

# Policy: Conflict of interest and commitment

## Purpose

To set out principles and means for handling conflicts of interest or conflicts of commitment.

## Overview

Overview of the principles and means for handling conflicts of interest or conflicts of commitment.

## Scope

This Policy applies across the University.

## Definitions

**Conflict of Interest** occurs when the private interest of a staff member may influence or compromise the conduct of that staff member in the conduct of their activities at the University, including when making decisions, determining research directions or unduly influencing relationships between that person, their colleagues and students. Apparent or perceived conflicts may undermine trust and be as damaging as an actual conflict.

**Conflict of Commitment** occurs when the private interests or non-University activities may harm or interfere with the productivity and involvement of University staff. This refers to an individual's distribution of efforts between employment obligations to the University and to outside professional activities. In this policy "conflict" or "conflict of interest" also includes a conflict of commitment.

**Close personal relationship** means a relationship with persons who are relatives, other financial dependent persons, a de facto partner (defined as a person who has committed to long term personal relationship with another person of the same or opposite gender) or any person with whom there is currently, or has been in an intimate relationship. It is not intended that relationships which exist due to ordinary collegiate academic collaboration fall into this category.

**Staff member** means a person who is employed by the University, or who is given Academic Status or who has official visiting status.

**Supervisor** means the person identified as such according to the ANU Enterprise Agreement, or, if the staff member is not covered by the Agreement, the person whom the staff member is principally responsible while at the University.

**Financial Interest** means any right, claim, title or legal share in something having a monetary or equivalent value. Examples of Financial Interest include, but are not limited to, shares, share options, and the right to receive remuneration, such as salary, consulting fees, allowances, discounts and the like. Excluded from this definition is an investment by a superannuation, mutual, pension or other institutional investment fund in which a staff member has an interest but over which the staff member does not exercise control.

**Significant Financial Interest** means:

- A staff member or those with a close personal relationship with that staff member
- Holding a remunerated management or scientific advisory position in an External Entity.
- The option to obtain equity or the close proximity of equity in a potential new External Entity; or
- A long-term exclusive or otherwise significant consulting arrangement with an External Entity in a contractual relationship with the University (for example, where a staff member receives an annual income in excess of \$10,000 from such an entity).

An **equity position** will not be considered a Significant Financial Interest unless:

- The equity represents a significant share in the External Entity (in general, a holding of over 5% of the company's shares would be presumed to be significant; holdings of less than 5% will require case-by-case consideration); or
- The proposed license or the originator's future research is likely to have a significant impact on the value of the company.

**External Entity** means any corporation, partnership, sole proprietorship, firm, franchise, association, organisation, company, business, or any other legal entity organised for profit, which is not the University or an entity controlled by the University, or a governmental entity.

## Policy Statement

### Standards of Conduct

1. The University has a responsibility to ensure that its official activities and

those of its staff and students conform to acceptable standards of integrity and good administrative conduct. It is the policy of the University that its officers and staff, and others acting on its behalf avoid ethical, legal, financial, or other conflicts of interest, and ensure that their activities and interests do not conflict with their obligations to the University or its welfare.

2. The [Code of Conduct](#) refers to the general standards of conduct expected of University staff. The increasing complexity of conflicts, including those of personal relationships and financial gain from outside commercial activities, make clear principles and procedures essential. The provisions of the *Public Governance, Performance and Accountability Act 2013* bind University employees and officers to behave in good faith, avoid conflicts of interest and commitment and act with propriety when making decisions about University matters.

3. Members of staff also have a common law obligation of confidentiality and loyalty of service to the University, and must ensure that sensitive and confidential matters relating to the work or administration of the University are not improperly disclosed, either internally or externally.

**Commercial Conflicts are potential conflicts in which the University has a particular interest and must be disclosed such as:**

4. Fiduciary relationships means being a director, partner, or trustee is an example of the creation of a fiduciary relationship. If that relationship is owed to an External Entity there is real potential for a person's obligations to that External Entity to conflict with any obligation they may owe to the University, particularly where that person is a staff member. Staff should not be in a position to direct University resources that can influence an External Entity's development if they are directors or shareholders in it. Potential conflicts between a person's role with that External Entity and their University role are likely to be such that the person may be unable to hold both a University position and a position with the External Entity.

5. Some appointments of this type require approval by the Vice-Chancellor, as well as disclosure to the supervisor under the [Company directorships, secretaryships and partnerships policy](#).

6. Negotiating interests means there is potential conflict for staff to negotiate personally the terms under which any intellectual property, or other property of the University, is to be sold, licensed or transferred to an External Entity, in which the staff member has a Financial Interest. The required course of action is for a representative of the External Entity who is not a staff member of the University, or a person with whom the staff member has a close personal relationship, to be

appointed to negotiate with the University, allowing negotiations to be conducted at arms length from any staff member with a Financial Interest.

7. Shareholdings means that in some cases holding shares in a company may create a conflict including, for example, a staff member holding shares in a company controlled by one of the students or staff over whom they have responsibility. Similarly holding shares in a company that is sponsoring research at the University, where that research is managed or controlled by that staff member represents a potential conflict.

8. Non-executive roles in External Entities means holding positions such as Chief Scientific Officer in companies sponsoring research at the University and conducting research at the University while simultaneously a staff member may create a conflict. Time commitments in fulfilling non-executive roles may create a conflict of commitment such that a staff member's University employment may have to revert to part time to allow both commitments to be fulfilled.

**Other Conflicts also requiring disclosure are:**

9. Remunerated or honorary positions and other connections with educational institutions which may give rise to a conflict of interest, including relevant external government or public committees, such as research councils, charities, government departments, professional bodies and training organisations.

10. Prolonged absence – a staff member having a commitment outside the University that involves frequent or prolonged absence from the University on non-University business. The allowable exceptions are teaching or research activities performed in the course of normal OSP or other approved leave that are routinely subject to disclosure and approval processes.

11. Gifts or offers of gifts of significant value, other than official gifts, and ex gratia payments.

12. Ownership or part-ownership or other interest in property in the vicinity of the University.

13. Representational or other non-official interests relevant to the University (e.g. election as a Member of Parliament for an electorate including all or part of the University).

14. Engagements limiting the scope of activity at the University such as a staff member, as part of an arrangement with a non-University affiliated entity, agreeing to any limitations on the staff member's performance of research or teaching duties for the University (e.g. through agreements containing exclusive provider, non-competition or right of first refusal clauses).

## Potential Areas of Conflict

15. There are many possible conflicts of interest or commitment. Conflicts can arise from commercial interests, ethical, political or religious views or personal relationships.
16. The potential for a conflict does not necessarily imply wrongdoing on anyone's part. The University requires the principles underpinning this policy to be applied to resolve conflicts whenever they arise.
17. The most common are those arising from commercial interests and close personal relationships and this policy provides some additional guidance on managing such conflicts.

### **When a close personal relationship exists between staff it is the University's policy that:**

18. One party should not be the direct supervisor of the other.
19. One party should not be involved in decision-making or procedures leading the appointment, promotion or any other determination relating to employment conditions, benefits or entitlements for the other party.
20. One party should not have access to the personal file of the other.
21. The relationship between the parties should not affect the interests of other parties. Because the effects on other people at work or in the classroom are frequently not apparent to the persons involved in a close personal relationship, anyone with such an involvement should be attentive to the feelings of colleagues and to the potential conflicts of interest that may be involved.
22. Where there is a close personal relationship involving students it is University policy that the staff member should not be involved in the supervision, progress, assessment, examination or grading of students with whom they have a close personal relationship with. The supervisor to whom notification of such a close personal relationship is made (by either the staff member or the student) should immediately take steps to avoid perceived, actual or potential conflicts of interest in respect of the staff-student relationship.
23. Where a staff member is involved in a course that includes the student with whom they have a close personal relationship with, and the staff member or student's involvement in the course is unavoidable, steps to redress the conflict that has arisen may include:
  - Where a staff member could be involved in setting any assessment to be undertaken by a class that includes the student an independent third party should

set the assessment and mark the papers.

- Where a staff member could be involved in the ranking of a group of students which includes the student, alternative examiners should be appointed to ensure any ranking is transparently made on merit.
- In the case of graduate students, staff should not be involved in the supervision, assessment or examination of a student who is in a close personal relationship, or in material decisions relating to that student's program.

### **Financial conflicts of interest may arise:**

24. Where a staff member, who has budgetary responsibilities for an organisational unit, also has a personal interest (or a person with whom the member has a close personal relationship has a personal interest) in an activity that is to be funded out of that unit;

25. From a University researcher's financial involvement in an external company that funds part of the research being undertaken by the researcher at the University, such that the researcher's activities at the University could lead to professional, personal or economic gain, thereby providing incentive to bias the design, conduct or reporting of research;

26. With respect to University financial decisions in which the staff member is involved, including but not limited to investments, loans, purchases or sales of goods, services, equity (shares) and financial accounting decisions;

27. With respect to matters with both financial and non-financial implications, such as decisions about the use of University equipment and facilities and the negotiation of research and license agreements.

### **Privacy**

28. The University recognises that the disclosure by an individual of a potential conflict could involve the disclosure of personal information. The University adheres to the *Privacy Act 1988* and will treat information provided in accordance with its principles. Any individual who is concerned about the potential ramifications of disclosing particular information may raise their concerns directly with the Deputy Vice-Chancellor, particularly if they feel it is inappropriate to disclose such information to their supervisor. The Deputy Vice-Chancellor will determine how and to whom any information is subsequently disclosed bearing in mind the requirements of this policy and the privacy of the individual concerned.

## Document information

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