

# Conflict of Interest Guidelines

## Section 1 - Purpose and Context

(1) This document aims to outline conflict of interest issues in the University context with a view to generating increased awareness and understanding and to provide protection for both the organisation and the individuals concerned. It also provides standard procedures for declaring and managing conflicts of interest for use where no other formal procedure exists.

(2) This document applies to staff, students and other representatives of the University, such as Adjunct appointments, charged with carrying out University activities and functions, and should be read in conjunction with the [Code of Conduct](#) which establishes the University's broad ethical framework and values, and other applicable University policies, procedures and guidelines.

## Section 2 - Definitions

(3) For the purpose of this policy:

- a. conflict of interest - refers to a conflict between official University duties and private interests and personal relationships, where the private interests or personal relationships could improperly influence the way in which a person carries out their official duties
- b. perceived conflict of interest - where a reasonable person might perceive that such improper influence as described in Clause 3a could exist.
- c. personal relationships - relationships with individuals or people that extend outside of the University or University duties, or a relationship where a reasonable person might perceive that there could be some bias, either positive or negative, resulting from that relationship. These include relationships with:
  - i. immediate family, e.g. spouse or partner, parents, children, step-children, etc;
  - ii. close relatives, e.g. aunts, uncles, cousins, nephews, nieces etc;
  - iii. friends where the friendship extends outside the workplace;
  - iv. sexual partners;
  - v. rivals, e.g. competitors or persons with whom one has a history of serious conflict or enmity; and
  - vi. the relatives of any of the above listed in (iii) to (v).
- d. private interests - refers to any interests that involve potential gain or loss (financial or non-financial) for an individual or for any other person or organisation that individual may wish to benefit (e.g. family, friends, associates) or disadvantage (e.g. competitors, rivals).

## Section 3 - Policy Statement

(4) The University promotes, through the Code of Conduct and other policies, an environment that is values-based, founded on the principles of honesty, responsibility, fairness and accountability, to maintain the integrity of its decision-making processes.

(5) Conflicts of interest may affect or have the appearance to affect sound and professional judgement adversely. Conflicts of interest or perceived conflicts of interest must be declared and managed to ensure integrity and transparency.

(6) Staff members, students and other individuals who are charged with carrying out University activities and functions have a responsibility to declare and manage conflicts of interest as they arise. When declared, the conflict of interest should be avoided or where this is not possible, action must be undertaken to ensure that the conflict (or perceived conflict) is managed in a transparent and appropriate manner.

(7) Staff members also have a responsibility to avoid activities or actions in relation to students that may impair objectivity, compromise academic standards, impede student development, or risk exploitation of the student, or that may be perceived to do so.

(8) The appearance of unethical behaviour can be just as damaging as actual unethical activity. Perceived conflicts of interest can have a negative impact on staff morale and can undermine the ethical framework set by the Code of Conduct. Supervisors, managers, senior staff and the University Executive have a leading role in setting the benchmark for ethical behaviour and to ensure a culture of ethical conduct in all activities.

(9) Individuals who are considered to have breached University requirements regarding the management of conflicts of interest, as set out in this document, the Code of Conduct, or other University policies or procedures, may be subject to disciplinary action.

## **Section 4 - Procedures**

(10) All individuals are responsible for identifying, declaring and managing conflicts of interest that apply to them.

(11) Supervisors, Chairs of committees/panels/groups and other responsible parties are accountable for ensuring that declared conflicts of interest, real or perceived, are evaluated and managed appropriately. They will discuss and develop a risk management strategy in consultation with the person making the declaration and any other parties as appropriate.

(12) Declarations of conflict of interest should be made by individuals in writing to the relevant supervisor, chair of a committee/panel/group, other relevant person or body as soon as the conflict is identified. Where circumstances prevent an immediate written declaration (e.g. conflict arises during a meeting), a verbal declaration should be lodged and, if possible, formally noted (e.g. in minutes of the meeting).

(13) Where the conflict of interest relates to research, the declaration should also be made to the Integrity in Research Committee.

(14) Where a supervisor, chair of a committee/panel/group, other relevant person or body becomes aware of a conflict of interest (or perceived conflict of interest) that has not been declared they should discuss the matter with the individual and if appropriate put in place a risk management strategy.

(15) Where circumstances affecting a declared conflict of interest change, any declarations should be amended accordingly, and where appropriate, the risk management strategy revised.

(16) Where a conflict of interest relates to an ongoing matter, the strategy chosen for its management must be reviewed at regular intervals to ensure it remains appropriate.

(17) Declaration of conflicts of interest should be a formal item on University committee agendas as a prompt.

# Section 5 - Guidelines

## Part A - Managing a Conflict of Interest

(18) Just because a conflict of interest exists it doesn't mean that something improper will automatically occur. Conflicts of interest can be properly managed without detriment to the integrity of the process or for those involved. Issues can arise when a conflict of interest is not openly acknowledged or managed appropriately.

(19) The best way in which to handle a conflict of interest is to avoid it. Where it is not possible to avoid a conflict of interest, a risk management strategy should be adopted. Depending on the circumstance a range of risk management strategies can be implemented, including:

- a. appointing a independent third party to review or oversee the activity or action;
- b. appointing another person or persons to a panel/committee/team;
- c. asking the individual to relinquish or quarantine the personal interest;
- d. removing the individual from the decision making process or duties in regard to the matters to which the conflict of interest relates; or
- e. individuals absenting themselves from or not taking part in debate and/or voting in committees/boards on matters relating to the conflict of interest.

(20) Additional advice on managing conflicts of interest, depending on the issue at hand, can be sought from the:

- a. Audit and Risk Assessment Unit,
- b. Finance Office,
- c. Office of Human Resources,
- d. Office of University Legal Counsel,
- e. Office of Research Services,
- f. Policy and Governance Unit,
- g. NSW Ombudsman, or
- h. [Independent Commission Against Corruption \(ICAC\)](#).

## Part B - Identifying a Conflict of Interest

(21) Conflicts of interest are often obvious but where there is uncertainty on whether a conflict of interest exists, parties should:

- a. consider whether the action or activity is consistent with the University's values as outlined in the [Code of Conduct](#);
- b. seek opinions from supervisors or managers;
- c. seek independent external advice;
- d. consider whether the action or activity is consistent with community values, standards and behaviours;
- e. consider how the action or activity might look to other people who care about the decision or outcome, or to other people who come to know about it;
- f. consider whether the relationship or interest might compromise an individual's ability to exercise sound judgement; and/or
- g. refer to information available from other sources such as the Audit and Risk Assessment Unit, the NSW Ombudsman or ICAC.

(22) Part D of the University's Code of Conduct provides a simple ethics test that can be applied in many circumstances to determine whether a conflict of interest exists.

(23) At times, a conflict of interest may not be recognised because it is a relatively minor matter. A minor matter that occurs frequently, however, may become substantial. Regardless of how minor a conflict of interest may seem, it is important to maintain an ethical approach in all circumstances.

### **Timing of a declaration**

(24) The timing and nature of declaring a conflict of interest depends on the circumstances. For example if you are involved in the development of the specifications for a tender in which an individual with whom you have a personal relationship or a company in which you have a personal interest could submit a tender, your declaration of a conflict of interest should be early in the process.

## **Part C - Examples of Conflicts of Interest**

(25) The following examples are provided to develop a better understanding of the nature of conflicts of interest so that individuals will be able to recognise conflicts when they arise and take appropriate action in regard to their management.

### **Relationships with Students**

(26) Conflicts of interest may arise when a staff member has or enters into a dual-role relationship with a student or students. A dual-role relationship exists where staff have a personal relationship or private interest involving a student or students.

(27) Where a staff member has a personal relationship (as defined in this policy) with a student the following activities will almost certainly represent a conflict of interest:

- a. teaching, marking or assessing work of that student's;
- b. undertaking administrative tasks for example, registering or accepting assessment items, processing results or invigilating exams for that student;
- c. recommending or approving allocation of resources such as approving travel or the awarding of a prize or scholarship for that student;
- d. participating in a process for alternative entry, for example an interview, or recommending or approving the outcome of such a process for that student; or
- e. participating in misconduct or disciplinary proceedings for that student.

(28) Whilst it is appropriate for staff members to establish good rapport with students, staff members should avoid actions or activities that may lead to the perception of favouritism or unfairness. Examples include:

- a. allowing access to University resources not normally available to students, for example allowing students to use staff computers, staff offices or staff log-ins;
- b. excessive socialising with a student or students outside of class;
- c. lending money to or borrowing money from a student or students; and
- d. giving gifts to or accepting gifts from a student or students. Refer to the University's [Gift and Benefit Acceptance and Management Policy](#)

(29) Offering or providing private tuition for UWS students, whether or not for financial gain, is a direct conflict of interest and it is prohibited by the [External Work Policy](#).

(30) The University's [Teaching and Learning - Fundamental Code](#) provides additional information and guidance about

responsibilities between staff and students in the academic context.

## **Gifts and Benefits**

(31) The giving and receiving of gifts and/or benefits is potentially problematic and should be handled in accordance with the University's [Gift and Benefit Acceptance and Management Policy](#).

## **External or Additional Work**

(32) A conflict of interest issue can arise in the context of staff undertaking other work in addition to their substantive role with the University because such work may compete with or be incompatible with the University's activities. As a result it is important that all parties manage external work and additional work in accordance with the relevant provisions of the [Academic Staff Agreement 2009 - 2012](#) or [General Staff Agreement 2009 - 2012](#) and the External Work and Additional Work policies .

## **Employment Matters**

(33) As a major regional employer it is not uncommon for employees to have personal relationships with other employees, members of the public or local businesses. Given the nature of academic work and research, personal relationships among staff members in the same field are also not uncommon. Conflicts of interest arise where these relationships intersect with official duties.

(34) In terms of human resource management, problematic areas that represent conflicts of interest that should be declared and managed include:

- a. participating in a selection process, for example as a member of a recruitment committee, promotions committee or as an approving officer, where one has a personal relationship (as defined in this policy) with an applicant;
- b. recommending or approving development opportunities, funding, travel, or the allocation of resources, for example, where one has a personal relationship (as defined in this policy) with another employee who stands to lose or gain, dependant on the outcome;
- c. engaging temporary or casual staff where there is a personal relationship (as defined in this policy) with the person approving the appointment or with another staff member known to the person approving the appointment;
- d. conducting performance appraisals, for example, where one has a personal relationship (as defined in this policy) with the employee who is the subject of the appraisal;
- e. participating in disciplinary proceedings as a member of the investigation committee, as the approving officer or as the employee charged with carrying out resultant actions (punitive or non-punitive), where one has a personal relationship (as defined in this policy) with the complainant or the respondent.

(35) Employment of a individual who has a personal relationship with a current staff member warrants careful attention. Alternative supervision and reporting arrangements should be put in place where the parties are working in the same area. However, it is essential that the alternative arrangements are truly independent and are not fettered by real or perceived influence. So 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 parties to work in the same area.

(36) The more senior the staff member the more distance should be between them and the location of the intended appointee and their 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.

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

## **Financial Transactions**

(38) In terms of financial transactions, conflicts of interest occur where a benefit or bias, or the appearance of such, results from a decision because of an individual's private interests or a personal relationship with parties involved.

(39) A conflict of interest also extends to using the University's credit, purchasing power or facilities for purchasing goods and services, or for using University property for personal gain. At all times, staff with financial responsibilities should seek value for money for the University and should not undertake any financial transactions that may be fraudulent.

(40) Examples of where conflicts of interest may occur include:

- a. participating in purchasing or tender processes, or contractual arrangements where one has a private interest or personal relationship (as defined within this Policy) with a firm or someone involved with a firm or tenderer;
- b. advocating or lobbying for the goods or services of a firm where one has a private interest (as defined in this Policy);
- c. assessing, recommending or approving of the University entering into a commercial agreement with a company which the staff member has a private interest or personal relationship (as defined in this Policy). For example where the staff member recommends a particular company's bid to undertake a major consultancy project and is subsequently engaged by that company to undertake sub-contracted work, or where the staff member recommends or suggests a supplier of a service with which they have a personal relationship;
- d. travelling at the University's expense on University business but where there is a personal benefit or purpose to the individual concerned. For example where a staff member is applying to attend an event in an overseas city where the applicant has family and friends, or is applying to attend the same interstate or overseas conference/event as their partner who is also a staff member;
- e. using a University pool vehicle for private use, for example to go to the shops at lunchtime on non-University related business;
- f. using a University corporate credit card to purchase goods or services for non-University activities, even if the intention is to re-pay the University;
- g. using University petrol cards to purchase fuel in non-University vehicles; and
- h. seeking a discount on goods for personal use on the basis of being able to secure future University business for the firm involved.

(41) Advice may be sought from the Finance Office regarding conflicts of interest in financial transactions.

## **Research**

(42) Conflicts of interest in research are dealt with under well-documented procedures for ethical conduct related to research. Reference should be made to the University's [Research Code of Practice](#) and the resources listed under the Associated Information of that Code.

(43) Conflicts of interest may occur in research candidate supervision. In addition to examples outlined in Clauses 26-29, examples of research candidate supervision-related conflicts of interest include:

- a. 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;
- b. Participating in an activity or action overseen by a Supervisor that might impede the progress of a research candidate, for example undertaking excessive work on preparing a research grant or being employed on a

Supervisor's research project;

- c. Participating in a teaching or assessment panel or committee, for example a supervisory panel or Confirmation of Candidature panel for a candidate with which there is a personal relationship;
- d. Examining a thesis for a candidate with which there is a personal relationship, or where there is a personal relationship with a supervisor;
- e. Situations where a personal relationship exists between two or more members of a supervisory panel. Wherever possible this should be avoided, but where this cannot be avoided, the management strategy should be discussed with and agreed to by the candidate.

(44) Advice may be sought from the Office of Research Services or the Integrity in Research Committee on potential conflicts of interest in relation to research or research supervision matters.

## **Dual Interests**

(45) University staff commonly have involvements with external organisations that result in dualities of interest or obligation with respect to the University and the other organisation. Typically these involvements are important complements to the staff member's role with the University. Some typical examples are:

- a. serving as a director on a controlled entity of the University;
- b. serving on a board or committee of an external body, such as a government agency;
- c. holding an honorary appointment with another university;
- d. being involved with a Cooperative Research Centre (CRC) or other research project external to the University;

(46) In these situations the staff member has obligations to both organisations and occasionally conflicts of interest may emerge on issues and as such, disclosure of the conflict of interest is required. In most cases the conflict of interest may be managed but, depending on the circumstances, may need to be dealt with through withdrawal from involvement in the issue of concern. In circumstances of ongoing conflict situations, re-consideration of continuance in both roles will be needed.

## **Business and Professional Interests**

(47) Where staff have business and/or professional interests, whether paid or unpaid, separate to their role at the University, it is important that these do not conflict with their University employment. The External Work Policy deals with the process for declaring and managing these situations.

## **Personal Beliefs**

(48) The concept of conflict of interest can also extend to situations where an individual has outside interests or political or religious views that could affect how they carry out their responsibilities with the University. It is inappropriate for a staff member to place requirements on students related to particular beliefs of the staff member or to give favourable (or unfavourable) treatment to individuals based on personal beliefs or convictions. For example introducing a course requirement that students participate in a political movement advocated by an academic staff member.

(49) It is also inappropriate to treat students and other staff differently because of an outside interest or political or religious view. Unlawful discrimination is defined in legislation and University policy.

## **Access to Personal Records and Information**

(50) During the course of their work with UWS, staff will have access to personal information. Staff should only access and use information that they need to undertake their duties. Access and use of personal information is covered by privacy law and the University's [Privacy Policy](#). A direct conflict of interest results where staff use any information that

they have access to regarding the business operations of the University for personal reasons.

## Status and Details

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