

## CONFLICT OF COMMITMENT AND INTEREST POLICY

<b>Section</b>	AVC and University Registrar
<b>Contact</b>	Risk Manager
<b>Last Review</b>	December 2014
<b>Next Review</b>	December 2017
<b>Approval</b>	SLT 15/02/08

### Purpose:

The Education Amendment Act 1990 expressly requires universities to establish and maintain standards of conduct for their staff<sup>1</sup>.

In addition, the Office of Auditor General provides good practice guidelines, on managing conflict of interest for public entities. Accordingly, Massey University has the duty to act in a manner that promotes the public interest and enhances public confidence in the integrity of the University in its pursuit and dissemination of knowledge.

Massey University has a growing variety of external relationships, which benefit the public as well as the institution, staff and students. At the same time, these wider relationships have the potential to create situations where conflicts of commitment and interest may arise. (See Definitions of conflict of commitment and conflict of interest.)

Massey University has policies on intellectual property and consultancy that are designed to promote partnerships and collaboration with external agencies in a positive and structured environment. These policies, however, do not cover some other possible interactions between staff and the wider community. It is important to both the University and its staff that these interactions are governed by clear guidelines that are consistent with institutional responsibilities while fostering a full range of opportunities and developments that have the potential to benefit the University.

The aim of this policy is to define an operating environment in which staff can interact as freely as possible with the wider community in a manner consistent with institutional responsibilities and the public interest.

The specific objective of this policy is to provide clear guidelines to assist staff to avoid both conflict of commitment and conflict of interest as they carry out their employment obligations.

### Policy:

#### Statement of Principle:

The University values the integrity of its staff and their commitment to the interest of the University and it relies on staff members acting at all times, inside and outside the University, in an open and honest manner and in a way that does not interfere or conflict with their employment obligations.

<sup>1</sup> Education Amendment Act 1990, Clause 161(3) states: "In exercising their academic freedom and autonomy, institutions shall act in a manner that is consistent with: (a) the need for the maintenance by institutions of the highest ethical standards and the need to permit public scrutiny to ensure the maintenance of those standards".

Staff members must ensure that there is no actual, or perceived, conflict between their personal interests and their University duties and responsibilities.

Conflicts of commitment and interest are assessed in terms of the likelihood that a staff member possessing a particular interest could be, or could appear to be, improperly influenced in the performance of their duties.

If any staff member considers that a conflict of interest does, or may, exist they must follow the operational guidelines below, and disclose the matter in detail.

### **Operational Guidelines:**

It is recognised that the dividing lines between staff members' obligations to the University and their private interest might not be clearly apparent. This policy assists staff to interpret and implement the Statement of Principle in their relationships with industry and other outside parties. For example, but not limited to;

#### **1. Discharge of Duties as a Professional**

- 1.2 Should staff members consider that an instruction of the University would place them in conflict with the code of ethics or code of conduct of their profession, they retain the right to question the instruction given without prejudice to their standing and career in the University.

#### **2. Company Directorships and Commercial Relationships**

- 2.1 Staff are required to seek permission from the Vice-Chancellor when they wish to become directors of any public or private companies, including University spin-out companies, or to become partners or principals in commercial firms or partnerships, or to become retained advisers to commercial organisations, where that involvement has the potential to create or to be perceived to create a conflict of interest with the staff member's employment obligations or the University's wider interests. Permission will be granted if the Vice-Chancellor is satisfied that sufficient measures are in place to adequately avoid or remove any actual or perceived conflict. Permission to hold such positions will be reviewed every two years and whenever the commercial appointment is renewed or reviewed.

#### **3. Appointment to Public Boards, Professional Bodies or Committees**

- 3.1 Staff accepting appointment (whether paid or unpaid) to any public board, committee or professional body in fields related to their teaching, research, or other specialist area of their work at the University shall inform their Head of Department<sup>2</sup>. The Head of Department shall consider whether or not the involvement required will impinge on the employee's employment obligations, and approval must be obtained from the Head of Department before acceptance of any such appointment. Equally, if the duties attached to the position increase at a later stage, after acceptance, the matter shall be reviewed with the Head of Department.
- 3.2 The Vice-Chancellor may approve requests from governments or scientific or professional bodies for staff members to be permitted to accept appointments (whether paid or unpaid) as members of, or advisors to public boards, bodies or committees.

<sup>2</sup> In appropriate cases Head of Department should read Head of Unit, Centre, School, Institute, College, or Section.

#### **4. Appointment to Advisory Boards, Councils and Committees of other Tertiary Institutions**

- 4.1 In the interests of maintaining close links between the University and other tertiary institutions, the Vice-Chancellor may grant permission for staff members to advise, become members of the Council of, or hold paid or unpaid positions in, other tertiary institutions. Staff must seek the Vice-Chancellor's approval before accepting such appointments.

#### **5. Teaching Services for other Institutions**

- 5.1 Staff who are responsible for the creation, delivery and/or examination of any paper taught at the University shall not give tuition in the same subject under the auspices of another education provider, except where an agreement has been entered into between the University and that education provider. Examination and assessment duties, together with arrangements approved by the University in connection with university duties overseas, are exempt from this provision.

#### **6. Relationships with External Agencies Supplying Goods and Services to the University**

- 6.1 Staff who are in the position to influence any decision relating to the supply of goods and services to the University shall immediately notify their Head of Department if they hold any financial or other interest in an external agency negotiating with the University for such supply of goods or services. Similarly, staff shall not recommend to the University such an external agency as a potential supplier without disclosing the interest held.
- 6.2 Staff shall not personally accept inducements or gifts from suppliers of goods and services to the University if the offer is related to any contractual relationship between the supplier and the University.
- 6.3 Staff shall not use confidential information pertaining to the University and acquired during their employment to help any potential supplier to the University of goods and services, achieve advantage over other potential suppliers.

#### **7. Relatives of Staff Members**

- 7.1 All applications for vacant positions in the University are considered in accordance with the principle that all University appointments shall be made solely on merit.
- 7.2 Where a relative<sup>3</sup> of a staff member applies for a position at the University in respect of which that staff member has recruitment authority or an associated advisory role, the staff member shall declare their interest and take no further part in the recruitment process.
- 7.3 A staff member in a position to influence the management or promotion of another staff member who is a relative, or close personal friend, shall disclose the situation to their Head of Department, who shall take steps to ensure that no conflict of interest arises.
- 7.4 A staff member in a position to supervise, teach and/or assess the academic performance of a student who is a relative or who has a mentoring and/or coaching role with a student with whom they develop a close personal relationship, or is a personal friend shall disclose the situation to their Head of Department, who shall take steps to ensure that no conflict of interest arises.

<sup>3</sup> A relative in this context means someone who is related to the staff member by blood, marriage, affinity or adoption, or who is wholly dependent on the staff member, or is a member of the staff member's household

## 8. Other Relationships (Staff and Students):

- 8.1 The University strongly discourages intimate personal relationships between staff and students and staff should avoid entering into an intimate personal relationship with a student at the University, particularly a student for whom they have responsibility. Such a relationship risks taking advantage of the intrinsic trust, power and status differential implicit in the staff-to-student relationship. Should such a relationship arise, it is the staff member's responsibility to disclose the situation to their Head of Department immediately.

### Recording the Decision

A written record of any approval made in regard to such disclosures shall be made in writing in accordance with the following Requirements of Disclosure.

### Requirements of Disclosure:

1. Where a staff member considers a conflict of commitment or interest may exist, they must immediately disclose this, and in writing, to their Head of Department<sup>4</sup>.
2. Where the Head of Department determines that a conflict of commitment or interest exists, or is perceived to exist, the Head of Department will acknowledge the perceived conflict of interest and:
  - (a) Authorise the staff member in writing to continue in his/her current duties or
  - (b) Put in place additional processes to ensure that impartiality of the staff member in performing their duties or
  - (c) Re-organise the duties of the staff member to remove the conflict of interest or
  - (d) Report the matter to the senior manager (PVC/AVC) for determination of appropriate action, and
3. The Head of Department will record the disclosure and action agreed in writing. All documentation relating to disclosure under this policy must be filed in the staff member's personal file held with People and Organisational Development.
4. People and Organisational Development must advise the Assistant Vice-Chancellor Operations, International and University Registrar of all disclosures of conflict of interest and commitment immediately upon receipt of notification, and details must be added to the Disclosure of Conflict of Commitment and Interest Register held in the Office of the Assistant Vice-Chancellor Operations, International and University Registrar.
5. Disclosures of Conflict of Commitment and interest must be reviewed annually by the Staff member, at the University's request. If the conflict no longer exists, a memo noting the change signed by both the staff member and the relevant Head of Department must be appended to the staff member's personal file held with the Office of People and Organisational Development.
6. Special purpose Interest Registers will be maintained and updated annually for the University, Council, Senior Management Team, and on an on-going basis, for the Tenders Board and as appropriate, for Project/Programme Boards.
7. Failure to declare conflicts of commitment and interest, and to comply with this policy, including these disclosure requirements, may constitute serious misconduct.

<sup>4</sup> A Disclosure of Commitment and Interest Form is available of the Policy Guide

### Disputes Procedure:

In the event of a dispute arising between persons or organisations (including the University itself) having an interest in decisions or processes relating to this policy, resolution shall be sought in accordance with the following procedure:

- (i) The aggrieved person(s) shall immediately inform the University, in writing, of their grievance and invite the University to either remedy the matter complained of or to respond to the grievance within fourteen (14) days.
- (ii) Should the dispute remain unresolved thereafter, the parties shall then seek to settle the matter informally through discussion or negotiation, which may include mediation.
- (iii) If no such informal resolution can be reached within thirty (30) days, then any party may refer the matter to arbitration in accordance with and subject to the Arbitration Act 1996 and amendments. The arbitrator or arbitrators should be agreed upon by the parties and, failing agreement, shall be nominated by the President of the Arbitrators' and Mediators' Institute of New Zealand Inc. Such arbitration shall be regarded as final and binding.

### Breach:

Any breach of this Policy by a Massey University Staff member may constitute a breach of that staff member's employment agreement and the University may invoke the performance or disciplinary procedures of the University.

### Audience:

All staff and contractors

### Definitions:

#### Conflict of Commitment

Conflict of commitment is defined as a situation in which the activities of a staff member interfere with that staff member's fulfilment of their obligations under their employment agreement.

#### Conflict of Interest

Conflict of interest is defined as a situation in which the activities of a staff member outside their employment obligations to the University lead to material personal benefit to the staff member concerned, either directly or indirectly (e.g. through a family member, associated entity, or external agency), to the detriment of the University.

### Relevant Legislation:

[Education Act Amendment 1990](#)

[Local Authorities \(Members Interests\) Act 1968](#)

### Legal Compliance:

**Education Amendment Act 1990**, Clause 161(3) states: "In exercising their academic freedom and autonomy, institutions shall act in a manner that is consistent with: (a) the need for the maintenance by institutions of the highest ethical standards and the need to permit public scrutiny to ensure the maintenance of those standards".



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**Local Authorities (Members Interests) Act 1968** applies to the Council of Massey University. Section 6 precludes any member discuss or voting on a question in which s/he has a pecuniary interest. This obligation also applies to controlled entities and committees of the University.

#### **Related Procedures/documents:**

[Disclosure of Conflict of Commitment and Interest Form](#)

[Conflict of Commitment and Interest Policy Manager Guidelines](#)

*Accounting and Auditing Standards SAP-22 and AS-510*

*Managing Conflicts of Interest: Guidance for public entities, Office of the Auditor General 2007*

[Procurement Policy and Procurement Procedures](#)

#### **Document Management Control:**

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