

Conflicts of Interest Procedures

INTRODUCTION

Conflicts of interest or of commitment are not unusual in the exercise of public responsibility. It is important that members of the University community who are in a position to influence or commit University resources are able to recognise, declare and manage conflicts of interest and situations where there is a real, potential, or perceived conflicts of interest or commitment.

COMPLIANCE

This is a compliance requirement under the [Australian Charities and Not-for-profits Commission Regulation 2013](#).

INTENT

This document outlines the University's disclosure requirement and management response to situations involving conflicts of interest or of commitment, whether they are real, potential or perceived.

RELEVANT DEFINITIONS

In the context of this document

Benefit means anything that provides an individual with a direct or indirect personal gain or the potential for personal gain or gain to a third party that may benefit the individual either directly or indirectly. Such a gain need not be financial; it could be a personal or a non-financial gain. Examples of a benefit may include: the provision of materials or facilities, support of individuals through the provision of benefits (e.g. travel, gifts, entertainment, accommodation expenses etc.), or a financial benefit;

Business Relationships means external contractual relationships, partnerships, private companies, business names or any other commercial trading activity;

Close Personal Relationship means relationships, which may lead to a real or perceived conflict of interest, specifically family relationships (husband/wife, de facto partner, siblings, parent/child, relations by marriage such as brother or sister-in law); and emotional relationships (which might include intimate relationships and close friendships);

Conflict of interest means a situation where a conflict arises for an individual between two (2) competing interests. These are often, but not exclusively, interests of public duty versus private interests. This refers to real, potential or reasonably perceived conflicts of interest. Conflicts of interest can involve financial or non-financial interests of a staff member or other member of the University community and the interests of a business partner or associate, family member, friend or person in a close personal relationship with the staff member or other member of the University community;

Conflict of commitment means where a situation may exist when a staff member or other member of the University community has a relationship that requires a commitment of time or effort to non-University activities, such that an individual, either implicitly or directly, cannot meet the usual obligations to the University;

Consultant means an individual or organisation engaged by the University provide goods or services. This also includes contractors;

Financial Benefit means a benefit in the form of remuneration, payment or gift received by an individual. Financial benefits might also include investments, ownership or directorship of any companies, consultancies, provision of goods or services, receipt of royalties or other consideration;

Senior Executive means a staff member of the University holding the position of Vice-Chancellor, Provost, Deputy Vice-Chancellor, Pro Vice-Chancellor or Chief Financial Officer;

Senior Manager means a staff member of the University holding the position of Head of School or Director;

Staff member means anyone employed by the University and includes all continuing, fixed-term, casual, adjunct or honorary staff or those holding University offices or who are a member of a University committee;

Supervisor means a staff member of the University who oversees the day-to-day work of an individual or group of people. This includes the Chair of a University committee;

University community means all staff members, students, alumni, consultants, contractors and external appointees of Council, boards and committees of the University. It also includes volunteers, authorised visitors and members of the public to the University;

Volunteer means an individual not receiving remuneration as a staff or council member, who assists the University to perform an activity for, or on behalf of, the University.

PROCEDURES

Individual Responsibility for Disclosure

In many cases, only the individual member involved will be aware of the real, potential or perceived conflict. It is the responsibility of the individual to notify his or her supervisor, in a timely manner, if a real, potential or perceived conflict exists or is likely to arise.

Advice

Members of the University community, who are uncertain as to whether or not they are in a situation where a real, potential or perceived conflict exists, should seek advice from the Director, Strategic Services and Governance. The Conflicts of Interest [webpage](#) has examples, but some situations will need to be the subject of discretionary judgements as and when they arise.

Disclosure

If a matter arises at a Council, board or committee meeting in which a member of the University community has an interest, then the individual should declare either in writing or verbally to the Chair or other person presiding over that meeting, that they have a real, potential or perceived conflict in the matter, before the matter is discussed. The declaration must be recorded in the minutes of the meeting and an extract of the report of that meeting must be forwarded to governance@cdu.edu.au for recording in the University's Conflicts of Interest register.

In other situations, the matter should be raised and discussed with a relevant person as soon as the real, potential or perceived conflict is identified. For most staff members, the relevant person will be their immediate supervisor or Senior Manager, or Senior Executive if the conflict involves a Senior Manager.

In any situation, the disclosure report should include:

- The name of the parties involved;
- A brief outline of the nature of the conflict; and
- Where practical, a brief outline of the proposed solution to manage or resolve the conflict.

If for some reason there is a delay in disclosure, an explanation must be provided.

Action

Once the conflict has been disclosed, the supervisor should carefully consider what, if anything, is required to avoid or mitigate the effects of the conflict, and develop a Management Plan in consultation with the individual, that takes into consideration the:

- Seriousness of the conflict; and
- Range of possible mitigation options.

There is a broad range of options for avoiding or mitigating a conflict. The options (listed roughly in order of lowest to highest severity) include:

- Taking no action;
- Enquiring as to whether all affected parties will consent to the individual's involvement;
- Seeking a formal exemption to allow participation, if such a legal power applies;
- Imposing additional oversight or review over the individual;
- Withdrawing from discussing or voting on a particular item of business at a meeting;
- Exclusion from a committee or working group whilst dealing with the issue;
- Re-assigning certain tasks or duties to another person;
- Agreement or direction not to do something;
- Withholding certain confidential information, or placing restrictions on access to information;
- Transferring the individual, either temporarily or permanently, to another position or project;
- Relinquishing the private interest; or
- Resignation or dismissal from one (1) or other position or entity.

All correspondence regarding the disclosure and management response plan to the conflict must be forwarded to <mailto:governance@cdu.edu.au> for recording in the University's Conflicts of Interest register maintained by Governance Services.

A member of the University community who is authorised to continue to perform his or her normal duties must immediately report any change in circumstances, which could affect the relevance of that Management Plan, to their supervisor (or Chair of the relevant committee). Once notified, the supervisor should review the situation according to the procedures set out above.

It becomes the responsibility of the supervisor to ensure the conflict is managed as agreed and detailed in the Management Plan. If there is disagreement, about the presence of a conflict of interest/commitment or about its appropriate resolution, the matter must be referred to the appropriate Senior Manager or Senior Executive.

Reporting

The University's Audit and Risk Committee will review the Conflicts of Interest register.

Complaints

Any person with a complaint about a member of the University community acting in breach of these procedures or the [Conflicts of Interest Policy](#) may raise the matter with the Director, Strategic Services and Governance. Alternatively, the concern may be addressed through the [Complaints Management Unit](#).

Non-Compliance

Failure of staff members or students to disclose real, potential or perceived conflict may be regarded as a breach of the University's Conflicts of Interest Policy, Code of Conduct and these procedures. This may lead to disciplinary action for misconduct or serious misconduct in accordance with the [CDU and Union Enterprise Agreement](#) and/or [Charles Darwin University \(Student Conduct\) By-laws](#), as applicable.

Where a consultant is found to have failed to disclose real, potential or perceived conflict, an allegation of misconduct may result in the termination of contract for services.

Some breaches may also result in the University making a report to relevant law enforcement officials.

Victimisation of a staff member or any other member of the University community because of disclosure of a real, potential, or perceived conflict may lead to disciplinary action.

ESSENTIAL SUPPORTING INFORMATION

Internal

[CDU and Union Enterprise Agreement](#)

[Charles Darwin University \(Student Conduct\) By-laws](#)

[Code of Conduct](#)

[Conflicts of Interest Policy](#)

[External Work Policy](#)

Document History and Version Control

Last amendment:	13 Dec 2017	Next Review:	13 Dec 2019
Sponsor:	Director, Strategic Services and Governance		
Contact Officer:	Director, Strategic Services and Governance		

Version	Date Approved	Approved by	Brief Description
1.00	23 Feb 2011	Vice-Chancellor	Creation of original document and upload to CDU website.
1.01	3 Jul 2013	Governance	<ul style="list-style-type: none"> • Assigned document number • Converted document to current template • Updated and added hyperlinks • Minor changes to wording, grammar and formatting
2.00	13 Nov 2013	Vice-Chancellor	Review document and update definitions <ul style="list-style-type: none"> • University community • Organisational unit • Senior Executive definition amended to reflect position changes. Remove Executive Director and replace with Chief Operating Officer, Deputy Chief Operating Officer and Chief Financial Officer
3.00	13 Dec 2017	Vice-Chancellor	<ul style="list-style-type: none"> • Conversion to new Governance template due to new University branding • Updated hyperlinks • Conducted major review of both the Conflicts of Interest Policy and Procedure • Removed examples from both the Conflicts of Interest Policy and Procedure and created a COI webpage • Amended ... or of commitment to conflict of interest • Added definitions for conflict of interest; conflict of commitment and volunteer • Updated definitions for staff member, University community • Amended definition for Senior Manager – removed COO & DCOO, added Provost • Replaced most reference to staff members with members of the University community or individual as this document applies to staff members, students, consultants, contractors and external appointees of Council, boards and committees of the University • Replaced actual with real conflicts.. • Under Advice, replaced CFO, DVC, DCOO and University Secretary with Director, Strategic Services and Governance • More information has been added to Disclosure and Action

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| | | | <ul style="list-style-type: none">• Added headings for Reporting and Complaints, replaced heading Breaches with Misconduct and removed heading Consultants |
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