

Conflict of Interest Policy

Section 1 - Introduction

(1) The University of Newcastle (University) wishes to maintain public trust and confidence in our integrity, professionalism, operations and activities. Our values of excellence, equity, engagement and sustainability guide our day to day decision making. Acting ethically, with integrity, and in line with the national interest requires all persons engaged in or undertaking University business to disclose conflicts of interest and requires the University to appropriately manage disclosures.

Section 2 - Purpose

(2) This Policy:

- a. establishes the University's requirements for identifying, disclosing, managing and monitoring conflicts of interest; and
- b. seeks to minimise risk and protect the interests of the University and individuals.

(3) This Policy is supported by the [Conflict of Interest Procedure](#), which should be read in conjunction with this document.

Section 3 - Audience

(4) This Policy applies to the following persons:

- a. staff, Council members, and members of University committees, panels, and advisory boards;
- b. persons appointed by Council to roles with associated entities;
- c. Higher Degree by Research students;
- d. students who may participate in University business or activities, including as members of University related organisations and committees; and
- e. consultants, contractors and volunteers to the University.

(5) All persons listed above must comply with this Policy.

Section 4 - Scope

(6) This Policy applies to:

- a. all activities, operations, governance and administration of the University, including research activities;
- b. all campuses and locations of the University; and
- c. all times whilst engaged in University business or otherwise representing the University.

Section 5 - Definitions

(7) In the context of this document and its associated procedure:

- a. “an associate” means an associate as defined by the [Income Tax Assessment Act 1936 - Section 318](#).
- b. “close personal relationship” means a relationship which involves friendship; or a relationship with a relative or financial dependent or a cultural family relationship;
- c. “conflict of interest” means circumstances in which someone’s personal interests may conflict with their public duty. A conflict of interest exists when a reasonable person might perceive that a public official’s personal interest(s) could be favoured over their public duties;
- d. “foreign entities or individuals” refers to organisations, institutions, or associates formed in a jurisdiction, state, or country external to the University;
- e. “governing body” means the University Council;
- f. “institutional interest” means an interest held by the University that may be perceived to affect the design, review, conduct and dissemination of research carried out at the University. Examples of specific interests including Intellectual property rights or licence revenue, industry or government funding, shares or options held in spin-off enterprises;
- g. “intimate personal relationship” means a relationship which goes beyond the bounds of a platonic or working relationship, regardless of gender. For example dating, romantic, or consensual sexual relationships;
- h. “personal interest” means an interest that may arise from an individual’s private or non-work life that can bring financial or other material benefits. Personal interests may include interests of an individual’s close connections, including family connections and/or the interests of an associate, regardless of whether those interests are domestic or foreign;
- i. “public duty” or “public duties” means a power, authority, duty or function that is conferred on a person, and includes a duty to serve the public or community and the University in an ethical manner;
- j. “public official” is defined by the [ICAC Act](#) as an individual having public official functions or acting in a public official capacity, and includes an employee of a public authority. (The University of Newcastle is considered a public authority due to its requirement to be audited by the Auditor-General);
- k. “relevant interest” means any interest held by a Researcher that may be relevant, or appear to be relevant, to proposed or ongoing research; and
- l. “reportable gift or benefit” means, where it is accepted or declined:
 - i. any item, travel, hospitality, entertainment or other token of appreciation with a value of greater than \$100; or
 - ii. any series of any items listed in (i) from a single source within a calendar year where the collective value of the items is greater than \$100.

Section 6 - General Requirements

(8) The University recognises that conflicts of interest may be perceived, actual or potential, and that conflicts of interest may exist where the interests of a person and another are either aligned or conflicting. The requirements of this policy, and its associated procedure, must be complied with for all conflicts of interest, regardless of their nature.

(9) The University expects that the following elements be considered to determine whether a conflict of interest exists:

- a. personal interest;
- b. public duty;
- c. a connection between a personal interest and public duty; and

d. a reasonable person's perception that a personal interest may be favoured.

(10) The University:

- a. will develop, maintain and implement a procedure to enable the identification, disclosure, management and monitoring of conflicts of interest;
- b. requires that all persons undertaking University business avoid unnecessary conflicts of interest;
- c. requires that all persons undertaking University business take active steps to minimise the risk of influence from foreign entities and individuals;
- d. requires the disclosure of personal interests and conflicts of interest in accordance with this policy and its associated procedure, and in consideration of the [Ethical Framework](#);
- e. will manage and monitor conflicts of interests;
- f. will ensure that disclosure processes allow for the protection of privacy of other persons;
- g. will evaluate and assess the effectiveness of our conflicts of interest policy and associated procedures;
- h. will deal with breaches of this policy in a proactive manner; and
- i. will establish and maintain an array of controls across the University to assist in the management of conflicts of interest.

(11) In the context of this policy, all persons to which this policy applies have a primary responsibility to the University. Accordingly, disclosure of conflicts of interest is paramount to the University's management of risk.

Unnecessary Conflicts of Interest

(12) The University requires that all unnecessary conflicts of interest be avoided, where reasonably possible. For the purposes of this policy, actions taken to avoid unnecessary conflicts of interest may include, but are not limited to:

- a. complying with the University's [Outside Work Policy](#);
- b. disclosing relationships which could be perceived to give rise to a conflict of interest or potential for foreign interference;
- c. removal from any activity under the auspice of the University where the activity involves working with another person with whom a personal interest exists;
- d. declining, and not soliciting gifts or benefits either for self or for another person;
- e. declining shareholder or directorships of companies who deal with the University;
- f. declining affiliations or membership of organisations or associations who may deal with the University or be in competition or conflict with the University;
- g. not taking part in any matter in relation to any student to whom you currently have, or have had, a close personal relationship or intimate personal relationship;
- h. not taking part in any activity or collaboration with a foreign entity or individual that gives rise to, or may be seen to give rise to, interference by that entity or individual.

Section 7 - Disclosure Requirements

(13) Personal information arising from any disclosure as required by this policy or its associated procedures will be managed in accordance with the University's [Privacy Management Plan](#).

Disclosure of Conflicts of Interest

(14) All perceived, actual or potential conflicts of interest must be disclosed promptly and proactively, in accordance with the [Conflict of Interest Procedure](#).

(15) Disclosure of a conflict of interest must occur even if any related personal interest has previously been declared or registered.

Disclosure of Personal Interests

(16) On an annual basis, the following staff are required to make a declaration of personal interests:

- a. academic staff;
- b. professional staff who are HEW8 or above, and who hold delegation of authority; and
- c. Council Members (as per the Council Charter).

(17) The annual declaration should be updated by the staff member when any personal interest changes or arises.

(18) Personal interests that are required to be declared includes, but is not limited to, those interests of:

- a. sources of income from outside work;
- b. interests and positions in corporations (such as directorships);
- c. national and international academic appointments, including non-remunerated appointments, at academic and other organisations not affiliated with the University;
- d. significant shareholdings of more than 5% of a company's voting rights;
- e. significant investments in real estate;
- f. positions or membership in professional or business associations;
- g. other beneficial interests which may, to a reasonable person, be considered as relevant to the University;
- h. relationships where the nature of which gives rise to, or may be seen to give rise to a conflict of interest with public duties or responsibilities held at the University; and
- i. any of the above held by a close family member or an associate which may, to a reasonable person, be considered as relevant to the University.

(19) The University also requires all staff to make a declaration of personal interests upon appointment to a role or position within the University or its controlled entities.

Disclosure of Interests Related to Research

(20) In addition to the requirements of this policy and its associated procedures researchers are required to disclose:

- a. to the University – all interests, collaborations, partnerships, contracts, grants, and other activities that are relevant or could appear to be relevant to proposed or ongoing research;
- b. to research participants, publishers, journal editors, collaborators and the public – any relevant interest as required; and
- c. to funding bodies, all relevant interests required by the provisions of the funding body's policies, regulations and rules and any associated Grant Agreement.

(21) Disclosure of relevant interests by researchers includes, but is not limited to:

- a. financial interests held by themselves, or a member of their immediate family;
- b. non-financial interests, including:
 - i. paid or unpaid board memberships or other affiliations with organisations that may benefit or be affected by their research;
 - ii. personal or social relationships and current and past professional relationships, where relevant;
 - iii. recent employment with, or any role in an organisation, which may have or has financial links or

affiliations with industry groups that could benefit or be affected by their proposed or ongoing research.

(22) Disclosure of financial interests by a Researcher should be considerate of the significance of the interest in terms of:

- a. value;
- b. source;
- c. perception by others; and
- d. circumstances.

(23) The Deputy Vice-Chancellor (Research and Innovation) will maintain a record of all institutional interests and make a determination about measures for managing any conflict of interest, including ensuring confidentiality is maintained where required.

Disclosure of Reportable Gifts and Benefits

(24) Any offer of a reportable gift or benefit, whether accepted or declined, must be disclosed in accordance with the [Conflict of Interest Procedure](#).

Registers

(25) The University will maintain registers for disclosed conflicts of interest, gifts and benefits, relevant interests; and declared personal interests, in accordance with the [Conflict of Interest Procedure](#).

Section 8 - Managing and Monitoring Conflicts of Interest

(26) Staff with functional responsibility for areas where there is a high risk (high risk areas) of a conflict of interest arising, must ensure that adequate controls are developed and implemented to identify, manage and monitor conflicts of interest in accordance with this policy and its associated procedure. High risk areas include, but are not limited to:

- a. research activities;
- b. procurement processes, tenders and contracts;
- c. staff recruitment, selection, appointment, re-classification, termination, promotion, staff development;
- d. student admission, enrolment, withdrawal, suspension, appeals and graduation processes;
- e. student facing areas including support services and teaching and academic relationships;
- f. collection and use of personal information;
- g. exercising financial and other delegations;
- h. alumni, philanthropy and donations; and
- i. marketing, and sponsorships to or from the University.

(27) The management of conflicts of interest will be:

- a. considerate of associated risks and their likelihood and consequences;
- b. considerate of a range of management options;
- c. timely in the implementation of response;
- d. clearly and accurately documented in accordance with the University's [Records Governance Policy](#).

(28) The management of conflicts of interest must include actions to monitor the effectiveness of the chosen management options and the introduction of further controls where necessary.

Evaluation and Assessment

(29) The University will ensure that the evaluation and / or assessment of its Conflict of Interest Policy and Procedures occurs on a regular basis to monitor compliance.

(30) Evaluation and/or assessment:

- a. may comprise the evaluation of the compliance of staff, other relevant people, and entities interacting with the University;
- b. will test the University's responsiveness to and management of conflicts of interest;
- c. will determine the University's ability and vigilance in detecting and addressing non-disclosure; and
- d. may result in the development of recommendations and findings to be reported to the University's governing body.

Governance

(31) The University Secretary will undertake an annual review of the registers for declarations and disclosures made during the calendar year, and report any concerns to the Executive Leadership Team and/or Council.

Section 9 - Training

(32) All staff are required to participate in and complete conflict of interest training as part of their induction, and then annually.

(33) Human Resource Services are responsible for the development and implementation of staff training.

Section 10 - Non-Compliance

(34) Non-compliance with the requirements of this Policy and its associated procedures, including refusal to take any reasonable action to resolve a conflict of interest, is considered a serious matter by the University.

(35) The University will consider the severity and implications of any breach of this Policy and its associated procedures, and may take action in accordance with:

- a. the [Code of Conduct](#);
- b. the misconduct / serious misconduct provisions of a relevant [enterprise agreement](#);
- c. an employment contract;
- d. the [Student Conduct Rule](#) (for student breaches); or
- e. this Policy.

(36) Breaches of this policy may result in:

- a. disciplinary proceedings; and/or
- b. referral or action taken to a statutory authority or agency.

(37) Breaches must be recorded in the University's [breach register](#).

Section 11 - Acknowledgements

(38) This Policy and its associated documents have been prepared with reference to:

- a. Conflict of Interest - Managing Conflicts of Interest in the NSW Public Sector (ICAC, April 2019);
- b. Guidance Note: Corporate Governance (TEQSA, 26 August 2019);
- c. Good Governance Guide - Conflicts of Interest (Governance Institute of Australia, 2019);
- d. Disclosure of interests and management of conflicts of interest - A guide supporting the Australian Code for the Responsible Conduct of Research (NHMRC, 2019);
- e. [Guidelines for Countering Foreign Interference in the Australian University Sector](#) (University Foreign Interference Taskforce, November 2019).

Status and Details

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Responsible Executive	Martin Sainsbury Chief People and Culture Officer martin.sainsbury@newcastle.edu.au
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Glossary Terms and Definitions

"Associated entity" - A separate legal entity which is controlled and operated by a separate governing body, but over which the University maintains significant influence but not control.

"University" - The University of Newcastle, a body corporate established under sections 4 and 5 of the University of Newcastle Act 1989.

"Risk" - Effect of uncertainty on objectives. Note: An effect is a deviation from the expected, whether it is positive and/or negative.

"Personal information" - Has the same meaning as in the Privacy and Personal Information Protection Act 1998 (NSW).

"Student" - A person formally enrolled in a course or active in a program offered by the University or affiliated entity.

"Research" - As defined in the Australian Code for the Responsible Conduct of Research, or any replacing Code or document.

"Staff" - Means a person who was at the relevant time employed by the University and includes professional and academic staff of the University, by contract or ongoing, as well as conjoint staff but does not include visitors to the University.

"University business" - Work that the University has directed to be undertaken which is required, essential, and beneficial for the functions of the University. This includes, but is not limited to, attending meetings, conferences or fieldwork, but does not include activity that is not location specific, e.g. email management, writing papers. University business may be undertaken by staff and non-staff.

"Intellectual property rights" - All present and future rights to intellectual property including any inventions and improvements, trademarks (whether registered or common law trade marks), designs, copyright, any corresponding property rights under the Laws of any jurisdiction and any rights in respect of an invention, discovery, trade secret, secret process, know-how, concept, idea, information, process, data, or formula.

"Researcher" - As defined by the Australian Code for Responsible Conduct of Research, or any replacing Code or

document.

"Foreign interference" - Foreign interference occurs when activities are carried out by, or on behalf of, a foreign actor that are coercive, clandestine, deceptive or corrupting and are contrary to Australia's sovereignty, values and national interests.