

Conflict of Interest Management

Sub-title



Supporting New Zealand's Repair Certification Industry

About RepairCert NZ Information Sheets

These Information Sheets have been developed to provide operational information for Repair Certifiers, to assist them in correctly carrying out their repair certification responsibilities.

Purpose

While the *Notice of Appointment (NoA)* and *Light Vehicle Repair Certification Vehicle Inspection Requirements Manual (Repair VIRM)* cover what Repair Certifiers need to do when an actual or perceived conflict of interest occurs, this Information Sheet has been developed to provide clarification to support the information in both documents.

This Information Sheet also outlines the Repair Certifiers' responsibilities under both documents and offers practical guidance to help meet those obligations.



Background

It is highly likely that every Repair Certifier will, at some point, be asked by a friend, family member, or employer to carry out a repair certification – creating the potential for a conflict of interest.

To make sure these situations are identified and managed appropriately, the New Zealand Transport Agency (NZTA) requires all Repair Certifiers to develop and apply a 'Conflict of Interest Management System'. This requirement is detailed in both the Repair Certifiers' *NoA* and the *Repair VIRM*.

To support Repair Certifiers in understanding, identifying, and managing any conflicts of interest, RepairCert NZ has developed this Information Sheet along with examples of the key documents required to form part of each Repair Certifier's Conflict of Interest Management System.

What is a Conflict of Interest?



- More information about the NZTA-required Conflict of Interest Management System documents (including the 'Conflict of Interest Declaration Form, and Interest/Gift/Remedial Work Registers referenced below) and how to access them is provided at the end of this Information Sheet, under 'Developing a Conflict of Interest Management System'.

Actual Conflict of Interest

An actual conflict of interest occurs when there could be a direct, real impact on a Repair Certifier's decisions and ability to carry out an impartial repair certification due to:

- their personal, professional, or financial interests; or
- their personal or professional obligations; or
- inappropriate outside influences (from a person, group, or organisation).

In this context, it means someone could call into question the Repair Certifier's independence, objectivity, or impartiality. In such cases, carrying out a repair certification is prohibited.

Example: A Repair Certifier has a financial investment in a repair shop and certifies vehicles repaired at that shop, thereby benefiting financially from each repair certification decision.

Requirement: The Repair Certifier must decline to carry out repair certifications for the shop, and they must engage another independent Repair Certifier. In this situation, there is no requirement to complete a *Conflict of Interest Declaration Form*, or enter details into the *Conflict of Interest Register*.

Perceived Conflict of Interest

A perceived conflict of interest is when others could think the Repair Certifier's impartiality may be compromised, and therefore could influence the inspection process or decision - even if no actual bias is present.

When there may be a perceived conflict of interest a Repair Certifier should not carry out a repair certification, but if they continue, the *Conflict of Interest Declaration Form* and *Conflict of Interest Register* are to be completed.

Example: A Repair Certifier is closely connected with a repair shop that they carry out repair certifications for. While the Repair Certifier may act fairly, the relationship with the shop could lead others to question whether their decisions are impartial, even if they truly are.

Requirement: The Repair Certifier should stop carrying out repair certifications for the repair shop, because there may be a perceived conflict of interest. However, if the Repair Certifier does carry out any repair certifications, they must complete a *Conflict of Interest Declaration Form* (which should be included in the relevant *Repair Certification File*), and fill in the *Conflict of Interest Register*, for each repair certification.

Gifts From Clients

While clients may occasionally offer gifts, Repair Certifiers should carefully consider whether accepting a gift could create an actual or perceived conflict of interest. This same consideration should be applied to gifts received in the past, when asked to inspect a vehicle connected to the giver at a later date. Any gifts that create (or could lead to) a conflict of interest should be recorded in the *Gift Register*.

Examples of the types of gifts that may create a conflict of interest:

- Cash or gift cards.
- Free or discounted services (e.g., vehicle repairs, Warrants of Fitness).
- Hospitality (e.g. tickets to events, meals, accommodation).
- Promotional items (e.g. tools, branded merchandise).
- Loyalty incentives or commissions for referrals.
- Sponsorships or donations.

Financial Interest

A financial interest includes any situation where the Repair Certifier could either directly or indirectly gain or lose from a repair certification decision they make.

It's not always about money changing hands; it also includes factors like the vehicle's value or the financial well-being of any business the Repair Certifier is associated with.

Remedial Repairs

In some cases, a repair carried out by a repairer may not meet the required standard, and the Repair Certifier determines that further work is needed to bring the vehicle's structure within safe tolerance of the manufacturer's specifications. In these cases, the Repair Certifier may carry out the necessary remedial repairs (if approval has been received from the client), provided the value of the repair does not exceed the limit specified in the *Repair VIRM*. This is to be recorded in a *Remedial Work Register*.

Examples of Common Conflicts of Interest

Here's some more examples of instances where a conflict of interest can (and often does) occur:

Situation 1: Repair Certifying Repairs for Family

Dan is a Repair Certifier, his brother owns an automotive repair business, and one of the staff has just completed repairs on a vehicle that now requires repair certification.

Conflict: *NoA Clause 10.5* prohibits certification of vehicles where a family member or close friend has a financial interest (see *Image 1*).

Resolution: Dan must decline to certify the vehicle and refer his brother to another independent Repair Certifier.

Situation 2: Financial Interest

Dylan is a Repair Certifier who owns part of an automotive repair business. His company specialises in collision repairs and routinely handles vehicles that require repair certification. A customer brings in a vehicle for repair, and the repair work is carried out by his business. Dylan is asked to certify the repairs once they are completed.

Conflict: *NoA Clause 10.5*, and the *Repair VIRM subsection 3-2 (Disqualification from Certification)* both prohibit certification of vehicles where the Repair Certifier has a financial interest (which is present, if the Repair Certifier owns or part-owns the company performing the repairs). See *Image 1*, and *Image 4*.

Resolution: Dylan must decline to certify the vehicle and engage an independent Repair Certifier to certify the vehicle.

Situation 3: Repair Certifier also Employed by the Repair Shop

Pete is employed by a large repair business and is also a Repair Certifier. His employer asks him to certify vehicles that have been repaired in the company's workshop.

Conflict: *NoA Clause 10.5* prohibits certification of vehicles for any person with management responsibility of the Repair Certifier (see *Image 1*).

Resolution: Pete must not certify any vehicles that have been repaired in his employer's company workshop, his employer will need to engage an independent Repair Certifier to certify the vehicles.

Situation 4: Close Friend Requests a Repair Certification

Mike is a Repair Certifier. His close friend has repaired a vehicle and asks Mike to complete the certification.

Conflict: *NoA Clause 10.5* prohibits certification of vehicles where a family member or close friend has a financial interest (see *Image 1*). Even if well-intentioned, this is a conflict of interest.

Resolution: Mike must decline to certify the vehicle and refer his friend to another independent Repair Certifier.

Situation 5: Repair Certifier Certifying his own Vehicle

John is a Repair Certifier. He has recently finished restoring a 1996 Toyota Land Cruiser he owns and wants to get it back on the road. He considers certifying the vehicle himself to save time and cost.

Conflict: *NoA Clause 10.7(a)(i)* and the *Repair VIRM subsection 3-2 (Disqualification from Certification)* both prohibit certification of vehicles where the Repair Certifier has a direct financial or ownership interest (see *Image 1*, and *Image 4*).

Resolution: John cannot certify his own vehicle; he needs to engage another independent Repair Certifier with no personal or financial stake in the vehicle, to carry out the repair certification.

Situation 6: Providing Remedial Repairs and Repair Certification

Tom is a Repair Certifier, and he carries out a remedial repair that costs under \$500 to complete (to a rust patch in a sill) on a vehicle he is certifying, as the original repairer had not fully welded it.

Conflict: *NoA Clause 10.7(b)* allows minor remedial work, provided the repair is directly related to bringing the vehicle structure within safe tolerance after an initial repair attempt has been made by someone else, and the cost is under the amount specified in the *Repair VIRM* (see *Image 3*).

Resolution: Tom documents the minor repair work in a *Remedial Work Register*, confirms it's under the monetary amount specified in the *Repair VIRM, Introduction, Section 3, Subsection 3-2 (Disqualification From Certification)*, and proceeds with the certification.

Applicable Requirements

The Repair Certifier Notice of Appointment

Section 10 (Management of conflicts of interest and other inappropriate influences) of the *NoA* outlines the Repair Certifier's responsibilities in relation to conflicts of interests. Below are excerpts from the *NoA* that have been specifically referenced in the 'Examples of Conflicts of Interest' part of this Information Sheet.

<p>Assessment and management of interests</p>	<ul style="list-style-type: none"> • <i>Policy and guidance should clearly prohibit certain types of conflicts of interest, including:</i> <ul style="list-style-type: none"> ○ <i>an individual Certifier inspecting a vehicle that any of the following either own or have financial interest in which exceeds the limit in the VIRM:</i> <ul style="list-style-type: none"> ▪ <i>the Certifier.</i> ▪ <i>any person with management responsibility of the Certifier.</i> ▪ <i>any Controlling Personnel of the Certifier.</i> ▪ <i>a family member or close friend of the Certifier.</i>
------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------


Image 1: *NoA Section 10.5*

<p>10.7 Without limiting the general effect of clauses 10.1 to 10.6 the Certifier:</p> <p>(a) must not inspect a vehicle in which he or she has a financial or professional interest such as:</p> <p>(i) the Certifier owns the vehicle or is paying for the repairs, or</p>

Image 2: *NoA Section 10.7(a)(i)*

<p>10.7 Without limiting the general effect of clauses 10.1 to 10.6 the Certifier:</p> <p>(a) may certify a vehicle in where:</p> <p>(i) <i>The Certifier has carried out minor remedial work that is directly concerned with bringing the vehicle structure within safe tolerance of the manufacturer's specifications while the vehicle is being prepared for certification, after an initial attempt has been made to repair it by an independent party; or</i></p> <p>(ii) <i>The Certifier's financial interest per vehicle inspected is less than the monetary amount specified in the VIRM in force at the date of certification. This does not include any fees charged by the repair certifier as part of normal certification work. This limit must not be exceeded without the Director's written approval.</i></p>

Image 3: *NoA Section 10.7(b)*



- *These excerpts only form part of NoA Section 10 - it is important that a repair certification meets all of the requirements in the entire section when determining whether any type of conflict of interest exists.*
- *Please ensure the information referenced is current, as it may have changed since the publication of this Information Sheet.*

The Light Vehicle Repair Certification VIRM

The below information has been taken from the [Repair VIRM, Introduction, Section 3, Subsection 3-2 \(Disqualification from Certification\)](#), and outlines when a Repair Certifier may and may not inspect a vehicle, in relation to conflicts of interest:

A repair certifier must not inspect a vehicle in which he or she has a financial or professional interest such as:

- a) the repair certifier owns the vehicle or is paying for the repairs, or*
- b) the repair certifier has been the primary repairer of the vehicle, or*
- c) the vehicle has been repaired by a person working for the same company as the repair certifier and at the same premises, unless written permission has been obtained from the Transport Agency for each vehicle certified, or*
- d) the repair certifier is the designer, manufacturer, supplier, installer, purchaser, owner or maintainer of items or products used in the vehicle being certified.*

A repair certifier may certify a vehicle in which he or she has a limited financial interest. The meaning of this is as follows:

- a) The repair certifier may carry out minor remedial work that is directly concerned with bringing the vehicle structure within safe tolerance of the manufacturer's specifications while the vehicle is being prepared for certification, after an initial attempt has been made to repair it by an independent party.*
- b) Financial interest is limited to \$500 per vehicle inspected. This does not include any fees charged by the repair certifier as part of normal certification work. Applications to exceed this limit must be directed to the National Manager Vehicles.*
- c) A log of the remedial work and charges made must be retained and produced to an authorised Transport Agency representative on request.*

Image 4: [Repair VIRM, Introduction, Section 3, Subsection 3-2 \(Disqualification from Certification\)](#)

Repair Certifier Responsibilities

One of the requirements in the NoA, is that Repair Certifiers *'must not engage in any activities that may conflict with the Certifier's independence of judgement and integrity in relation to the services delivered'*. Actual conflicts of interest are prohibited, and Repair Certifiers need to have a system in place for identifying and managing any perceived or potential conflicts. This includes maintaining a *Conflict of Interest Policy* and supporting documentation – *NoA Subsection 10.5* lists certain types of conflicts of interest that should be clearly prohibited within the policy and guidance.

The NoA requires Repair Certifiers to:

- decline any certifications involving a conflict of interest where they have a financial interest; and
- declare any perceived conflicts of interest relating to vehicles they repair certify; and
- maintain and operate a Conflict of Interest Management System, that includes a written *Conflict of Interest Policy, Conflict of Interest Procedure, Conflict of Interest Declaration Form, and Conflict of Interest, Gift, and Remedial Work Registers*; and
- decline any gifts or favours intended to (or that may be viewed as intended to) create an actual or perceived conflict of interest; and
- keep a log (i.e. register) of any remedial work they perform on vehicles they certify; and
- ensure all staff are trained in identifying and managing conflicts of interest; and
- review and update their documentation regularly.



While the NoA allows for requesting permission from the Director of NZTA to proceed where an actual conflict of interest exists, permission would only be considered in exceptional circumstances and is highly unlikely to be granted.

Developing a Conflict of Interest Management System

To help Repair Certifiers meet these requirements, RepairCert NZ has developed the following (optional) example documents, which are in Microsoft Word format so they can be used as a starting point for Repair Certifiers who need to develop their own Conflict of Interest Management System:

- *Conflict of Interest Policy (outlines the Repair Certifier's responsibilities).*
- *Conflict of Interest Procedure (lists the steps to be followed when an actual or perceived conflict of interest is identified).*
- *Conflict of Interest Declaration Form (to record and disclose a perceived conflict of interest).*
- *Conflict of Interest, Gift, and Remedial Work Registers (to log all perceived conflicts of interest, gifts, and remedial work).*

There is no requirement to use these documents, they are being provided for Repair Certifiers to use if they wish to do so. Also, if Repair Certifiers have their own system in place, there is no need to change it, as long as their system meets the applicable requirements in the *Repair VIRM* and *NoA*.

These documents are available to download from the Repair Certifier Area of the [RepairCert NZ website](#), in the Resources section, under 'Forms'.



NZTA may audit these processes closely to ensure the integrity of the vehicle safety system.

For help setting up a Conflict of Interest Management System, Repair Certifiers can contact RepairCert NZ for assistance.



FOR FURTHER INFORMATION PLEASE CONTACT REPAIRCERT NZ.

Disclaimer: *This document has been developed by subject matter experts for use by industry professionals and is based on the best available information at the time of its development. It is intended to provide general guidance and information to qualified professionals with the knowledge to interpret and apply the content appropriately. Technical standards, specifications, and regulations are subject to change, and users are responsible for verifying the relevance and accuracy of the information with current standards and best practices.*

RepairCert NZ makes no warranties or representations, express or implied, regarding the correctness, completeness, or suitability of the information for any particular purpose. Any reliance on the information provided is at the user's own risk.