Conflict of Interest - Procedures

1. Purpose of procedures

1.1 The purpose of these procedures is to outline the process for members of the University community to identify, disclose and manage conflicts of interest.

2. Scope and application

2.1 These procedures apply to all members of the University community who are in a position to exert influence over the University resources and activities. This applies to governance, employment, research, teaching, financial, commercial activity, board and council representation, volunteer, consultant, and contractor arrangements.

2.2 Other relevant policy documents such as the Staff Gifts and Benefits Policy and Procedures, Outside Work and Private Practice – Operational Policy and Procedures, University Consultancy Work – Operational Policy and Procedures, Higher Degrees by Research Supervision - Procedures and Responsible Research Conduct - Governing Policy should also be referred to when managing conflicts of interest of a specific nature.

2.3 These procedures are not intended to manage student's conflicts of interest related to their placements. Refer to the Work Integrated Learning (Placements) - Procedures.

3. Definitions

Refer to the University's Glossary of Terms for policies and procedures. Terms and definitions identified below are specific to this policy and are critical to its effectiveness:

A conflict of interest occurs when there is a conflict between a member of the University community's private interests and their University duties where they could be influenced, or appear to be influenced, in the performance of their official duties and responsibilities with the University. A conflict of interest involves:

Actual conflict of interest involves a direct conflict between a member of the University community's current duties and responsibilities and existing private interest.

Perceived conflict of interest can exist where it could be perceived, or appears, that a member of the University community's private interest could improperly influence the performance of their duties, whether or not this is in fact the case.

Potential conflict of interest arises where a member of the University community has private interests that could conflict with their official duties in the future.

Commercialisation means to exploit commercially and includes:

(a) the exercise of all the rights granted to the holder of intellectual property rights, including where permitted the right to license or assign those rights;

(b) in relation to a product, kit, apparatus, substance, documentation, software or information resource (or any part of such materials) – to make, distribute, market, sell, publish, hire out, lease, supply, or otherwise dispose of it; and

(c) in relation to a method or process – to use the method or process or to make, distribute, market, sell, hire out, lease, supply, or otherwise dispose of a product, kit or apparatus the use of which is proposed or intended to involve the exercise of the method or process.

Creator means a staff member, student or invited scholar who creates UniSC intellectual property, including a staff member, student or invited scholar who:
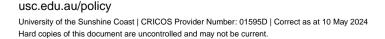
(a) in the case of a patentable invention subject to the Patents Act 1990 is an inventor;

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(b) in the case of a copyright work or similar subject matter to the Copyright Act 1968 is an author;

(c) in the case of a trademark subject to the Trade Marks Act 1995 is a person who developed or first used the trade mark;

(d) in the case of designs registrable under the Designs Act 2003 is a designer;

(e) in the case of plant breeder's rights, under the Plant Breeder's Rights Act 1994 is a principal breeder;

(f) in the case of circuit layouts, under the Circuit Layouts Act 1999 is a designer; and

(g) in the case of trade secrets and know how is a creator of that body of knowledge.

Discloser refers to a staff member, Council member or other University Community member who has made a conflict of interest disclosure.

Foreign influence all governments, including Australia's, try to influence deliberations on issues of importance to them. These activities, when conducted in an open and transparent manner, are a normal aspect of international relations and diplomacy and can contribute positively to public debate.

Foreign interference occurs when activities are carried out by, or on behalf of a foreign actor, which are coercive, clandestine, deceptive or corrupting and are contrary to Australia's sovereignty, values and national interests.

Intellectual property refers to all present and future rights conferred by statute, common law or equity in any jurisdiction which protect intellectual and creative effort recognised by law as defined by Article 2 of the Convention establishing the World Intellectual Property Organisation of July 1967.

Private interest is any interests, financial or non-financial, for an individual or for any other person or organisation where the individual may wish to benefit (directly or indirectly through family, friends, associates) or disadvantage (competitors, rivals).

Research: as defined in the *Australian Code for the Responsible Conduct of Research*.

Researchers are all staff, students, adjunct and conjoint appointments, visiting academics and research fellows who engage in research activity under the auspices of the University

Staff member means anyone engaged by the University and includes all permanent, casual, or fixed-term staff (whether full-time or part-time).

University community means all staff members, adjunct and honorary title holders, members of University Council, students, consultants, contractors, volunteers, researchers and external appointees of Council, boards, and committees of the University.

4. Identifying conflicts of interest

4.1 Members of the University community should regularly consider their circumstances and how their private interests might impact on their official University duties. Factors to consider include whether the close personal relationships or friendships formed through business associates have the potential for members of the University community to lose sight of their official obligations at the University, how the private interest maybe perceived by others, and whether the private interest is consistent with the ethical principles and expected standards of conduct of a member of the University community.

4.2 The risk of having a conflict of interest increases where a member of the University community's role includes the authority to make or influence decisions.

4.3 If a member of the University community is unsure if they have a conflict of interest or not, they should liaise with their supervisor, a relevant Cost Centre Manager, Executive Member or People and Culture representative. For conflicts of interest that are research related University community members can also contact a Research Integrity Advisor, the Office of Research or the Deputy Vice-Chancellor (Research and Innovation).

5. Disclosing conflicts of interest

5.1 Participating on committees and panels

5.1.1 Conflicts of interest that relate to panel or committee meetings, such as recruitment, procurement and promotions processes must be immediately disclosed prior to participating in the panel/committee and acknowledged by the Chairperson and formally documented. Documentation should clearly outline if a plan (e.g. not participating in relevant sections of the meeting, being removed from the panel etc.) is required to manage the conflict (and how this will be implemented).

5.1.2 Where a conflict of interest arises during a meeting, the member of the University community is to immediately disclose the conflict which must be formally documented by the Chairperson. Documentation should clearly outline if a management plan (e.g. not

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participating in relevant sections of the meeting, being removed from the panel etc.) is required to manage the conflict (and how this will be implemented).

5.1.3 If the conflict of interest is ongoing it must be formally disclosed and managed in accordance with the below applicable processes.

5.2 Staff members

5.2.1 Upon commencement at the University, staff members must complete the COI Online Disclosure Tool as well as ensure the COI Online Disclosure Tool is kept up-to-date at all times and is formally reviewed annually.

5.2.2 Any existing disclosures of conflicts of interest of new staff members, must be formally disclosed using the COI Online Disclosure Tool which will be submitted for approval to their Cost Centre Manager, with final approval from the relevant Executive member. A copy will be held on the staff member's Staff File.

5.2.3 Throughout employment, where a conflict of interest exists for a staff member, the staff member must disclose it to their supervisor as soon as is reasonably practicable after becoming aware of it. If the staff member's supervisor has a conflict of interest in the matter, then the staff member must disclose the conflict of interest to the next higher level of authority. The staff member must then complete a formal disclosure using the COI Online Disclosure Tool for approval by the Cost Centre Manager and relevant Executive member. A copy will be held on the staff member's Staff File

5.2.4 In the event circumstances of a previously disclosed conflict of interest changes, the staff member must update their COI Online Disclosure Tool.

5.3 Individuals involved in research and commercialisation activities

5.3.1 Once a conflict of interest has been identified, it must be disclosed to the relevant line manager and a management strategy documented using the COI Online Disclosure Tool.

5.3.2 Disclosure may also be required when a financial interest is held by a member of the researcher's immediate family. This includes in situations where there is a future expectation of a benefit through commercialisation.

5.3.3 Disclosing conflicts through ethics, grant applications or contracts does not negate the requirement to disclose the conflict using the COI Online Disclosure Tool as stated in clause 5.3.1. The COI Online Disclosure Tool includes the mandatory requirement that an appropriate conflict of interest management strategy is in place.

5.3.4 Where relevant, conflicts of interest may also need to be disclosed to funding bodies, research participants, publishers, journal editors, collaborators and the public.

5.3.5 In the event circumstances of a previously disclosed conflict of interest changes, researchers must complete an updated COI Online Disclosure Tool (including an updated management strategy) for approval.

5.4 University Council members

5.4.1 Council recognises that conflicts of interest do and will occur as a necessary part of business and commerce. These procedures deal only with how conflicts of interest are handled and require disclosure, they are not intended to prejudice the position of Council members in relation to engagement in the ongoing business of Council, nor is it intended that those disclosures will preclude the relevant Council member from subsequent involvement in University activities.

5.4.2 A confidential Councillors' Interests Register will be maintained by the Council Secretary to record the relevant interests of Councillors. All entries in the Councillors' Interests Register must be treated as highly confidential. No personal information can be disclosed except to the extent necessary to implement these Procedures.

5.4.3 Each Council member must, when appointed to Council, notify the Council Secretary of all relevant interests and relationships of the Council member for entry in the Councillors' Interests Register. This notification will be given by completing a *Councillors' Interest Declaration Form* (see Appendix B).

5.4.4 Each Council member must identify when they have a conflict of interest with regard to any item on the agenda for a meeting or arising in the course of the meeting. There will be a standing item on the agenda for each meeting of the Council, requiring Council members to disclose conflicts of interest.

5.4.5 All actual, potential or perceived conflicts of interest of Council members must be disclosed by Council members at all meetings at which any matter is discussed involving the relevant conflict. The minutes of every meeting must record all such declarations.

5.4.6 Each Council member will have an ongoing obligation during their term of office to notify the Council Secretary of relevant interests or relationships as they arise that the Council member becomes aware may reasonably be expected to be, or result in, a conflict of interest.

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5.4.7 The Council Secretary is responsible to keep Council informed of all notifications made under this Procedures, where they bear on the discussion of Council matters. Where an actual conflict of interest has been identified, Council members will be entitled to access the entry in the Register. Where a potential or perceived conflict of interest has been identified, the Council Secretary or the Chancellor will advise Council members as to the existence of a potential or perceived conflict of interest. In such cases, access to the entry in the Register will be restricted to the Council Secretary and the Chancellor.

5.4.8 All such declarations of conflicts of interest and the means by which Council determines that they be managed must be recorded in the minutes of the relevant meeting and an entry will be recorded in the Register by the Council Secretary and follow-up action taken as required.

5.5 Other University community members

5.5.1 University community members, other than staff and Council members, must report the conflict in writing to the relevant University officer overseeing their activity or association with the University. This notification will be given by completing *the Declaration of Conflict of Interest Form* (see Appendix C).

6. Managing conflicts of interest

6.1 Once a conflict of interest has been disclosed a suitable management plan must be developed by the discloser to resolve or manage the conflict of interest to mitigate impact and protect the integrity of the University's processes and decision-making. Advice should be sought from senior functional experts, when managing conflicts, as appropriate to the nature of the conflict. 6.2 A staff member's management plan must be completed using the COI Online Disclosure Tool with approval from the Cost Centre Manager and relevant Executive member. Council Member's and other University community members must complete the relevant forms attached to these procedures for approval as stipulated on the forms.

6.3 When considering appropriate management strategies to manage the conflict of interest it is important the disclosure, in consultation with the relevant approver, identifies any risks that arise from the conflict and what can be put in place to mitigate those risks.

6.4 The management strategies, as stated in the policy, the University has adopted the Register, Restrict, Recruit, Remove, Relinquish, Resign Model and must be considered in the management plan. Examples of these strategies are as follows:

Register: All conflicts of interest are to be registered with the University in accordance with the Disclosing of conflicts of interest section above.

Restrict: Used in circumstances where the conflict of interest is not likely to arise frequently, the member of the University community can be effectively separated from parts of the activity or process. Strategies include non-involvement in any critical criteria setting or decision-making role in the process concerned, withdrawing from discussions about the issue, restricting access to relevant information/systems including the removal of access to sensitive documents.

Recruit: Used incircumstances where it is not appropriate for the member of the University community to remove themselves from a decision-making process where a conflict of interest exists. A common strategy includes recruiting an independent third-party/s into the management and decision-making processes to balance the influence of the member of the University community who cannot remove themselves entirely from the process.

Remove: Used in circumstances where the restriction or recruitment is not appropriate or feasible. Removal from the matter can involve, removal from any involvement in the matter including any related discussions or situations where the member of the University community may have or perceive to have an influence on the decision or actions. This may include the transferring the member of the University community to another project or the member of the University community being removed as a supervisor for a particular person.

Relinquish: Used in circumstances for significant conflicts of interest where the above strategies are not appropriate or effective. The member of the University community may relinquish the private interest entirely by liquidating the private interest in an arms-length transaction, divesting themselves or of withdrawing support for the private interest or assigning the conflicting interest to a genuinely 'blind trust' or 'blind management' arrangement.

Resign: Used as a last resort for serious conflicts of interest where the suggested strategies above are note effective or have not been agreed to by either party.

6.5 Where interests may affect collaborative research with other institutions or organisations, the management strategies should be considered when negotiating the relevant collaborative research agreement.

6.6 Management plans must be reviewed annually and updated using the COI Online Disclosure Tool as required.

7. Monitoring conflicts of interest

7.1 All disclosed conflicts of interest must continue to be monitored, not only by the discloser but also by their supervisor, Cost Centre Manager, relevant Executive member and other relevant approver as needed.

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7.2 Monitoring the conflict must include ensuring adherence to the agreed conditions in the management plan as well as updating the management plan via the Online Disclosure Tool if circumstances change, particularly in instances where a potential conflict of interest turns into an actual conflict of interest. A management plan in this instance will look quite different to when the conflict of interest was only a potential.

7.3 A Conflict of Interest Register for staff member's disclosures and management plans will be maintained by People and Culture. The register will contain the disclosure and management plan information and will be available to relevant Cost Centre Managers and Executive members (restricted access to their needs only) as required. People and Culture will periodically review the data to ensure management plans of significant conflicts of interest are being monitored and updated appropriately.

Appendices:

Appendix A - COI Online Disclosure Tool (which includes the management strategy template)

Appendix B – Councillors' Interests Declaration Form

Appendix C – Other University community member's Declaration of Conflict of Interest Form

END

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RELATED DOCUMENTS

• Financial Management Practices - Operational Policy

• Governance Framework - Governing Policy
• Information Management - Governing Policy
• Intellectual Property - Governing Policy
• Intellectual Property: Commercialisation - Procedures
• Intellectual Property: Commercialisation Revenue - Procedures
• Intellectual Property: Student IP - Procedures
• Intellectual Property: Transfer of Rights to Creators - Procedures
• Managing and Investigating Breaches of Responsible Research Conduct - Procedures
• Marketing and Communications - Operational Policy
• Outside Work and Private Practice - Operational Policy
• Public Interest Disclosures - Governing Policy
• Public Interest Disclosures - Procedures
• Recruitment, Selection and Appointment - Operational Policy
• Resolution of Complaints (Staff) - Guidelines
• Responsible Research Conduct - Governing Policy
• Staff Code of Conduct - Governing Policy
• Staff Gifts and Benefits - Operational Policy
• Student Conduct - Governing Policy
• University Consultancy Work - Operational Policy

LINKED DOCUMENTS

• Conflict of Interest - Governing Policy

RELATED LEGISLATION / STANDARDS

• Public Sector Ethics Act 1994 (Qld)
• University of the Sunshine Coast Act 1998 (Qld)
• Financial Accountability Act 2009 (Qld)
• Australian Code for the Responsible Conduct of Research (2018)
• Crime and Corruption Act 2001 (Qld)
• Information Privacy Act 2009 (Qld)
• ARC Guidelines for Disclosure of Interests and Confidentiality Obligations (Cwlth)
• NHMRC Guideline Development and Conflicts of Interest (Cwlth)
• Human Rights Act 2019 (Qld)
• Foreign Influence Transparency Scheme Act 2018 (Cwlth)
• Australia's Foreign Relations (State and Territory Arrangements) Act 2020 (Cwlth)
• Guidelines to Counter Foreign Interference in the Australian Universtiy Sector