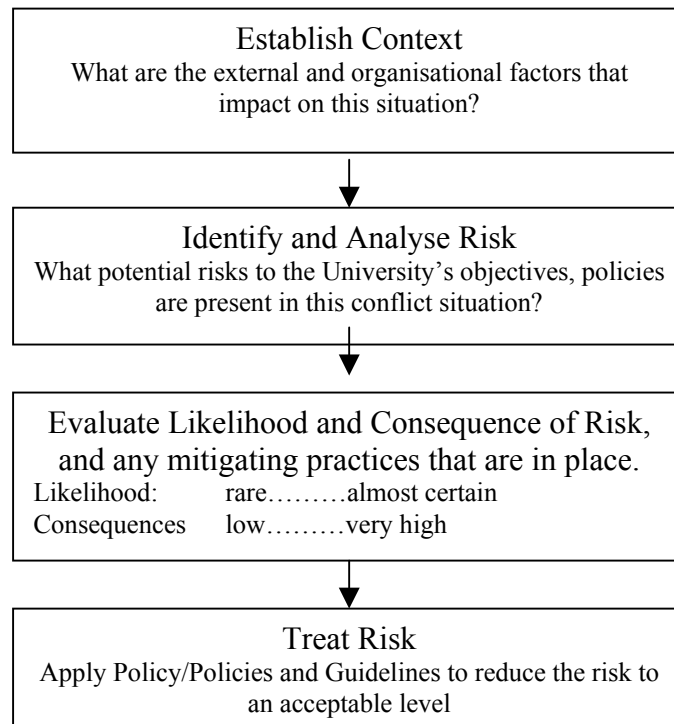


CONFLICT OF INTEREST ANALYSIS OF SCENARIOS

It is important to establish the potential impact of a conflict of interest on the University in the context of a particular situation to work out how to address conflicts of interest and commitment. The likelihood of the risk occurring and the impact of its consequences establish the materiality of the conflict. Appropriate steps can then be taken to remove or reduce the impact of the risk to the University.



The following scenarios illustrate conflict between the interests of the individual and those of the University. They may be useful in illustrating an approach that staff and managers can use to identify, analyse and address the risks that a conflict may pose.

Disclaimer: these scenarios are indicative only. The context of similar situations may mean that the risks involved have a different impact. Therefore these scenarios should not be used to prescribe an action.

Scenario 1 Commercial Conflict of Interest

Establish Context

An Associate Professor of a particular School is a highly respected full-time Academic of the University. However, he has been feeling a little bitter since he was unsuccessful in the last two promotion rounds and has decided to put some of his energies elsewhere. He has decided to open a business, which is entirely removed from his area of expertise at the University. Although he is obviously free to pursue his interests outside the University, there has been a little tension with the other academics and especially the Timetabling Officer. The Associate Professor has decided that he is only available on 2 nominated days of the 5-day working week for lectures/tutorials and student consultations. He is refusing to be more flexible and insists he works from home on the other 3 days. However, he has refused to do any research or administrative duties for the school. He also very rarely responds to phone calls or emails on his 3 days of "working at home".

Identify and Analyse Risk

Academic staff are not required to work a fixed number of hours, but are required to fulfil the aspects of an academic's role, which involves teaching, research and contribution to the University, their profession and the community. The constraint which this Associate Professor places on his availability, may limit the ability of the School to offer courses and to provide effective support to students. Furthermore it is reasonable for academic staff to be accessible during non-teaching time. Clearly being off campus and non responsive to phone or email for 3 days per week means he is not accessible or available for normal academic duties of a fulltime member of staff.

The Conflict of Interest policy states:

4.2 The University expects staff and titleholders to demonstrate that their primary commitment of time and intellectual energy is to its education, research, scholarship programs and contracts. Commitments must be managed to ensure that primary commitments to the University are effectively discharged.

Evaluate Likelihood and Consequence of Risk

The consequence for the achievement of School objectives of the Associate Professor being unavailable is moderate; the fact that it is occurring could place the School in high risk of not being able to deliver the courses effectively. Other staff will probably have to cover the extra workload, and if this continues the resentment will undermine working relationships.

Treat Risk

Ideally when the Associate Professor realises that his business may consume a significant proportion of time, he will note the impact on his academic responsibilities and propose a solution to address, these to the Head of School

The Head of School should approach the Associate Professor and discuss his availability in the issue in the light of the normal academic workload, commitment to the University and the expectations of a full time academic. The issue of working from home is not a right and could be withdrawn.

Since the Associate Professor has opened a business it may be fairer for him to reduce hours at the University, thereby reducing the conflict of interest and releasing money to employ someone else.

In the event that the staff member is not cooperative then the Conflict of Interest Policy clauses 5.1 and 5.6 should be applied:

5.1 Conflicts of interest should be addressed as soon as they become apparent, using the process outlined in the relevant policy or, where that is silent, the process outlined in this policy.

5.6 Failure to disclose a conflict of interest will be addressed according to the specific policies listed in 5.1, and could involve disciplinary action.

Scenario 2 Personal and Commercial Conflicts of Interest

Establish Context

A general staff member works as an Accounts Officer in a School. She is in charge of organising purchase orders and invoices as well as monitoring stationery supplies for the School. She is aware that the University has preferred suppliers, however for the last 6 months she has been ordering from a non-preferred stationery supplier. The manager has noticed that the stationery cupboard, although well stocked with interesting stationery, is really "blowing out" the stationery budget for the year. Last week he found out, through a colleague in a different

School that the non-preferred stationery supplier (which is being used) is in fact the partner of the Accounts Officer in his School.

Identify and Analyse Risk

The purchasing decisions impact on efficient budget management within the School and in relation to the ability of the University to achieve economies of scale in purchasing bulk supplies, which provide savings through discounted rates. The Administrative Officer is using her position to benefit herself indirectly and possibly directly. She is in breach of;

- Procurement Policy on Preferred Suppliers,
- Conflict of Interest Policy,
- Close Personal Relationship and in relation to her obligations as an employee.

Evaluate Likelihood and Consequence of Risk

The impact, and the likelihood of this situation can be seen as moderate to high.

Treat Risk

Ideally the staff member would have checked the difference in the costs and availability between the preferred supplier and her partner, and discussed the potential conflict of interest with the Head of School.

In treating the problem now the manager should discuss the following aspects of the Policy and Guidelines:

4.1 The University seeks to manage with transparency and integrity, any situations of potential conflict of interest and accordingly places an obligation on all its staff and titleholders to declare any conflict of interests between their employment and professional responsibilities to the University, and their other interests.

4.3 Conflicts of interest depend on the situation. Therefore, the test of the existence of a conflict of interest is whether an independent observer may reasonably believe a staff member's or titleholder's actions or decisions might be affected by considerations of personal gain or other external commitments.

5.2 The staff member or titleholder is responsible for choosing to either:

- (a) refuse benefits which could be construed to materially affect his or her judgement;*
- (b) ensure that he or she does not exercise judgement on matters in connection with which he or she is entitled to receive benefits.*

The staff member or titleholder is responsible for reporting their choice, where available, under this Clause to their Area Manager through their supervisor.

Guidelines clause:

3.2.2 Materiality of the Interest

While it is not possible to draw up rules to cover every eventuality, the following points should be taken into account:

- *the extent to which an individual member of staff, due to their position of seniority or decision making ability within the University, has the scope to further their financial or personal interests, directly or indirectly.*

The staff member has made decisions that benefited her and her personal relationship. The situation would be seen by an impartial observer to present a conflict of interest. The current contract should cease and a monitoring process put in place to make sure that the University's interests are supported. Countersigning of request by the manager, regular auditing or a reallocation of duties may be sufficient to address the problem.

Scenario 3 Personal and Administrative Conflicts of Interest

Establish Context

A Senior Academic, together with other Academics of the School, is responsible for supervising Honours students. This particular year he has only 2 Honours students, Leslie and Kim, to supervise. As the year progresses, the relationship that is growing with Leslie is far beyond a friendly supervisor/student relationship. There is a mid year review on the progress of the Honours thesis and Kim, who initially entered the program with a better aggregate of marks, is now feeling a little abandoned. Her supervisor always seems to be busy helping Leslie, while the support Kim receives is very superficial. There are suspicions and rumours going around the School about Leslie and the supervisor.

Identify and Analyse Risk

Potentially there is a moral risk to one student and serious risk of not meeting the University's educational obligations to the other student. For the second student the inadequate support may impact on their future educational and career options. There is also a potential risk to the University's reputation.

Specifically the situation presents a Conflict of Interest in relation to:

- *Guidelines and Rules for Responsible Practice in Research*, Section 2.5 Supervision of Students/Research Trainees.
- There may be the possibility of Sexual Harassment where Leslie feels pressured in the situation with her supervisor.
- The current management of the situation which is affecting the supervisor and student's reputations.

Evaluate Likelihood and Consequence of Risk

The impact of the risk to the students, the School, and the supervisor can be seen as high and therefore warrants immediate attention.

Treat Risk

In addressing the risk the manager needs to raise the issues with the supervisor under the Policy on *Close Personal Relationships* and his academic obligations to his other student.

Scenario 4 - Commercial Conflict of Interest

Establish Context

A renowned academic and researcher is the Head of a Special Research Unit, within a Faculty of the University. A particularly innovative opportunity was taken up by the Unit and was researched using University money, time and facilities. The research outcomes showed commercial potential. The Head of the Unit became so enthusiastic about the possibilities for the technology that he decided to create his own wholly owned company and develop the technology in that context. The company grew and attracted further investment. As a result the company was listed on the Australian Stock Exchange. It made a profit but no funds or acknowledgment was made of the University's contribution. The Head of the University Unit continued to work in the University but did not disclose any information about his involvement in the public company to the Executive Dean of the Faculty.

Identify and Analyse Risk

The above scenario presents a Conflict of Interest and commitment between the academic's duties as a University employee and his commercial interests in relation to the University's intellectual property. The University may be liable for actions of the company because the principal in the company is also a University employee. The University is losing a potential commercial return since the Intellectual Property was originally developed under its auspices.

Evaluate Likelihood and Consequence of Risk

The level of risk to the University can be seen as very high with significant consequences.

Treat Risk

Ideally the academic should have considered the potential conflict of interest at the time that the innovative opportunity showed promise and he was thinking about establishing a separate company. This was the time to clarify the intellectual property rights and the exposure of the University.

In addressing the risk, the manager needs to consider:

- the financial loss to University due to Intellectual Policy. For instance the commercial company may reimburse the value of the Intellectual Property.
- [Policy on Outside Research Grants, Contracts and Consultancies](#)
- the conflict with the staff member's primary obligations to the University. Either the staff member could step aside from making decisions in relation to the company, or change nature of the relationship to the University.

5.2 The staff member or titleholder is responsible for choosing to either:

(c) refuse benefits which could be construed to materially affect his or her judgement;

(d) ensure that he or she does not exercise judgement on matters in connection with which he or she is entitled to receive benefits.

The staff member or titleholder is responsible for reporting their choice, where available, under this Clause to their Area Manager through their supervisor

Note: The situation on which this scenario was based required legal intervention to resolve it.