

Conflict of Interest Policy User Guide Q&A's About this Guide

This guide includes a series of frequently asked questions and answers concerning the *Conflict of Interest Policy* (the **Policy**). The guide does not provide an exhaustive list of questions and does not attempt to explain the Policy in detail or provide advice.

It is strongly recommended that you familiarise yourself with the details of the Policy. You should note, a failure to comply with the Policy may result in a range of sanctions including, in serious cases, termination of College Fellowship.

Q. Why does the College have a Conflict of Interest Policy?

A. The purpose of the Policy is to eliminate Conflicts of Interest within the College where possible and to provide mechanisms for the appropriate management of Conflicts of Interest where necessary

Q. Who does the Conflict of Interest Policy apply to?

A. The Policy is applicable to all Decision Makers. Under the Policy, a “Decision Maker” is any and all College Officials, Fellows, Associates and Staff who undertake or are involved directly or indirectly in College Business.

Q. Who are “College Officials”?

A. Under the Policy, “College Officials” means all Directors, Councillors, Branch Executive, Special Interest Group Convenors and Committee Chairs.

Q. What is “College Business”?

A. Under the Policy, “College Business” means the consideration of, the influencing of and the making of decisions concerning any and all College activities and/or the allocation of College resources. Without limiting the foregoing, College Business includes, but is not limited to, any all participation in the education and training activities of the College and any work conducted in the Board, Council, Branches and Committees of the College.

The definition of “College Business” is designed to be broad. The definition seeks to encompass all activities undertaken in connection with the College. The breadth of the definition is designed to provide the maximum level of protection to the College and its membership from the adverse impacts that may flow from a conflict of interest.

Q. What is an “Interest”

A. Under the Policy, an “Interest” means any advantage or benefit attaching to a Decision Maker including, but not limited to, any benefit attaching to a Related Party of a Decision Maker.

Q. What is a “Related Party”?

A. Under the Policy, a “Related Party” means any spouse, partner, child, dependent, relative, related body corporate (as defined under The Act), trust or other legal entity related to or under the effective control of a Decision Maker.

Q. What is a “Conflict of Interest”?

A. A Conflict of Interest arises under the Policy when a Decision Maker prefers a Secondary Interest over a Primary Interest or gives equal weight to both Primary and Secondary Interests when conducting College Business.

Q. What is a “Primary Interest”?

A. Under the Policy, a “Primary Interest” means the compliance with any and all relevant Law and [Policy](#) governing the conduct of College Business and the objects of the College as specified in clause 2 of the College’s [Constitution](#).

Q. What is a “Secondary Interest”?

A. Under the Policy, a “Secondary Interest” means any interest that is not a Primary Interest. Most Secondary Interests can be characterised as personal interests and the interests of Related Parties.

Q. Are Conflicts of Interest always real?

A. No. Conflicts of Interest may be real, perceived or potential. A perceived Conflict of Interest arises where other people may reasonably conclude that a Decision Maker’s decision-making process has been relevantly compromised by a Conflict of Interest. A potential Conflict of Interest is a situation in which a Conflict of Interest may happen in the future.

In recognition of the potential damage caused by real, perceived and potential Conflicts of Interests, all such conflicts are subject to the Policy.

Q. How and where do Conflicts of Interest arise?

A. Conflicts of Interest may arise in any setting including, but not limited to, the Board, the Council, in Committees, in Special Interest Groups, in Branches, in Staff settings, in training and education settings and in any other setting where College Business is conducted.

Q. How do I declare a Conflict of Interest?

A. All College meetings must begin with the declaration of relevant interests by meeting attendees. All attendees must take this opportunity to declare any relevant interest.

Q. What happens after a Conflict of Interest declaration has been made?

A. A determination will be made concerning the declaration. The determination may involve an appropriate direction designed to appropriately manage any real, potential or perceived Conflict of Interest. Such a direction may include that a person refrain from participation in a specified decision.

Q. What if I disagree with a direction?

A. A direction is final unless overturned or otherwise altered in accordance with the College’s *Reconsideration, Review and Appeals Policy (Appeals Policy)*.

Q. What is a Concerns Notice?

- A. A Concerns Notice is a notice that must be given by a Fellow, Associate or Staff member who has a *reasonable belief* that a Decision Maker may be in breach of the Policy.

Q. What is a “reasonable belief”?

- A. Under the Policy, a “reasonable belief” arises where there exists a reasonable basis to conclude that a Decision Maker may be in breach of the Policy.

In each case a Fellow, Associate or Staff member needs to satisfy themselves that there is a reasonable basis to conclude that a Decision Maker may be in breach of the Policy.

A Fellow, Associate or Staff member will be in breach of the Policy if he/she lodges a Concerns Notice for an improper purpose.

Q. What is an “improper purpose”?

- A. Under the Policy, an “improper purpose” means a purpose in support of a Secondary Interest e.g. to advance your own personal interests or the interests of a Related Party.

Q. What happens after a Concerns Notice has been lodged?

- A. A determination shall be made in relation to the Concerns Notice. The determination may require that the relevant Decision Maker be provided with a Show Cause Notice.

Q. What do I do if I receive a Show Cause Notice?

- A. Immediately, without admission and in the interest of properly disposing of any alleged Conflict of Interest, you must cease any involvement in the College Business specified on the Show Cause Notice until further notice is given.

Within forty-eight (48) hours of receipt of the Show Cause Notice, you must provide any and all information requested in the notice.

From time-to-time, you must provide any and all additional information and assistance reasonably requested.

Q. What happens after I comply with the Show Cause Notice?

- A. A determination will be made which may involve an appropriate direction designed to manage any real, potential or perceived Conflict of Interest.

Q. What if I disagree with a direction?

- A. A direction is final unless overturned or otherwise altered in accordance with the Appeals Policy.

Q. Are College Officials subject to additional rules?

- A. Yes. In recognition of the particular trust placed by the College in College Officials, all College Officials other than Directors, are required to submit a No Conflict Declaration in the form specified in Schedule 1 of the Policy, thirty (30) days from the date of adoption of this Policy or if the appointment of a College Official occurs after this time, thirty (30) days from the date of appointment of that College Official.

Q. Who are “College Officials”?

A. Under the Policy, “College Officials” means all Directors, Councillors, Branch Executive, Special Interest Group Convenors and Committee Chairs.

Q. Are Directors subject to additional rules?

A. Yes. The Directors of the College must comply with the Law of Australia and New Zealand which preclude Directors from having Conflicts of Interest.

Q. Is it possible to provide a comprehensive list of all Conflicts of Interest?

A. No. The potential for Conflict of Interest is endless. Schedule 1 of the Policy identifies a range of interests which, if given preference over a Primary Interest or are given equal weight as Primary Interests, shall constitute a Conflict of Interest. As specified in the No Conflict Declaration; it is your responsibility to identify and notify relevant Conflicts of Interest however and whenever they occur.

Q. What do I do when I am unsure if I have a Conflict of Interest?

A. Seek advice from a College Official and where appropriate, declare the interest at the earliest possible opportunity.

You should note, it is far better to make a declaration which is later determined not to raise a relevant conflict, than to omit to declare and be later found to be in breach of the Policy.

Hypothetical Examples of the Conflict of Interest Policy in Action

1. Failure to make a declaration at the beginning of a Committee Meeting

A Committee member is married to or in a relationship with another Member of the College. The partner stands to benefit from a Committee determination. The Committee member omits to declare an interest. The Committee member participates in the relevant determination which favours the partner.

The Committee member has breached his/her obligation to declare an interest and has Conflict of Interest under the Policy.

2. Failure to identify a relevant interest in a No Conflict Declaration

A College Official is in a business partnership. The partnership stands to benefit financially from a Committee determination. The College Official omits to identify the Financial Interest in his/her No Conflict Declaration. The College Official participates in the relevant determination to the benefit of the business partnership.

The College Official has breached his/her obligation to declare an interest and has Conflict of Interest under the Policy.

3. Failure to lodge a Concerns Notice

A Member has reasonable belief that a Decision Maker may be in breach of the Policy. The Member omits to lodge a Concerns Notice.

The Member is in breach of the obligation to lodge a Concerns Notice

4. Lodgement of Concerns Notice for Improper Purpose

A trainee lodges a Concerns Notice against a former tutor without a reasonable belief that the tutor may be in breach of the Policy.

The trainee has lodged the Concerns Notice for an improper purpose and is in breach of the Policy.

5. *An Assessor, Supervisor or Staff member has a Conflict of Interest. What needs to be done?*

The interest should be declared in accordance with the Policy by the relevant Assessor, Supervisor or Staff member at the first available opportunity.

A Concerns Notice may be lodged concerning the Assessor, Supervisor or Staff member if another person forms a reasonable belief that the Assessor, Supervisor or Staff member may be in breach of the Policy.

A determination will be made pursuant to the Policy as to how that interest is to be managed.

In the event that a Conflict of Interest is found, it is likely that a direction will be made which prevents the Assessor, Supervisor or Staff member participating in any relevantly conflicted determination.