# Policy as adopted by the Council, 28 September 2013

# Policy on Conflict of Interest at UCT

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| Policy summaryEvery member of Council and of a Council committee must make a full declaration of his or her financial interests and fiduciary roles and those of his or her immediate family members on appointment to Council or to the committee concerned. These disclosures must be updated annually.1. Every staff member must make a full declaration of his or her financial interests and fiduciary roles and those of his or her immediate family members on appointment to the University. These disclosures must be updated annually, and may need to be updated at the start and/or the conclusion of a research project as well.
2. In any situation where a potential conflict of interest may arise, the person involved must withdraw from processes and decisions.

A staff member may not conduct business directly or indirectly with the University unless three conditions laid down in the Higher Education Act, Act 101 of 1997 as amended, have been met.1. Only Council may sanction contracts between UCT and an entity in which a Council member or a staff member has a direct or indirect interest. Delegated authorities fall away in such cases.
2. Every staff member must declare any special relationship(s) with another staff member or an applicant for a post at UCT or a student that may have a bearing on his or her work.
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## Rationale and purpose

This policy and these procedures are necessary because they promote good governance and objectivity. The are also necessary because the Higher Education Act and UCT’s Institutional Statute require them, and because the public (including research funding agencies) have a legitimate expectation that the University will both conduct and be seen to conduct its affairs (including all research) with integrity and objectivity.

All members of the Council, all members of committees, all other UCT staff members, including academic researchers and in particular members of management, are elected and appointed to serve the interests of the University. This makes us trustees for the benefit of the University and the public the University serves. It results in an obligation to fulfil responsibilities in a manner consistent with this situation. All work and decisions of members of Council, staff, managers and office bearers, is to be made solely on the basis of a desire to promote the best interests of the University.

The University must protect the integrity of the academic process and provide an environment in which all may reach their full potential, and in which all University members may perform at the highest levels of competence, integrity, and security. This *inter alia* requires objectivity in research.

The University recognises that Council members generally will be and staff may be involved in the affairs of other institutions and organisations, or have their own professional or business careers. This can be beneficial to the University, when staff members engage in activities that develop their expertise and experience; however provision must be made to deal with so, too, the potential, or perceived, conflicts of interest that may arise.

The significance and implications of such conflicts, potential or real, vary and include nepotism. At worst, there could be substantial detrimental effects for the University, including litigation, loss of sponsorship, embarrassment and public criticism. On the other hand, circumstances surrounding potential conflict may be so inconsequential, or present such a small risk, that, on striking a balance, the implications of such conflict are wholly outweighed by the potential benefits to be derived.

A staff member is not to be discouraged from accepting an appointment which could bring a conflict of interest into being; however any such appointment/role must be openly disclosed and any resulting conflict appropriately managed, as described in this policy. In the final evaluation, it is the best interests of the University that matter. Council will consider all conflicts of interest with balance, fairness, integrity and transparency.

## Policy applicable to

* Council members and members of Council committees;
* All staff of the University (where the University as employer makes deductions for UIF contributions) and all joint staff of UCT/PGWC and UCT/NHLS on University or Provincial/NHLS payrolls.

 The policy applies on appointment as well as annually when declarations are updated.

* Honorary staff including honorary research staff.
* Students appointed as members of, or assessors in, disciplinary tribunals.

## Definitions

*(These definitions are offered as a guide to interpreting the policy, but are not all embracing.)*

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| Term | Definition |
| Conflict of interest | A conflict between the private interests (financial, fiduciary, personal or other) and the official responsibilities of a person in a position of trust. In additional to his or her decision-making role as a Council or committee member, or his or her job at the University, an individual may have financial or fiduciary interest in a professional practice, firm, close corporation, partnership, company, business, trusteeship or other organisation. This interest may give rise to a conflict. So too may the financial or fiduciary interest of a close family member. |
| Fiduciary | Relating to or involving a confidence or trust. |
| Recuse | To disqualify oneself as a judge in a particular case; to remove oneself from participation to avoid conflict of interest. |
| Family and special relationships | Conflict of interest applies both to the individual and his or her immediate family, including spouse, parents, siblings, children or any other relative that resides in the same household as the staff member concerned. Special relationships may include, but are not limited to: current and past friendships, romantic relationships; sexual relationships, kinship; or contractual (i.e. where some form of agreement exists between two parties which may, for example, include nomination of a beneficiary or evidence that the relationship is of a long term nature built upon mutual dependency and trust such as a joint bank account, joint ownership of property, or long term cohabitation); and relationships with a history of serious interpersonal conflict. |
| Financial interest | ***Financial*** interest means anything of monetary value, including but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., shares, share options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights). ***Exclusions***: The term does not include salary, royalties, or other remuneration from UCT, income from seminars, lectures, or teaching engagements sponsored by public or non-profit entities, income from service on advisory committees or review panels for public or non-profit entities.***Significance:*** Equity interests need not be declared where they are less than ***five per cent*** of the equity of the entity. |

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## Policy details

### Every member of Council and of a Council committee must make a full declaration of his or her business and financial interests and fiduciary roles and those of his or her immediate family members as required by the Higher Education Act (Section 27), UCT’s Institutional Statute, and this policy on appointment to the Council or the Council committee concerned. These disclosures must be updated annually.

* 1. This applies to all members of Council and of any Council committee with or without delegated functions, including the University Student Disciplinary Tribunal, the Appeal Tribunal or any other body charged with a disciplinary function or that of giving rights, permissions and privileges.
	2. A Council or a Council committee member must withdraw from any meeting where he or she has a direct or indirect financial, personal or other interest in any matter to be discussed at a meeting.
	3. In addition, a Council and committee member must, in writing, inform the chairperson of a meeting, before the meeting, of a conflict or possible conflict of interest contained in the agenda for that meeting and if confirmed must recuse himself or herself from the meeting for he item.

### Every staff member must make a full declaration of his or her business and financial interests and fiduciary roles and those of his or her immediate family members on appointment to the University. These disclosures must be updated annually. This must be done in writing. This is required by law (Higher Education Act subsections 34(4), 34(5) and 34(6)).

* 1. In the course of carrying out duties for the University, staff members must notify the University of any conflict- or possible conflict of interest before the University procures any goods or services from the staff member or an organisation within which the staff member holds an interest.
	2. Should a staff member fail to disclose a conflict of interest, any person may inform Council of a conflict of interest of which that person may be aware.
1. **Researchers, especially Principal Investigators (PIs), have special obligations to make full declarations of interest, and if in doubt must consult the office of the Director of the Office of Research Integrity (ORI)**
	1. Investigators must, unless they have already done this as staff, before commencing a research project, declare any business, commercial or financial activities undertaken for significant financial gain that may raise a conflict or a possible conflict of interest with sponsors or entities affected by the research. The research contract may require a new disclosure form and may also require disclosure by all study participants, whether these are staff or not. In such cases the onus is on the PI to ensure that these disclosures are made.
	2. All financial disclosures must be updated at the start of a research project during the period of the award or research project, either on an annual basis or as new significant financial interests arise.
	3. The Research Contracts and IP Services Office (RCIPS) and the Office of Research Integrity (ORI) to play a special role in monitoring and managing research-related conflicts of interest by keeping records and reporting to funders on steps taken to manage conflicts of interest.
	4. When the University carries out sponsored research through sub-grantees, contractors, or collaborators, RCIPS or ORI must take reasonable steps to ensure that investigators working for such entities comply with any applicable conflict of interest requirements, either by requiring those investigators to comply with this policy or by requiring the entities to provide assurances that will enable the University to comply with this policy.
	5. RCIPS shall certify, when required by a sponsor, that there is a written and enforced administrative process to identify and manage, reduce or eliminate conflicting interests with respect to all research projects for which funding is sought from a sponsor,
	6. Prior to UCT's expenditure of any funds awarded by a sponsor, RCIPS or ORI will report to the sponsor the existence of a conflicting interest if there is one (but not the nature of the interest or other details) and assure the sponsor that the interest has been managed, reduced or eliminated in accordance with this policy to protect the research from bias. This will be done within sixty days of the conflict of interest being identified. Any conflict of interest that emerges subsequent to its initial report will be similarly managed and reported.
	7. Where applicable RCIPS or ORI will ensure compliance with the legal requirements regarding conflicts of interest of any country from which funds are received.
	8. RCIPS or ORI must report any identified conflicts of interest between a researcher and a research project/research funder, an the steps taken to manage the conflict, to the University Research Committee.

### In any situation where a potential conflict of interest may arise, the person involved must withdraw from processes and decisions.

* 1. A member of Council a Committee or of staff with a conflict of interest is obliged to recuse himself or herself (immediately withdraw) from the situation which is linked to the conflict, or during the discussion of the matter and the voting thereon.
	2. Researchers are required to postpone further investigative work where a conflict of interest is identified, pending clearance by RCIPS/ORI.
	3. Conflicts of interest situations reported to, taken into account or otherwise considered by Council or a Council committee shall be recorded, with adequate particulars, in the minutes of Council or of the committee concerned.

### A staff member may not conduct business directly or indirectly with the University unless three conditions laid down in the Higher Education Act have been met. In particular a staff member may not in his or her official capacity contract, or propose a contract between himself/herself in his/her private capacity and the University. Only Council may sanction contracts between UCT and an entity in which a Council member or a staff member has a direct or indirect interest.

* 1. Only Council may sanction a staff member’s contract that entails or may entail a conflict of interest with the University.
	2. Council may do so when the contract meets the following criteria as set out in the Higher Education Act (Section 34 subsection 5):

the goods, products or services in question are unique;

the supplier is a sole provider; and

it is in the best interest of the University.

* 1. Each case has to be considered on its merits, with a full record of all the matters considered and the reasons for arriving at the decision in question.
	2. One outcome of Council’s consideration is that there is in fact no conflict or one of such triviality that it should be disregarded. However, a staff member may only remain in the situation which gave rise to a conflict of interest when Council has made the assessment above and he or she is notified by Council to stay or, having withdrawn, to return.
	3. Where a committee (or other body) holds Council-delegated power to act, and the committee is of the opinion that a transaction should be entered into notwithstanding a conflict of interest, no final decision shall be taken by the committee. Instead, the decision concerned shall take the form of a recommendation to Council supported by a report fully explaining the conflict concerned, and furnishing reasons for its recommendation, indicating how the conflict of interest shall be managed.
	4. Where, in the case of a matter dealt with directly by Council, Council reaches a decision to the same effect this shall be recorded in the Minutes of Council.
	5. Conflicts of interest must be managed in such a way as to reduce or eliminate the conflicts identified. Conditions or restrictions that might be imposed to manage conflicts of interest include, but are not limited to:

Limiting participation in committee discussions to supplying of relevant information without any further ll participation in the proceedings;

Public disclosure of significant financial interests;

Monitoring of processes, decisions and research by independent reviewers;

Modification of processes and research plans;

Disqualification from participation in all or a portion of processes and research projects

Divestiture of significant financial interests;

Severance of relationships that create actual or potential conflicts; or

In the case of tenders, bids, or propositions, ensuring that procedures take all such precautions as may be necessary to ensure that the Council member, committee member or staff member is not accorded any advantages over other competing parties.

### Every staff member must declare any special relationships with another staff member or a student that may have a bearing on his or her work.

* 1. A staff member who has or had a special relationship to, or with, a student with whom he or she has job-related interaction, shall disclose the relationship to the Head of Department, or senior line manager. The HOD or senior line-manager shall keep a confidential written record of this and report this to the Dean. A Head of Department or senior line-manager who has a special relationship with a student shall disclose this to the Dean, who shall keep a confidential record of this. A Dean in such a position will disclose this to the Deputy Vice-Chancellor responsible.
	2. The HOD, senior line-manager, Dean or DVC shall take whatever steps are necessary to ensure that conflicts of interest that arise through special relationships are disclosed and that the academic process is not compromised, that fairness in access to resources, opportunities and/or services is not damaged, and that bias, or perceptions of bias are avoided.
	3. Steps taken to manage special relationships shall be similar to that of a situation of conflict of interest, where the staff member is required to withdraw from processes and decisions concerning a student. For example, no member of the academic staff may supervise the research of a student with whom he or she has a special relationship.
	4. A member of staff who has or had any special relationship to, or with, a member of staff or job applicant in the department or section of which he or she is a member shall disclose the relationship to the Head of Department or Dean. In the case of a Head of Department who has a special relationship with a member of staff or job applicant the relationship must be reported to the relevant Dean, Director, Registrar, Deputy Vice-Chancellor, Vice-Chancellor or Council.
	5. A member of staff who serves on a selection committee, ad hominem promotions committee, or Preliminary Investigating Committee, and has any special relationship to, or with, a member of staff or job applicant who is the subject of discussion of the committee, shall disclose the relationship to the Chair of the committee. A Chair of a committee who has any special relationship to, or with, a member of staff or job applicant who is the subject of discussion of the committee shall disclose the information to the relevant senior authority.

## Procedures

### Procedure for new staff on appointment

* 1. New staff member completes a Disclosure Form which is submitted with other HR forms on appointment.
	2. HR scans the Disclosure form and stores it digitally (in ImageNow).
	3. Procurement reviews the forms in digitally (in ImageNow) and lists those entities (companies, CCs, trusts, partnerships) in which a staff member or a Council or Committee member has an interest, and makes this list available.

### Procedure for Council members and members of Council committees

* 1. The Registrar requires each Council member and each Council committee member to make a full disclosure on appointment, and annually before the first Council meeting of each year.
	2. The Registrar arranges for scans of these and (a) retains them; and (b) makes them available to Procurement; and (c) informs the Chair of Council, relevant Chairs of Committees and the Vice-Chancellor of all declared interests.
	3. The Registrar maintains the register of declared interests and has it available at all Council meetings.

### Procedure for annual update of all declarations

* 1. Conflicts of Interest Disclosures will be updated annually as part of the HR department’s annual data verification exercise. The ED HR will be accountable for doing this.
	2. When there has been a change in information, staff must complete and submit a new Disclosure Form.
	3. Changes to information are routed as per steps 7 above.

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### Access to conflict of interest declarations

Disclosure forms in ImageNow are accessed via a secure web interface, after sign on with UCT credentials. Only authorised members of the HR department and Procurement can access these records.

## Related links

RCIPS

Higher Education Act, ACT 101 of 1997 as amended

UCT Institutional Statute