



<b>Responsible Officer</b>			
<b>Contact Officer</b>		Head of School	
<b>Superseded Documents</b>			
<b>Review</b>		18 April 2008	
<b>File Number</b>		2005/0311	
<b>Associated Documents</b>		<ul style="list-style-type: none"> <li>• Code of Conduct</li> <li>• UNSW Statement of Business Ethics</li> <li>• Research Code of Conduct</li> <li>• UNSW Guidelines for Commercial Activities</li> <li>• Employment or Engagement of Services involving Personal or Other Significant Relationships</li> <li>• Gifts &amp; Benefits Procedure</li> <li>• Paid Outside Work by Academic Staff</li> <li>• Policy for Making a Complaint or Reporting Incidents of Criminal, Corrupt Conduct or Maladministration or Protected Disclosure at UNSW Intellectual Property</li> <li>• Staff Complaint Procedure</li> </ul>	
<b>Version</b>	<b>Authorisation</b>	<b>Approval Date</b>	<b>Effective Date</b>
1.1	Administrative update by Head, Governance Support	9 February 2010	9 February 2010

## 1. Preamble

The Independent Commission Against Corruption (ICAC) guidelines on Conflict of Interest state clearly “there is nothing unusual or necessarily wrong in having a conflict of interest. How it is dealt with is the important thing”.

Conflicts of interest may be inherent in the appointment and conditions of some categories of staff (such as conjoint staff), where the relationship of the staff member to UNSW as well as to their employer(s) may lead to a situation of differing interests which may, at times, be in conflict. Where this type of appointment arrangement is apparent and publicly disclosed through a title such as ‘conjoint’, then such inherent conflicts of interest do not have to be declared by the individual member of staff, unless they are likely or may be perceived to materially adversely affect the interests of the University. Conflicts arising as a direct result of the appointment at UNSW are not personal conflicts.

While conflicts of interest are not wrong in themselves, and indeed cannot always be avoided or prohibited, the potential for conflict of interest exists in all aspects of University operations, including research, teaching, assessment, staffing, administration, and commercial activity. With increasing links between the University and other organisations, companies, and institutions, it is important that there is no perception that a member of staff has benefited by using their association with the University inappropriately, or acting in any way contrary to the public interest.

Because the complexity and diversity of relationships and perspectives at universities is extensive, the most effective means to address unavoidable conflicts of interest is to establish a system under which members of staff disclose and obtain evaluation of potential conflict. This system assumes that avoiding the conflict of interest is the best first strategy in dealing with conflicts of interest in the workplace.

The purpose of this policy is to outline just such a system—the University’s principles and procedures for the identification and management of actual, potential, or perceived conflicts of interest—and to assist staff in addressing conflict of interest issues.

## 1.1 Purpose

This policy elaborates the requirements relating to Conflict of Interest set out in the UNSW staff Code of Conduct.

## 1.2 Background

The Code of Conduct, which forms part of the contract of every member of staff, sets out the obligation to act appropriately when a conflict arises between a staff member's own self-interest and duty to the University. Where such conflict does or may arise, the issue should be disclosed to an appropriate officer of the University and, wherever feasible, the staff member plays no role in decision-making that might be associated with that issue. When a staff member, whose position or role entails supervisory or management duties, is notified or becomes aware of a conflict or potential conflict of interest, his or her duty is to:

- (i) inform the staff member involved of the provisions of the Code of Conduct as a basis for deciding on an appropriate way to handle the issue; and
- (ii) where appropriate, notify the matter to a more senior colleague for further attention.

## 2. Scope

This policy applies to all persons subject to the UNSW Code of Conduct.

## 3. Definitions

### Conflict of Interest

ICAC has defined conflict of interest in the following terms, based on the OECD (Organisation for Economic Cooperation and Development) definition:

'A conflict of interest involves a conflict between the public duty and private interests of a public official, in which the public official has private interests which could improperly influence the performance of their official duties and responsibilities' (OECD guidelines, 2003, para10).

More specifically, conflicts of interest can be actual, perceived, or potential:

- Actual: involves a direct conflict between current duties and responsibilities and existing private interests
- Perceived: conflict exists where it could be perceived, or appears, that private interests could improperly influence the performance of duties—whether or not this is in fact the case
- Potential: arises where private interests could conflict with official duties
- A conflict of interest can be pecuniary (involving financial gain or loss) or non-pecuniary (based on enmity or amity). A conflict of interest can arise from avoiding personal losses as well as gaining personal advantage, financial or otherwise.

## 4. Objective key test for Conflict of Interest

The test is: Whether an individual could be influenced, or appear to be influenced, by a private interest in carrying out their duties and responsibilities.

This test should focus on the official role and the private relationships and interests of the person concerned, and whether a reasonable disinterested person would think these relationships and interests could conceivably conflict or appear to conflict with the person's public role.

## 5. Material Conflict of Interest

A conflict of interest is considered to be 'material' if a reasonable disinterested person would take it into account in exercising judgment or making a decision. Only material conflicts of interest (those conflicts of interest of sufficient dimension and significance) are within the scope of this policy.

Factors such as the following can increase the risk that a situation will have inherent potential for conflict of interest and that the conflict of interest will be material:

- Increasing magnitude of the personal benefit expected
- Increasing level of leadership or authority
- Involvement of students or human subjects in an activity
- When a researcher holds equity in a company which may jeopardise research integrity

## 6. Examples of Conflicts of Interest at Universities

### Academic

- In academic research, the term 'conflict of interest' refers especially to situations in which financial or other personal considerations may compromise, or may have the appearance of compromising, an investigator's professional judgment in conducting or reporting research. The bias can affect collection, analysis, and interpretation of data, hiring of staff, procurement of materials, sharing of results, choice of protocol, and the use of statistical methods.
- In the peer review and publication process, a conflict of interest may arise where an author, reviewer, or editor allows personal conviction, financial interests, or personal relationships (of amity or enmity) to influence the work improperly.
- The supervision of research students presents an environment for potential conflict of interest because of the power relationship between supervisor and student and the extent to which the student may be dependent on the supervisor's support for the completion of their work.
- The use of human subjects in work by an investigator who has compensation from a company creates, for the human subjects, additional risk for adverse consequences. Patients must be recruited and treated with full protection of their personal rights and their right to ethical and impartial clinical or professional management.

### Administration

- In academic administration, the term 'conflict of interest' refers especially to situations in which financial or other personal considerations may compromise, or may have the appearance of compromising, decisions made by administrators.

### Outside work and/or commercial activity

- A conflict which arises in relation to the allocation of time, intellectual energy and primary professional commitment between University responsibilities and external activities can constitute a conflict of interest.
- Conflict of interest can arise where a member of staff has multiple official roles (such as being an officer of the University and serving as the Director of a company controlled by the University). Such conflicts may be difficult to identify, as personal interest may not be involved. In these situations, a person may use information obtained in exercising one role to the advantage or disadvantage of another organisation in an improper way.

- Conflict of interest may be particularly difficult to identify and manage in work environments characterized by complex commercial relationships, such as where there is a mix of University unit as well as a CRC or other externally funded centre, spin-off companies, and/or UNSW controlled entities.

The following is a partial list of activities or actions that merit case-by-case examination to determine whether they create a material conflict of interest that should either be managed appropriately or eliminated.

- Consulting
- Engaging in contract research
- Purchasing goods or services for the University from businesses in which the member of staff or his or her close associates has a financial interest or benefit
- Receiving gifts, gratuities, loans, or special favours (including trips or speaker's fees) from research sponsors or vendors
- Serving as a member or director on boards of directors, committees, advisory groups (or similar bodies) of governmental, for-profit, or not-for-profit entities, including UNSW controlled entities and associated companies
- Using information received as a University employee for personal purposes
- Serving on selection and promotions committees
- Exercising financial delegations
- Transferring allocations or expenses between accounts
- Holding of an ownership interest by the member of staff or their close associates in any real or personal property leased or purchased by the University
- Holding of an equity, royalty, or debt instrument interest by the member of staff or their close associates in an entity providing to the University financial support, including research or other support or services, when such support will benefit the member of staff or persons supervised, directly or indirectly, by them
- Receiving directly cash, services, or equipment in support of the member of staff's University activities from non-University sources

## 7. Disclosure Review Committee

The Disclosure Review Committee (DRC) is the main body monitoring conflict of interest compliance at UNSW. This committee comprises:

- the Deputy Vice-Chancellor (Research) (Chair);
- a person with legal expertise in a relevant field, nominated by the Dean, Faculty of Law;
- a person with commercial expertise in a relevant field, nominated by the Dean, Australian School of Business.

An officer from Human Resources will assist the Committee and will normally be in attendance at meetings. The Committee may obtain advice from external or internal independent experts.

Heads of School and Administrative Units are required to report to the DRC on an annual basis about the management of conflict of interest cases in their area.

The responsibilities of the Disclosure Review Committee include:

- (a) Determination of conflict of interest management procedures, where these cannot be agreed between the member of staff and supervisor;
- (b) At least an annual review of the types of disclosures and management strategies

used, as reported by Heads of Schools and administrative units, and evaluation of the effectiveness of chosen management strategies;

(c) Review and advice to the Audit Committee of Council in relation to the Policy on Conflict of Interest at least every three years;

(d) Identification of high risk functions or areas, and advice to the Deputy Vice-Chancellor (Academic) on requirements for monitoring, audit, or staff development; and

(e) Regular advice to the Deputy Vice-Chancellor (Academic) on matters to be included in induction programs for managers and new staff and other forms of staff development.

## **8. Management of Conflicts of Interest**

The following procedures are designed to manage situations that present conflicts of interest. The procedure to be applied will depend on assessment of the degree of risk in the situation, based on the key test for conflict of interest—whether a reasonable disinterested person would think these relationships and interests could conceivably conflict or appear to conflict with the person’s public role.

The procedures for management fall into categories based on increasing levels of risk. These procedures are not all-inclusive and may require variation in particular circumstances.

(a) An actual, perceived, or potential conflict of interest must always be disclosed. Information about the procedure for the disclosure of actual, perceived, or potential conflict of interest is set out below. The form of the disclosure must be sufficient to allow a decision to be made about its management. In most situations, compliance with the disclosure procedure will be the only management required.

(b) In the case of multiple relationships by a member of staff with the same company or other external organisation, it may be necessary for the University to review the totality of the relationship between the staff member and the company or organisation. This situation may arise where consulting arrangements and financial support for research, which may include the support of students, are derived from the same source. It may also arise in a complex commercial environment, where a member of staff may have varying levels of commitment and opportunities for benefit.

(c) Management procedures will escalate commensurate with the risk presented. This may include public disclosure of conflict of interest.

## **9. Disclosure Procedure**

Members of staff are required to complete a confidential Disclosure Statement as soon as they become aware that they may have an actual or potential conflict of interest.

A copy of the Disclosure Statement can be found at <http://www.hr.unsw.edu.au/employee/disclosure.rtf>. The Statement should be downloaded and completed and then either emailed or personally delivered to the staff member’s Head of School or Head of administrative unit for evaluation.

If a management procedure beyond disclosure is deemed to be required by the supervisor, this will be reported to the member of staff and, if appropriate, to other relevant officers of the University. An appropriate procedure to manage or eliminate the

conflict of interest will be agreed.

Any unresolved situation or disagreement will be referred to the Disclosure Review Committee (DRC) for a final decision.

A perceived, potential, or actual conflict of interest affecting a Head of School or administrative Division should be disclosed to the Deputy Vice-Chancellor (Academic). Conflicts of interest affecting members of the Executive Team, including the Vice-Chancellor, should be disclosed to the Chair of the Audit Committee of Council.

## **10. Confidentiality of Disclosure**

The University will seek to ensure that confidential disclosures are protected from misuse. Conflict of Interest disclosures will be treated as confidentially as possible, within the requirements of the law.

A supervisor in receipt of a disclosed conflict of interest will exercise his or her judgment about the level of confidentiality necessary to manage the conflict. If in doubt, the supervisor should seek advice from the DRC.

The supervisor will inform the person disclosing the conflict of their decision on further disclosure, where this arises. If this is not agreed between the parties, the matter will be referred to the DRC.

The annual reporting of the management of conflict of interest will be presented in a way that safeguards the confidence of the person making a disclosure. The DRC may seek further particulars on any conflict of interest where they judge the interest of the University to be affected.

At the time of enrolment, every research student has the right to know the sources of funding of the research person or group with which they will be associated. The research student should sign a statement, acknowledging that he or she has received this information.

## **11. Whistle-blowing**

If a member of staff or student has knowledge that leads them to the assumption that a conflict of interest exists that may not be disclosed, they should deal with this through discussion with a relevant supervisor, or through the Staff Complaint or protected disclosures procedures.

## **12. Disclosure Forms**

Disclosure only occurs when submitted on the confidential Disclosure Statement. The fact that a matter may be known by others, or is considered public knowledge, is not a substitute for disclosure on the required form.

The confidential Disclosure Statement form is available at <http://www.hr.unsw.edu.au/employee/disclosure.rtf>

### **13. Failure to avoid Conflict of Interest**

Failure to avoid conflicts of interest, or failure to adequately disclose and manage unavoidable conflicts of interest, may result in:

- resentment amongst staff or students who perceive others to be gaining unfair advantage;
- University and individual's inability to respond to unfounded accusations of personal benefit;
- damage to the reputation of the University and the individual;
- loss of public trust in the University and its research, teaching, services, or management.

Failure to disclose actual or potential conflicts of interest can lead to:

- misconduct or other disciplinary proceedings against the staff member;
- action by agencies such as the Audit Office of NSW, ICAC, and Ombudsman;
- legal action against the University or the individuals concerned.

### **14. Related UNSW Policies**

- UNSW Code of Conduct
- UNSW Statement of Business Ethics
- Research Code of Conduct
- UNSW Guidelines for Commercial Activities
- Employment or Engagement of Services involving Personal or Other Significant Relationships
- Gifts and Benefits Procedure
- Paid Outside Work by Academic Staff
- Policy for Making a Complaint or Reporting Incidents of Criminal, Corrupt Conduct or Maladministration or Protected Disclosure at UNSW Intellectual Property
- Staff Complaint Procedure

## Appendix A: History

Version	Authorised by	Approval Date	Effective Date	Sections modified
1.0	UNSW Council	18 April 2005	18 April 2005	
1.1	Administrative update by Head, Governance Support	9 February 2010	9 February 2010	Section 6, 7, 9, 11 and 14