

# Conflict of Interest Procedure

## Section 1 - Introduction

(1) This procedure should be read in conjunction with the [Conflict of Interest Policy](#) (policy). This procedure supports the policy in:

- a. protecting the interests of the University and individuals; and
- b. maintaining public trust and confidence in the University's integrity, professionalism, operations and activities.

## Section 2 - Identifying Conflicts of Interest

(2) Persons to whom the Conflict of Interest policy and this procedure applies are responsible for proactively identifying conflicts of interest.

(3) The determination as to whether a conflict of interest exists must take each of the following elements into consideration:

- a. if a personal interest exists;
- b. if a public duty exists;
- c. if there is a connection between the personal interest and the public duty; and
- d. if a reasonable person could perceive that the personal interest may be favoured over the public duty.

(4) The [Guidance Note - Identifying Conflicts of Interests](#) has been developed to assist with identifying conflicts of interest.

## Section 3 - Disclosing Interests

### Conflicts of Interest

(5) Where it is identified that a conflict of interest exists, including circumstances where a reasonable person might perceive that a conflict of interest exists, the interest must be disclosed in accordance with this procedure.

(6) Where a line manager, meeting or governance body Chair, Panel Convenor, or any other person becomes aware of a conflict of interest that has not been disclosed, they should discuss the matter with the individual and encourage full disclosure in accordance with this procedure.

(7) Conflicts of Interest must be disclosed using the [Conflict of Interest Disclosure Form](#).

### Disclosure at Meetings and Panels

(8) A person in attendance at a meeting or panel that is scheduled to deal with any of the following, must declare any conflict of interest at the commencement of the meeting:

- a. matters of University governance;

- b. matters that are likely to be impacted by that persons personal interests; or
- c. decisions that are dependent on natural justice or procedural fairness, including but not limited to:
  - i. research misconduct;
  - ii. tenders, grants, donations, sponsorship, scholarships, recruitment, procurement, contract management or facilities and resources;
  - iii. complaints and grievances; and
  - iv. appeals.

(9) The disclosure may be made in a manner that does not disclose the specific nature of the conflict where this information may breach another person's privacy, but must provide sufficient information to allow the Chair or Panel Convenor to be satisfied that the conflict can be managed without its nature being disclosed.

(10) Where a conflict of interest is declared at a meeting the Chair or Panel Convenor is responsible for assessing the conflict of interest and determining the management response in accordance with this procedure. The Chair or Panel Convenor will declare at the commencement of meeting or panel deliberations that either:

- a. no conflict of interest exists in any matter before the meeting; or
- b. a conflict of interest exists in relation to a matter before the meeting.

(11) The following information must be recorded in the meeting / panel minutes:

- a. that a conflict of interest has been declared; and
- b. the manner in which it will be / was managed.

### **Disclosure Outside of Meetings**

(12) Conflicts of interest that become apparent during the course of duty or University business must be disclosed within seven (7) working days of it becoming apparent by the person with the conflict. Activities that may be impacted by a conflict of interest include, but are not limited to:

- a. recruitment and other human resource activities;
- b. staff / student misconduct processes;
- c. procurement / asset disposal activities;
- d. donor, sponsorship, grant and scholarship activities;
- e. debt waivers or concessional terms;
- f. contract or agreement-based activities;
- g. third party partnership arrangements;
- h. commencing or participating in legal proceedings; or
- i. student admission, selection, or academic processes including teaching or supervision.

(13) A conflict of interest may be declared by any other person who becomes aware of or perceives the conflict of interest.

(14) Disclosure of conflicts of interest that become apparent during an activity, process or project must:

- a. be made using the [Conflict of Interest Disclosure Form](#) and submitted to the Project Manager, line manager or a Senior staff member;
- b. be made as soon as possible;
- c. provide specific details regarding the nature of the conflict of interest and the persons involved; and

d. consider the privacy of persons involved.

(15) The Project Manager, line manager or Senior staff member in receipt of the disclosure must manage the Conflict of Interest in accordance with Section 6 of this procedure.

## **Disclosure of Personal Interests**

(16) At the commencement of employment with the University, staff will be required to complete a disclosure of personal interests, as a component of their induction.

### **Annual Disclosure of Personal Interests**

(17) Staff required to complete an annual disclosure of personal interests, as outlined in the [Conflict of Interest Policy](#), are required to disclose personal interests using the [Statement of Interests Declaration](#) by 30 November annually.

(18) This process will be co-ordinated by Human Resource Services.

(19) Annual Disclosures will be maintained by Human Resource Services in the Personal Interests Register and in accordance with the [Records Governance Policy](#).

(20) Staff who have made an annual disclosure of personal interests may update or change this declaration at any time in order to comply with the [Conflict of Interest Policy](#), by completing a new [Statement of Interests Declaration](#) Form and submitting this to Human Resource Services.

## **Disclosure of Relevant Interests by Researchers**

(21) In addition to the requirements of this procedure, and in accordance with the “Disclosure of interests and management of conflicts of interests – A guide supporting the Australian Code for the Responsible Conduct of Research”, Researchers must disclose all relevant interests, regardless of whether a conflict of interest is apparent. (See [Conflict of Interest Policy](#) for definition of “relevant interest”).

(22) Researchers are also required to disclose relevant interests to funding bodies, research participants, publishers and journal editors, collaborators and the public, where required or where in the national interest.

(23) In the context of Clause 21 and 22, relevant interests may include, but are not limited to:

- a. direct payments, salary, consultancy payments, speaking fees, panel memberships;
- b. indirect payments (including travel or travel subsidies);
- c. payments to support research such as industry funding;
- d. company shares or options;
- e. royalties;
- f. directorships;
- g. scholarships;
- h. operational or infrastructure support;
- i. proceeds from the sale of Intellectual property;
- j. board membership;
- k. personal or social relationships;
- l. current and past professional relationships;
- m. recent employment arrangements; and
- n. any of the above interests that are held by a member of the Researchers immediate family.

(24) Whilst it is the Researcher's responsibility to determine if an interest may or may not be relevant to any proposed or ongoing research, assistance in making this determination may be sought from the Research Ethics and Integrity Unit or the Deputy Vice-Chancellor (Research and Innovation).

(25) Relevant interests disclosed by Researchers must be recorded in the:

- a. Application Coversheet Form prior to submitting a proposal for external research funding where the interest relates to proposed research;
- b. Grant Establishment Form at the time of establishing new research funding where the interest relates to funded research;
- c. Updated Disclosure of Interest Form as soon as a relevant interest arises on a pending research application or funded research grant (e.g., outside work commitments; through purchase, marriage or inheritance; new Researcher, staff or student added to the project; new partnership or collaboration with a foreign entity or individual). This advice must be received by the Research Grants Office no more than thirty (30) days from discovering or acquiring the new relevant interest.

(26) Relevant interests that become apparent after the Grant Establishment Form is completed must be disclosed in a manner that provides specific details regarding the nature of the relevant interest, and must be made:

- a. in writing to a line manager or Senior staff member; and
- b. as soon as possible.

(27) Researchers are also required to declare relevant interests on an annual basis during the research project's active phase.

### **Disclosure of Institutional Interests**

(28) The Deputy Vice-Chancellor (Research and Innovation) is responsible for maintaining a record of institutional interests, when and if they become apparent, that may be perceived to affect the design, review, conduct and dissemination of research at the University of Newcastle, and determining measures for managing any associated conflict of interest. These institutional interests may include, but are not limited to:

- a. intellectual property rights;
- b. licence revenue;
- c. industry or government funding of individual research projects, programs or infrastructure; or
- d. shares or options held in spin-off enterprises.

## **Section 4 - Gifts and Benefits**

(29) Staff and members of University governing bodies must not solicit nor accept gifts or benefits either for themselves or for another person which might in any way be seen to directly or indirectly compromise or influence them in their official capacity.

(30) Gifts of money, including gift or store vouchers must not be accepted.

(31) Gifts or benefits of any value offered by students must not be accepted by any staff member or member of a University governing body.

### **Disclosure of Reportable Gifts and Benefits**

(32) Staff who are offered a reportable gift or benefit must complete a [Disclosure of Reportable Gifts or Benefits Form](#)

if the reportable gift or benefit is accepted or declined, and submit this to their supervisor and comply with the instructions on the form.

(33) The [Disclosure of Reportable Gifts or Benefits Form](#) should be completed within 7 working days of the reportable gift or benefit being offered.

## Section 5 - Registers

(34) The following registers will be maintained:

Register	Responsibility for Maintaining Register
Conflict of Interest Register (Staff)	Human Resource Services
Conflict of Interest Register (Council)	Governance and Assurance Services
Personal Interest Register	Human Resource Services
Reportable Gifts and Benefits Register	Human Resource Services
Research Grants Interest Register	Office of Deputy Vice Chancellor (Research and Innovation)

(35) All registers must be stored in the University's record management system, in accordance with the [Records Governance Policy](#).

## Section 6 - Managing Conflicts of Interest

(36) The person who has received a disclosure of a conflict of interest is responsible for:

- a. taking adequate steps to verify the accuracy of the disclosure commensurate with the seriousness of the conflict;
- b. assessing the risk of the conflict of interest, in accordance with the [Risk Management Framework](#);
- c. considering all options, and selecting the most appropriate option for managing the conflict interest;
- d. documenting the management response;
- e. implementing the management response; and
- f. forwarding the completed [Conflict of Interest Disclosure Form](#) to the area responsible for maintaining the associated register within (7) working days of implementing the management response.

### Assessing the Risk of a Conflict of Interest

(37) Each conflict of interest disclosed must be assessed to determine any associated risk. Risk factors may include:

- a. potential consequences if a personal interest was favoured over public duty;
- b. activities, transactions or projects relevant to the context of the conflict of interest;
- c. activities relevant to the impacted business unit, division or college;
- d. the person's involvement and their ability to influence;
- e. the person's personal interest; and
- f. potential deviations from process or probity issues.

(38) A formal risk assessment should be documented when:

- a. the conflict of interest relates to a sensitive or contentious issue; or

- b. the conflict of interest relates to a key University decision.

(39) Please see [Conflict of Interest Risk Assessment Considerations](#).

## **Conflict of Interest Management Options**

(40) Where the risk assessment of a conflict of interest determines the risk to be extreme (see [Risk Management Framework](#) – Consequence and Likelihood Tables, Risk Matrix), the management option must be to:

- a. remove the person from the relevant activity; or
- b. not proceed with the activity.

(41) Where the risk assessment of a conflict of interest determines the risk to be high (see [Risk Management Framework](#) – Consequence and Likelihood Tables, Risk Matrix), the management option must be to remove the person from the relevant activity, where this is practical. Where the removal of the person from the relevant activity is not practical, the management option(s) must be:

- a. approved by a Senior staff member; and
- b. assessed to determine if it will reduce the risk to an acceptable level (minor or lower risk level).

(42) Management options may involve a mix of responses. Management options considered should be:

- a. taking no further action (insignificant risk only);
- b. changing the person's relevant activities;
- c. changing the person's relevant personal interest; and/or
- d. changing the activity, project, system or process.

(43) The management response chosen should be tailored to the individual circumstances and ensure an appropriate level of confidentiality.

(44) Please see [Conflict of Interest Management Considerations](#) to assist with identifying suitable management options.

## **Documenting the Management Response**

(45) Regardless of the assessed risk, the management response implemented must be documented on the [Conflict of Interest Disclosure Form](#) to record the decision taken.

(46) Where the conflict of interest is assessed to be a high or extreme risk, a detailed plan of action must be documented to:

- a. allocate responsibilities for actions;
- b. determine and allocate monitoring actions;
- c. guide the implementation of the response; and
- d. record and detail when and how the response was implemented.

(47) All plans of action must be prepared in consultation with, and signed by, the conflicted person and approved by:

- a. an appropriate senior staff member;
- b. Council Member;
- c. the Chair of a meeting or Panel Convenor where the conflict of interest was disclosed in a meeting or panel; or

d. an independent panel.

(48) For activities or matters of high risk, periodic reporting of compliance with the documented plan of action for managing the conflict of interest is strongly recommended.

(49) For research activities or matters related to potential for foreign interference by a foreign entity or individual, periodic reporting of compliance with the documented plan of action for managing the conflict of interest is required to be made to the Deputy Vice-Chancellor (Research and Innovation).

(50) For other activities or matters related to potential for foreign interference by a foreign entity or individual, periodic reporting of compliance with the documented plan of action for managing the conflict of interest is required to be made to the Deputy Vice-Chancellor (Academic) and Vice President.

(51) Plans of action to manage conflicts of interest assessed as severe or major must include a further risk assessment post implementation to ensure that the risk has been reduced to an acceptable level.

(52) All documents relating to conflicts of interest must be managed in accordance with the [Records Governance Policy](#).

## Implementing the Management Response

(53) Implementation of management responses must:

- a. ensure that all agreed changes and control measures are implemented;
- b. seek additional resources where required;
- c. monitor changes in the conflict of interest and introduce additional control measures where necessary; and
- d. include prompts and reminders to others involved in the activity, project or matter to disclose any new or changed personal interests or conflicts of interest.

## Section 7 - Managing Non-Compliance

(54) Suspected, actual or potential non-compliance with this procedure and the [Conflict of Interest Policy](#) must be reported immediately to a senior staff member and recorded in the University's [breach register](#).

(55) Senior staff members who are advised of non-compliance must ensure that an investigation is undertaken in accordance with Clause 56, and appropriate action taken in accordance with the [Conflict of Interest policy](#).

(56) All investigations into non-compliance with this procedure and the [Conflict of Interest Policy](#) will be conducted:

- a. in accordance with the relevant [Enterprise Agreement](#), where applicable; or
- b. by a staff member who is senior to the person who has breached the procedure and who is independent of the breach; or,
- c. where 56b. cannot be met, by a party independent to the University and the breach.

(57) Records of investigations and actions taken to manage non-compliance must be managed in accordance with the [Records Governance Policy](#).

(58) Person's reporting or dealing with non-compliance with this procedure and its associated policy are required to maintain the highest level of confidentiality.

## Section 8 - Governance

(59) The University Secretary will review all Registers relevant to this procedure on an annual basis, and report any concerns as soon as possible to the Executive Leadership Team and/or Council, where relevant.

## Section 9 - Complaints

(60) Where a staff member has concerns, or perceives that a conflict of interest exists, the matter should be discussed with the relevant line manager, supervisor or senior staff member. If the matter cannot be raised or resolved this way, contact should be made with the Complaints Office, and the matter dealt with in accordance with the provisions of the [Complaint Management Policy](#).

(61) Where a student has concerns regarding the existence or management of a conflict of interest the matter can be discussed with Campus care or a Student Advocate. If the matter cannot be raised or resolved this way, contact should be made with the Complaints Office, and the matter may be dealt with in accordance with the provisions of the [Complaint Management Policy](#).

(62) Complaints regarding the management of conflicts of interest will be handled in accordance with the [Complaint Management Policy](#) and its associated procedures.

(63) Reports of wrongdoing in relation to a conflict of interest will be handled in accordance with the University's [Public Interest Disclosures Policy](#).



## Status and Details

<b>Status</b>	Historic
<b>Effective Date</b>	17th November 2020
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<b>Approval Authority</b>	University Council
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<b>Expiry Date</b>	7th April 2024
<b>Responsible Executive</b>	Martin Sainsbury Chief People and Culture Officer martin.sainsbury@newcastle.edu.au
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## Glossary Terms and Definitions

**"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.

**"Risk assessment"** - The overall process of risk identification, risk analysis, and risk evaluation.

**"Working day"** - Any day other than Saturday, Sunday, or a public holiday in Newcastle, on which business may be conducted.

**"Asset"** - Any tangible or intangible item (or group of items) that the University owns or has a legal or other right to control and exploit to obtain financial or other economic benefits.

**"Campus care"** - The program which has been set up as a central point of enquiry for information, advice and support in managing inappropriate, concerning or threatening behaviours.

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

**"Intellectual property"** - Intellectual property (IP), as defined by the World Intellectual Property Organisation, refers to creations of the mind: inventions; literary and artistic works; and symbols, names and images used in commerce. Intellectual property is divided into two categories: Industrial property includes patents for inventions, trademarks, industrial designs and geographical indications; and Copyright covers literary works (such as novels, poems and plays), films, music, artistic works (e.g. drawings, paintings, photographs and sculptures) and architectural design. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television programs.

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

**"Senior staff"** - Deputy Vice-Chancellor, Pro Vice-Chancellor, Global Innovation Chair, Global Innovation Professorial Fellow, Head of School, Director or equivalent.

**"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.

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

**"College"** - An organisational unit established within the University by the Council.

**"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.