

Conflicts of Interest Policy

Date Approved: 30 March 2015

Date Last Amended: 06 February 2016

1. Introduction

One of the aims of this Policy is to maintain public trust and confidence in the integrity and professionalism of the Newcastle University Students' Association Inc (NUSA). Acting ethically and with integrity includes a requirement that all persons engaged with or undertaking NUSA business identify, and appropriately manage, conflicts of interest.

The objective of this Policy is to help employees, NUSA Council members and others engaged in NUSA business to identify, disclose and manage actual, reasonably perceived or potential conflicts of interest between their interests and their NUSA duty or responsibilities.

2. Policy Scope

This Policy applies to all NUSA staff, Council members, student members and volunteers, in all campuses and locations of the University of Newcastle and at all times while engaged in NUSA business or otherwise representing NUSA.

3. Policy Intent

The intent of this Policy is to support those involved in NUSA activities in the exercise of their duties and endeavours with integrity. The objectives are to identify, disclose and manage conflicts of interest in a transparent manner in order to minimise risk, including reputational risk, to NUSA; minimise risk to individuals; protect the interests of student members of NUSA; and avoid legal issues.

Conflicts of interest can arise in many situations. It is not unusual or wrong to have a conflict of interest. Actual, potential or reasonably perceived conflicts of interest may arise in decision making or in actions, and need to be managed. The purpose of this Policy is to assist in the avoidance of conflicts of interest where possible, and to provide measures which may be used for the appropriate management of issues or situations where conflicts of interest arise.

4. Relevant Definitions

In the context of this document:

Conflict (or actual conflict) of interest arises when an official's private-capacity interests could adversely affect the proper performance of their official function or duty (OECD, 2004, Guidelines on managing conflict of interest) A conflict of interest can arise from avoiding personal losses as well as gaining personal advantage – whether financial or otherwise.

executive means President, Vice President, Clubs and Societies Officer, Education

Officer, Welfare Officer and Media Officer

governing bodies means NUSA Council and its Committees, the Executive, and other governance committees identified by NUSA.

perceived (or apparent) conflict of interest exists where it could be reasonably perceived by a disinterested third party that a person's private interests could improperly influence the performance of their duties – whether or not this is in fact the case.

potential conflict of interest arises where a person has private interests that could conflict with their official duties in the future.

private affiliations include the personal, professional or business interests of others such as family members and friends, or rivals and enemies.

reportable gift or benefit means:

a. any item, travel, hospitality, entertainment or other token of appreciation with a value of more than \$100; or

b. a series of any items listed in (a) from a single source within a calendar year (January 1 to December 31), where the value of the gifts collectively is more than \$100.

statement of interests means the written declaration of relevant personal interests, and possibly those interests of other persons closely related to an individual.

5. Policy provisions / principles

5.1 Identifying conflicts of interest

A conflict of interest exists where there is a divergence between the individual interests of a person and their professional responsibilities such that an independent observer might reasonably conclude that the professional actions of that person are unduly influenced by their own interests (Australian Code for the Responsible Conduct of Research [ACRCR], Section 7). Conflicts of interest may be actual, perceived, or potential. (ICAC, 42). They may arise through decision-making or actions. In all cases, the following tests can be applied to determine if there is a conflict of interest:

- public duty versus private interest;
- potential for benefits now or in the future;
- perception of how a decision or action may be viewed by others; the risk to individual and to NUSA;
- proportionality – would it appear fair and reasonable to an independent person;
- presence of mind – what would be the consequences if the issue is ignored; what would be the perception if questioned publicly;
- promises – what commitments have been made; does an individual stand to gain or lose from the action or decision.

Generally the level of risk associated with conflict of interest will increase with an increasing level of leadership or authority and where multiple functions are assigned to one individual.

Appendix 1 contains a checklist to help identify conflicts of interest.

Specific areas of high risk to be considered include:

- financial and economic interests, for example shareholding in or directorship of a company dealing with NUSA by the person concerned or by a partner or immediate member of their family;
- family or private businesses that may have dealings with NUSA or which may be in competition or conflict with NUSA;
- family or other relationships with contractors, students, or other staff also working in NUSA;
- paid outside employment, being a member of a Committee or Advisory Board, employment by a company dealing with NUSA or in a role related to an aspect of government policy or operations which affects a matter under consideration by NUSA;
- future employment prospects or plans;
- affiliations with, or membership of, other organisations and associations (e.g. non profits; political; trade unions; professional organisations) that may be dealing with NUSA or in competition or conflict with NUSA;
- obligations to professional, community, ethnic, family, or religious groups in a personal or professional capacity;
- enmity or competition with another individual or group.

5.2 Prejudicial relationships

Relationships (familial, closely personal, sexual, commercial or involving private affiliations) may lead to a conflict of interest or be prejudicial to professional conduct. Such relationships may be either current or in the recent past, or may have developed between colleagues or a staff member and a student as a consequence of an initial professional association.

Any relationship between staff members and between staff (whether academic or administrative) and students can be prejudicial where a staff member uses their position to the detriment or benefit of a student, other staff member or the NUSA.

Staff must recognise their professional and ethical responsibilities to protect the interests of students, to avoid or manage conflicts of interest, to respect the trust involved in the staff/student relationship and to accept the constraints and obligations inherent in that relationship.

A staff member shall not take part in any matter in relation to any student who is a member of their immediate family, or is currently or has recently been involved in a close personal relationship with that staff member:

The staff member must declare their interest and make arrangements to avoid taking

part in any of these matters; such arrangements shall be approved by the President; or, if the President is the person involved, then by the Public Officer.

5.3 Responsibilities

5.3.1 General responsibility

It is the responsibility of all those covered by the Scope of this policy to be aware of their obligation to identify, disclose and appropriately manage conflicts of interest which may arise at any time during the course of duty or while on NUSA business. This includes an assessment of private and personal interests and whether they conflict or have the potential to conflict with official duties, and the disclosure of actual, potential or perceived conflicts of interest.

When confronted by an actual, potential or perceived conflict of interest, those covered by the Scope of this Policy, must formally disclose the conflict of interest and its nature. This must be in a form appropriate to the situation, either in writing, by email or by advice to NUSA President or Chair of a meeting. A record of declared actual and potential conflicts of interest will also be maintained in a manner appropriate to the situation. For example, if a disclosure is made during a meeting, this disclosure and the action taken by the Chair to manage the situation should generally be minuted. It is preferable in such circumstances that the person concerned does not remain in the room, even if silent, while the matter related to the disclosure is debated and decided. (ACRCR, Section 7.1.3)

It is the responsibility of NUSA President to ensure that staff are aware of this Policy and to facilitate compliance by NUSA Council.

Where NUSA President, Chair of a Committee or other relevant person or committee becomes aware of an actual, potential or perceived conflict of interest that has not been declared, they should discuss the matter with the individual, encourage full disclosure and take action applicable to the situation.

While all conflicts of interest must be disclosed, on rare occasions, there may be an ethically acceptable reason for not disclosing the specific nature of the conflict, for example if this would breach another person's privacy. In such cases, the individual must still declare that a conflict of interest exists and the NUSA President or Chair of a Committee must be satisfied that the conflict can be managed without its nature being disclosed. [5.4.6 National Statement on Ethical Conduct in Human Research 2007]

5.3.2 Standing declarations

Standing Statement of Interests Declarations are required for all members of NUSA Council. Members must complete a Declaration upon their appointment, and prior to the first meeting of each calendar year thereafter. The Declaration to be used is at Appendix 2.

Making a Statement of Interests Declaration does not remove the obligation on those covered by this Policy to disclose an actual or potential conflict of interest should one

arise, or to take appropriate action to resolve or manage the conflict of interest.

5.3.3 Conflict of interest – disclosure at NUSA Council meetings

All meetings of NUSA Council will commence with a declaration by those present that no conflict of interest exists in any matter before the meeting. Where a conflict of interest is disclosed, the Chair will decide, based on the matter under consideration and the nature of the conflict, the appropriate course of action. This may include the person being stood down from the discussion or not participating in voting or resolutions. The interest that is disclosed, the nature of the conflict and the manner in which it is managed will be minuted.

It is best practice to request a declaration of conflicts of interest at all NUSA meetings. Such declarations are required at NUSA meetings where there are decisions involving personal or confidential information, and where natural justice and procedural fairness issues are paramount.

5.3.4 Areas of high risk

NUSA Council are responsible for areas and processes where there is a high risk of conflicts of interest arising. NUSA Council are required to ensure that specific procedures are put in place to manage the risks posed by potential conflicts of interest.

These areas include:

- procurement processes, tenders and contracts;
- recruitment, selection, appointment, re-classification, termination, tenure, promotion, staff development, conditions of service;
- collection and use of personal information;
- exercising financial and other delegations;

5.4 Gifts and benefits

Staff and members of NUSA Council must not solicit nor accept gifts or benefits either for themselves or for another person which might in any way be seen to directly or indirectly compromise or influence them in their official capacity.

Gifts of money, including gift or store vouchers, are never acceptable. Gifts of nominal value (less than \$100 as a guide) used for promotional purposes by the donor may be accepted. Individuals must, however, be satisfied that they cannot be compromised by the acceptance.

Individual gift(s) in excess of a value of \$100, as well as multiple gifts from the same source totalling in excess of \$100, must:

- i. preferably be gift(s) to NUSA, or a Collective of NUSA; and
- ii. be declared in the Gifts and Benefits Register to be maintained in HROnline.

If an individual has any doubt in relation to a particular matter, direction should be sought from the NUSA President.

5.5 Register of conflicts of interest, gifts and benefits

NUSA will maintain a conflict of interest record for all persons who are required to complete a Statement of Interests Declaration.

Declarations will be held by the Public Officer.

NUSA will also maintain a Gifts and Benefits Register for all staff and NUSA Council to report any gifts and benefits individually or cumulatively in excess of \$100 in value.

The declaration form at Appendix 3 should be used to declare for the Gifts and Benefits Register.

5.6 Management of Conflict of Interest

Appropriate management of conflicts of interest may include:

- restricting the involvement and access to information of those concerned in matters in which they have, or are perceived to have, a conflict of interest;
- re-assignment of persons from matters in which they have actual or potential conflicts of interest;
- involvement of third parties who do not have an interest to participate in the matter;
- relinquishment of assets or private interests;
- resignation from the position which has placed the person in an unmanageable conflict of interest situation.

The most appropriate strategy will depend on an assessment of the nature of the conflict, the complexity of the situation and the subtleties and severity of the case.

5.7 Concerns

Where a member of staff or a student has concerns or perceives that a conflict of interest exists, the matter should be discussed with the NUSA President.

Where the conflict of interest concern involves fraud or corruption the individual should report the matter immediately.

5.8 Consequences for non-compliance

Non-compliance with the provisions of this Policy, including refusal to take any reasonable action as directed to resolve a conflict of interest, is a serious matter. Depending on the severity and implications of the breach, action may be taken under the NUSA Constitution.

Breaches of this Policy may also result in referral to, and action being taken by, a

statutory authority and/or agency.

5.9 Review and Oversight

Information contained in the standing Statement of Interests Declarations will be provided to the NUSA Council in camera at the first meeting of each year.

Information on the Gifts and Benefits Register will be provided to the Finance Committee at the first meeting of each year.

Information held may be used for NUSA purposes including audit, reporting, compliance monitoring and other purposes required by government, legislation or NUSA workplace agreements, rules, policies or procedures.

5.10 Privacy Management

Information arising from conflict of interest disclosures, Statement of Interests Declarations and declarations of reportable gifts and benefits will be managed in accordance with the NUSA's Privacy Management Plan.

6. Further information

Further information may be obtained by contacting:

- NUSA President;
- the Public Officer;
- The office of the NSW Ombudsman.

APPENDIX 1 – CHECKLIST TO HELP IDENTIFY CONFLICTS OF INTEREST

If you answer YES to any of the questions below, you may have an **actual**, reasonably **perceived** or **potential** conflict of interest.

- Would I or anyone associated with me benefit from or be detrimentally affected by my proposed decision or action?
- Could there be benefits for me in the future that could cast doubt on my objectivity?
- Do I have a current or previous personal, professional or financial relationship or association of any significance with an interested party?
- Would my reputation or that of a relative, friend or associate stand to be enhanced or damaged because of the proposed decision or action?
- Do I or a relative, friend or associate of theirs stand to gain or lose financially in some covert or unexpected way?
- Do I hold any personal or professional views or biases that may lead others to reasonably conclude that I am not an appropriate person to deal with the matter?
- Have I contributed in a private capacity in any way to the matter NUSA is dealing with?
- Have I made any promises or commitments in relation to the matter?
- Have I received a benefit or hospitality from someone who stands to gain or lose from my proposed decision or action?
- Am I a member of an association, club or professional organisation or do I have particular ties and affiliations with organisations or individuals who stand to gain or lose by my proposed decision or action?
- Could this situation have an influence on any future employment opportunities outside my current official duties?
- Could there be any other benefits or factors that could cast doubts on my objectivity?

If you still have any doubts about your proposed decision or action, direction should be sought from the NUSA President.

Appendix 2 - STATEMENT OF INTERESTS DECLARATION

DECLARATION OF INTERESTS

Audience

All members of the Newcastle University Students' Association Inc. Council.

Purpose

NUSA uses the information collected by this Declaration to assist in the avoidance of conflicts of interests where possible, and to provide measures which may be used for the appropriate management of issues or situations where conflicts of interest arise.

It is the responsibility of all members of the NUSA Council to disclose interests that could have an impact, whether real, potential or perceived, on their ability to fulfil their responsibilities with the best interests of NUSA in mind.

When must this declaration be completed?

Members of NUSA Council A declaration must be completed when first appointed.
A declaration must also be completed annually thereafter, prior to the first meeting of each calendar year.
Completed declarations must be provided to the Public Officer.
Any interests that arise outside of these periods must be notified to the Public Officer as soon as reasonably practicable, but in any case no later than 30 days, of the change occurring.

Definitions

Conflict of interest A situation in which you, or an immediate family member, have a competing professional or personal financial interest that could have a real or perceived effect on your ability to fulfil your responsibilities with the best interests of NUSA in mind.

Findings of guilt A finding of guilt includes convictions, fines associated with criminal charges, good behaviour bonds, undertakings and community based orders, even where no conviction has been recorded.
It does not include a conviction under any prescribed spent convictions scheme.

Immediate family member Immediate family members are (i) your spouse / domestic partner, and (ii) your children.

Professional relationship A professional relationship is where you provide goods and/or services to other organisations whether for salary, wages, consulting fees or on a pro bono basis.

DECLARATION OF INTERESTS

I, *(insert name)*

(insert position title)

disclose the following interests in relation to myself and my immediate family member(s).

Interest	Yes	No	Provide details
1 Significant shareholdings in the following named companies <i>(no need to disclose nominal shareholdings acquired as qualification for membership of a credit union, building society, or other cooperative society)</i> .	<input type="checkbox"/>	<input type="checkbox"/>	
2 Beneficial interests in family or business trusts and/or nominee companies.	<input type="checkbox"/>	<input type="checkbox"/>	
3 Trustee in a family or business trust.	<input type="checkbox"/>	<input type="checkbox"/>	
4 Director, whether for remuneration or not.	<input type="checkbox"/>	<input type="checkbox"/>	
5 Office bearer of a club or society associated with the University of Newcastle.	<input type="checkbox"/>	<input type="checkbox"/>	
6 Member of a family or business partnership.	<input type="checkbox"/>	<input type="checkbox"/>	
7 Real estate which could reasonably raise an expectation of conflict of interest or a material impact on your ability to fulfil your duties to NUSA.	<input type="checkbox"/>	<input type="checkbox"/>	
8 Have you ever been declared bankrupt or been the subject of any order under the Bankruptcy Act 1966 (Cth)?	<input type="checkbox"/>	<input type="checkbox"/>	
9 Have you ever been a director or executive officer of a corporation which become insolvent whilst you were a director or executive officer?	<input type="checkbox"/>	<input type="checkbox"/>	
10 Have you ever been disqualified from acting as a director, or acting in the management, of an incorporated association?	<input type="checkbox"/>	<input type="checkbox"/>	
11 Have you ever contravened any civil penalty provision of the Corporations Act 2001 (Cth) or any of its predecessor legislation?	<input type="checkbox"/>	<input type="checkbox"/>	

Interest	Yes	No	Provide details
12 Have you ever been found guilty of any offence in relation to corporate or regulatory matters?	<input type="checkbox"/>	<input type="checkbox"/>	
13 Are you currently a party in any capacity in either criminal or civil proceedings before a court, tribunal or other adjudication body, including a professional / registration / licensing body?	<input type="checkbox"/>	<input type="checkbox"/>	
14 Do you expect to become a party to any such proceedings in the next year?	<input type="checkbox"/>	<input type="checkbox"/>	
15 Has there ever been a finding of guilt against you for a criminal offence (except a conviction that is spent under any prescribed convictions scheme)?	<input type="checkbox"/>	<input type="checkbox"/>	
16 Do you have any other interests, financial or otherwise, the nature of which gives rise to, or may be seen to give rise to, a conflict of interest with your duties to NUSA?	<input type="checkbox"/>	<input type="checkbox"/>	

I declare that to the best of my knowledge and belief, this Declaration of Interests is true and correct and describes all significant interests or entities related to me, or to my immediate family member(s), that create a conflict, whether real, potential or perceived, with my duties as they apply to me in my position with Newcastle University Students' Association Inc.

I confirm, for so long as I hold my position in relation to Newcastle University Students' Association Inc., that I will notify the relevant party as soon as reasonably practicable, but in any event within 30 days of the change occurring, of any changes to this Declaration.

Signature:

.....

Name:

.....

Date:

.....

Appendix 3 DISCLOSURE OF A REPORTABLE GIFT OR BENEFIT FORM

Surname: _____

Given names: _____

Position: _____

Nature of gift/s received: _____

Value of gift/s received: \$.....

Gift/s received from: (name of individual, group and/or company):

What has been done with the gift?

I hereby declare that the above details are correct to the best of my knowledge and I make this declaration of gift/s received in good faith.

Signature _____

Date / / .

I hereby declare that I have received and appropriately noted this gift declaration.

Signature (*President*) _____

Date / / .

I hereby declare that I have received and appropriately noted this gift declaration.

Signature (*Public Officer*) _____

Date / / .