

# Conflict of Interest Policy

## Section 1 - Background and Purpose

(1) This Policy outlines the principles applying to actual, potential or perceived conflict of interest. The University is committed to fostering a culture where staff at every level are free of influences, interests or relationships that might conflict, or give rise to the potential or perception of a conflict.

(2) The objectives of this Policy are:

- a. to protect the University's interest in impartial and objective decision making
- b. to protect the reputation of the University by maintaining ethical standards of good judgement, fairness and integrity in all its dealings
- c. to ensure that staff always observe the highest standard of professional conduct
- d. to avoid any activity/interest that might reflect unfavourably upon a staff member's own integrity, or upon the integrity/good name of the University.

## Section 2 - Scope

(3) This Policy applies to all staff members, honorary, adjuncts and clinical staff and also includes Council members (collectively referred to as 'staff' for the purpose of this Policy).

## Section 3 - Policy Statement

(4) A conflict of interest may exist where the following may lead to an unfair advantage or disadvantage when making decisions on behalf of the University:

- a. our personal relationships and/or
- b. connections with former employers and former employees and/or
- c. participation in external activities and/or
- d. interests in another business
- e. personal gain in making business decisions

### Common Areas of Conflict of Interest

(5) The following are common areas where a conflict of interest may arise or exist:

- a. personal relationship involving students
- b. personal relationship involving staff
- c. commercial activity
- d. directorships and shareholdings
- e. financial

- f. gifts, benefits and hospitality
- g. research
- h. other employment
- i. recruitment and selection

## Types of Conflicts

Actual Conflict	Potential Conflict	Perceived Conflict
An actual conflict involves a direct conflict between a staff member's duties and responsibilities to the University and a competing personal or involving a third party. For example: A staff member assesses a tender submitted by a business in which the staff member has a financial interest.	A potential conflict of interest arises where a staff member has an interest or obligation, whether personal or involving a third party, that could conflict with the staff member's duties/responsibilities to the University. For example: A staff member has a personal relationship with a student or staff member of the University who is within their school / Department.	A perceived conflict exists where it could reasonably be perceived, or give the appearance, that a competing interest could improperly influence the work related decisions/activities of a staff member. For example: A staff member has an interest in a business that sponsors research conducted by their school / department at the University.

## Expected Behaviour

(6) The University expects all staff to act ethically, with integrity and to maintain the highest professional standards at work under our Code of Conduct and values. All staff must do everything possible to avoid conflicts of interest. In general, staff should avoid the following situations:

- a. having a material financial interest or acting as a director, officer or employee for any competitor, customer or supplier with which the University does business
- b. accepting any offer or receipt of gifts or other benefits that could affect either party's impartiality, influence a business decision or lead to the improper performance of their responsibilities
- c. using University funds, facilities, equipment, personnel or know-how to benefit other personal or business interests (including research)
- d. be involved in activities and/or have a personal relationship which may provide an unfair advantage or disadvantage when making decisions on behalf of the University.

(7) Should an actual, potential or perceived conflict exist, staff should take action in accordance with the Procedure, such as:

- a. remove themselves from the conflict and/or
- b. ensure appropriate controls are in place to manage the conflict and/or
- c. where required, disclose the conflict or improper conduct

## Breaches of Policy

(8) The University will take steps to identify and manage actual, potential and perceived conflicts of interest.

(9) Pending the outcome of an investigation/enquiry, staff may be subject to disciplinary action in accordance with University policies/procedures and the [Collective Agreement](#). In cases of serious conflict of interest, this may even lead to termination of employment.

(10) Refer to the Procedures below for further information.

# Section 4 - Procedures

## Preamble

(11) This procedure provides further information on the common areas where conflicts of interest occur and the process of declaring an actual, potential or perceived conflict of interest.

## Personal Relationships

(12) The University expects all staff to act ethically, with integrity and to maintain the highest professional standards at work. Those representatives in personal relationships with another representative must:

- a. ensure that work-related considerations are the only ones used in business decisions
- b. avoid impropriety
- c. work without bias
- d. do not abuse authority
- e. remove and/or mitigate any conflict of interest
- f. act appropriately in the work environment.

## Staff/Staff

(13) Where a staff member has a personal relationship with another staff member, that staff member shall not:

- a. be the direct manager of the staff member
- b. be involved in work processes as detailed below
- c. have access to the personal files of the staff member
- d. submit a medical certificate, for any purpose, from a person with whom the staff member has a close personal relationship.

(14) Where a relationship does exist between two staff members, and has formally been approved, the following work processes must not be engaged in with respect to each other:

- a. recruitment, selection, appointment, transfer, promotion, termination
- b. assessment, reviews and performance management processes
- c. selection for any employee recognition or award
- d. salary, incentive, bonus, awards, reviews and job reclassification
- e. staff development opportunities
- f. conditions/terms of employment
- g. leave approvals
- h. assigning work and rostering shifts
- i. engagement as a consultant or contractor

(15) Should the University identify any behaviour/relationship which it believes to be inappropriate/unacceptable, disruptive or affect the work environment in a negative manner the University reserves the right to review the work situation and take appropriate steps to avoid and/or resolve the situation.

(16) In so doing, the staff member/s who is/are the subject of the relationship may be required to undertake any and all reasonable steps and directions to resolve or avoid the issue to the extent necessary to protect the interests of the University and/or other staff.

(17) The Vice-Chancellor (or delegate) and the Executive Director, Human Resources will determine and oversee any arrangement for the management of the staff members in personal relationships.

### **Staff/Student**

(18) Where a staff member has a close personal relationship with a student, that staff member should not participate in or contribute to that student's:

- a. selection for entry to the University
- b. selection for entry into any undergraduate or postgraduate course offered by the University
- c. assessment of student progress
- d. classification for honours
- e. selection for any scholarship or prize
- f. honours or postgraduate supervision
- g. disciplinary proceeding
- h. application for student loan
- i. application or assessment for support services.

(19) The staff member should terminate any supervisory and/or evaluative role and make alternative arrangements for the supervision and/or evaluation of the student's work.

(20) The Vice-Chancellor (or delegate) and the Executive Director, Human Resources will determine and oversee any arrangement for the management of the staff members in personal relationships with students.

### **Staff/Third Party**

(21) Where a staff member has a relationship with a third party person/organisation, that staff member should not participate in or contribute to decisions being made which may provide an unfair advantage or disadvantage for that third party. Third parties may include (but are not limited to) clients, contractors, casual staff, suppliers etc.

(22) For example, a manager must not sign a time record for a casual employee they have a personal relationship with or a staff member must not approve payment of an invoice for a supplier if the staff member has a personal relationship/interest with the approved supplier.

### **Commercial Activities**

(23) In accordance with the [La Trobe University Commercial Activities Guidelines](#), commercial business activities (as defined below) must not be entered into where actual conflicts of interest for the staff or University Council Members exist.

### **Directorship, Shareholding and Relationships**

(24) Where staff hold an interest in a directorship, shares or has a personal relationship with a company, the staff member should:

- a. remove themselves from the conflict and
- b. ensure appropriate controls are in place to manage the conflict and/or
- c. disclose the conflict prior to any business activity taking place

### **Financial**

(25) A financial conflict of interest (or pecuniary interest) may arise:

- a. where a staff member who has budgetary responsibilities for a school or department also has a personal interest (or a person with whom the member has a close personal relationship has a personal interest) in an activity that is to be funded out of that school/department
- b. from a University researcher's financial involvement in an external company that funds part of the research being undertaken by the researcher at the University, such that the researcher's activities at the University could lead to professional, personal or economic gain, thereby providing incentive to bias the design, conduct or reporting of research
- c. with respect to University financial decisions in which a staff member is involved, including but not limited to investments, loans, purchases or sales of goods/services, equity (shares) and accounting decisions
- d. with respect to matters with both financial and non-financial implications, such as decisions about the use of University equipment and facilities and the negotiation of research and license agreements.

(26) Staff holding a University financial delegation in excess of A\$50,000 including the Vice-Chancellor and staff at entities controlled by the University must:

- a. complete an Annual Declaration of Private Interests form on an annual basis
- b. sign the form and ensure that it is also signed by their manager (electronic signatures are acceptable) and
- c. scan and submit the completed form via email to the Declarations Officer

(27) A staff member holding a University financial delegation in excess of A\$50,000 who fails to disclose all private interests may face disciplinary action from the University.

(28) The Office of the Vice-Chancellor will administer the Declarations of Private Interests process and store completed forms on the University's electronic records management system.

(29) The University must comply with Financial Reporting Direction 22B ('FRD'), and must make a statement as to whether "Declarations of Pecuniary Interests" have been duly completed by all relevant officers".

## **Gifts, Benefits and Hospitality**

(30) Staff members should decline offers of gifts, benefits and hospitality.

(31) The University does however recognize that situations may arise where it is not possible to decline the offer. In all cases, staff must ensure that the gift, benefit or hospitality is an expression of goodwill and not an expectation of a return favour.

### **Limitations of Accepting Gifts, Benefits and/or Hospitality**

(32) Receiving gifts, benefits and hospitality with a fair market value of A\$250 or less to a staff member is generally permitted without seeking approval.

(33) Deliberately undervaluing a gift, benefit or hospitality to avoid reporting it or to fraudulently keep it may constitute a breach of the Policy.

(34) Receiving gifts, benefits and hospitality valued over A\$250 is not permitted unless there is an overriding business reason and the staff member has obtained the written approval of their Vice-Chancellor (or delegate).

### **Cultural Gift Acceptance**

(35) In circumstances where staff members are representatives of the University at business, social, cultural or community events, and it would cause offence to decline an official gift, it is reasonable for official representatives of the University to accept an official gift on behalf of the University.

(36) Such gifts should be managed in the same way as a significant major gift or benefit and be registered in the same way. They will be considered the property of the University and where possible displayed in an appropriate and secure location.

### **Ordinary Business Meals and Hospitality**

(37) Occasionally business partners may wish to take us out for a reasonably-priced meal or beverages to discuss business or they may provide occasional hospitality in connection with a business meeting or discussion.

(38) This is permitted if all the following criteria are met:

- a. the purpose of the invitation is to discuss business
- b. the value is reasonable
- c. the setting is conducive to business.

### **Business Partner Sponsored Events**

(39) Staff may attend an event sponsored by a business partner if business is the purpose and the value is reasonable.

### **Contractually Provided Benefits**

(40) Tickets/passes provided to staff by University suppliers/customers may only be accepted if it is in the best interests of the University.

### **Gifts, Benefits and Hospitality Never Allowed**

(41) Staff must never accept:

- a. anything illegal
- b. anything conditional on receiving something in return, like favourable business terms or an advantage in a tender process, often called a “Quid Pro Quo” (this for that)
- c. cash or cash equivalents, like cheques, loans, stock, stock options, and gift certificates redeemable for cash
- d. anything that is sexually oriented, offensive or inappropriate.

(42) Should staff be uncertain about accepting a gift, benefit or hospitality, they should seek clarification from their manager or Human Resources.

### **Research**

(43) The [Australian Code for the Responsible Conduct of Research \(2007\)](#) and the University's [Research Integrity Policy](#) requires that researchers make full disclosure in writing of any actual, potential or perceived conflict of interest in research.

(44) In respect of grants and other research funding there is an obligation to disclose to the funding body any actual, potential or perceived conflicts of interest which might affect the research or investigations, influence publication, or otherwise affect the project. Likewise in respect of publications, conflicts of interest should be disclosed to publishers or editors and to the readers of the published work.

(45) Staff are also expected to comply with the [Research Misconduct Procedure](#).

### **Other Employment**

(46) Whilst in specific cases there may be obvious benefits to both staff and the University for staff to hold other

employment in conjunction with their University employment, there also exists a potential for an actual, potential or perceived conflict of interest where more than one employment relationship exists at the same time.

(47) It is therefore important that staff comply with the [Outside Work Policy](#).

## **Recruitment and Selection**

(48) The University believes that the working relationships between people engaged by the University must be based on integrity and trust. Staff engaged by the University involved in close personal relationships must avoid impropriety, bias, and abuse of authority and conflict of interest.

(49) Staff can recommend someone they have a close personal relationship with for a vacant position, however they should not take any direct part in the selection process for any appointment for which this person is an applicant.

## **Non-Disclosure**

(50) There may be situations where the staff member may manage a conflict without disclosing the conflict (actual, potential or perceived).

(51) In such cases it is sufficient for the staff member to:

- a. remove themselves from the conflict and
- b. ensure appropriate controls are in place to manage the conflict

(52) For example, a staff member has been requested to join the selection committee as part of the interviewing panel for a vacant role in which a relative is an applicant for. The staff member manages the conflict by removing themselves as part of the selection panel for interviewing any applicant for that role.

## **Disclosure Obligations**

### **Staff**

(53) As soon as a staff member becomes aware that they have an actual, potential or perceived conflict of interest, they should either:

- a. remove themselves from the conflict and/or
- b. ensure appropriate controls are in place to manage the conflict and/or
- c. where required, disclose the conflict or improper conduct

(54) Staff have the option of reporting 'improper conduct' of another staff member with protections under the University's [Protected Disclosure Policy](#).

(55) If a staff member is in doubt as to whether a conflict exists, they should seek advice from their manager or Human Resources/Employee Relations.

(56) Refer to 'Disclosure and Reporting Process' below.

### **Council Members**

(57) University Council Members are required under the [La Trobe University Act 2009](#), Part 2, Cl 15(c) to avoid all conflicts of interest and declare any such interests in accordance with Schedule 1, Cl 11. Refer to the Act for further information.

## Disclosure and Reporting Process

(58) There are a number of methods of reporting a conflict of interest, depending on the nature of the conflict of interest. One of the following reporting mechanisms should be used:

- a. the [Protected Disclosure Policy](#) for Improper Conduct
- b. the Acceptance of Gifts, Benefits or Hospitality form (following instructions on the form)
- c. the Private Interests Annual Declaration form (following instructions on the form)
- d. the Conflict of Interest Disclosure form (following instructions on the form)
- e. for the disclosure of personal relationships, staff must report a personal relationship using the Personal Relationship Disclosure form.
- f. reporting as a Council Member under the [La Trobe University Act 2009](#), Part 2, Cl 15(c) to avoid all conflicts of interest and declare any such interests in accordance with Schedule 1, Cl 11

## Management of Conflict of Interest

(59) Notifications of conflict of interest will be reviewed by the Office of the Vice-Chancellor. Under direction of the Vice-Chancellor, a management plan will be established where required, which may include:

- a. nature of the staff member's personal interest
- b. interest/s of the University with which the staff member's personal interest do or could conflict
- c. likelihood of the interests actually coming into conflict
- d. decisions or actions which the staff member agrees to avoid doing and participating in and
- e. decisions or actions which it is agreed the staff member can take or do.

(60) The chosen management strategy must take into account a number of factors, including:

- a. the nature of the conflict of interest
- b. the operating environment
- c. legal requirements and
- d. general practicality.

(61) Once a management plan is approved by the Office of the Vice-Chancellor, it must be:

- a. documented
- b. signed by all parties and placed on the staff member's personal file
- c. recorded in the Disclosure of Conflict of Interest Register and
- d. reviewed on an as needs basis.

(62) All documents should be marked "confidential" and access strictly limited to those employees who need access for official purposes.

(63) In developing this plan any party to the conflict of interest may consult with Human Resources for guidance and assistance.

## Breaches

(64) The University will take steps to identify and manage actual, potential and perceived conflicts of interest.

(65) Pending the outcome of an investigation/enquiry, staff may be subject to disciplinary action in accordance with



University policies/procedures and the [Collective Agreement](#). In cases of serious conflict of interest, this may even lead to termination of employment.

## Privacy

(66) La Trobe University respects the privacy of staff personal information and health information. Information collected will be used in accordance with the University's privacy policies, available at [www.latrobe.edu.au/privacy](http://www.latrobe.edu.au/privacy).

## Section 5 - Definitions

(67) For the purpose of this Policy and Procedure:

- a. Associates: Includes relatives, business or domestic partners (includes married/de facto relationships whether or not cohabiting at the time).
- b. Commercial activity definition is taken to be that as defined in the La Trobe University – Guidelines concerning commercial activities in accordance with Part 6, Division 6 of the [La Trobe University Act 2009](#)
- c. Conflict of Interest is assessed in terms of the likelihood that staff possessing a particular interest could be improperly influenced, or might appear to be improperly influenced, in the performance of their duties.
- d. Decision making is the choice whereby a staff member comes to a conclusion about a given circumstance, situation and/or position.
- e. Disclosure is the act of revealing or something that is revealed.
- f. Financial interest is any employment, business activity or other right, claim, title or legal share in something that has a monetary or equivalent value. Examples of financial interest include, but are not limited to, shares, share options, dividends, and the right to receive remuneration or other benefits such as salaries, director's fees, consulting fees, allowances and discounts.
- g. Improper conduct means corrupt conduct or specified conduct that is not corrupt but that would, if proved, constitute a criminal offence or reasonable grounds for dismissal. Specified conduct is defined in the [Protected Disclosure Act 2012](#) to mean conduct that is dishonest, breaches public trust, involves the misuse of information, a substantial mismanagement of public resources, a substantial risk to public health or safety or a substantial risk to the environment.
- h. Indirect reporting relationship is a dotted line reporting relationship. In the case of close personal relationships, it occurs in a business unit or function where one of the parties in the relationship has direct control or has significant functional influence over that business unit or function either directly or through a chain of subordinates.
- i. Non-financial interest is any community or other voluntary activity or involvement including with a sporting club, church, political party or other formal or informal association or group.
- j. Personal relationship is defined to include spouse, domestic partner, de facto, children, siblings, parents, grandparents, cousins, aunt, uncle, nephew, niece, relations of similar status by marriage, sexual relationships, civil partners, business and financial relationships.
- k. Private financial interests: Substantial sources of income (more than A\$10,000 p.a.) other than from paid employment within the University. This includes outside employment, business activities, company directorships/board memberships, distributions from trusts, directorships of trusts and significant shareholdings (more than 5% of issued capital) in a public or private company.
- l. Private non-financial interests: Memberships of community groups or organisations and voluntary directorships/board memberships.

## Section 6 - Stakeholders

Responsibility for implementation – All University staff.

Responsibility for monitoring implementation and compliance – Managers; Heads of School; Executive Directors; and Senior Management.

## Status and Details

<b>Status</b>	Historic
<b>Effective Date</b>	9th November 2016
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