

Conflict of Interest - Governing Policy

1. Purpose of policy

1.1 This policy outlines the obligations for members of the University community regarding the management of conflicts of interest. This policy has been established by the University to protect its reputation and assist members of the University community with maintaining high ethical standards, fairness and integrity in all University dealings.

2. Policy scope and application

2.1 This policy applies to all members of the University community when participating in activities related to the University.

3. Definitions

Please refer to the University's Glossary of Terms for policies and procedures. Terms and definitions identified below are specific to this policy and are critical to its effectiveness:

A Conflict of interest occurs when there is a conflict between a member of the University community private interests and their university duties where they could be influenced, or appear to be influenced, in the performance of their official duties and responsibilities with the University. A conflict of interest involves:

Actual Conflict of interest involves a direct conflict between a University community member's current duties and responsibilities and existing private interest.

Perceived conflict of interest can exist where it could be perceived, or appears, that a member of the University community's private interest could improperly influence the performance of their duties – whether or not this is in fact the case.

Potential conflict of interest arises where a member of the University community has private interests that could conflict with their official duties in the future.

Commercialisation means to exploit commercially and includes:

- (a) the exercise of all the rights granted to the holder of intellectual property rights, including where permitted the right to license or assign those rights
- (b) in relation to a product, kit, apparatus, substance, documentation, software or information resource (or any part of such materials) – to make, distribute, market, sell, publish, hire out, lease, supply, or otherwise dispose of it, and
- (c) in relation to a method or process – to use the method or process or to make, distribute, market, sell, hire out, lease, supply, or otherwise dispose of a product, kit or apparatus the use of which is proposed or intended to involve the exercise of the method or process.

Creator means a staff member, student or invited scholar who creates UniSC intellectual property, including a staff member, student or invited scholar who:

- (a) in the case of a patentable invention subject to the Patents Act 1990 is an inventor
- (b) in the case of a copyright work or similar subject matter to the Copyright Act 1968 is an author
- (c) in the case of a trademark subject to the Trade Marks Act 1995 is a person who developed or first used the trade mark
- (d) in the case of designs registrable under the Designs Act 2003 is a designer
- (e) in the case of plant breeder's rights, under the Plant Breeder's Rights Act 1994 is a principal breeder
- (f) in the case of circuit layouts, under the Circuit Layouts Act 1999 is a designer, and
- (g) in the case of trade secrets and know how is a creator of that body of knowledge.

APPROVAL AUTHORITY

Council

RESPONSIBLE EXECUTIVE MEMBER

Vice-Chancellor and President

DESIGNATED OFFICER

Director, People and Culture

FIRST APPROVED

23 August 2016

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STATUS

Active

Foreign influence All governments, including Australia's, try to influence deliberations on issues of importance to them. These activities, when conducted in an open and transparent manner, are a normal aspect of international relations and diplomacy and can contribute positively to public debate.

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

Intellectual property: refers to all present and future rights conferred by statute, common law or equity in any jurisdiction which protect intellectual and creative effort recognised by law as defined by Article 2 of the Convention establishing the World Intellectual Property Organisation of July 1967.

Private interest is any interest, financial or non-financial, for an individual or for any other person or organisation where the individual may wish to benefit (directly or indirectly through family, friends, associates) or disadvantage competitors or rivals.

Research: as defined in the *Australian Code for the Responsible Conduct of Research*.

Researchers: All staff, students, adjunct and conjoint appointments, visiting academics and research fellows who engage in research activity under the auspices of the University

Staff member means anyone engaged by and who receives payment for work done for the University in a permanent, casual, or fixed-term (whether full-time or part-time) role.

University community means all staff members, adjunct and honorary title holders, members of University council, students, consultants, contractors, volunteers, researchers and external appointees of Council, boards and committees of the University.

4. Policy statement

4.1 This policy outlines the principles for the identification, disclosure and management of any actual, potential or perceived conflicts of interest by members of the University community. This policy supports the University's duty under section 6(d) of the *Public Sector Ethics Act 1994 (Qld)*, to ensure that any conflict of interest will be resolved or appropriately managed in favour of the public interest.

5. Principles

5.1 The University recognises that conflicts of interest are not uncommon in a workplace and if disclosed, they can, in the most part, be managed using relevant strategies to ensure they do not negatively impact the University. However, if conflicts of interest go undisclosed, or are not adequately managed, they can have a negative impact on the University.

5.2 The University is therefore committed to creating a conflict of interest management framework that includes appropriate education and awareness for all members of the University community.

5.3 It is imperative that all members of the University community, when performing their duties, follow the ethical standards of conduct as set out in the Staff Code of Conduct – Governing Policy, other relevant policy documents and for students, the Student Conduct – Governing Policy by acting in good faith towards the University. Where conflicts of interest do arise, all members of the University community must manage those conflicts appropriately and in accordance with the following principles:

- (a) to protect the University's interest ensuring that all decision making is impartial and objective;
- (b) to protect the reputation of the University by maintaining ethical standards of good judgement, fairness and integrity in all its dealings;
- (c) to ensure that employees always observe the highest standard of professional ethical conduct;
- (d) to avoid any activity or interest that might reflect unfavourably upon a member of the University community's own integrity and good name, or upon the integrity and good name of the University;
- (e) restrict the extent to which a private interest could compromise, or be seen to compromise, their impartiality when carrying out their official duties;
- (f) abstain from involvement in official decisions and actions which could be compromised by other private interests and affiliations;
- (g) avoid private action in which they could be seen to have an improper advantage from confidential/privileged information they might have access to because of their official duties;
- (h) ensure that they do not use their official position or University resources for private personal gain or gain by others with whom the staff member has a relationship or close personal association;
- (i) ensure that there can be no perception that they have received an improper benefit that may influence the performance of their official duties; and

(j) ensure they do not take improper advantage of their official position or confidential/privileged information gained in that position when seeking employment or other opportunities for personal benefit outside the University or provide such advantage to others with whom they have an association.

5.4 Identifying conflicts of interest

5.4.1 General conflicts of interest

While it is not possible to set out a definitive list of instances, conflicts may arise through:

(a) conflict of roles - where individuals have more than one official role at the University or an official role or participation in a different organisation, it may be difficult to keep their roles separate;

(b) private interests - a conflict of interest may be pecuniary or non-pecuniary and can arise from avoiding personal losses as well as gaining personal advantage;

(c) personal relationships – members of the University community should not be involved in decisions or processes affecting the employment or academic administration of a person with whom the member has a current or previous personal relationship;

(d) personal benefits - a conflict of interest may occur where a member of the University community receives a benefit which is, or may be perceived as, an incentive or inducement to perform or not to perform an official function or duty; or

(e) University facilities, resources and/or equipment are not to be used for personal benefit or the benefit of a third party. Additionally, the access to, or use of, University documents and information obtained in the course of University duties is not to be used for personal benefit or the benefit of a third party.

5.4.2 Personal relationships

(1) Members of the University community must not be involved in decisions or processes relating to persons whom they have a close personal relationship with. This includes, but not limited to, decision-making and processes regarding:

(a) the purchasing of goods or services for the University where a member of the University community involved in the decision-making or process has a relationship with the supplier or an employee of the supplier;

(b) the recruitment, appointment, promotion or other personnel where personal relationships exists with one or more party/ies;

(c) students where a personal association exists, including assessments, scholarships, placements, prizes, examination results and other matters relating to a student's academic progress or records;

(d) the supervision or oversight of another staff member, student or other person associated with or contracted to the University where a close personal relationship exists; or

(e) business decisions or processes where there is a close personal relationship with competitors or businesses operating in the same areas as the University.

5.4.3 Gifts and benefits

(1) Members of the University community must not accept any gift or benefit which could create a conflict of interest or be perceived to create such a conflict. Acceptance of gifts or benefits (financial or otherwise), including conference attendance, entertainment, travel, accommodation expenses or hospitality must be consistent with, and declared in accordance with, the University's Staff Gifts and Benefits – Operational Policy and Procedures.

5.4.4 Research, commercialisation and intellectual Property

(1) Members of the University community involved in research have obligations under the *Australian Code for the Responsible Conduct of Research* (The Code), which include responsibilities to disclose and manage conflicts of interest. As such, University community members involved in research must also refer to the University's Responsible Research Conduct - Governing Policy and Intellectual Property – Governing Policy.

(2) Members of the University community involved in research must not allow their private interests to interfere or perceive to interfere with research and commercialisation activities.

(3) Research conflicts of interest can occur when an independent observer may reasonably conclude that a researcher's other interests may unduly influence the design, conduct, outcome or reporting of the research. This includes financial, personal, familial, professional and organisational interests.

(4) Commercialisation conflicts of interest can occur when an independent observer may reasonably conclude that the personal benefits a researcher makes from commercialisation activities may unduly influence their University duties and cause them to not act in the best interest of the University.

(5) Researchers have a responsibility to identify and assess conflicts of interest in relation to research and commercialisation activities.

(6) When determining whether a conflict of interest may exist in a research or commercialisation activity, researchers should consider how their private interests might impact on their university duties and how those interests might be perceived to independent observers. Factors to consider include (but are not limited to):

- direct payments, such as salary, consultancy payments, speaking fees, panel memberships
- indirect payments, such as funding of travel, accommodation, professional development, hospitality
- payments to support research, such as funding from an industry or interest group
- company shares or options
- royalties
- directorships
- scholarships
- operational or infrastructure support
- whether there is a future expectation of a benefit, for example, proceeds from the sale of IP arising from a project or the promise of shares in a spin-off company
- board membership (paid or unpaid) or other affiliation with an organisation that could stand to benefit from or be affected by the research
- personal or social relationships and current and past professional relationships, where relevant
- recent employment with, or role in, organisations with financial links or affiliations with industry groups that could stand to benefit from or be affected by the research.

5.4.5 University consultancy and outside work

(1) While University consultancy and outside work is permitted for staff members under certain circumstances, conflicts of interest must be considered prior to approval. Situations where a conflict of interest may exist include, but are not limited to:

(a) holding memberships, directorships, executive positions, shareholdings or ownerships of other companies, organisations, or businesses that are in serious competition or conflict with the University; or

(b) employment (or voluntary work) external to the University of a kind, whilst still employed by the University, where that work may be in conflict with the objectives of the University.

(2) Staff members must refer to the Outside Work and Private Practice – Operational Policy and Procedures and the University Consultancy Work – Operational Policy and Procedures.

5.4.6 Foreign influence and Foreign interference

(1) Foreign influence

Members of the university community are required to register certain activities under the *Foreign Influence Transparency Scheme Act* if they are taken on behalf of a foreign principal. The types of activities that may be registrable include the following activities if undertaken on behalf of a foreign principal for the purpose of political or government influence:

(a) lobbying;

(b) disseminating information or material;

(c) distributing things or money.

Any proposed registrable activities must be promptly disclosed to the Chief Operating Officer as the Chief Safety and Security Officer for assessment and approval.

(2) Foreign interference

Members of the University community must promptly disclose to the Chief Operating Officer as the Chief Safety and Security Officer any Conflicts of interest that give rise to the risk of Foreign interference, including identifying actual or proposed foreign affiliations, relationships and financial interests, such as where a member of the university community:

(a) receives financial support (cash or in-kind) for education or research related activities from a country other than Australia.

(b) holds a position (paid or unpaid) or honorific titles in any foreign university, academic organisation or other entity, or has an obligation to or receives a benefit from a foreign university, academic organisation or other entity.

- (c) associates or affiliates with a foreign government or foreign military, policing or intelligence organisation.
- (d) experiences harassment, intimidation or other behaviour from or on behalf of a foreign University, academic organisation or other entity that is intended to cause or may lead to self-censorship.

5.4.7 Council members

- (1) In keeping with the obligation of the members of Council pursuant to the *University of the Sunshine Coast Act 1998* (Qld) to 'act in the way that is most likely to promote the University's interests', all Council members must act in good faith in avoiding conflicts of interest and the perception, whether founded or not, of a conflict of interest between the interests of the University and their own personal, professional and business interests.
- (2) Each Council member must, upon appointment, be provided with a copy of this policy and its related procedures.
- (3) Council has identified the following circumstances as being indicative of circumstances which will or may give rise to conflicts of interest requiring disclosure under this policy and its associated procedures. This is not exhaustive however an indication of the types of conflicts of interest relevant to Council Members:
 - (a) outside interests including but not restricted to:
 - (i) a contract, consultancy or transaction between the University and the Council member or a family member of that Council member.
 - (ii) a contract, consultancy or transaction between the University and a company, organisation, partnership, business or entity in which the Council member or a family member of that Council member, has a material financial or controlling interest or of which such person is a director (or equivalent position), officer, agent, partner, associate or trustee.
 - (b) a personal relationship with a member of staff or student of the University where a decision of the Council affects or is likely to affect that person.
 - (c) an academic position held by a Council member with another university where a decision of Council affects or is likely to affect an aspect of competing specific academic goals of this University and that other university e.g. in relation to a decision to introduce a new course to the University.
 - (d) a professional position or involvement of a Council member outside the University which is affected or likely to be affected by a decision of the Council e.g. a decision to engage or not engage, under contract, a firm of which a Council member's business is a significant competitor.
 - (e) gifts, gratuities and entertainment e.g. received from a third party who has, or may reasonably be considered to have, an interest in the outcome of a decision of Council.

5.5 Disclosing and managing a conflict of interest

5.5.1 Members of the University community are obligated to identify, disclose and manage situations involving conflicts of interest in accordance with the *Conflict of Interest – Procedures*.

5.5.2 The University has adopted the following strategies to manage conflicts of interest as set out in the Crime and Corruption Commission (CCC)/Independent Commission Against Corruption (ICAC) publication, *Managing Conflicts of Interest in the Public Sector*:

- (a) Register: all conflicts of interest are registered regardless of the management strategies adopted;
- (b) Restrict: restrictions are placed on a University community member's involvement in a matter;
- (c) Recruit: a disinterested third party is used to oversee part or all of the process that deals with the matter;
- (d) Remove: members of the University community remove themselves from any involvement in the matter (e.g. absenting oneself from discussion and decision making);
- (e) Relinquish: members of the University community relinquish the private interest that is creating the conflict; and
- (f) Resign: members of the University community resign from their position (last resort).

5.6 Privacy and confidential information

5.6.1 Recording and reporting conflicts of interest may involve the collection, storage, use or disclosure of personal information. Any personal information collected, stored, used or disclosed under this Policy will be handled according to the University's *Information Management Framework – Governing Policy*.

5.6.2 Records of any notification of conflicts of interest will be maintained in an approved and secure recordkeeping system, in accordance with the *Information Privacy Act 2009* (Qld) and the University's *Information Management Framework – Governing Policy*.

Notifications regarding staff conflicts of interest will be stored on the staff member's personnel file as well as on the Conflict of Interest Register.

5.6.3 Confidentiality will always be maintained by all persons involved in the notification and management of conflicts of interest to ensure that confidential disclosures are protected from misuse.

5.7 Reporting and failure to comply

5.7.1 Any person who has knowledge that a conflict of interest may exist that has not been appropriately disclosed, should discuss the situation with a relevant supervisor, Cost Centre Manager, Executive Member or People and Culture representative. Such reports, where applicable, will be considered under the University's *Fraud and Corruption Control - Governing Policy* and the *Public Interest Disclosures – Governing Policy*.

5.7.2 Any person who is concerned that a research related or research commercialisation conflict of interest has not been disclosed or managed in accordance with University policy and procedures, or who wishes to lodge a complaint, should follow the process set out in the University's *Managing and Investigating Breaches of Responsible Research Conduct – Procedures*.

5.7.3 Examples of departures from appropriate management of conflicts of interest include (but are not limited to):

- failing to disclose a relevant interest in a timely manner; and
- failing to abide by any decisions as to the management of a conflict of interest.

5.7.4 For staff, a failure to comply with this Policy and the accompanying procedures may constitute a breach of the University's *Staff Code of Conduct – Governing Policy* and may be dealt with as misconduct or serious misconduct in accordance with the relevant clauses in the Enterprise Agreement or instrument of appointment.

5.7.5 A member of the University's Council who fails to disclose a conflict of interest in the exercise of their functions may be removed from office under provisions of the *University of the Sunshine Coast Act 1998 (Qld)*.

5.7.6 Other members of the University community who do not comply with this policy may have their association with the University terminated and rights of access to university services, facilities or infrastructure revoked. Failure for students to comply will also be considered for potential misconduct under the *Student Conduct – Governing Policy*.

5.7.7 Some breaches of this policy may also have consequences for staff members and other members of the University community under criminal or civil provisions of the general law.

6. Authorities/Responsibilities

The following authorities/responsibilities are delegated under this policy:

ACTIVITY	UNIVERSITY OFFICER/COMMITTEE
Responsible for the overall management of conflicts of interest process within the University.	Vice-Chancellor and President
Ensure the University's Conflict of Interest Register is maintained and that management plans put in place are consistent with this policy and associated procedures.	Director, People and Culture
Escalate any conflict of interest involving a foreign entity to the Chief Operating Officer as the Chief Safety and Security Officer in accordance with the University's Countering Foreign Interference Framework.	
Implement and manage regular education and awareness training on conflicts of interest.	
Implement relevant prevention and detection strategies to assist the University in mitigating corruption risks regarding undisclosed conflicts of interest.	
Ensure Council is informed of all notifications of Conflicts of Interest where they bear on the discussion of Council matters.	Council Secretary
Ensure Councillors' Interests Register is maintained.	
Notify the Council Secretary of relevant interests and relationships and complete appropriate formal disclosure documentation.	University Council Members
Be aware of the risks of conflicts of interest, inherent in the work of the staff they manage.	Supervisors, Senior Staff

Ensure all members of the University community know they are responsible for, are aware of the University's policy and the requirements for disclosure and management of conflicts of interest.

Record any disclosed conflicts of interest.

Advise staff about appropriate ways to manage conflicts.

Assist staff who disclose conflicts to prepare management strategies and review all conflict management strategies at regular intervals.

Take all reasonable steps to monitor the work of staff and the risks they are exposed to.

All members of the University community are responsible for promptly identifying, formally disclosing and managing any interests which may result in conflict with their duties and responsibilities at the University. In disclosing conflicts, they must ensure that they do not seek to influence, directly or indirectly, the advice provided by, or actions of, management and administration in matters relating to the interest.

All members of the university community

Participate in training and educational sessions regarding the management of conflicts of interest

END

RELATED DOCUMENTS

- Financial Management Practices - Operational Policy
- Governance Framework - Governing Policy
- Information Management - Governing Policy
- Intellectual Property - Governing Policy
- Intellectual Property: Commercialisation of Research Outcomes - Procedures
- Intellectual Property: Commercialisation Revenue - Procedures
- Intellectual Property: Student IP - Procedures
- Intellectual Property: Transfer of Rights to Creators - Procedures
- Managing and Investigating Breaches of Responsible Research Conduct - Procedures
- Marketing and Communications - Operational Policy
- Outside Work and Private Practice - Operational Policy
- Public Interest Disclosures - Governing Policy
- Public Interest Disclosures - Procedures
- Recruitment, Selection and Appointment - Operational Policy
- Resolution of Complaints (Staff) - Guidelines
- Responsible Research Conduct - Governing Policy
- Staff Code of Conduct - Governing Policy
- Staff Gifts and Benefits - Operational Policy
- Student Conduct - Governing Policy
- University Consultancy Work - Operational Policy

LINKED DOCUMENTS

- Conflict of Interest - Procedures

SUPERSEDED DOCUMENTS

- Councillors' Interests - Governing Policy

RELATED LEGISLATION / STANDARDS

- Public Sector Ethics Act 1994 (Qld)
- University of the Sunshine Coast Act 1998 (Qld)
- Financial Accountability Act 2009 (Qld)
- Australian Code for the Responsible Conduct of Research (2018)
- Crime and Corruption Act 2001 (Qld)
- Information Privacy Act 2009 (Qld)
- ARC Guidelines for Disclosure of Interests and Confidentiality Obligations (Cwth)
- NHMRC Guideline Development and Conflicts of Interest (Cwth)
- Foreign Influence Transparency Scheme Act 2018 (Cwth)
- Australia's Foreign Relations (State and Territory Arrangements) Act 2020 (Cwth)
- Guidelines to Counter Foreign Interference in the Australian Universtiy Sector