed this initiative and associated procurement. The relevant contracts were as follows:

| No. | Description | Date | Value |
|-----|---------------------------|--------------|----------|
| 1 | Unteach Racism Initiative | October 2024 | \$35,000 |
| 2 | Unteach Racism 2025 | April 2025 | \$65,000 |

113. The Teaching Council directly sourced Clemenger for both contracts through the All-of-Government (AoG) Creative and Media Services Panel.

Did the procurement follow internal policies and system guidance?

114. Under the Teaching Council's procurement policy at the time (which was updated in 2024), the value of the contracts required the following processes where there is a panel agreement available:

| Total Value (over life of procurement) | Process to use |
|--|----------------------------------|
| < \$75,000 | Approach a suitable panel member |
| ≥ \$75,000 | Evaluate 3 quotes/proposals |

115. Directly procuring Clemenger via the AoG Panel for two contracts each valued less than \$75,000 was therefore permitted by the Teaching Council's procurement policy.

Were any conflicts of interest appropriately managed?

116. The 2024 and 2025 contracts were within the financial delegation of Deputy Chief Executive C. The Chief Executive was not required to approve the procurement or otherwise become involved in the management of the contracts.
117. Deputy Chief Executive C was aware of the Chief Executive's conflict in relation to Clemenger, though not the financial interest created by her husband's shareholding. Deputy Chief Executive C advised us that, in his view, the conflict was managed on a continuing basis (through excluding the Chief Executive from procurements with Clemenger) and that the Teaching Council entering into new agreements with Clemenger did not require him (or the Chief Executive) to take any additional steps. The Chief Executive continued to disclose her conflict through annual declarations to the Chair of the Governing Council.
118. The Chair of the Governing Council was not involved in the procurement of the 2024 and 2025 contracts with Clemenger. In her view, this was acceptable as the value of the contracts was within Deputy Chief Executive C's delegation and directly sourcing Clemenger was an efficient approach, given their previous work on Unteach Racism.
119. However, this approach was inconsistent with the Chair's management of the parallel engagement with Clemenger for implementation of the communications strategy. Due to the perception risks of engaging Clemenger, the Chair of the Governing Council was involved in the management of the communication strategy initiative even when its indicative value was still within Deputy Chief

Executive B's financial delegation. No such management was put in place for the 2024 and 2025 Unteach Racism contracts.

120. The approach to managing the Chief Executive's conflict was to exclude her from the procurement process. As discussed earlier, this is not a complete management strategy for a conflict of this significance or nature. Importantly, it does not address the issues that arise from, and are exacerbated by, repeated engagement of Clemenger. At this point, the Teaching Council had agreed five contracts with Clemenger over six years on two unrelated initiatives. The exclusion-only approach did not address the financial aspect of the conflict, and the risk that the Chief Executive stood to gain financially from the contracts due to her husband's shareholding. Deputy Chief Executive C and the Chair of the Governing Council were unaware of the Chief Executive's husband's shareholding at the time of agreeing the contracts and therefore did not perceive this risk.
121. The exclusion approach means that neither the Chief Executive nor the Chair of the Governing Council were able to manage and consider overall risks to the organisation that arose while engaging Clemenger. Through the exclusion of the Chief Executive, and each Deputy Chief Executive managing their own domain, there was no organisation-wide view of the Teaching Council's overall risk profile in relation to Clemenger. This reinforces our view that management of the Chief Executive's conflict should have had the involvement of the Governing Council throughout the Teaching Council's engagement with Clemenger.
122. The cumulative effect of repeatedly engaging Clemenger was evident to others outside the executive team. In November 2024, a Governing Council member contacted the Chair of the Governing Council to raise what they described as "concern and worries from the risk management point of view". This same member had previously suggested in October 2023 that the Teaching Council review its conflict of interest policy as noted above. We did not see evidence that this member was aware of the Chief Executive's husband's shareholding.
123. The Governing Council member noted that the Governing Council needed financial data and more information on the Clemenger contracts to consider the significance of the Chief Executive's conflict and assess the Teaching Council's mitigation actions. They specifically asked whether the Chair was "confident and comfortable that we have managed this conflict of interest well?" and whether the Governing Council had considered how this situation could appear to the public. They went on to recommend that the Chair review the Auditor-General's guide on conflict of interest management.
124. Given these concerns, and the significance of the Chief Executive's conflict, the Teaching Council ought to have considered commissioning an independent review of their conflict of interest management practices. Such a review would have provided an impartial assessment at a time when the Teaching Council's risk was escalating, and when a transparent approach would have helped to address mounting perception issues.

Findings

125. The Teaching Council's approach to procurement of these contracts was consistent with internal policy and recommended system guidance.
126. However, the Teaching Council's **approach to managing the Chief Executive's conflict of interest in respect of Clemenger was not sufficient**. It relied on incomplete information understanding of

the conflict, and assumptions that appropriate management was in place. This did not mitigate the actual conflict or associated perception risks.

127. We would have expected to see:

127.1 Consideration of the Chief Executive's conflict in the context of each new contract with Clemenger, regardless of the procurement process or level of Chief Executive involvement.

127.2 As part of interest declaration, disclosure of the Chief Executive's husband's shareholding.

127.3 Thorough documentation of the actual conflict (including the financial component), associated perception risks, and a management plan.

127.4 A risk assessment in relation to the Chief Executive's conflict.

127.5 Involvement of the Chair of the Governing Council in all Clemenger engagements, supported by full information and additional or external expertise if required.

CONFLICTS INVOLVING THE CHIEF EXECUTIVE'S BROTHER-IN-LAW AND SON

128. During her time at the Teaching Council, the Chief Executive's brother-in-law has been employed as the Council's ICT Manager, and her son has worked for Teaching Council IT providers.

129. Our investigation found that the Teaching Council's practices regarding the Chief Executive's conflicts in relation to her brother-in-law and son were appropriate. We saw no indication that the Chief Executive was involved in the appointment of her brother-in-law (which we were advised occurred under the former Chief Executive), or awarding contracts to companies for whom her son worked. For the Chief Executive's conflict in relation to her brother-in-law's role we saw evidence of continuous, annual declarations of this interest and approved management plans. The material we reviewed demonstrated that the Teaching Council adhered to its own policies, and relevant system guidance, in managing these conflicts.

130. For example, we saw evidence of good practice when the ICT Manager acted for his manager in a Deputy Chief Executive role for short periods. When these acting arrangements were in place, the Teaching Council took the following steps:

130.1 Assessed the risk of the acting arrangement, concluding that it was low and for short duration.

130.2 Maintained documentation of the arrangement and conflict of interest mitigations.

130.3 The Chief Executive explicitly checked that her brother-in-law had declared his conflict in relation to Clemenger (arising from his brother's role as Managing Director).

130.4 The ICT Manager did not approve any invoices related to Clemenger, and the relevant Deputy Chief Executive checked that this mitigation had been adhered to when the acting arrangement finished.

131. We do note, however, that the cumulative effect of three of the Chief Executives family members working for, or being contracted to, the Teaching Council was that there were increased perception risks to be managed. As noted above, with reference to the Clemenger, we do not consider that the Council appropriately identified and managed the extent of those perception risks.

PROCUREMENTS FOR DIGITAL ENGAGEMENT AND TE REO MĀORI SERVICES

Procurement of digital engagement expertise

132. Over 2024 and 2025 the Teaching Council engaged two individual contractors (Contractor X and Contractor Y) to provide digital engagement and leadership development expertise. We investigated the Teaching Council's approach to engaging these contractors, and whether any conflicts of interest were appropriately managed. The relevant contracts were as follows:

| No. | Description | Date | Value |
|-----|--|-------------------------------|---------------------------|
| 1 | Lead Advisor Digital Engagement | May 2024 – May 2026 | \$361,000 (approximately) |
| 2 | Project Lead Digital and Relationship Engagement | February 2025 – February 2026 | \$156,000 (approximately) |

Facts

133. In March 2024 the Teaching Council leadership team identified a requirement for external support to deliver digital engagement and leadership development projects. This support would be split equally between projects led by Deputy Chief Executive B, and Deputy Chief Executive A who would also manage the contract.
134. Deputy Chief Executive B recommended and shared the CV of an individual (Contractor X) who he had professional experience with and considered had the necessary expertise to provide the services required. Deputy Chief Executive B has characterised his association with the Contractor X as professional in nature. Contractor X was approached directly, with no other suppliers considered.
135. Deputy Chief Executive B drafted the description of services in conjunction with Contractor X, recommended to the Chief Executive that Contractor X be selected, engaged with Contractor X during the process, and drafted a request to directly source Contractor X under an exemption from Teaching Council procurement policy.
136. The Chief Financial Officer and Deputy Chief Executive A (as contract manager) endorsed the exemption request. On 28 March 2024, the Chief Executive approved the exemption request to directly source Contractor X, as well as a two-year agreement engaging Contractor X.
137. In February 2025, the Teaching Council identified a need for further digital engagement support. The Teaching Council specifically required expertise in digital engagement, brand development, marketing and promotion. Deputy Chief Executive B recommended Contractor Y as a potential supplier. Deputy Chief Executive B characterised his association with Contractor Y as professional in nature.
138. A manager reporting to Deputy Chief Executive C led the procurement for Contractor Y. The relevant manager met with Contractor Y, then prepared documentation for a one-year contract. Deputy Chief Executive C signed this contract. The Teaching Council took a direct source approach to engage Contractor Y and did not consider other suppliers.

Did the procurement follow internal policies and system guidance?

139. Under Teaching Council procurement policy, the value of both contracts (each over \$100,000) required competitive procurement processes. In interviews, we heard that the direct source

approach was justified by the scarcity of relevant expertise, the urgency of the projects, and the time-bound nature of the work.

140. The Teaching Council procurement policy from the time allowed for exemptions, stating:

Any departure from the policy must be justified in a procurement plan or business case that is signed off by the business owner, endorsed by the Procurement Advisor and approved by the Chief Financial Officer and Chief Executive. Justification to directly source a supplier will often be based on existing relationships built over several years, memoranda of understandings already in place, IT system considerations, or the position that the supplier has in the market.

Seeking an exemption to the policy must justify why application of the policy is not appropriate. Consideration should be given to how directly sourcing might be perceived by the market.

141. Following advice from the Teaching Council's procurement lead, Deputy Chief Executive B prepared an exemption request to seek approval for directly engaging Contractor X. This request met the Teaching Council policy's documentation and approval requirements, but we consider that the reasoning it provided was flawed:

141.1 It cited several benefits and justifications to engaging an individual over a company. These reasons are not relevant to the decision to take a direct source approach and could have been accommodated in a competitive process.

141.2 It relied on a single recommendation (from Deputy Chief Executive B) to support a view that the skills needed were highly specialised. This is not a substitute for testing the market through a competitive process. There is no further evidence to support the conclusion that 'a limited number of qualified suppliers' could provide the required skills.

141.3 It suggested that a direct source approach would increase the speed of procurement. The resulting process did not evidence this urgency, taking two months to complete.

142. The reasons provided do not align with the examples for exemption listed in the Teaching Council's procurement policy, above. We also have concerns that the policy may be overly permissive, as relying on an existing relationship built over years is a form of preferential treatment that runs contrary to the Government Procurement Principles. The Government Procurement Rules also provide a list of valid exemptions from open advertising, including emergency or if there is only one supplier. It does not include an exemption based on an existing relationship. In any event, our view is that the reasoning in the exemption request is not consistent with the Council's policy or standard exemption criteria.

143. The timing of the exemption request for Contractor X (after negotiating with the contractor), and the lack of a request for Contractor Y, indicates that the Teaching Council did not consider the requirement for a competitive process before identifying preferred suppliers. This means that the Teaching Council did not test the market to identify whether other suppliers had the required skillset, or to ensure they were receiving competitive rates and value for money in their contracting.

144. An exemption request was not prepared to directly engage Contractor Y, and we did not see evidence that the Teaching Council tested the market to determine if other suppliers had the required skillset. This did not meet Teaching Council policy. In interviews with us, the relevant manager has acknowledged that the reasons for the direct source approach should have been documented and approved. The relevant manager told us that she sought procurement advice in relation to this

contract, but the need for an exemption was not raised. The relevant manager accepted in hindsight an exemption request should have been completed in relation to the procurement of Contractor Y.

145. Compliance with procurement policies is a key step for organisations in the public sector to maintain integrity and public confidence. Robust processes help to avoid perception risks, support value for money, encourage fair competition, and ensure the appropriate use of public funds. These elements are critical for safeguarding public trust and demonstrating accountability in decision-making.

Were any conflicts of interest appropriately managed?

146. Deputy Chief Executive B recommended both contractors as suitable suppliers based on his prior professional experience with them. When accompanied by standard recruitment or procurement processes, recommendations of this kind are not problematic.
147. Deputy Chief Executive B recommended Contractor Y but was not further involved in the procurement process. This is an example of an appropriate recommendation.
148. Deputy Chief Executive B took active steps in engaging Contractor X, well beyond simply recommending that supplier, but was not the final decision maker. We do not consider this to be a conflict of interest, as it is unlikely that the Deputy Chief Executive B's personal interests conflicted with his professional obligations during the procurement.
149. Deputy Chief Executive B did, however, have a considerable role in the procurement of Contractor X. He recommended the contractor and prepared all paperwork. Consequently, even though the Chief Executive approved the contract, Deputy Chief Executive B's involvement and influence over the only supplier considered for appointment could well have been perceived by others to involve favouritism. The subsequent complaint, which prompted our investigation, is evidence of this point.
150. While candidate or supplier recommendations can be useful and support good decisions, they must be accompanied by clear and transparent processes. This combination builds confidence that employment opportunities and contract awards are fair and impartial.

Findings

151. We did not see evidence that any Teaching Council staff held conflicts of interest relevant to the engagement of Contractor X or Contractor Y for digital engagement services.
152. For different reasons, the Teaching Council's procurement practices to engage Contractor X and Contractor Y **did not meet the standards expected of a public service organisation:**
- 152.1 For Contractor X, the Teaching Council did meet the requirements of its internal policy to document and approve exemptions from policy. It did not, however, appreciate or mitigate the perception risk of favouritism that arose from Deputy Chief Executive B's close involvement in the engagement of a contractor he had recommended. A competitive procurement process would have reduced this risk. The timing of the exemption request (after completing negotiations with the contractor) also indicates that the Teaching Council did not consider approaching the market before identifying a preferred supplier.
- 152.2 For Contractor Y, the Teaching Council did not test the market, or document or approve a request for exemption from the requirements of its procurement policy.
153. We would have expected to see:

153.1 Consideration of how best to approach the market, for example in a procurement plan, including documenting and approving exemptions from policy (where appropriate) before approaching or selecting suppliers.

153.2 Compliance with the Teaching Council's procurement policy, and clear documentation of exemptions with accompanying approvals where necessary.

153.3 Robust processes to support the negotiation with and engagement of both contractors, particularly in light of Deputy Chief Executive B's prior association with and recommendation of both contractors.

Procurement of te reo Māori instruction, translation and Māori cultural advice

154. The Teaching Council has periodically engaged contractors to provide te reo Māori instruction, te reo Māori translation services, and Māori cultural advice. We investigated the Teaching Council's approach to engaging these contractors, and whether any conflicts of interest were appropriately managed.

Facts

155. Our investigation identified that since September 2021, the Teaching Council has engaged a range of individual contractors to provide te reo Māori instruction, te reo Māori translation services, and Māori cultural advice. We reviewed five contracts and note that record-keeping for these contracts was poor. Many of the documents we were provided were in draft, two were unsigned, and we also saw evidence of payments without an accompanying contract. It is therefore difficult to establish whether the documents we were provided give a complete view of the Teaching Council's procurement in this area.

156. The Teaching Council has a standing budget for te reo Māori translation services. Importantly, we were told that the Teaching Council made a commitment in 2017 to respond in te reo Māori to correspondence that was received in te reo Māori. We heard that this commitment, combined with high competition for te reo Māori capability, meant that the Department of Internal Affairs' translation service could not always meet the Teaching Council's needs. The Teaching Council also required occasional te reo Māori instruction, and other Māori cultural advice. We heard that there was high competition for these services, and the Teaching Council struggled to obtain expertise as a small organisation with intermittent requirements.

157. Deputy Chief Executive C was the executive sponsor for these contracts. We heard that, due to the supply constraints cited above, he directly approached individuals he knew held the relevant expertise. Deputy Chief Executive C characterised his association with the contractors as professional in nature. None of these contractors were related to Deputy Chief Executive C.

158. Deputy Chief Executive C led the procurement process for these contracts. He approached the individuals and negotiated their contracts. Subsequent work was managed by other managers at Teaching Council. The contracts ranged in value from \$600 to \$40,700.

Did the procurement follow internal policies and system guidance?

159. The Teaching Council's procurement policy was updated in 2021 and again in 2024. The maximum value for directly sourced contracts was \$10,000 in the 2021 policy and \$25,000 in the 2024 policy.

160. Based on the information we were provided, at least three of the contracts were above \$25,000 in value and would have required evaluation of three quotes under Teaching Council policy. All relevant contracts were directly sourced. We were not provided with any records documenting the reasons for not meeting Teaching Council policy requirements. We did not see any evidence that Deputy Chief Executive C sought procurement advice to support these engagements.
161. This approach fell short of Teaching Council policy requirements and relevant system guidance. The procurement process departed from policy, and no exemption reporting was prepared. The lack of appropriate documentation, including unsigned or incomplete contracts, did not meet expectations in Teaching Council policy to thoroughly document procurement processes.
162. Deputy Chief Executive C told us that a direct source approach was required due to the scarcity of available expertise. This reasoning is not an example of appropriate grounds for an exemption under Teaching Council policy. While we accept that Deputy Chief Executive C is well-connected to assess market availability for services of this kind, his view alone is not a replacement for testing the market through evaluating proposals or a full competitive process.
163. Following policy requirements would have helped the Teaching Council to ensure it was benefiting from competitive rates and getting value for money. The policy requirement to evaluate three quotes would still have allowed the Teaching Council to approach suitable individuals directly but would have reduced the organisational risk that the Teaching Council incurred from not testing the market.

Were any conflicts of interest appropriately managed?

164. Deputy Chief Executive C had no conflicts of interest in relation to the contractors. While he was familiar with the contractors through community connections, we saw no evidence that this familiarity amounted to a personal relationship that would give rise to a conflict.
165. One of the contractors was a family member of a Teaching Council employee. This conflict was appropriately declared and managed, and the relevant staff member was not involved in awarding the contract.
166. We heard from Deputy Chief Executive C that, from time to time, his family members have assisted the Teaching Council with Māori cultural matters, including assisting with cultural requirements related to visits or special events. This involvement has always been voluntary, without payment and usually outside standard working hours. As these engagements were unpaid, they are outside of the scope of our terms of reference.
167. While there were no relevant conflicts requiring management, as with the Teaching Council's procurement practices in relation to digital engagement, the direct source approach adopted for the procurement of te reo Māori expertise likely contributed to perceptions of poor conflict management. We did not see evidence that the Teaching Council appreciated this risk or detected the repeated lack of compliance with internal policies in respect of these contracts.

Findings

168. We did not see evidence that Deputy Chief Executive C held conflicts of interest relevant to the engagement of contractors for te reo Māori instruction, te reo Māori translation services, or Māori

cultural advice. Where a Teaching Council staff member did have a conflict, we saw evidence that this was appropriately managed.

169. The Teaching Council's procurement practices to engage these contracts **did not meet the standard expected of a public sector organisation**. Through taking a direct source approach with no documented or approved grounds for exemption, the Teaching Council did not meet its internal policy requirements. The poor, and sometimes absent, record-keeping for these contracts also fell short of the requirements in Teaching Council policy.
170. We would have expected to see:
 - 170.1 Compliance with the Teaching Council's procurement policy, and clear documentation of exemptions with accompanying approvals.
 - 170.2 Thorough and complete documentation for all contracts.

OVERALL FINDINGS

171. Our investigation found that there are issues with the Teaching Council's approach to procurement and conflict of interest management which contribute to significant, and unaddressed, risks for the Teaching Council. We have identified the following themes:

Low maturity conflict management

172. The Teaching Council has a focus on declaring conflicts of interest, which was reinforced to us in interviews. The leadership team has implemented an annual 'compliance week' which encourages conflict of interest declaration and shows an appreciation for the importance of recognising conflicts of interest.
173. While these initiatives are positive, the Teaching Council's focus on declaration without an accompanying focus on continuing management of risks, creates a 'one and done' approach to conflict management. Once declared, conflicts will not manage themselves. They require accurate assessment and, where necessary, management plans which respond to the nature and significance of the interest and the risks it poses.
174. The Teaching Council's sole approach to managing the Chief Executive's conflict in relation to Clemenger was to exclude her from any procurement and contract management process. This was an overly simplistic approach and not sufficient to manage the Chief Executive's conflict of interest. In particular, very little was done to manage the considerable perception risks arising from the conflict. To the contrary those risks were exacerbated markedly by poor procurement practices as set out below.
175. Importantly, this exclusion-only approach from 2019 onwards meant the Chief Executive was not actively involved in managing her conflict (as was evident when Clemenger was engaged in 2018). Good conflict of interest management will often involve the interest holder in discussing the conflict, contributing to the risk assessment, and informing the management plan. This requirement is arguably heightened when the interest holder is a Chief Executive, given their overall responsibility for an organisation's risk.

176. The Teaching Council's low maturity in managing conflicts included a lack of documentation of management plans. Better discipline in documentation may have allowed the Teaching Council to identify the risks we highlight in this report, and address them in a systemic way.
177. Regardless, the Auditor-General's guidance acknowledges that a "conflict of interest might be so significant or pervasive that the person will need to consider giving up one or other interest or role", that is to say, a conflict may be unmanageable. Without a thorough risk assessment or documented management plan we cannot determine whether the Chief Executive's conflict could have been effectively managed.

Incomplete conflict identification

178. None of the written conflict declarations that we were provided accurately recorded the Chief Executive's conflict in respect of Clemenger as an actual financial conflict, or disclosed her husband's shareholding. The Chief Executive's 2025 interest declaration described the conflict as perceived only, in spite of the existence of an active contract between the Teaching Council and Clemenger at this time.
179. This characterisation is not correct. Through her husband's shareholding the Chief Executive had, and has, a real financial interest in a company which benefits from Teaching Council contracts. This conflict became actual when the Teaching Council first engaged Clemenger in 2018. The Chief Executive's actions in 2018 demonstrate that she was fully aware of the financial conflict. This included informing Deputy Chief Executive A of the shareholding and taking steps (albeit unsuccessfully) to remove any financial benefit to her and her husband from the Teaching Council's engagement with Clemenger. Correctly identifying a conflict is not simply a classification exercise, it should also inform the management plan.
180. The Chief Executive did not disclose her husband's shareholding to the Chair of the Governing Council, or to senior leaders managing contracts with Clemenger beyond the verbal declaration to Deputy Chief Executive A in 2018. While the Chief Executive reliably disclosed the conflict created by her husband's position, her omission of the shareholding interest showed a lack of understanding of the nature of conflicts.
181. Accurate identification and documentation may have helped the Teaching Council to recognise and manage the risks that arose from its repeated engagement with Clemenger. From the Teaching Council's first engagement with Clemenger in 2018, the Chief Executive's interest gave rise to an actual financial conflict. Excluding the Chief Executive from the contracting decisions did not sufficiently address the apparent personal financial benefit of contracting Clemenger nor was it adequate to manage the significant perception risks from doing so.
182. The financial conflict could be partially mitigated by removing the Chief Executive from procurement processes. The perception risk, while related, required a different approach. By its nature, this type of risk can only be addressed through demonstrable transparency and strong governance. This includes maintaining robust processes and documentation. The Teaching Council could have undertaken risk assessments, prepared detailed management plans, and sought external peer reviews for both. Compliance with procurement policies would have also provided reassurance that the overall procurement was well-managed. Further, had the Teaching Council opted to undertake

competitive procurement processes, this would have provided greater transparency for internal and external stakeholders.

Insufficient oversight of conflict management

183. The risks from the Chief Executive's conflict of interest were cumulative and accrued over time as the Teaching Council repeatedly engaged Clemenger, predominantly using a direct source approach. As these processes were happening in siloes, with the Chief Executive excluded, there was no leadership team member with visibility of the overall risk. This demonstrates the shortfalls of relying solely on exclusion to mitigate the risks arising from conflicts of interest.
184. The Chair of the Governing Council as the chief executive's 'one-up' manager, had an important role to play in ensuring that the risks associated with the declared conflict were appropriately assessed and managed. However, Deputy Chief Executives were relied upon to manage key aspects of the conflict without sufficient Board oversight, as the Chair was not consistently involved across all Teaching Council engagement with Clemenger. We also did not see any consideration given to the additional support the Chair may have required to effectively provide oversight of how the conflict was being managed. Consistent, well-informed and well-supported involvement from the Chair may have helped the Teaching Council better detect and manage its risks.
185. There were also missed opportunities for the Teaching Council to properly assess the risks associated with the conflict. Concerns over conflict of interest management were raised by a member of the Governing Council in 2023 and again in 2024. While these concerns were considered at the time, the later engagements with Clemenger (in particular the \$570,000 contract in May 2024) should have triggered an evaluation of the continuing effectiveness of Teaching Council practices in light of the concerns previously raised.

Over-reliance on procurement policy exemptions with poor documentation

186. For a majority of the contracts we reviewed, the Teaching Council used a direct source approach and relied on exemptions to the competitive processes required by its procurement policy. Of the seven contracts with Clemenger, four were directly sourced, one followed an open competitive process, and two were sourced through an AoG panel arrangement. The Teaching Council's contracts for digital engagement services, te reo Māori instruction, te reo Māori translation services, and Māori cultural advice were all directly sourced and, in some cases, departed from multiple policy requirements.
187. While exemptions to policy can be necessary, repeatedly using exemptions increased the Teaching Council's risk profile and exacerbated the risks arising from the Chief Executive's conflict of interest. Indeed, the fact that exemptions were relied upon repeatedly, despite the Chief Executive's conflict, may have sent a message to the organisation that this was a readily acceptable practice. Exemptions to policy should be rare, not the norm.
188. Policies assist organisations to avoid risk and achieve the best outcomes from their activities. In the procurement context, they help organisations to implement the Government Procurement Principles and ensure they are encouraging competition, testing the market, and receiving value for money when contracting. From the evidence we reviewed, we are concerned that procurement at the Teaching Council occurs in an environment where policy requirements are inconsistently adhered to, potentially poorly understood, and readily departed from.

189. Relying on exemptions to policy can lead to issues, particularly if there is limited documentation and transparency. This can create risk when staff or other observers, rightly or wrongly, conclude that policy has not been followed. Given the existence of the complaint, this perception risk has evidently manifested for the Teaching Council. Compounding this is the fact that the Teaching Council has not consistently documented or approved the reasons for departing from its policy. This is a clear area for improvement.

Lack of responsible ‘tone from the top’

190. Public sector organisations should always be careful to follow the processes required by their policies. This is an expectation on leadership teams, and a key responsibility for Chief Executives. Leadership teams have a critical role to play in setting the tone for organisations and embedding approaches which reduce risk and maintain public trust and confidence.
191. These expectations are particularly important for the Teaching Council. It is a regulatory body which sets standards for the teaching profession and holds teachers to account when those standards are not met.
192. The evidence we reviewed instead demonstrated that Teaching Council leadership has, at times, been focused on delivery at the expense of following policy and processes. Our investigation found repeated lack of compliance with internal policy, often justified by urgency or priority. This is a poor example to set. It risks undermining public trust and confidence in the organisation and fostering a culture where policy requirements do not matter.