

***CONFLICT OF INTEREST AND PROCEDURES TO AVOID IT***  
**APPROVED AT ACADEMIC BOARD MEETING 4 NOVEMBER 2003**  
**RESOLVED AB03/81**

That the Academic Board endorses the development of a policy on Conflict of Interest and procedures to avoid it, that will elaborate on the principles outlined in the UNSW Staff Code of Conduct.

***Issue***

Clarification of the obligations of the University and staff and officers in respect of the identification and management of conflicts of interest.

***Background***

1. A conflict of interest can be defined as “a situation in which a person, such as a public official, an employee, or a professional person, has or is perceived by others to have a private or personal interest sufficient to appear to influence the objective exercise of his or her official duties”.
2. The University is a public institution and its staff and officers are public officers. The University and its staff and officers are publicly accountable for their actions, including being subject to scrutiny by Parliament, the NSW Ombudsman, the Auditor-General, the Independent Commission Against Corruption (ICAC) and the public. Staff and officers have an obligation to act in good faith towards the University and should act in the best interests of the University.
3. The issue of management of actual or perceived conflict of interest in the University environment is highly topical. ICAC identifies conflict of interest as a significant issue in the management of corruption risk and considers that Universities generally inadequately manage it. (ICAC, *'Degrees of Risk: A corruption risk profile of the NSW university sector'*, August 2002). Other external bodies such as the NHMRC and the ARC have expectations that the University manage the issue of conflict of interest appropriately and effectively. The Joint NHMRC/ AVCC Statement and Guidelines on Research Practice (1997) which the Academic Board has accepted requires Universities to have clearly formulated policies and procedures regarding conflict of interest.
4. The University has a number of policies which directly or indirectly address the issue of conflict of interest. The key document is the University's ***Code of Conduct*** which requires that staff “take care that their financial and other interests and actions do not conflict or seem to conflict with the obligations and requirements of their University position”. However, the Code of Conduct is inadequate of itself in identify and suggesting remedies to manage the full range of internal and external concerns.
5. ICAC observes: “The term ‘conflict of interest’ encompasses two propositions. One is that people in public positions must avoid situations in which private

interests impact upon the discharge of public duties. The other is that situations where there is the appearance of a conflict must likewise be avoided, if only because protestations of innocence and integrity may be difficult to accept and impossible to judge." (ICAC, *Degrees of Risk: A corruption risk profile of the NSW university sector*, August 2002, p21)

### *Discussion*

1. The potential for conflict of interest exists in all aspects of the University's operations, including research, teaching, assessment, staffing, administration and commercial activity. This is particularly true of fields of academia where the community of scholars is small and/or where the potential sources of grant funding are limited.
2. A conflict of interest arises not only in the context of financial advantage, but in a range of situations which may involve personal advantages that are less clearly definable. For example, 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.
3. Other examples of potential conflicts of interest are as follows:
  - An administrative unit of the University contracts for supply of services from a company owned and managed by a member of that unit's staff.
  - A researcher accepts a substantial gift from a company which holds a major stake in the industrial application of the researcher's work.
  - A close personal relationship develops between a PhD candidate and their supervisor.
  - An academic member of staff engages in paid outside work as a consultant to a Company. That Company is negotiating for access to University research facilities. The staff member is involved in these negotiations.
  - A Head of School authorises expenditure for the purchase of computers from her husband's electronics store.
  - A Joint Venture agreement is proposed between a Faculty and a company whose directors are also Faculty staff members.
  - An academic staff member sits on a Selection Committee for a position for which a relation/personal friend or a research associate is a candidate.
4. At issue is both the possibility that the member of staff may act improperly and whether actions or decisions may be perceived to be unduly influenced or at odds with the interests of the University.
5. Failure to avoid conflicts of interest, or failure to adequately manage unavoidable conflicts of interest, may result in:
  - misconduct or other disciplinary proceedings against the staff member.
  - damage to the reputation of the University and the individual.
  - loss of public trust in the University and its research, teaching or management.
  - action by agencies such as the Audit Office NSW, ICAC, Ombudsman.
  - loss of confidence in the University's research and services.
  - resentment amongst staff or students who perceive others to be gaining unfair advantage.

- legal action against the University or the individuals concerned.
6. Management of conflicts of interest begins with identifying and declaring the source of the conflict and, if possible, eliminating the source. The University ***Policy on Paid Outside Work for Academic Staff*** suggests that staff members discuss potential conflict of interest with their Head of Unit. Other universities require annual reporting or ongoing recording of conflicts of interest and refer conflict of interest issues to a review committee for final arbitration in the event the conflict of interest cannot be simply resolved.
  7. The University requires a clear set of means to handle actual or potential conflicts of interest. The primary obligation must be on the staff member to notify in advance any real, potential or perceivable conflict to the staff member's supervisor and all other relevant persons and to devise a plan to manage or avoid the potential conflict. In doubtful or sufficiently complex cases, the University may wish to take advice from a suitable review panel depending on the nature of the conflict to be considered.

### ***Recommendation***

1. That consideration be given to the development of a policy on Conflict of Interest and Procedures to avoid it that will elaborate on the principles outlined in the UNSW Staff Code of Conduct.