

CONFLICTS OF INTEREST GUIDELINES

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NOTE: The Conflict of Interest Register, and the training on how to use the Register, will be progressively rolled out to particular groups in the University from 2019 – 2020. It will be announced to University staff when the Register is rolled out to each group and when the relevant Register training is available to undertake.

This progressive roll out of using the Register does not mean University staff are exempt from the overall Conflict of Interest process. University staff must still declare and manage all conflicts of interest with their manager/managing department/meeting chair, and keep an auditable trail of discussion and decisions made (either emails or meeting minutes). There is no expectation to backdate this data into the Register once your group is rolled out, but there is a requirement to keep a record of all conflict of interest discussions for audit, and compliance purposes. Thank you.

1. Introduction

- 1.1. These Guidelines assist University Representatives (“Representatives”) in understanding the appropriate conduct and measures to take when implementing Western Sydney University’s (“University”) *Conflict of Interest Procedures*.
- 1.2. These Guidelines are established under the *Conflict of Interest Policy*.
- 1.3. The University Secretary and General Counsel and the Compliance Program Unit have the responsibility for providing advice and guidance in relation to the interpretation of and compliance with these Guidelines.

2. Interpretation

- 2.1. Definitions from the *Conflict of Interest Policy* (“Policy”) apply to these Guidelines.

3. What are conflicts of interest?

- 3.1. Conflicts of interest are defined in the *Policy* as a conflict between performing an official duty and another interest that has the potential to interfere with the proper performance of that official duty. A conflict of interest can be actual, perceived, or potential.
- 3.2. Remember: Having a rapport with individuals and/or organisations is normal and sometimes expected in some industries due to its size and/or speciality (e.g. Research). Only interests, where a reasonable person would assume that a University employee or other person engaged in University business stands to gain an advantage, or suffer a disadvantage, if he or she does not properly manage a conflict of interest when making a decision, must be declared, recorded on the Register and managed appropriately. Three examples of the types of material interests that can occur, and how they should be managed are as follows:
 - 3.2.1. A Board of Trustees member is a family relation of a director of a company that is in negotiations with the University for a significant commercial transaction. The risk mitigation strategy is that the Board member must declare the interest and remove himself or herself from the Board’s decision-making in relation to that transaction.

- 3.2.2. A relation or close friend of a staff member applies for a casual position with the University and the staff member is involved in the selection process. In that case, the risk mitigation strategy is that the staff member must declare the interest and remove himself or herself from the selection process.
- 3.2.3. A staff member sits on a tender selection panel for a transaction and notices that one of the tenderers is a company. One of the directors of that company is a former friend, with whom the staff member has had a significant personal falling out. The staff member is required to declare that interest so that a risk mitigation strategy can be put in place to ensure that the tenderer is not unfairly disadvantaged in that process.
- 3.3. Remember: Having a conflict of interest is not necessarily negative or adverse; it is the risk mitigation of that conflict of interest that is the most important. If risk mitigation is not relevant and/or appropriate, a conflict of interest can adversely affect the University.

Actual, perceived, and potential conflicts of interest

- 3.4. Actual (or direct) conflicts of interest are situations where the Representative can be (or is currently) influenced by the interest when performing their official duties for the University.
- 3.4.1. For example: A Representative who regularly procures IT equipment, and sits on decision-making panels in regards to suppliers, is a shareholder in a company that is involved in a tender process to become a supplier of IT equipment to the University has an actual conflict of interest.
- 3.5. Perceived (or apparent) conflicts of interest are situations where the Representative appears to be influenced by the interest when performing their official duties for the University.
- 3.5.1. For example: A Representative is a school manager whose family member owns a company that provides equipment to the University that is used by the school. Even though the Representative does not make any decisions in regards to the goods and services provided by the company, it can be perceived at an arm's length that there is a conflict of interest.

- 3.6. Potential conflicts of interest are situations where there is a reasonable possibility that Representative will (or may) in the future be, but is not, influenced by the interest when performing their official duties for the University.
- 3.6.1. For example: A Representative is managing a research project, and her husband is interviewing for a job as a senior manager of the company who is providing funding to the research project. There is no actual or perceived conflict of interest as the husband is not yet employed by the funding company, however if he were to be offered or accept the position, there would be a direct conflict of interest.
- 3.7. The term “conflicts of interest” in these Guidelines always encompass actual, perceived, and potential conflicts of interests.

Types of interests

- 3.8. The types of interests that can conflict with an official duty at the University include but is not limited to:
- 3.8.1. Personal relationships such as:
- 3.8.1.1. Family (children, parent, spouse, former spouse)
 - 3.8.1.2. Friend
 - 3.8.1.3. Former colleague, including managers
 - 3.8.1.4. Rival and/or competitor
 - 3.8.1.5. Relatives of any of the above
- 3.8.2. Business, industry, or commercial interests (known as private interests) such as:
- 3.8.2.1. Committee membership
 - 3.8.2.2. Company directorships or partnerships
 - 3.8.2.3. Contractual arrangements or obligations
 - 3.8.2.4. Employment
 - 3.8.2.5. Funding
 - 3.8.2.6. Investments
 - 3.8.2.7. Private business
 - 3.8.2.8. Self-managed superannuation funds involvement
 - 3.8.2.9. Shareholdings

- 3.8.2.10. Significant equity holdings with influence
- 3.8.2.11. Significant liabilities
- 3.8.2.12. Other significant income
- 3.8.2.13. Social, political, or religious group
- 3.8.2.14. Trusts or nominee companies
- 3.8.2.15. Voluntary activities

4. Restricting conflicts of interest

- 4.1. It is not always possible to completely avoid a conflict of interest, or to avoid the situations that commonly give rise to conflicts of interests.
- 4.2. Restricting, i.e. limiting, the acts and/or activities that lead to conflicts of interest occurring is far more reasonable. Common ways on how to do this includes:
 - 4.2.1. Considering your conduct, as it relates to your official duties, functions, or responsibilities at the University. For example: While there are social events that both students and academic staff both attend, an academic should not excessively socialise outside of class with a student or student whom she teaches or supervises.
 - 4.2.2. Considering your functions and responsibilities, as it relates to your conduct at the University. For example: While it is appropriate for a Representative to establish good rapport with a staff member who she manages, she should not enter into a relationship with them while she is still managing that staff member.
- 4.3. Representatives should ensure they:
 - 4.3.1. Do not access University resources, records, and other private information outside the normal scope of duties or for personal use or on the behalf of someone else who is not authorised or when the Representative is not authorised.
 - 4.3.2. Do not allow access to someone who is unauthorised to that accesses e.g. do not allow students to use staff computers and offices, or direct reports to use manager log-ins.
 - 4.3.3. Do not recruit a known candidate before the formal interview process.

- 4.3.4. Do not provide references and/or recommendations for an individual who is being considered by a direct report of yours.
- 4.3.5. Do not collude with other University staff that may benefit them or you personally, or be detrimental to others.
- 4.3.6. Do not attempt to influence an application for admission for a student with whom the Representative has a close personal relationship.
- 4.3.7. Do not give the impression of endorsement or sponsorship by the University to external individuals or organisations without adequate permissions.
- 4.3.8. Do not use resources or results of work done by the other people at the University, and for the University, for personal use without adequate permissions.
- 4.3.9. Do not lend money to or borrow money from an individual, or their families, connected to your duties as a Representative.
- 4.3.10. Do not *give, seek, or receive* gifts, benefits, bribes, financial incentives, or discount on goods and/or services from an organisation or individual for personal use or on the basis of being able to secure future University business or an unfair advantage for the organisation or individual involved.
- 4.3.10.1. All gifts and benefits are handled in accordance with the University's [Gift and Benefit Acceptance and Management Policy](#).
- 4.3.11. Do not undertake other work in addition to their official duties with the University that competes with or is incompatible with the University's activities. External work and additional work is handled by the relevant provisions of the current Academic Staff Agreement or current Professional Staff Agreement, and the External Work Policy.
- 4.3.12. Do not place course requirements on students related to particular beliefs (i.e. contesting particular political movements) of the Representative.
- 4.3.13. Do not give favourable (or unfavourable) treatment to individuals based on personal (social, political, religious) beliefs, views, or convictions. This is **unlawful discrimination**, which is defined in legislation and University policy that state a person may not be discriminated because of their religious or political affiliations, views, or beliefs.

5. Awareness of conflicts of interest

5.1. Representatives must also be aware of the conflicts of interests that commonly occur in the duties involving:

- 5.1.1. students;
- 5.1.2. other University staff;
- 5.1.3. financial and purchasing transactions,
- 5.1.4. recruitment
- 5.1.5. research
- 5.1.6. gifts and benefits.

5.2. Some typical examples for each category are outlined below.

Duties involving students

5.3. Conflicts of interest occur where a Representative has a personal relationship or another private interest with a student, *and* the Representative must perform duties that include:

- 5.3.1. teaching, marking, or assessing work of that student's;
- 5.3.2. undertaking administrative tasks, e.g. registering or accepting assessment items, processing results, or invigilating exams for that student;
- 5.3.3. recommending or approving allocation of resources, such as approving travel or the awarding of a prize or scholarship for that student;
- 5.3.4. participating in a process for alternative entry, e.g. an interview, or recommending or approving the outcome of such a process for that student;
- 5.3.5. participating in misconduct or disciplinary proceedings for that student; or
- 5.3.6. any other situation, act, decision, or advice that would give rise to a conflict of interest.

5.4. **External Work:** Certain external work is prohibited under the *External Work Policy* as it represents a conflict of interest, such as:

- 5.4.1. Offering or providing private tuition or sharing professional expertise to University students, whether or not for financial gain or if the Representative has a personal relationship or a private interest with the student.

5.5. **Honorary appointments:** Representatives who hold honorary appointments with another university may also be a conflict of interest, depending on the circumstances.

Duties involving other University staff

5.6. Conflicts of interest occur where a Representative has a personal relationship or another private interest with another staff member, *and* the Representative must perform duties that involve:

- 5.6.1. recommending or approving development opportunities, providing references, funding, travel, or the allocation of resources for the staff member;
- 5.6.2. conducting performance appraisals of the staff member;
- 5.6.3. participating in disciplinary proceedings, is a member of an investigation committee as the approving officer, or is charged with carrying out resultant actions (punitive or non-punitive) with the staff member that can either a complainant or respondent;
- 5.6.4. approving payments, timesheets, contracts, or other transactions pertaining to that staff member; or
- 5.6.5. any other situation, act, decision, or advice that would give rise to a conflict of interest.

Duties involving hiring/recruiting

5.7. Conflicts of interest occur where a Representative has a personal relationship or another private interest with an individual applying for a position at the University, *and* the Representative must perform duties that involve:

- 5.7.1. Participating in the selection process of which the individual is the subject. This includes being a member of a recruitment committee, promotions committee, or as an approving officer; or
- 5.7.2. any other situation, act, decision, or advice that would give rise to a conflict of interest.

Duties involving financial and purchasing transactions

- 5.8. At all times, staff with financial responsibilities should seek value for money for the University and should not undertake any financial or business transactions that may be fraudulent.
- 5.9. Conflicts of interest occur where a Representative has a private interest in an external organisation or a personal relationship with someone involved in the organisation, *and* the Representative performs duties that include:
- 5.9.1. Participating in purchasing or tender processes, or contractual arrangements involving that organisation;
 - 5.9.2. Advocating or lobbying for the goods or services of that organisation;
 - 5.9.3. Assessing, recommending, or approving of the University entering into a commercial agreement with that organisation; or
 - 5.9.4. any other situation, act, decision, or advice that would give rise to a conflict of interest.
- 5.10. Conflicts of interest occur in financial situations even where there is no private interest to another party, but there a **personal benefit or gain**, such as:
- 5.10.1. Travelling at the University's expense for University business where the Representative is also able to visit individuals or partake in activities not connected to the primary University business.
 - 5.10.2. Approving payments, timesheets, contracts, or other transactions to themselves.
 - 5.10.3. Using the University's credit, purchasing power or facilities for purchasing goods and services, or for using University property for personal gain.

Duties involving Research

- 5.11. The University's Research Code of Practice deals more in depth about the types of conflicts of interest that exist in research or research supervision matters, and advice may be sought from the Office of Research. Below are some examples of conflicts of interest that may occur in research:
- 5.11.1. an investigator or research candidate having a private interest in an organisation providing funding support to the research project or to the candidate, such as a grant or scholarship;

- 5.11.2. participating in a teaching or assessment panel or committee, e.g. a supervisory panel or employment panel for a candidate with whom there is a personal relationship;
- 5.11.3. examining a thesis for a candidate with whom there is a personal relationship, or where there is a personal relationship with a supervisor;
- 5.11.4. situations where a personal relationship exists between two or more members of a supervisory panel;
- 5.11.5. participating in the board or decision-making authority of other company that provides the funding or donation or resources;
- 5.11.6. receiving philanthropic donations, sponsorship, or scholarship funding by requesting admissions for their relatives, or by favouring a particular research outcome;
- 5.11.7. using the University information or resources for personal use or private interest e.g. medical researchers using medicines or equipment of the University in their private practice; or
- 5.11.8. any other situation, act, decision, or advice that would give rise to a conflict of interest.

Duties involving the University Board or Board Committees

- 5.12. Advice may be sought from the Office of University Secretary and General Counsel in relation to conflicts of interest involving University Board and Board Committee duties. Below are some examples of common conflicts of interest:
 - 5.12.1. University Director or Board or Board Committee member holding a Director or Board member position of another controlled entity, Joint Venture, or external body of the University.
 - 5.12.2. University Director or Board or Board Committee member is a government official in an agency which has responsibility for some aspect of policy affecting the University.

6. Declaring of conflicts of interest

- 6.1. Declarations of conflicts of interest should always be made as soon as the Representative is aware. Even if the Representative discovered a conflict of interest that came into existence in the past, a declaration must still be made.
- 6.2. It is always better that you declare and discuss a possible conflict of interest rather than conceal the matter.
- 6.3. Just because a conflict of interest exists and is declared doesn't mean that something improper will automatically occur, or the Representative is reprimanded or limited in any way.
- 6.4. Conflicts of interest, once declared, can be properly managed without detriment to the integrity of the process or for those involved. Issues arise when a conflict of interest is not openly acknowledged or managed appropriately.
- 6.5. Conflicts of interest that are discovered when they were not declared are usually treated more suspiciously, and allegations of possible misconduct may arise.

7. Assessing conflicts of interest

- 7.1. All declared conflicts of interest should be assessed with a managing authority, which is usually a manager, supervisor, or chair of a committee/panel, to:
 - 7.1.1. Undertake an impact analysis; and
 - 7.1.2. Determine appropriate and relevant risk mitigation strategies.

Impact Analysis

- 7.2. Impact analysis are conducted by considering how the conflict of interest may affect, or be perceived to affect, or have the potential to affect:
 - 7.2.1. the Representative and their official duties;
 - 7.2.2. the judgement, motivation, actions, and/or behaviours of both the Representative and others involved, such as a selection panel on which the Representative is participating;
 - 7.2.3. the other person or organisation who is the subject of the conflict of interest; or

- 7.2.4. others within the team or organisation, such as direct reports, other Representatives in similar positions or with similar duties.

Risk Mitigation Strategies

7.3. Risk mitigation strategies may involve actions from other Representatives and teams depending on the seniority of the role of the declaring Representative and impact of the decisions. Examples include:

- 7.3.1. Appointing an independent third party to review or oversee the activity or action to which the conflict pertains.
- 7.3.2. Appointing another person or persons to a panel/committee/team.
- 7.3.3. Removing the individual from the decision making process or duties in regard to the matters to which the conflict of interest relates.
- 7.3.4. Asking the Representative to relinquish or quarantine their involvement in the official duties.
- 7.3.5. Asking the Representative to recuse themselves from or not taking part in debate and/or voting in committees/boards on matters relating to the conflict of interest.
- 7.3.6. Restricting the Representative's access to particular information or systems.
- 7.3.7. Segregating the duties to which the conflict relates between Representatives.
- 7.3.8. Obtaining quotes from other providers who are independent and assessing if the terms and price are comparable with similar transactions.
- 7.3.9. Considering alternative transactions with non-related parties, making genuine attempt not to exclude any party and ensuring a proper bargaining process.
- 7.3.10. Implementing alternative **supervision and reporting** arrangements between the Representative and the individual to which the conflict of interest pertains. Some considerations when implementing strategies are:
- 7.3.10.1. Alternative arrangements should be truly independent and not fettered by real or perceived influence. For instance, it would be highly undesirable for the alternative supervisor to be directly subordinate to the person with whom the new employee has a personal relationship.

In small units, these arrangements will need careful consideration and should be avoided unless there is a specific professional need for both Representatives to work in the same area.

7.3.10.2. The more senior the staff member, the more distance should be between them and the location of their intended appointee or supervisor. There should not be the possibility of perception that a person has been employed or received an opportunity to be employed, either on a casual or permanent basis, because of a personal relationship with a staff member at the University.

7.3.10.3. Advice may be sought from the Office of Human Resources regarding alternative arrangements in order to remove conflicts of interest regarding employment matters.

7.4. Representatives should always refrain from discussing or attempting to influence others involved in the situation in any way, even when risk mitigation strategies have been implemented.

8. Recording on the Conflicts of Interest Register

8.1. Declarations of conflicts of interest and the associated risk mitigation strategies should always be recorded on the Register, which is the University's central repository for conflicts of interest declarations. See the accompanying Conflicts of Interest *Procedures* for more information.

9. Further resources

9.1. Additional advice on managing conflicts of interest, depending on the issue at hand, can be sought from the:

9.1.1. The University Secretary and General Counsel

9.1.2. Finance Office

9.1.3. Office of Human Resources

9.1.4. Office of Research Services

9.1.5. Office of Audit and Risk Assessment

9.1.6. Compliance Program Unit

9.1.7. Office of Governance Services

9.1.8. [NSW Ombudsman](#)

9.1.9. Independent Commission Against Corruption (ICAC)