



POLICY ON CONFLICT OF INTEREST

Policy governance	
Document reference and version number	
Purpose	Disclosure, management and mitigation of conflicts of interest
Document type	Policy
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Policy Owner¹	Vice Rector: Research and Innovation
Policy custodian	Senior Director: Research and Innovation, Division for Research Development
Date of Approval	29 April 2013
Approval by	Stellenbosch University Council
Key words	Conflict, interest, disclose, avoid, mitigation, commercial interest, financial interest, non-financial interest, relationship interest

¹ At the outset the Vice-Rector (Research and Innovation) will assume responsibility as policy owner at an institutional level.

1. Introduction

- 1.1. Stellenbosch University (“the University”) recognises that its members have diverse interests and are involved in activities that fall outside the scope of their formal relationship (as employees or students) with the University. The University further recognises that such interests and activities may give rise to conflicts of interest,² in that they could unfairly or improperly benefit the members, third parties or the University, and in so doing could call the integrity and objectivity of the University and/or its members into question, or have another adverse effect.
- 1.2. Conflicts of interest, actual or potential, must always be fully disclosed.
- 1.3. Whenever possible, conflicts of interest must be avoided, unless the activities or interests are approved in terms of the policy and supporting processes.
- 1.4. Where conflicts of interest cannot be avoided, they must be properly managed.

2. Application of policy

This policy applies to all members of the University. (See 3.7 below for definition of ‘member’.)

The Council of the University subscribes to the general principles of this policy and in turn will ensure that its own rules and governing terms comply with statutory requirements and provide for the effective management of disclosure and management of any conflict of interests that may arise at Council level.

This policy is intended for internal use only and does not confer any rights or privileges to any third party.

3. Definitions

- 3.1. Conflict of interest: Any situation in which a member (See 3.7) has an actual or potential interest that may impact negatively on the integrity or objectivity of the University, thereby causing prejudice to the University or undue or improper benefit to the individual, including situations where:
 - a position of authority may be used to influence or to make decisions that lead to any form of financial or personal gain for that member or for his or her relations;
 - financial or other personal considerations may compromise, or may have the appearance of compromising, a member’s professional judgement in conducting or reporting research.
- 3.2. Interest: Includes but is not limited to any
 - commercial interest (See 3.3)
 - financial interest (See 3.4)
 - non-financial interest (See 3.5); or
 - relationship interest (See 3.6).
- 3.3. Commercial interest: Partnerships, firms, companies, close corporations, businesses or other organisation in which a pecuniary interest, fiduciary responsibility, personal

² A Conflict of Interest is distinguished from a “conflict of commitment”; the latter should be addressed in a separate policy governing membership of professional or other external organisations, affiliations, etc.

participation or any other form of interest is substantial enough to be of significance, for example, holding the position of Executive Director or having more than 5% control (where 'control' means right to direct the affairs of a company as a shareholder, a member of the board of directors, by agreement or otherwise).

- 3.4. Financial Interest: Anything of non-trivial monetary value, including, but not limited to, pay, commission, consultancy fees, equity interests, forgiveness of debt, property, royalties, intellectual property rights, gifts, discount, hospitality and services.
- 3.5. Non-financial interest: This includes, but is not limited to, enhancement of a career, education or professional reputation, access to privileged information or facilities.
- 3.6. Relationship interest (includes "relations"): A family member (spouse, parents, children or relative), a partner, a close personal friend and any other person with whom the member has a relationship which is likely to appear to a reasonable person to influence his/her objectivity.
- 3.7. Member: Any person permanently employed or under contract to the University, registered students, council members, as well as recipients of University bursaries, and any others engaged in activities on behalf of the University.
- 3.8. Affected area: Any faculty, department or other area within the University that may be affected by this policy and may need to manage conflicts of interest.
- 3.9. 1st Line Manager: A member's direct line manager.

4. Purpose of the policy

The purpose of this policy is to uphold the credibility and integrity of the University and its members by avoiding or mitigating real or perceived conflicts of interest, amongst others by:

- 4.1. Helping to identify conflicts of interest or potential conflicts of interest;
- 4.2. Establishing a system for disclosing conflicts of interest;
- 4.3. Providing guidelines for managing conflicts of interest; and
- 4.4. Assisting in resolving disputes about managing conflicts of interest.

This policy further serves to address the requirements of the recent recommended amendments to the Higher Education Act, 1997³ and to adhere to principles of good corporate governance as required in terms of the King III.⁴

³ Specific reference was made to the Higher Education Laws Amendment Act, 21 of 2011.

⁴ The third King Code and report on Corporate Governance that was released on 1 September 2009 and that became effective on 1 March 2010, and includes any subsequent amendments of substitutions that may apply to the University.

5. Objective of the policy

The objective of this policy is to provide a framework for disclosing and managing conflicts of interest in the University, and, amongst others:

- 5.1. To ensure compliance with regulatory requirements;
- 5.2. To avoid legal liability and ill-repute arising from conflicts of interest; and
- 5.3. To protect the integrity of the University, its activities and members and thereby promote confidence in the University as an institution.

This policy is published in support of the existing value system of Stellenbosch University as an ethically responsible institution.

6. Principles of this policy

6.1. The University has obligations to its members:

- To deal with conflict-of-interest issues raised under this policy fairly, objectively, effectively and as transparently as reasonably possible; and
- Not to interfere in their private concerns where these have no bearing on the legitimate interests of the University.

6.2. The members are under obligation to act ethically and in the best interests of the University at all times:

- By disclosing any conflict of interest as soon as they become aware of it; and
- By avoiding conflicts of interest and, where this is not possible, to mitigate and manage any conflict of interest.

7. Determining a conflict of interest

7.1. When considering whether a conflict of interest may exist, the question should be asked whether there is a reasonable presumption that the interest has the capacity to influence the member from acting other than in the interests of the University. Each conflict of interest should be carefully considered on its own merits, with regard to what is in the best interests of the University. There may be conflicts of interest where, on balance, the potential benefits to the University outweigh the risk of detrimental effects. In such situations it may be in the best interests of the University to allow the conflict of interest under certain conditions, and to then manage and mitigate the actual or potential risks.

Annexure "B" contains a list of activities that may constitute potential or actual conflicts of interest. This is not an exhaustive list, merely some examples.

A guiding rule to apply: "when in doubt, disclose"

8. Disclosing conflict of interest

8.1. Accountability

It is the responsibility of the member's line manager to ensure that all members are aware of the Conflict of Interest Policy. The onus is first and foremost on any member involved in a conflict of interest to identify and report the potential conflict of interest to his/her line manager, failing which, any other member who becomes aware of a potential conflict of interest is under obligation to report it promptly.

8.2. Guidelines of the use of Oracle System and record of Conflicts of Interest – are provided in Annexure "D", which is available as a tool to assist line managers and members in disclosing and managing conflicts of interest.

Procedural principles:

- Transparency is fundamental in the treatment of conflict-of-interest situations. There should therefore be meticulous disclosure, strict adherence to the procedures, and precise recording of the proceedings and the reasons for arriving at any decisions. Every effort should be made to resolve, mitigate or manage such situations as soon as reasonably practicable.
- As soon as a member becomes aware of a potential conflict of interest, he or she should immediately withdraw from any involvement in the situation or suspend activities pending a final decision, as per Annexure "A".
- The conflict of interest must be reported within the time periods and terms of the standard procedures outlined in Annexure "A". The procedures require full disclosure and allow for the separation of responsibilities and decision making, as well as for appeal.
- The standard procedures in Annexure "A" apply for all affected areas. However, a particular department or faculty may amend the standard procedure to cater for its specific requirements and circumstances, in which case the revised procedure shall apply. Any revised procedure must comply with the material procedural requirements of the standard procedure, as provided in the policy.
- Should a conflict of interest involve any particular functional, policy or governance issue, e.g. intellectual property, procurement, etc., the 1st Line Manager shall advise the relevant responsible function immediately, and those responsible for that function may be involved in all decision making in the handling of the conflict of interest.
- The policy owner, in conjunction with and supported by management, is responsible for managing and monitoring the implementation of the policy, breaches of the policy and decisions on reported instances of conflict of interest on a regular basis, and for reporting on an institutional level.

9. Resolution of dispute

If a conflict of interest is considered to exist following a disclosure, the responsible management of the affected area should provide guidance and assistance in resolving, mitigating and/or managing the conflict of interest. The steps below must be considered in all instances and applied as required:

9.1. The conflict of interest must be disclosed to all affected parties subject to confidentiality obligations.

- 9.2. Suspending, ending or amending the members' involvement in a decision making process or the execution of his University responsibilities;
- 9.3. The member's involvement in a project must be suspended, terminated or amended, as appropriate.
- 9.4. The process or project must be re-initiated, amended and/or cancelled.
- 9.5. Any benefits already accrued by the member must be abandoned and restitution made where necessary.
- 9.6. The member's concessions to take part in extracurricular activities must be amended, suspended or terminated.

10. Policy governance

10.1. The Policy Custodian is responsible for the policy's formulation, approval, review, communication, availability and monitoring. The Policy Custodian is also responsible for interpretation and guidance in respect of the implementation of the Policy.

10.2. Implementation of the Policy

Management of the affected areas are responsible for the implementation of the policy and specific control in their own areas.

10.3. Management process

Management of the affected areas are responsible for the following procedures within their respective areas:

- For providing mechanisms for identifying conflicts of interest;
- For disclosing conflicts of interest; and
- For avoiding or managing conflicts of interest.

The disclosure, decisions, controls and related records of conflicts of interest in an affected area must be retained for a period of 5 years, or as may otherwise be required.

10.4. Monitoring, reporting and disclosure

Any breaches of this policy must be reported to the Policy Owner and to the Risk Management Committee.

10.5. Actions for non-compliance

Disciplinary steps may be instituted against any member who fails/neglects to disclose a potential or existing conflict of interest that the member reasonably should have foreseen/been aware of, or if a member does not comply with any decision taken following a disclosure, or of any other requirement of this policy. Such a member may be found guilty of misconduct and may be dismissed in accordance with the provisions of University's disciplinary code.

11. Supporting documentation

This policy on Conflicts of Interest is supported by:

Annexure "A"	Standard Procedure for disclosing instances of conflicts of interest, decisions and appeals
Annexure "B"	Examples of conflicts of interest

Annexure "C"	Standard Conflict of Interest Disclosure form
Annexure "D"	Guidelines for use of the Oracle system for disclosure and recordal of Conflicts of Interest

12. Related documentation⁵

Significant related documents include:

Item #	Name	Status	Policy owner
12.1.	SU Framework Policy for the Assurance and Promotion of Ethically Accountable Research	Approved	Division for Research Development
12.2.	SU Research Contracts Management Policy	Approved	Division for Research Development
12.3.	SU Risk Management Committee Regulations	Approved	Risk and Security Services
12.4.	SU Financial Policy	Approved	Division of Finance
12.5.	SU Remuneration and Performance Management Policy	Approved	Human Resources
12.6.	SU General Procedure for Private Work by Lecturing Staff & SU General Procedure for Private Work by Support Service Staff	Approved	Human Resources
12.7.	SU Policy in Respect of Exploitation of Intellectual Property	Approved	InnovUS
12.8.	[SU Media/Information Policy]	Pending	Communication and Marketing Division

⁵ These would include the most significant related documents, and would need to be collated with other policies and processes to ensure alignment and coloration. Documents marked in square brackets indicate either policies in process or to be considered.

Annexure “A”

Standard Procedure for disclosing conflicts of interest, decision and appeals

1. The member shall report the potential conflict to the member’s line manager (“1st Line Manager”) within 3 (three) working days of becoming aware of a conflict of interest, by completing Section A of the standard disclosure of Conflict of Interest Form. (See Annexure “C”).
2. The 1st Line Manager shall assess the potential conflict and submit his recommendations by completing section B of the standard Disclosure of Conflict of Interest form to his Line Manager (“2nd Line Manager”) within 5 (five) working days of receiving the disclosure form.
3. Where the 1st Line Manager (a) cannot resolve the conflict of interest or (b) is of the opinion that a transaction or situation should be continued despite the conflict of interest then the 1st Line Manager should:
 - 3.1. Not take a final decision;
 - 3.2. Complete section B of the form and submit it to the 2nd Line Manager, providing:
 - For(a), a report explaining the steps that have already been taken towards resolving the conflict of interest.
For (b) reasons for recommending a continuation of the situation of the conflict of interest.
4. Where the 1st Line Manager takes a decision following a disclosure, the decision must be ratified by the 2nd Line Manager prior to implementation, by completing Section C. Alternatively, the 2nd Line Manager may refer the matter for a decision to the Policy Owner, who shall convene a Conflict of Interest Committee within 14 (fourteen) working days. The Committee shall consist of at least 3 (three) persons, but not include any of the Committee members referred to in 5 below.
5. After receiving the final formal decision of the Conflict of Interest Committee, the member shall be entitled to appeal against the decision in writing, within 7 (seven) working days, setting out the grounds for appeal and any factors that the Committee should take into consideration. The appeal shall be submitted to the office of the Chief Director: Strategic Initiatives and Human Resources, who shall convene a Conflict of Interest Appeal Committee within 14 (fourteen) working days. This committee shall consist of 5 (five) people – the Dean of the relevant faculty, the Chief Director Strategic Initiatives and Human Resources, the Directors of Finance, Division of Research Development or their nominees and another person nominated at the Policy Owner’s discretion.
 - 5.1. The Line Managers or anyone else who was or could be perceived to have been involved in the conflict of interest, and/or involved in the handling of the conflict of interest may not be part of the Conflict of Interest Committee or the Conflict of Interest Appeal Committee
 - 5.2. The member shall be notified of any decisions (with reasons) in writing within 5 (five) working days of the decision being made. The Committees’ decisions are final except where provided for in the Annexure.

The Conflict of Interest Committee or Conflict of Interest Appeal Committee may appoint an independent party, such as auditors, to investigate, monitor or otherwise assist in the decision making process as they deem fit.

ANNEXURE “B”

Examples of conflict of interest

Below is a list of examples of activities that may constitute a conflict of interest. This list is not exhaustive.

1. Ownership of Intellectual Property: The member conducts research on a technology owned by or obligated to the member or a business in which the member has an interest.
2. Confidentiality: The member uses the University’s confidential information for his/her benefits.
3. Interest in a contract: The member uses his/her position at the University to influence the award or conclusion of a contract between the University and another member or company or firm with which he/she is associated; for example the member is a Director or has 5% or more control in the subcontracting company.
4. Relatives’ or friends’ involvement: The member’s relatives or friends have a financial or non-financial interest in any activity involving the member’s responsibilities at the University.
5. Academic integrity: The member compromises research independence in return for financial or non -financial benefits for himself, relatives or friends.
6. Use of the University’s facilities: The member, or entity in which the member has an interest, uses the University’s space/facilities/equipment for private business purposes. (The member may be required to enter into a rental agreement with the University.)
7. Consortium/sub-contract: The member uses his/her position at the University to influence the type of contract concluded specifically to avoid the levy, for example, concluding a consortium agreement instead of a sub-contract.
8. Flow through of funds: Where the member is a sub-contractor of the University and 50% or more of the total award flows through to the sub-contractor.
9. Use of the University’s trade mark, name or logo without permission.

ANNEXURE "C"

Standard Conflict of Interest Disclosure form

DISCLOSURE OF CONFLICT OF INTEREST

This form is to be completed by any member who has an actual or potential conflict of interest in undertaking their University obligations. A copy of the completed, signed form is to be stored in the member’s personnel file in the Human Resources Division. The member’s conflict of interest management plan, if applicable, should be reviewed annually at the time of performance appraisal.

SECTION A: MEMBERS DISCLOSURE

Please complete your answers in block letters.

I, (Insert full name)

UT number:

of (Insert division)

hereby declare :

AN ACTUAL A POTENTIAL
Conflict of Interest

Note: Tick applicable box

Please provide a brief outline of the nature of the conflict (details may be included privately in a separate confidential envelope, if appropriate).

Please detail the arrangements proposed to resolve/mitigate/manage/ the conflict (attach separately if necessary).

I, (insert full name)..... hereby agree to:

- update this disclosure annually throughout the period of my employment at the University or until such time as the conflict ceases to exist.
- co-operate in the formulation of a conflict of interest management plan, if required.
- comply with any conditions or restrictions imposed by the University to manage, mitigate or eliminate any actual, potential or perceived conflict of interest.

Signed: _____

Date:

SECTION B: ENDORSEMENT BY 1st LINE MANAGER (1st)

I, (insert full name and capacity) have reviewed the disclosure (and plan, where applicable) and:

(*tick as appropriate)

- believe that a plan to manage the conflict of interest is not required and that no further action is necessary.
- believe that the plan outlined in the disclosure will mitigate, manage or remove the conflict of interest (Please provide details below) and will continue to monitor the situation.
- do not believe that the plan outlined in the disclosure will mitigate, manage or remove the conflict of interest and have taken the following action:
(Please provide details below)
- cannot adequately resolve the conflict of interest with the staff member concerned and have referred the matter to the 2nd Line Manager for resolution with my report (Please detail below).
- am of the opinion that the transaction should be continued despite the conflict of interest, and have referred the matter to the 2nd Line Manager for resolution together with my recommendation (Please provide details below)

Signature: _____

Date:

SECTION C: REVIEW BY 2nd LINE MANAGER

I, (insert full name and capacity) have reviewed the conflict of interest disclosure (and plan where applicable) and have taken the following decision:

- I have referred the matter to the Chief Director: Strategic Initiatives and Human Resources for a decision. (Please provide reasons)
- the transaction or conflict of interest should be continued, despite the conflict of interest. (Please provide reasons)
- the following action is required:

Signature: _____

Date:.....

Annexure "D"

Guidelines for use of Oracle system⁶ for disclosure and recordal of Conflicts of Interest

Conflict of Interest System Process

Sign-on in sun-e-HR and click on SUN Employee Self Service responsibility.

Click on the 'Corporate Governance' Menu item

Click on the 'Conflict of Interest' Function

The screenshot shows the Oracle Applications Home Page for Universitas Stellenbosch. The navigation menu on the left includes 'SUN Employee Self Service', 'Personal Information', 'Exemption of Tuition Fees', 'Leave of Absence', 'My Information', 'Documents of Record', 'Performance Management', 'Professional Details (Yearbook)', 'Recruitment', 'Remuneration and Banking', 'Training and Development', 'Corporate Governance', 'Declaration of Gifts', 'Conflict of Interest', 'Reports', and various faculty manager reports. The 'Conflict of Interest' function is highlighted in blue. The main content area shows a 'Worklist' table with columns for 'From', 'Type', 'Subject', 'Sent', and 'Due'. The table contains two rows of application error messages from 'Nolte, Wessel HR' dated '24-Mar-2010'. Below the table are two tips: 'TIP Vacation Rules - Redirect or auto-respond to notifications.' and 'TIP Worklist Access - Specify which users can view and act upon your notifications.'

Once the 'Conflict of Interest' form has opened, click on the 'Add' button.

The screenshot shows the 'Conflict of Interest: Special Information' form. The 'Employee Name' is 'Nolte, Wessel' and the 'Employee Number' is '12649074'. The 'Organization Email Address' is 'NOLTE@SUN.AC.ZA' and the 'Business Group' is 'Stellenbosch University'. The 'Conflict of Interest' section is active, and the 'Add' button is highlighted. Below the 'Add' button is a table with the following structure:

Select Status	Conflict Description	Conflict Relationship (e.g. Director of Company, Family Member, etc.)	Name (e.g. Company Name, Person's Name)	Date Relationship Started
No results found.				

The Conflict of Interest fields will open

⁶ The Oracle system will be available when implementing the Policy, and sections will be added or removed from time to time as the need may arise.

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Navigator Favorites Diagnostics Home Preferences Personalize Page

Conflict of Interest Cancel Apply

[Personalize Table Layout](#)
[Personalize "Summary Region"](#)

Employee Name **Nolte, Wessel** Employee Number **12649074**
 Organization Email Address **NOLTE@SUN.AC.ZA** Business Group **Stellenbosch University**

[Personalize "Special Information"](#)

* Conflict Description
 * Conflict Relationship (e.g. Director of Company, Family Member, etc.)
 * Name (e.g. Company Name, Person's Name)
 Date Relationship Started
 Date Relationship Ended

Cancel Apply

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Enter the necessary fields and click on the 'Apply' button.

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Conflict of Interest Cancel Apply

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[Personalize "Summary Region"](#)

Employee Name **Nolte, Wessel** Employee Number **12649074**
 Organization Email Address **NOLTE@SUN.AC.ZA** Business Group **Stellenbosch University**

[Personalize "Special Information"](#)

* Conflict Description
 * Conflict Relationship (e.g. Director of Company, Family Member, etc.)
 * Name (e.g. Company Name, Person's Name)
 Date Relationship Started
 Date Relationship Ended

Cancel Apply

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Once the detail has been stored click on the 'Next' button.

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Conflict of Interest: Special Information Cancel Back Next

[Personalize Table Layout](#)
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Employee Name **Nolte, Wessel** Employee Number **12649074**
 Organization Email Address **NOLTE@SUN.AC.ZA** Business Group **Stellenbosch University**

[Personalize "Special Information Type"](#)

Conflict of Interest

[Personalize "Special Information Type"](#)

Select Object: |

Select Status	Conflict Description	Conflict Relationship (e.g. Director of Company, Family Member, etc.)	Name (e.g. Company Name, Person's Name)	Date Relationship Started	
<input type="radio"/>	New	Lawnmower Services Inc	Director of Company	Grassy Plains	01-Jan-2007

Cancel Back Next

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The review page will open.

Click on the 'Submit' button to forward for approval

Conflict of Interest: Review

Cancel Printable Page Back Submit

Personalize "Summary Region"

Employee Name **Nolte, Wessel**
Organization Email Address NOLTE@SUN.AC.ZA

Employee Number **12649074**
Business Group **Stellenbosch University**

[Personalize Stack Layout](#)

[Personalize Stack Layout: \(InstrRN\)](#)

Review your changes and, if needed, attach supporting documents.

[Personalize Flow Layout: \(ChangeIndicatorRN\)](#)

[Personalize Table Layout: \(ChgTbl\)](#)

[Indicates Changed Items.](#)

[Personalize Stack Layout: \(HrReviewTablesRN\)](#)

Special Information Types

[Personalize "Special Information Types"](#)

Conflict of Interest

Proposed	
Conflict Description	Lawnmower Services Inc
Conflict Relationship (e.g. Director of Company, Family Member, etc.)	Director of Company
Name (e.g. Company Name, Person's Name)	Grassy Plains
Date Relationship Started	01-Jan-2007
Start Date	23-Nov-2011

Additional Information

[Personalize "Additional Information"](#)

Attachments

[Personalize "Attachments"](#)

To help approvers understand the request, you can attach supporting documents, images, or links to this action.

None

Cancel Printable Page Back Submit