

# Council Conflict of Interest Policy and Procedure



## 1 Purpose

To provide information and guidance on the USQ Council's Policy on Conflict of Interest

## 2 Scope

1. Under the University of Southern Queensland Act 1998, the University Council must act in the way that appears to it most likely to promote the University's interests (Part 2, Section 10).
2. In discharging this duty it is expected that individual Council members and members of Council committees will act honestly and consider any conflicts of interest that arise in the performance of their functions.
3. A conflict of interest<sup>1</sup> involves a conflict between a person's personal interests and that person's official duties whereby the personal interests could improperly influence the performance of the official duties.
4. It is recognised that conflicts of interest cannot always be avoided or prohibited. However, unavoidable conflicts of interest need to be identified, disclosed and effectively managed.<sup>2</sup>

## 3 Policy Statement

### 3.1 Conduct of Members of Council:

1. Members of Council must act honestly, and exercise care and diligence in carrying out their functions.

### 3.2 Conflict of Interest

1. A member of Council has an interest in a matter before the Council or a Council Committee if:
  - a. the member or a person with whom the member is closely associated would, if the matter were decided in a particular manner, receive or have a reasonable expectation of receiving a direct or indirect pecuniary benefit or suffer or have a reasonable expectation of suffering a direct or indirect pecuniary detriment; or

- b. the member or a person with whom the member is closely associated would, if the matter were decided in a particular manner, obtain or have a reasonable expectation of obtaining a non-pecuniary benefit or suffer or have a reasonable expectation of suffering a non-pecuniary detriment, not being a benefit or detriment that would be shared in common with all or a substantial proportion of members of Council, staff or students of the University.
2. A person is closely associated with a member of Council if:
  - a. that person is a spouse or de facto partner, or a relative of the member;
  - b. that person is the employer or an employee of the member;
  - c. that person is a beneficiary under a trust or an object of a discretionary trust of which the member is a trustee;
  - d. that person is a person from whom the member has received or might reasonably be expected to receive a fee, commission or other reward for providing professional or other services;
  - e. that person is a proprietary company in which the member is a shareholder;
  - f. that person is a body corporate of which the member is a director or a member of the governing body.

## **4 Procedures**

### **4.1 Policy and Procedures Not to Override Other Legislation**

1. The policy may not be applied to, and does not override, matters covered by regulations and legislation applicable to the University and the higher education sector generally.
2. The policy should be read in conjunction with:
  - a. Section 26A “Member's Function, and Obligations About Function” of the University of Southern Queensland Act 1998; and
  - b. The University Code of Conduct Policy, (refer Section C1 of the People Portfolio Policy and Procedures Manual), which refers to the professional conduct of staff of the University. It may be applied to all members of the University community, including members of Council and its standing committees; and
  - c. The “Statement of Responsibility” of Council members, contained in the Council Members' Manual; and
  - d. The National Governance Protocols, in particular, Protocol 3 concerning the duties of members of the governing body and sanctions for the breach of these

duties; and

- e. The Qld Government publication Guidelines for Managing Conflicts for Statutory Office Holders.

## 4.2 Members to Disclose Interests

1. A member of Council who has an interest in a matter before Council, or a member of a Council committee who has an interest in a matter before that committee, must disclose the interest to Council or the committee.
2. A disclosure made under section 4.2.1 above must be recorded in the minutes of the Council meeting or Council committee at which the disclosure was made.
3. Subject to section 4.2.4, below and unless the remaining members of Council or the relevant committee unanimously agree otherwise, a member of Council who has an interest in a matter before Council or a Council committee must not:
  - a. take part in discussion by Council or the committee relating to that matter; or
  - b. be in, or in close vicinity of, the room or other place in which the matter is being discussed; or
  - c. vote in relation to the matter.
4. Section 4.2.3 does not apply in relation to a matter in which the member has an interest by virtue only of the fact that:
  - a. the member or a person closely associated with the member, is a member of, or director or member of the governing body of, a non-profit association; or
  - b. the member is a member of a body comprised of or including, or having a governing body comprised or including, a person or persons appointed by Council.
5. A failure to comply with the requirement to disclose interests in relation to a particular matter to Council or a Council committee does not invalidate a resolution or decision on that matter unless Council or the committee decides otherwise.
6. Members of Council and Council committees must, by 30 June each year, prepare and submit to the Secretary of Council, written details of interests, via the form 'USQ Council - Declaration of Interests and Transactions'. The Secretary will table the information, in camera, at a meeting of Council no later than August of each year.

## 5 References

1. BoardSource, "Managing Conflict of Interest: Purpose, Policies, and Disclosure", (www.boardsource.org/Spotlight.asp?ID+14.47&print=1)
2. CAPA, Conflict of Interest Policy.
3. Crime and Corruption Commission (Qld) (2004). Managing Conflicts of Interest in the Public Sector - Guidelines.
4. Dept of the Premier and Cabinet (2002). Welcome Aboard: A Guide for Members of Qld Government Boards, Committees and Statutory Authorities Governing Qld.
5. Office of the Qld Integrity Commissioner: Information Sheet 3, June 2003. <www.integrity.qld.gov.au>.
6. Qld Government (2006). Guidelines for Managing Conflicts of Interest for Statutory Office Holders.
7. Swinburne University of Technology, Conflict of Interest Policy, <http://policies.swinburne.edu.au/ppdonline/showdoc.aspx?recnum=POL/2008/310>.
8. University of Newcastle, Policy on Conflict of Interest; Policy on Avoiding Conflicts of Interest; and Disclosure of Interests/Conflict of Interests Procedures.
9. University of New England Act 1993, Schedule 2A - Duties of Council members

## 6 Schedules

This policy must be read in conjunction with its subordinate schedules as provided in the table below.

## 7 Policy Information

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| <b>Accountable Officer</b>   | Vice-Chancellor                               |
| <b>Responsible Officer</b>   | Director (Integrity and Professional Conduct) |
| <b>Policy Type</b>           | Governance Policy                             |
| <b>Policy Suite</b>          | Conflict of Interest Policy                   |
| <b>Subordinate Schedules</b> |   |
| <b>Approved Date</b>         | 26/6/2006                                     |
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| <b>Effective Date</b>                           | 26/6/2006  |
| <b>Review Date</b>                              |  |
| <b>Relevant Legislation</b>                     |  |
| <b>Related Policies</b>                         |  |
| <b>Related Procedures</b>                       | <a href="#">Employee Conflict of Interest Procedure</a>  |
| <b>Related forms, publications and websites</b> | <a href="#">Committees of Council</a><br><a href="#">Guidelines for the Conduct of Meetings of Council and Committees</a><br><a href="#">USQ Council - Declaration of Interests and Transactions Form</a><br>(restricted access) |
| <b>Definitions</b>                              | <b>Terms defined in the Definitions Dictionary</b><br><br><b>Definitions that relate to this policy only</b>   |
| <b>Keywords</b>                                 | Council, conflict of interest  |
| <b>Record No</b>                                | 13/291PL   |