

# Conflict of Interest Policy

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## Table of Contents

1	Introduction .....	2
2	Definitions .....	2
3	Areas in which conflict of interest may arise.....	3
4	Situations which are not a conflict of interest .....	4
5	General Procedures for Dealing With Conflicts of Interest .....	5
6	Breaches of this Policy .....	7
	Appendix A Additional Guidelines on Specific Conflicts of Interest .....	8
7.1	Financial Transactions .....	8
7.2	Financial benefits .....	8
7.3	Interests in Competitor Firms.....	8
7.4	Dealings with Suppliers, Customers and Other Persons.....	8
7.5	Dealing with Staff members and Potential Staff members.....	9
7.6	Close Personal Relationships.....	9
7.7	Conflict of Interest involving another staff member .....	9
7.8	Conflict of Interest Involving Students .....	10
7.9	Committees and Decision Making Forums.....	11
7.10	Acceptance of benefits (gifts, entertainment, hospitality, travel, accommodation expenses etc).....	11
7.11	Research .....	12
7.12	Documents.....	13
7.13	Public Comment.....	13
7.14	Use of University facilities and equipment.....	13

## **1 Introduction**

- 1.1 The University's strategic plan states "The University is guided in its activities by commitment to the following ..... high ethical standards including accuracy, honesty, cooperation, tolerance, and acceptance of obligations as well as rights."
- 1.2 In adopting a University-wide conflict of interest policy, the University recognises the need to protect its reputation by maintaining such ethical standards, fairness and integrity in all its dealings.
- 1.3 The objectives of this policy are to:
- Provide a framework for resolving situations where conflicts of interest exist, or might be perceived to exist.
  - Support the right of staff to freedoms provided by common and statutory law and to academic freedom as defined in the academic enterprise agreement.
  - Communicate the University's position on conflict of interest to staff, students, and other clients of the University.
- 1.4 In all interactions with staff, students and others, staff members must observe high standards of ethical behaviour and avoid any activity or interest that might reflect unfavourably upon the integrity and good name of the University. Staff have an obligation to avoid unacceptable ethical, legal, financial or other conflicts of interest and to ensure that their activities and interests do not conflict with their obligations to, or the welfare of, the University.
- 1.5 It is the responsibility of staff members to identify any conflicts of interest and to take action to address situations in which a conflict of interest could arise, or perceivably arise, as soon as the conflict of interest is identified, by implementing the procedures in this Policy.
- 1.6 The University is responsible for communicating the requirements of this policy to staff on a regular basis.

## **2 Definitions**

For the purposes of this policy:

**benefit** - means anything which provides the staff member with a direct or indirect personal gain or the potential for personal gain or gain to a third party. Such a gain need not be financial, it could be a personal or a non financial gain. It includes the provision of material or facilities, support of individuals through the provision of benefits (e.g. travel, gifts (i.e. \$x over (time), entertainment, accommodation expenses etc), or a financial benefit.

**business relationships** – refers to external contractual relationships, partnerships, private companies, business names or any other commercial trading activity.

**close personal relationship** - refers to married/de facto partners, sexual partners, near relatives or close friends. It does not include normal acquaintance between staff and students.

**conflict of interest** - A conflict of interest exists where there is a divergence between the individual interests of a staff member and their professional obligation to the University such that an independent observer might reasonably question whether the professional actions or decisions of that person are influenced by their own interests or are for their own benefit.

It should be noted that enmity as well as friendship can give rise to perceptions of a conflict of interest and similarly that detriment to a third party can give rise to a conflict of interest just as much as benefit to a third party.

**financial benefit** - means a benefit in the form of remuneration, payment or gift received by a staff member that is in addition to salary paid by the University. Financial benefits might also include investments, ownership or directorship of any companies, consultancies, provision of goods or services, receipt of royalties or other consideration, etc.

**near relatives** -refers to members of the immediate or extended family.

**register of reportable gifts** – a register used to record all giving and receiving of reportable gifts by or to individuals.

**reportable gifts** – refers to any gift of property, travel, entertainment, hospitality or any other benefit with a value of \$100<sup>1</sup> or more. This includes valuable items of property, whether of a personal nature or otherwise, such as-

- ornate or precision display items (clocks, furniture, figurines, works of art and so on); and
- other items of enduring value (jewellery, precious metals or stones, fine art work or items containing these elements).

**staff member** – an employee, honorary or visiting appointee or the holder of a University office or a member of a University committee.

### **3 Areas in which conflict of interest may arise**

3.1 Without limiting the circumstances and subject to the exemptions in section 4 below, the following are examples of areas which can give rise to situations where a conflict of interest may occur:

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<sup>1</sup> The amount is subject to annual review and indexation.

- Decisions regarding Suppliers, Customers and Other Persons in respect of the selection and/or ongoing dealings related to doing or seeking to do business with the University.
- Business or close personal relationships with competitors or businesses operating in the same area as the University or one of its units.
- Decisions regarding appointment, promotion or other personnel decisions relating to staff members.
- Decisions and dealings with potential staff members.
- Holding directorships, executive positions, shareholdings or ownership of other companies, organisations or businesses.
- Close personal relationships (including sexual relationships) with another staff member, student or other person.
- Decisions regarding students including assessments, scholarships, prizes, examination results and other matters relating to a student's academic progress or record.
- A researcher's affiliation with or financial involvement in any organisation or entity with a direct interest in the research or the provision of materials for research may result in a conflict of interest
- Acceptance of benefits (gifts, entertainment, travel, accommodation expenses etc).
- Acceptance of hospitality.
- Access to University documents and information obtained in the course of employment.
- Secondary employment of any kind. This issue is covered by a separate specific policy.
- Ownership of intellectual property
- Membership of an organisation that comes into serious competition or conflict with the University
- Requests for public comment including public speaking, comments on radio or television, opinions expressed in letters to newspapers or in books, journals or notices.
- Use of University facilities and equipment for personal benefit or the benefit of a third party.

#### **4 Situations which are not a conflict of interest**

There are a number of circumstances that do not constitute a conflict of interest under this policy:

- Membership of other organisations where there is no possible benefit or perception of benefit.
- Union representation or membership.
- University approved collaboration with other organisations.

## **5 General Procedures for Dealing With Conflicts of Interest**

5.1 The University will communicate the contents of this policy to all staff, and to students and other clients of the University. This will be achieved by:

- Publication of the policy and procedures on the University web site
- Inclusion in University Staff Induction Program
- Inclusion in relevant staff training programs
- Circulation to all Head of Schools/Areas for distribution to all staff
- Circulation to relevant Unions and Student Representative Council.

5.2 A Staff Declaration of Interests Form ([http://staff.uow.edu.au/personnel/forms/Staff\\_Declaration\\_of\\_Interests.pdf](http://staff.uow.edu.au/personnel/forms/Staff_Declaration_of_Interests.pdf)) is available for use by staff to notify staff member or family interests. Staff will be annually asked to update and return the form. While this provides a general notification of interests, staff members are still required to assess whether a conflict of interest or the potential for a perceived conflict of interest exists in each individual circumstance. Where a conflict of interest or the potential for a perceived conflict of interest is established, the staff member should follow the relevant detailed procedures outlined in Appendix A of this document.

5.2 A Register of Reportable Gifts made to or received from staff members will be established and maintained. Any gift including a gift of hospitality with a value in excess of \$100 must be reported and recorded in the Register. The report will be submitted by the staff member ([http://staff.uow.edu.au/personnel/forms/Disclosure\\_Of\\_A\\_Reportable\\_Gift.pdf](http://staff.uow.edu.au/personnel/forms/Disclosure_Of_A_Reportable_Gift.pdf)). The Register will contain:

- particulars and estimated value of the gift;
- date and authority for the gift;
- identity of the person or body receiving the gift;
- relevant file references;
- in the case of reportable gifts given, the approval for the expenditure; and
- in the case of reportable gifts received, the present location of the gift or the application of the proceeds.

5.4 Actual or potential Conflicts of Interest must be disclosed by the staff member to the staff member's Dean or Director and to the Chair of any relevant committee. The report must be made immediately and in the case of any delay a valid explanation must be provided.

5.5 Staff members who are uncertain whether or not they are placed in a situation where a potential or actual conflict of interest exists should seek advice from:

- The Director, Personnel Services in relation to staffing or finance matters;

- The Deputy Vice-Chancellor (Research) in relation to research matters;
- The Academic Registrar in relation to student matters;
- The Deputy Vice-Chancellor (Operations) or Vice-Principal Administration in respect of all other matters.

5.6 The person to whom the disclosure is made, on consideration of all relevant information, may determine that:

- (i) the potential for a conflict of interest of the staff member is remote and requires no further action other than to record that the matter has been reviewed; or
- (ii) the staff member's situation presents a conflict of interest and that conflict must be resolved.

If the staff member and Dean/Director disagree, either about the presence of a conflict or about its appropriate resolution, the matter must be referred to the:

- Vice-Principal (Administration) for General Staff
- Deputy Vice-Chancellor (Operations) for Academic Staff.

5.7 Once an assessment has been made, the Dean or Director must immediately notify the staff member of his/her decision.

5.8 The report of the conflict of interest, the supervisor's assessment and the resolution must be in writing and placed on the staff member's personnel file. The report must be provided to the staff member and include any comment that the staff member wishes to be recorded.

5.9 Actions determined to resolve or eliminate any conflict of interest are to be implemented immediately. These may include:

- Require the staff member to take action to eliminate the conflict.

Or alternatively:

- Disqualify the staff member from the process to which the conflict relates; or
- Reorganise the duties of the staff member so as to remove the conflict of interest; or
- Put in place additional processes to ensure the impartiality of the staff member in the performance of his/her duties and notify the staff member of these processes by confidential minute.

5.10 Staff members who are authorised to continue to perform their normal duties must immediately report any change in circumstances, which could affect the relevance of that authorisation, to their Dean or Director. Once notified, the Dean or Director should review the situation according to the procedures set out above.

- 5.11 All information regarding conflicts of interest or perceived conflicts of interest is confidential and disclosed only to staff with delegated authority for dealing with and recording such matters. It is legitimate for those involved in resolving a matter to seek advice and/or assistance from people with relevant expertise as nominated in this policy.
- 5.12 The University shall take all necessary steps to ensure the confidentiality of information relating to conflicts of interest or perceived conflicts of interest.
- 5.13 Any person with a complaint about a staff member's conduct under this policy, may raise the matter with the Vice-Principal (Administration) or, alternatively, where appropriate, report the matter under the University's procedure for protected disclosures.
- 5.14 Where a complaint is made by any person that a staff member has breached this policy, the complaint shall, at the discretion of the Vice-Chancellor, be investigated.

**6 Breaches of this Policy**

- 6.1 A situation where a staff member fails to disclose potential or actual conflicts of interest may lead to an allegation of misconduct.
- 6.2 A staff member may be directed to provide information and failure to do so will be regarded as a breach of this policy.
- 6.3 Other breaches of this policy may also lead to an allegation of misconduct. Some breaches may result in additional legal proceedings being taken by the University.
- 6.4 Sanctions would be determined in accordance with the circumstances in question and may include counselling, use of disciplinary procedures, civil action, or reporting of actions to police that may result in the laying of criminal charges.
- 6.5 Victimisation of an individual as a result of disclosure of an actual or potential perceived conflict of interest is not permitted and may lead to an allegation of misconduct.

**Modification History**

Date:	Resolution no:	Authority:	Details:

## **Appendix A**

### **Additional Guidelines on Specific Conflicts of Interest**

#### **7.1 Financial Transactions**

Financial delegates must not approve payments to themselves, or to a spouse or near relative. In such cases, claims must be signed by a more senior financial delegate. A delegate must not approve claims for payment from a more senior staff member within the same cost centre.

#### **7.2 Financial benefits**

Financial conflict of interest might arise where a staff member who has a financial interest in a company holds a position within the University where they could influence, or could be perceived to influence, the awarding of contracts by the University to that company, where a staff member holds a directorship of a company which is in a position to exert significant influence over the University, where the University is providing services to an organisation in which a staff member has interests, or where a staff member is required to perform an audit on an operation in which they have a personal interest.

If a staff member has a financial interest in a company or any other business venture and is in a position to influence business arrangements between that company and the University, such interests must be declared to the Dean or Director and recorded in accordance with this policy.

#### **7.3 Interests in Competitor Firms**

Staff members must be impartial and be seen to be impartial in the performance of these duties, and must not use information obtained in the course of their work for their own personal benefit or disclose such information to a third party except where consent has been obtained or there is a legal or professional duty to disclose.

#### **7.4 Dealings with Suppliers, Customers and Other Persons.**

Authorised staff members shall select and deal with suppliers, customers and other persons doing or seeking to do business with the University in a completely impartial manner based always on the best interests of the University. A staff member shall not conduct business on behalf of the University with a member of his/her family, near relatives or a business entity with which the staff member or a member of his/her family is associated except where such dealings have been disclosed and specific approval and written authorisation have been obtained.

Similarly, a staff member shall not divert business of the University away from another supplier, customer or other person to member of his/her family or business entity with which the staff member or a member of

his/her family is associated except where such dealings have been disclosed and specific approval and written authorisation have been obtained from the Dean or Director.

#### **7.5 Dealing with Staff members and Potential Staff members**

Conflict of interest can arise in a wide range of human resource matters, most notably recruitment and selection, promotion, disciplinary procedures, staff development, performance review and remuneration.

#### **7.6 Close Personal Relationships**

The existence of a close personal relationship may create problems by way of advantaging or disadvantaging one of the people involved, if there is also a work or teaching relationship. It is also possible that people not party to a relationship may have their interests affected. Where close personal relationships have existed but no longer continue, the breakdown of the relationship may result in adverse work consequences to either party.

Some close personal relationships are public, some are not. In either case, the potential for conflict of interest exists and the relationship must be disclosed.

#### **7.7 Conflict of Interest involving another staff member**

Staff members must disclose any close personal relationship with another current staff member or an applicant for any vacant position relevant to the staff member.

Where such a close personal relationship has been disclosed, the relevant supervisor, head of department or other appropriate person, should take steps to ensure that the parties concerned are not involved in any procedure that could either confer an undue benefit or result in a disadvantage.

Without specifying the range and number of matters that may be relevant, regard should be had to ensuring that:

- (i) one party is not the direct supervisor of the other;
- (ii) one party is not involved in procedures leading to the appointment or promotion of the other party or in any other procedure relating to the conditions of appointment such as the classification of that person's position and the granting of leave;
- (iii) one party does not have access to any personal files relating to the other party; and

- (iv) the relationship between the parties does not affect, adversely or otherwise, the interests of third or other parties.

## **7.8 Conflict of Interest Involving Students**

The existence of a close personal relationship between a member of staff and a student is capable of creating problems where there is also a teaching or other University relationship.

This extends to the admission, progress, assessment, examination and grading of students by members of staff who have a close personal relationship with any student(s) and the following processes should apply:

- (i) a staff member should not be involved in the supervision of a candidate who is a relative or close associate; and
- (ii) at no stage in the assessment procedures should a staff member participate in decisions involved in the determination of a final result, or any other determination that could confer an advantage on that student, for a relative or close associate.

The University must ensure that the parties concerned are not involved in any procedure that could either confer an undue benefit or result in a disadvantage to that student or to other students.

Staff members should disclose to the University, at the earliest possible stage, any close personal relationship with a student which is likely to give rise to a conflict of interest in the making of any decisions.

Without prescribing all the relevant matters to be taken into account by the head of department in making appropriate arrangements, consideration must be given to the following:

- (i) where a staff member is involved in setting an examination to be undertaken by a class that includes a relative or close associate, special care must be exercised to maintain proper security.;
- (ii) where a staff member assesses the papers of a class which includes a relative or close associate, the head of unit must approve, in writing and in advance, the arrangements made to ensure fairness and objectivity. Generally, this will involve double marking of the relevant paper or examination;
- (iii) where a staff member is involved in the ranking of a group of students which includes a close associate, careful attention needs to be paid to the rights of all students to a fair consideration of each case. In particular, attention is drawn to the consequences of the rankings awarded to honours students; and

- (iv) in the case of graduate students, members of staff shall not be involved in the examination of the thesis of a student who is a relative or close associate.

In those cases where further advice or assistance is required, the Academic Registrar should be contacted.

## **7.9 Committees and Decision Making Forums**

At the start of any working party or committee, a staff member must declare the nature, character and extent of any conflict of interest. In case of doubt, it is best to acknowledge possible conflict of interest.

When such a conflict of interest is disclosed, the Chair (subject to the views of the meeting) may additionally or alternatively:

- ask the staff member to leave while the item of business is discussed;
- ask the staff member to abstain from voting and or discussion;
- allow the staff member to participate in the discussion but withdraw from the meeting before the vote or abstain from voting;
- allow the staff member to stay but not participate in the debate; or
- allow the staff member to stay with full rights to debate and vote.

Where there is a conflict of interest, future papers on this matter might not be made available to the staff member concerned.

All declarations of interest shall be minuted, along with any ensuing action and filed consistent with the requirements of 4.7.

## **7.10 Acceptance of benefits (gifts, entertainment, hospitality, travel, accommodation expenses etc)**

Staff members shall not accept benefits for themselves or anyone else from any organisation, person or entity which does or seeks to do business with the University, any gift, entertainment benefit, travel benefit, accommodation benefit or other favours of a character which go beyond common courtesies consistent with ethical and accepted business practices. Generally, it is acceptable for staff to give or receive small token gifts of a personal nature. Where a benefit goes beyond common courtesies consistent with ethical and accepted business practices there is a duty to disclose it to the Dean or Director.

It is not acceptable for a staff member to give or receive a gift or favour that may:

- Compromise his or her judgement;
- Create a conflict of interest;
- Damage relationships with others; or

- Indicate any favouritism or prejudice towards a person or group of people.

Under no circumstances should a gift be solicited or a gift of money or a loan be accepted. In the acceptance or refusal of gifts, staff should be careful to consider the cultural context in which the gift is offered and endeavour to avoid giving offence.

It is often difficult for staff to make such judgements, and therefore if staff are in doubt they should seek advice from their Head of Unit.

No staff member should accept a gift or benefit if it could be construed by others, in possession of the full facts, to be intended as an inducement or reward which might place the staff member under an obligation, or cause them to act in an improper manner.

Receipt of a reportable gift is to be reported immediately to the Head of Unit, who is to notify the relevant officer within 14 days of the gift being made so that it can be recorded in the Register of Reportable Gifts.

#### **7.11 Research**

A researcher's affiliation with or financial involvement in any organisation or entity with a direct interest in the research or the provision of materials for research may result in a conflict of interest.

A researcher, whether student or staff, must make a full disclosure of any potential conflict of interest in research. Potential conflicts of interest include, but are not limited to any affiliation with, or financial involvement in, any organisation or entity:

- with a direct interest in the subject matter or materials of the researcher;
- providing direct financial support, such as sponsorship, for a project involving the researcher; or
- providing indirect benefits such as the provision of materials or facilities for a project involving the researcher or the support of the researcher such as by provision of travel or accommodation expenses to attend conferences.

Such disclosure must cover any situation in which the potential conflict of interest may, or may be perceived to, affect any decision regarding other people.

University researchers are required to disclose any potential conflict of interest in research to editors of journals, to the readers of published work, and to external bodies from which funds are sought.

University researchers are required to disclose at the time of reporting or proposing research (for example in a grant application), any potential

conflict of interest that has the potential to influence research and investigations, publication and media reports, grant applications.

Disclosure of a potential conflict of interest must be made at the time of application for University funds for a project. The Deputy Vice Chancellor (Research) shall, upon advice, make a determination regarding the conflict of interest.

The Deputy Vice-Chancellor (Research) must be informed of any disclosure of a potential conflict of interest in research as soon as reasonably practicable. University researchers must comply with any direction made by the Deputy Vice-Chancellor (Research) in relation to a potential conflict of interest in research.

In addition, University researchers must comply with the University Policy on Consulting and the Code of Practice for Research.

#### **7.12 Documents**

Where staff members have access to official University documents and information obtained in the course of their employment, they need to be aware of and maintain confidentiality and privacy of that information in order to protect the individuals concerned and to ensure the efficient operation of the University.

In general staff members should only disclose University information when required to do so by law, when the need arises as part of their normal duties and when called upon to give evidence in court or where the information has been officially approved for release. This restriction does not apply to University information which has been published and is in the public domain.

#### **7.13 Public Comment**

In some circumstances, public comment by a member of the University could raise questions of conflict of interest. In such a case, members of the University are referred to the Policy on the Use of the University Name.

#### **7.14 Use of University facilities and equipment**

Staff members are expected to use the facilities of the University efficiently, carefully and honestly. Such resources should not be used for personal benefit. Personal use should be minimal.

Guidelines for the use of facilities and equipment in relation to consultancies are contained in the University *Consultancy Policy*.