



# Protocol for Council Members

## Integrity, Respect, Collegiality, Excellence and Discovery (University Values)

### 1. Duty to Advance the Interest of the University

Council must in all matters endeavour to advance the interests of the University (section 9(2) of the *University of Adelaide Act 1971*). This obligation falls on all members of Council including those who are elected members. Elected members will wish to be cognisant of the views and interest of those who elected them but their duty in all matters that come before Council is to advance the best interest of the University as a whole.

### 2. Values and Behaviour Framework and Code of Conduct

Council members should be familiar with the University's *Staff Values and Behaviour Framework, Code of Conduct*, and the *Behaviour and Conduct Policy*. They should respect the values and comply with the code to the extent that it is reasonably applicable to a Council member. (<https://www.adelaide.edu.au/hr/organisational-development/university-values/staff-values-and-behaviour-framework> and <https://www.adelaide.edu.au/hr/hr-handbook/behaviour-conduct>)

### 3. Personal Behaviour

Council members should strive for the highest standards of personal behaviour in their dealings with other members of Council and with other members of the University community. Council members are expected to listen respectfully to other members' contributions and to support the orderly conduct of meetings. Council members are entitled to expect that the same principles will guide the treatment they receive from others.

In their dealings with both the University community and the public at large, Council members should not conduct themselves in any manner likely to cause harm or damage to the reputation of the Council, the University, or to subvert the management processes of the University.

### 4. Use of Social media

Council members should be familiar with the University's *General principles for using social media* (<https://www.adelaide.edu.au/technology/policies-and-guidelines/social-media#general-principles-for-using-social-media>) and comply with the principles to the extent that they are reasonably applicable to a Council member.

### 5. Dealing with the media

- (1) In the interests of a consistent approach to media relations, communication with the media about University-related matters is the sole province of the Chancellor, the Vice-Chancellor and President and their respective delegates for that purpose.
- (2) Council members should not-
  - (a) take part in any discussion with a media representative about University business or affairs; or

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- (b) provide any information, or cause or allow any information to be provided to a media representative about University business or affairs; except with the express prior approval of the Chancellor or Vice-Chancellor and President.

## **6. Confidentiality**

- (1) This paragraph applies to information identified, either on the Council agenda, by the Chancellor or by resolution of the Council, as being confidential to Council.
- (2) Subject to sub-paragraph (3), Council members are required to –
  - (a) keep this information confidential;
  - (b) take reasonable precautions against its unauthorised disclosure or use; and
  - (c) report known or suspected instances of unauthorised use or disclosure to the Council Secretary.
- (3) These obligations will bind each Council member until either –
  - (a) the relevant information enters the public domain otherwise than as a result of a breach of this protocol; or
  - (b) the confidential status of the information is revoked by the Chancellor or a resolution of the Council.
- (4) The above restrictions do not apply where a Council member is obliged by law to disclose, the information.
- (5) Council members are referred to standing order (4c) of Council Standing Orders which is headed 'Confidential items'.

## **7. Respecting role of senior management.**

Council members must respect the role of University management. Council is a governance body; it is not its role to manage the University. Council members should ordinarily communicate with senior managers and other University leaders on matters touching on Council or University business through the Chancellor. Chairs of Council Standing Committees are expected to be in communication with relevant senior management.

## **8. Clarification of content of Council papers**

If any member of Council seeks clarification of a Council paper or seeks further information on a matter to be discussed by Council, they should ordinarily raise this with the Council Secretary rather than raise the issue directly with University management.

## **9. Participating in University Life**

Council members are referred to standing order (19) of Council Standing Orders which is headed 'Attendance at Meetings and Other Responsibilities'. In addition to attending Council meetings, Council members are encouraged to attend University events such as the annual meeting of the University community, graduation ceremonies, public lecture series and Elder Conservatorium concerts. Council members will, on occasions, receive invitations from the Council Secretariat to attend functions of potential interest to them in their capacities as Council members such as formal events on campus and luncheons hosted by the Committee for Economic Development of Australia (CEDA). Council members are encouraged to join their Council colleagues and senior members of University management at such functions, as and when they can.

Should any Council member wish to undertake a site visit, including to a research centre, on any of the University's campuses, the Chancellor or the Council Secretary can make the necessary arrangements. Council members are requested to avoid arranging such visits themselves.

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## 10. Conflicts of interest

The University expects Council members to maintain the highest professional standards when fulfilling the duties associated with their position. Council members should be familiar with the *Council Policy on Conflict of Interest*. Section 17 of the *University of Adelaide Act* prescribes how a Council member who has a direct or indirect personal or pecuniary interest in any matter decided or under consideration by Council must conduct themselves. A copy of section 17 is annexed to this protocol.

## 11. Supporting Council decisions

When a decision is reached and resolved by majority vote, Council members may, pursuant to Council Standing Order (15(d)), ask that their dissent be recorded. Thereafter, no Council members should oppose or impede the implementation of the decision or use the fact of their dissent directly or indirectly to that end.

## 12. Council members' duties in general

- (1) As noted in paragraph 1, Council must in all matters endeavour to advance the interests of the University. For a more detailed discussion of Council members' statutory and common law duties (including those relating to care and diligence as well as those relating to good faith and honesty, Council members should refer to the Council handbook (see particularly, under the heading 'Responsibilities and liabilities of Council members', paragraph 6 'Duties and Liabilities of Council Members'.
- (2) Council members are required to make a fit and proper person requirements declaration in the form prescribed by the Tertiary Education Quality and Standards Agency. Declarations must be completed –
  - a) Upon appointment to Council; and
  - b) Upon the re-appointment for any subsequent term(s) to Council.

## 13. Non-compliance

- (1) Section 17A of the University Act provides that a Council member's non-compliance with a duty imposed by section 15 (Duty of Council members to exercise care and diligence), section 16 (Duty of Council members to act honestly) or section 17 (Duty of Council members with respect to conflict of interest) of that Act will be taken to be serious misconduct and grounds for removal of the member from office.
- (2) Section 13(1)(d) of the Act deals with the removal of an appointed or elected member of the Council who has been guilty of 'serious misconduct'. Section 13(1)(d) is subject to the operation of section 13(2a), which provides that an appointed or elected member of the Council may only be removed by resolution passed by at least a two thirds majority of the members of the Council.
- (3) Depending upon the circumstances in each case, Council members should be aware that a breach of this protocol may give cause for removal from office.

## 14. External Members of Council Standing Committees

External members of Council standing committees should respect this Protocol to the extent that is reasonably applicable to them.

## 15. Internal and/or External Legal Advice

A Council and/or Standing Committee member is entitled to seek internal and/or external legal advice at the University's expense on any matter connected with the discharge of their responsibilities, in accordance with the procedures and subject to the conditions set out below:

- (1) The member must seek the prior approval of the Chancellor (or Deputy Chancellor as appropriate having regard to the relevant circumstances);

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- (2) In seeking such prior approval, the member must provide details of:
    - a) the nature of and reasons for the legal advice to be sought;
    - b) the likely cost of obtaining any external legal advice; and
    - c) details of the external legal adviser the member proposes to instruct.
  - (3) The approval of the Chancellor (or Deputy Chancellor as appropriate) must not be unreasonably withheld.
  - (4) The Chancellor (or Deputy Chancellor, as appropriate) will consult the office of General Counsel on the request. The office of General Counsel will be responsible for determining if the advice is best provided by General Counsel, the University's legal team or sourced from an external adviser appointed by the University.
  - (5) Members should exercise their entitlement under this clause sparingly and only in circumstances where they have a legitimate and significant reservation as to the matter upon which the advice is sought, and which reservation the Council and its internal and/or retained external legal counsel are not able or not willing to address to the reasonable satisfaction of the member.

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## GUIDELINES TO PROTOCOL FOR COUNCIL MEMBERS

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### 1. Consensus

Council has agreed that it will strive to make decisions by consensus on major issues and principles, while acknowledging the requirements of the University of Adelaide Act. It is essential for the good of the University that Council members are seen to be working in unison with a shared commitment to the advancement of the University's goals.

### 2 Confidentiality

Council has agreed that Council members are to respect and preserve the confidentiality of Council papers, recognising that a Council member who believes an item should not be confidential may move for it to be listed on the non-confidential agenda at the Council meeting.

### 3. Collective Responsibility

Council has agreed that Council members are to recognise their collective responsibility on major issues and principles, and, where they do dissent from Council decisions, that this not be publicly commented on.

### 4. Individual responsibility

Council has agreed that all Council members must act individually according to their own conscience and beliefs, and not as representatives of representative groups as they sit at the table.

In accepting the statements above, Council acknowledges that the Chancellor or, in his or her absence, whoever is presiding over a Council meeting, will have Council's authority to enforce these philosophies and understandings, and Council's respect when the Chancellor does so.

### 5. Social exchanges

Council has also agreed that more social exchanges between Council members should be encouraged, to foster trust and a collegial attitude amongst Council members.

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#### Amendment history:

Approved by Council 2 March 2000

*Guidelines to Protocol for Council Members* approved by Council 12 June 2001

Revised by Council 18 February 2002 (following recommendation from Report by Committee on Council Protocols)

Revised by Council 7 June 2004 (ss 3(a), 5(3), 5(4), 5(5), 6(1) 6(2) 6(3), 7(1) 7(2) 7(3))

Revised by Council 5 December 2005 (following amendments to the University of Adelaide Act 1971, (28 July 2005))

Reviewed by Minter Ellison 4 July 2012 (addition of s.6(4); noted by Council 23 July 2012)

Revised by Council 20 July 2015 (s.2(3) amended to reference new University policy)

Reviewed with clerical amendments 28 July 2016.

Reviewed with clerical amendments 25 March 2019 (s.6(4) addition of TEQSA requirement for re-appointed members)

Revised by Council 7 December 2020 to include elements of a Council 'Code of Conduct'

Clerical amendment 1 March 2021 to s.12(1) - correction to reference to paragraph 1.

Revised by Council 14 February 2022 to add s.15 Internal and/or External Legal Advice.

## 17—Duty of Council members with respect to conflict of interest

- (1) A member of the Council who has a direct or indirect personal or pecuniary interest in a matter decided or under consideration by the Council—
  - (a) must, as soon as is reasonably practicable, disclose in writing to the Council full and accurate details of the interest; and
  - (b) must not take part in any discussion by the Council relating to that matter; and
  - (c) must not vote in relation to that matter; and
  - (d) must be absent from the meeting room when any such discussion or voting is taking place.
- (2) A member of the Council will not be taken to have a direct or indirect interest in a matter for the purposes of this section by reason only of the fact that the member has an interest in the matter that is shared in common with a substantial section of the public, or with staff members or students of the University generally, or with a substantial number of staff members or students of the University.
- (3) If a member of the Council makes a disclosure of interest and complies with the other requirements of subsection (1) in respect of a proposed contract—
  - (a) the contract is not liable to be avoided by the University; and
  - (b) the member of the Council is not liable to account to the University for profits derived from the contract.
- (4) If a member of the Council fails to make a disclosure of interest or fails to comply with any other requirement of subsection (1) in respect of a proposed contract, the contract is liable to be avoided by the University.
- (5) A contract may not be avoided under subsection (4) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.
- (6) If a member of the Council has or acquires a personal or pecuniary interest, or is or becomes the holder of an office, such that it is reasonably foreseeable that a conflict might arise with his or her duties as a member of the Council, the member must, as soon as is reasonably practicable, disclose in writing to the Council full and accurate details of the interest or office.
- (7) A disclosure under this section must be recorded in the minutes of the Council.
- (8) Without limiting the effect of this section, a member of the Council will be taken to have an interest in a matter for the purposes of this section if a relative of the member has an interest in the matter.
- (9) This section does not apply in relation to a matter in which a member of the Council has an interest while the member remains unaware that he or she has an interest in the matter, but in any proceedings against the member the burden will lie on the member to prove that he or she was not, at the material time, aware of his or her interest.
- (10) In this section—

**domestic partner** means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

**relative** of a member means the spouse, domestic partner, parent or remoter linear ancestor, son, daughter or remoter issue or brother or sister of the member;

**spouse**—a person is the spouse of another if they are legally married.

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## 17A—Removal of Council members for contravention of section 15, 16 or 17

Non-compliance by a member of the Council with a duty imposed under section 15, 16 or 17 will be taken to be serious misconduct and a ground for removal of the member from office.

## 17B—Civil liability for contravention of section 16 or 17

If a person who is a member of the Council or a former member of the Council is guilty of a contravention of section 16 or 17, the University may recover from the person by action in a court of competent jurisdiction—

- (a) if the person or any other person made a profit as a result of the contravention—an amount equal to the profit; and
- (b) if the University suffered loss or damage as a result of the contravention—compensation
- (c) for the loss or damage.

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