

# Conflicts of Interest and Gifts and Benefits Declarations Procedure

Version 3 – Approved 26 October 2022

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## Purpose

This procedure describes the process for:

- declaring conflicts of interest and receipt of gifts and benefits by University Community members; and
- identifying, managing and reviewing conflicts of interest.

## Applicable governance instruments

Instrument	Section	Principles
<i>Compliance Policy</i>	2 Conflicts of Interest 3 Foreign influence and foreign interference	2.1-2.2 3.1-3.3
<i>People Policy</i>	1 People recruitment, management and development 3 Consultancy	1.1 3.1-3.3
<i>Behaviour Policy</i>	1 Behaviour	1.3, 1.5
<i>Procurement Policy</i>	2 Transparency and integrity	2.1, 2.2
<i>Integrity Commission Act 2009 (Tas)</i>		

Definitions and acronyms can be found at: <https://www.utas.edu.au/policy/policy-definitions>

Related policy and procedures can be found at: <https://www.utas.edu.au/policy>

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Instrument	Section	Principles
<i>Personal Information Protection Act 2004 (Tas)</i>		
<i>Australian Code for the Responsible Conduct of Research</i>		
<i>Guidelines to Counter Foreign Interference in the Australian University Sector</i>		

### Procedure

#### 1. Introduction

- 1.1. This procedure applies to all individuals who are [University Community](#) members with the exception of students, student clubs and unions, visitors, and affiliated residential colleges, ie it does apply to employees, committee members, volunteers, visiting fellows, adjunct and clinical title holders, consultants and contractors<sup>1</sup>, controlled entity members.
- 1.2. Individuals are required to declare:
  - conflicts of interest, and
  - receipt of gifts and benefits.
- 1.3. These declarations must be made:
  1. on commencement at the University,
  2. immediately as issues or interests arise or when personal circumstances change.

If an individual has not submitted a declaration within the previous 12 months they will be prompted to make a declaration annually. This includes the option to confirm that they have no declarations to make.

#### 2. Conflicts of interest

- 2.1. It is a requirement of the *Compliance Policy* that all conflicts of interest are identified, declared, monitored and effectively managed. Declaring a conflict ensures transparency and protects both the individual and the University.

##### *Identifying conflicts of interest*

- 2.2. A conflict of interest can be actual, perceived or potential.
- 2.3. *An actual conflict of interest* refers to the situation where an individual's private interest is capable of unduly influencing the exercise of their University (or University subsidiary) role and duties.
- 2.4. *A perceived conflict of interest* occurs where a reasonable person might suspect that a staff member is subject to an actual conflict of interest, whether or not one actually exists.
- 2.5. *A potential conflict of interest* describes circumstances where an actual conflict of interest may arise in the future if a certain condition is fulfilled.
- 2.6. Situations that may generate a conflict of interest include:
  - a. personal relationships with students
  - b. personal relationships with other employees

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<sup>1</sup> engaged to provide services that enable them to make or directly influence decisions of the University

- c. personal or commercial relationships with persons with whom the University is dealing; for example, licensees, contractors, subcontractors or tenderers
  - d. personal financial interests in matters which involve the University
  - e. outside employment, whether remunerated work undertaken for another employer or self employment
  - f. use of confidential information obtained in the course of University duties
  - g. external activities and public comment, eg nominating for and contesting political elections, volunteering
  - h. simultaneously being an employee and a student
  - i. receipt of a gift or benefit
  - j. a personal relationship with a foreign university or foreign government.
- 2.7. The [Conflicts of Interest and Gifts and Benefits Declarations Intranet page](#) provides further guidance and examples of common situations that may generate a conflict of interest.

#### *Declaring a conflict of interest*

- 2.8. University Community members must immediately declare any actual, perceived or potential conflict of interest (or any change to an existing disclosed conflict of interest) to their supervisor (or other appropriate person). The fact that a matter may be known by others is no substitute for formal declaration to the University.
- 2.9. Conflicts of interest are usually declared by submitting a *Conflicts of Interest and Gifts and Benefits Declaration Form* in [ServiceNow](#) except for:
- a. committee and board declarations, the process for which is as described in Sections 2.20-23
  - b. volunteers, who must declare in writing to the appropriate University staff member
  - c. members of selection panels and tender panels who must declare the conflict and ensure it is documented as part of that process and managed appropriately (eg by recusing themselves from decision making in all conflicted situations) (refer the *Recruitment, Selection & Appointment Procedure*).
- 2.10. The declaration must clearly identify the conflict of interest, any risks associated with the conflict, and an appropriate management plan. Where it is a potential conflict, the declaration must state what circumstance is required for it to become an actual conflict.
- 2.11. Where University Community members are unsure whether their personal interest amounts to an actual, perceived or potential conflict of interest, they are encouraged to take a cautious approach and to discuss with their supervisor.

#### *Managing a conflict of interest*

- 2.12. When a conflict of interest becomes apparent, a management plan is developed to remove the possibility of the individual's personal interest from influencing their role or duties.
- 2.13. The individual must propose a management plan for discussion and approval by their supervisor or other appropriate person. This must occur prior to submitting the declaration in ServiceNow.
- 2.14. Individuals must comply fully with the approved plan.
- 2.15. Where the conflict of interest is enduring, a review of the management plan must occur at least

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annually or in the event that circumstances change.

- 2.16. Information about developing a conflict of interest management plan can be accessed from the [Conflicts of Interest and Gifts and Benefits Declarations Intranet Page](#).

#### *Evaluation, monitoring and review of conflicts of interest*

- 2.17. Supervisors play an important role in encouraging appropriate behaviour in relation to managing conflicts of interest.
- 2.18. Supervisors must:
- a. Be aware of the requirements of the *Compliance Policy* and this Procedure, and encourage compliance from staff,
  - b. Review the individual's conflict of interest disclosure and make an evaluation as to whether the declared interests/scenario amounts to an actual, potential, or perceived conflict of interest,
  - c. Assist in the development of, and approve, the proposed management plan,
  - d. Review the management plan at least annually, or on an as needs basis, and
  - e. Ensure that all matters are handled professionally and confidentially.
- 2.19. In the event the parties involved cannot reach agreement on a management plan, the supervisor should refer to the Compliance team for advice.

#### *Committee and Board Members*

- 2.20. Conflicts of interest disclosures made by University Committee Members, including Board Members for controlled entities, must be recorded in a Register of Interests which is managed by the Committee Secretary.
- 2.21. Committee and Board Secretaries will actively manage conflict of interest disclosures with the Committee Chair through appropriate processes including:
- a) through the development of a management plan (where necessary); and/or
  - b) actions such as redacting relevant agenda items, recusing members from discussions or restricting voting rights.
- 2.22. In addition, conflicts of interest will be a standing agenda item at each meeting, where members are invited to disclose additional or arising interests that are not captured on the Register of Interests.
- 2.23. Conflicts of interest that arise during committee proceedings will be actively managed by the committee member in conjunction with the Chair and documented within the Committee Minutes including the action taken to manage the conflict of interest.

### **3. Gifts and benefits**

- 3.1. Personal gifts or benefits with a value of more than \$100 must be declared and approved. University Community members must also declare any gift or benefit regardless of value where the gift or benefit could reasonably be interpreted by others as a real, perceived or potential conflict of interest (Refer Section 2 above), or where the gift or benefit was received from a foreign university or foreign government.
- 3.2. Only those gifts that are approved by the University Community member's supervisor can be

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retained. In certain circumstances, such as when a gift is of considerable value, or when the gift is clearly intended for the University rather than the individual, the supervisor may require that the gift is a gift to the University and is not to be retained by the individual.

- 3.3. In determining whether it is appropriate to accept a gift or benefit, individuals and their supervisors should consider:
  - the nature, frequency, value and purpose of the gift or benefit,
  - whether the gift or benefit has been received in a public forum (and has been given openly and transparently),
  - the motivation for providing the gift, such as to influence, for gratitude, for cultural or ceremonial reasons, or as a token of appreciation.
- 3.4. In the event the parties involved cannot reach agreement on the appropriate course of action for managing a high value gift or benefit, the Compliance team can be approached for advice.

### 4. Breach of procedure

- 4.1. The University encourages reporting of concerns about non-compliance and manages compliance in accordance with the applicable legislation and the Compliance Policy.
- 4.2. A failure to fully comply with this procedure, including failure to disclose relevant interests and to appropriately manage a conflict of interest, may constitute misconduct and the University may take disciplinary action in accordance with the University policy and/or the University of Tasmania Staff Agreement.

### 5. Undeclared interests of other University Community members

- 5.1. Where a supervisor becomes aware of an individual's undeclared Conflict of Interest or Gift or Benefit, they are to remind the relevant individual of their obligation to declare it.
- 5.2. When someone becomes aware of another individual's undeclared interest, they can either advise the individual or that person's line manager.
- 5.3. Staff can be placed in a difficult position if they become aware of something that another individual has not declared, particularly where that gives rise to a conflict of interest affecting another staff member and that conflict is not declared or managed properly. If an individual is not comfortable raising it directly or with the other individuals' line manager, they are encouraged to make a complaint to the Safe and Fair Community Unit (SaFCU) or a disclosure to a [Public Interest Disclosure Officer \(refer Public Interest Disclosures Procedure\)](#).

### 6. Privacy and Reporting

- 6.1. All information obtained in the assessment and management of a declaration will be maintained in confidence and processed in accordance with the University Privacy Statements and privacy principles in the *Personal Information Protection Act 2004* (Tas).
- 6.2. Information provided in a declaration will be disclosed to that individual's supervisor and routinely and confidentially reported to the head of school/head of business unit, and Executive Dean/Head of Portfolio.
- 6.3. Reports containing de-identified information will also be provided periodically to the Audit and Risk Committee, and through that committee to University Council, to inform the Committee and Council of trends in relation to conflicts of interest and gifts and benefits.

**7. Superseded procedure**

7.1. This procedure replaces the *Conflicts of Interest Procedure*.

**Related procedures**

*Procurement Procedure*

*Research Ethics Procedure*

*Behaviour Procedure*

*Recruitment, Selection & Appointment Procedure*

**Versions**

<b>Version</b>	<b>Action</b>	<b>Approved by</b>	<b>Business Owner/s</b>	<b>Approval Date</b>
<b>Version 1</b>	Approved	Vice-Chancellor	General Counsel	April 2017
<b>Version 2</b>	Approved	Chief Operating Officer	General Counsel	12 May 2021
<b>Version 2</b>	Reconfirmed, unchanged	Chief Operating Officer	General Counsel	11 May 2022
<b>Version 3</b>	Approved, renamed	Chief Operating Officer	General Counsel	26 October 2022

**Definitions**

[University Community](#)