



Australasian College
for Emergency Medicine

Conflict of Interest Policy

v5 COR139

February 2023
acem.org.au

Document Review

Timeframe for review:	Every two years, or earlier if required
Document authorisation:	ACEM Board
Document implementation:	College Governing Bodies and Entities
Document maintenance:	Manager, Governance and Standards

Revision History

Version	Date	Pages revised / Brief Explanation of Revision
v1	Jul-2012	Approved by Council
v1-1	Mar-2014	Consequential changes only as per governance review (e.g. 'Council' to 'Board').
v2	Dec-2016	Approved by Board
v3	Oct-2018	General revisions throughout as well as clarification of additional research obligations
v3.1	Jan-2020	Minor revisions to reflect revised organisational structure. Formal approval not required pursuant to Board decision in 2019
v4	Dec-2022	Significant changes throughout as a result of two-yearly review by Board
v5	Feb-2023	Addition of section 11

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1. Purpose and scope

The Australasian College for Emergency Medicine (ACEM; the College) is committed to high standards of ethical conduct. The purpose of this policy is to provide guidance in identifying and handling perceived, potential and actual conflicts of interest involving ACEM and its activities. It is the responsibility of each ACEM member, trainee, staff member, and other persons serving on a College entity or in a College role ('College representatives') to have regard to the particular circumstances of each case, and the application of this policy in each case.

This policy applies to all ACEM Officers (including Directors, and Company Secretary), members, trainees, staff and College representatives. Where applicable, reference should also be made to the *ACEM Examinations – Conflict of Interest Policy (COR233)*.

2. Policy statement

ACEM members, trainees, staff and College representatives are obligated to avoid and disclose any ethical, legal, financial or other conflicts of interests involving the College and remove themselves from a position of decision-making authority with respect to any conflict situation involving the College. Individual College members, trainees, staff and College representatives have a duty to place the interests of the broader membership above their own personal (self-serving) interests.

Individuals should identify any actual, potential or perceived conflicts of interest that are external to their involvement in College activities and take appropriate action to address such conflicts of interest as they arise.

3. Terminology

ACEM; the College

means the Australasian College for Emergency Medicine.

Actual conflict of interest

involves a direct conflict between current duties and responsibilities and existing private interests.

College entity

means an entity, howsoever styled, established by a governing body pursuant to approved terms of reference and in accordance with the *Policy on College Entities*.

College member

means a person admitted as a member of the College pursuant to the provisions of the ACEM Constitution and associated regulations.

College representatives

means those individuals who fulfil a representative role, including, but not limited to, entity members, accreditation inspectors, champions, examiners, training supervisors, WBA Coordinators, mentors.

Family member

includes spouse, domestic partner, parents, siblings, children, the spouse or partner of a parent, sibling or child, and any other relative who resides in the same household.

Governing body

means the ACEM Board, the Council of Advocacy, Practice and Partnerships (CAPP) and/or the Council of Education (COE), whichever may have overall responsibility for and authority over the entity in question.

Perceived conflict of interest

is where it could be perceived, or appear, that private interests could improperly influence the performance of duties – whether or not this is in fact the case.

Potential conflict of interest

is where private interests could conflict with official duties.

Trainee

means a person enrolled in and undertaking the FACEM Training Program and, for the purposes of this policy, also includes trainees undertaking the Emergency Medicine Certificate (EMC), Emergency Medicine Diploma (EMD), Emergency Medicine Advanced Diploma (EMAD), and Diploma in Pre-Hospital Retrieval Medicine (DipPHRM), as well as Specialist International Medical Graduates (SIMGs) undertaking College requirements for the purpose of attaining eligibility for election to Fellowship of the College.

4. Conflict of Interest

A conflict of interest is a situation which occurs if an interest or activity:

- influences, or appears to influence, the ability of the individual to exercise objectivity; or
- impairs, or appears to impair, the individual's ability to carry out responsibilities in the best interests of the College and the broader membership.

An individual is considered to have a potential conflict of interest when:

- he/she/they or a family member or close associate may receive a financial or other significant benefit as a result of the individual's position at the College;
- he/she/they have the opportunity to influence the College's business, administrative or other material decisions in a manner that leads to personal gain or advantage;
- he/she/they, a family member, or a close associate have an existing or potential financial or other significant interest that impairs, or might appear to impair, his/her/their independence in the discharge of his/her/their responsibilities to the College.

Examples of close associates include:

- the employer (including hospital) or an employee of the individual;
- a beneficiary under a trust or an object of a discretionary trust of which the individual is a trustee;
- a person from whom the individual has received or might reasonably be expected to receive a fee, commission or other reward for providing professional or other services;
- a company in which the individual is a shareholder or has a commercial interest;
- a body corporate of which the individual is a director or a member of the governing body.

The value of the College has been built by the pro-bono contribution and work of its members over many decades. Members, trainees and other College representatives get involved in the work of the College because of their personal and professional interests in specific areas. All individuals bring these personal interests and affiliations to their work in College activities. These interests can be described as vested interests and may become a conflict of interest when an individual elevates their vested interests above those of the College and the broader membership. The emergence of the conflict calls into question an individual's behaviour, judgement and decision making. An individual should understand the risk of a vested interest becoming a conflict, be aware of their behaviour and manage the situation accordingly.

It is noteworthy that for Board members, a conflict of interest does not exist if the material interest is common to all decision makers. In addition, a position of an individual on a College entity or in a College role (i.e. DEMA) does not generally constitute a conflict of interest.

5. Acceptance of gifts of benefits

In general, ACEM members, trainees, staff and College representatives should not solicit or accept any gifts or benefits of a non-token nature, including any gratuity and/or entertainment. For the purpose of this policy, the nominal value of token gifts that may be accepted is up to AU\$100.

Gifts or benefits, whether token in nature or otherwise, must not be accepted from external third parties or any individual awaiting a College decision (eg. SIMG applicants, consultants, contractors, etc). Additionally, if the College is engaged in a tender process, no gift, gratuity or entertainment, no matter how small or insignificant, should be accepted from the tenderers.

Gifts to the organisation of more than nominal value e.g. a painting, or a piece of equipment, may be acceptable, but should be disclosed to the Chief Executive Officer (CEO) and should be recorded in a Gifts and Benefits Register maintained by the Office of the CEO and President.

If any ACEM member, trainee, staff or College representative is in any doubt, guidance should be sought from the College CEO.

6. ACEM Board members

The provisions of this policy recognise that ACEM Board members are the Directors of the College as a company and that for all decisions of Company Directors (as the Board of Directors), the *Corporations Act 2001* (Cth) specifically provides (ss. 191-195):

- Directors must give notice of all “material personal interests” in matters relating to the affairs of the College (which may be narrower than a general conflict of interest);
- It is not a material personal interest if all Directors have the same interest (e.g. Fellow of the College);
- Notice must be given as to the nature and extent of an interest(s) and its relation to the affairs of the College. Notice must be given as soon as the interest and its relation to the affairs of the College arises, or the Director becomes aware of an interest. A standing notice of all such interests may be given.
- In respect of a matter in which the Director has an interest, the Director cannot be present while the matter is being considered and cannot vote on the matter.
- A Director may be present and may vote if the other Directors permit on the basis that the interest is fully disclosed, and the other Directors are satisfied that the interest does not disqualify him/her/them from being present and voting on the matter.

Board members also participate in College decisions through the membership and participation in other College entities and through the duties and responsibilities for specific roles (i.e. Censor-in-Chief). At times, Board members may need to excuse themselves and remain at a distance to the consideration of more controversial matters prior to decision-making at the Board level. Where a Board member(s) has been significantly involved prior to consideration at Board level and there is a conflict or perceived conflict of interest, the individual Board member(s) should ensure that any such conflict is declared and managed accordingly.

7. Disclosure and management

A College staff member or ACEM member, trainee or other College representative who has a potential conflict of interest in a matter before a College entity of which he/she/they are a member must disclose the interest to the relevant entity. If there is doubt as to the materiality of the interest, the chair of the relevant College entity will decide whether a conflict exists.

The disclosure made must be recorded in a register of interests held by the College and noted in the minutes of the meeting of the relevant entity.

An individual who has an interest in a matter before a College entity must not:

- take part in discussion by the entity relating to that matter;
- while such discussion is taking place, be in, or in the vicinity of, the room in which that matter is being discussed; and
- vote in relation to that matter.

When deciding what kind of relationships, situations or affiliations should be disclosed, the individual should consider the situation from the perspective of a third party and whether the relationship, situation or affiliation is of such a nature that it could raise an allegation of an actual or perceived conflict of interest. In such cases, the individual should err on the side of transparency in order to alleviate or avoid future misunderstandings.

Should an appearance of impropriety or actual conflict of interest exist, appropriate actions must be taken; actions taken will vary depending upon the particular facts. The individual must work cooperatively with the College entity or the CEO to achieve a resolution of the conflict in the best interests of the College.

Where an instance of impropriety is suspected to have occurred, the matter must be brought to the attention of the chair of the College council to which the entity reports or, in the case of an ACEM Board member, to the President, and to the CEO. Should the matter relate to the College President, the matter must be brought to the attention of the next ranking Office Bearer (President- Elect or Immediate Past President, as applicable) and the CEO. Should the matter relate to the College CEO, the matter must be brought to the attention of the College President and Deputy CEO. If deemed necessary, the matter will be investigated through the Office of the CEO.

The fact that an individual member of a College entity has failed to comply with this policy does not, of itself, invalidate the decisions of that entity.

7.1 Updating Declaration

As soon as an individual becomes aware of a new conflict of interest or a potential conflict of interest, or there has been a materially significant change to their prior interests declared, they must immediately complete an additional written *Declaration of Conflict of Interest* (COR530) and declare it to the relevant College Officer, being:

- Board member – the President or the Chief Executive Officer;
- Council or entity member – the chair of the relevant Council or entity;
- Staff member – the Chief Executive Officer or relevant Executive Director; and
- Member – the Chief Executive Officer.

7.2 Disclosure at meetings

In addition to providing a written statement of their interests, College members should declare any identified conflict prior to the consideration of relevant matters, as outlined in this policy.

7.3 Failure to disclose

Failing to disclose a conflict of interest, whether actual, potential or perceived, may be regarded as a breach of this policy and may constitute a breach of duties, including duties under the *Corporations Act 2001* (Cth).

If it becomes apparent that an interest was not disclosed or that a decision may have been made when a conflict of interest existed, the matter must be reviewed in accordance with this policy.

Unless otherwise agreed in writing, any staff member, member or stakeholder who is considering engaging in any business or activity that conflicts with the College's interests must have the prior written consent of the College.

8. Management of a Conflict of Interest

If a conflict of interest is identified, an appropriate response must be developed to resolve or manage the conflict of interest.

The management of a conflict of interest should take into consideration:

- the nature of the conflicting interest;

- the interests of the College with which the interest conflicts or could conflict;
- the likelihood of the interests actually coming into conflict;
- the decisions or actions which the individual or entity agrees to avoid or not take part in;
- the decisions or actions which are agreed to be permissible.

The management of a perceived, potential or actual conflict of interest must be documented in the record of any decision or consideration. The response to the conflict of interest must be reviewed regularly, as required. Management of any conflict of interest will be treated respectfully. A register of interests is disclosable.

Resolution may include the individual being removed from a position of decision-making authority in relation to the conflict matter or other more serious action(s), depending on the nature of the conflict.

9. Management of conflicts during meetings

9.1 Disclosure in meetings

An individual must disclose any conflict of interest (actual, perceived or potential) prior to the commencement of any relevant discussion of the matter, unless the conflict of interest has already been identified and raised in the meeting by the meeting's chair.:

For the purpose of identifying reportable conflicts, the chair must, prior to the deliberations of the relevant body, request relevant interests be declared.

The individual is responsible for ensuring their conflict of interest is declared, recorded and managed prior to the commencement of any relevant discussion, irrespective of any prior disclosure they may have made (written or otherwise).

9.2 Determination of whether a conflict exists

The chair of the meeting will decide whether a conflict of interest exists. If the chair is uncertain, a conflict of interest will be deemed to exist. If the chair makes a disclosure, the deputy chair will make the decision or, in the absence of the deputy chair, the decision is made by those members of the entity who have not disclosed a conflict of interest.

9.3 Deliberations and voting

Conflicted individuals must not:

- participate, directly or indirectly, in a decision on the matter, including deliberations;
- be present while the matter is being considered or voted on;
- attempt to influence other decision makers.

In no circumstances is a conflicted individual to vote on the matter.

9.4 Assessment of quorum

A conflicted individual will count for the purposes of determining whether a quorum exists for a vote on the matter in respect of which a conflict exist. The minutes shall record an abstention for the conflicted individual, including reasons. Virtual meetings and circular resolutions (out-of-session decisions/eVote)

The identified procedures apply irrespective of whether a meeting is convened in person or by virtual meeting.

Where a matter is considered by circulatory resolution, a conflicted individual is entitled to receive notice of the matter but, based on the nature of the conflict and the time at which it is disclosed, supporting information may be withheld from that person.

Where a matter is considered by a virtual meeting, a conflicted individual is entitled to receive notice of the matter, but may be asked to leave for the affected part of the meeting, and subsequently rejoin. The chair may, where aware of a conflict of interest, determine to omit part of an agenda or meeting paper from those provided to a conflicted individual.

9.5 Obligations of the chair

The chair of a meeting is responsible for:

- ensuring a standing agenda item calling for all declarations of interests upon commencement exists, and is administered in all meetings;
- reviewing standing conflict notices prior to each meeting to identify possible conflicts of interests in the proposed content. If the chair is uncertain, a conflict of interest will be deemed to exist and the agenda and meeting papers adjusted in the manner set out in section 8.5.

If the chair is conflicted in any matter, they must withdraw from that discussion. The deputy chair (if not conflicted) may chair that item or, if there is no deputy chair, the non-conflicted members present in the meeting may choose a member who is similarly non-conflicted to chair that item.

9.6 Minutes of a meeting

The minutes of a meeting should record:

- the fact a declaration as made and the details of the conflict;
- the process adopted by the body to deal with it; and
- the resolution or conclusion of the entity following its consideration of the matter, including any actions that were taken.

10. Conflicts of interest in research

It is critical that conflicts of interest in research are appropriately managed as they can compromise the validity and integrity of the research process and undermine public confidence in the College.

Researchers in Australia have additional responsibilities under the Australian Code for the Responsible Conduct of Research, which recommends:

- when invited to join a research committee or equivalent, each individual should review current research activities for actual or apparent conflicts and bring possible conflicts of interest to the attention of those running the activities; and
- committees should maintain records of research activities that may lead to conflicts, for example maintain membership lists for committees, noting where they hold financial delegation or are in receipt of cash, services or equipment from third parties.

Researchers in Aotearoa New Zealand, may have additional responsibilities owed to the Health Research Council of New Zealand.

Researchers should also be aware of and comply with any additional requirements for disclosure of conflicts of interest from funding bodies.

Researchers, particularly biomedical and clinical researchers, should not receive any direct benefit from clinical trials and must disclose any indirect benefit from the outcome of clinical trials.

Commercialisation of research is increasingly important and it is recognised that substantial benefits can arise from collaborations and relationships with industry in the licensing and marketing of research discoveries and in the creation of spin-off companies. These activities may also be a source of conflict of interest, which may need to be appropriately managed.

11. Conflicts of Interest relating to College Assessments

Individuals who complete assessments in relation to ACEM training programs must ensure they do not have an actual, potential or perceived conflict of interest.

12. Associated documents

- Australian Code for the Responsible Conduct of Research
- ACEM Constitution
- ACEM Regulations
- ACEM Core Values
- ACEM Examinations – Conflict of Interest Policy (COR233)
- Corporations Act 2001 (Cth)
- Declaration of Conflict of Interest (COR530)



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