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## CONFLICT OF INTEREST POLICY

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### 1. PURPOSE AND SCOPE

The Australasian College for Emergency Medicine (ACEM) is committed to high standards of ethical conduct and, accordingly, places great importance on making clear any existing or potential conflict of interest.

The purpose of this policy is to provide guidance in identifying and handling potential and actual conflicts of interest involving ACEM and its activities. It is the responsibility of each member to have regard to the particular circumstances of each case, and the application of this policy in each case.

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

## 2. POLICY STATEMENT

Members and staff of the College are obligated to avoid and disclose 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.

Members and staff of the College should identify any actual, potential or perceived conflicts of interest and take appropriate action to address such conflicts of interest as they arise.

## 3. DEFINITIONS

### ***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 the ACEM Board and any Council, committee, subcommittee or other entity authorised to carry out any activity or function of the College

### ***College member***

means a person designated as a 'member' in the ACEM Constitution and associated regulations; and, for the purposes of this policy, also includes a trainee and any other person serving on any College entity or as a College representative

### ***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

### ***Perceived conflict of interest***

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

### ***Potential conflict of interest***

where private interests could conflict with official duties

### ***Trainee***

means a trainee in any ACEM training program or a Specialist International Medical Graduate (SIMG) who has been assessed by the College and is working toward meeting the requirements for eligibility for election to Fellowship of the College

### 3.1 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.

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

- he/she 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 has 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, a family member or a close associate has an existing or potential financial or other significant interest that impairs, or might appear to impair, his/her independence in the discharge of his/her 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.

It is noteworthy that a conflict of interest does not exist if the material interest is common to all decision makers.

#### 4. ACCEPTANCE OF GIFTS OR BENEFITS

In general, ACEM members and staff should not solicit or accept any gifts or benefits which might in any way appear to compromise or influence them in their official capacity. If the individual is in any doubt, guidance should be sought.

The offer of gifts or benefits arising as a result of an individual's involvement with the College must be reported immediately to the CEO in the case of members, including trainees, or to their manager, Director or CEO as applicable in the case of staff.

Gifts to the organisation/work area of more than nominal value e.g. a painting, or a piece of equipment, are acceptable, but should be disclosed to the CEO.

If the College is engaged in a tender process, no gift, no matter how small or insignificant, should be accepted from the tenderers.

#### 5. 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* 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 or her from being present and voting on the matter.

## 6. DISCLOSURE AND MANAGEMENT

A staff member or College member who has a potential conflict of interest in a matter before a College entity of which he or she is potentially a member must disclose the interest to the relevant entity. If there is doubt as to the materiality of the interest, the Chair will decide as to whether conflict does or does not exist.

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
- 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 staff member or College member must work cooperatively with the College entity or the CEO to achieve a resolution of the conflict issues 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 a Board member, to the President, and to the 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.

### 6.1 Updating Annual Statement

As soon as a staff member or College member becomes aware of a new conflict of interest or a potential conflict of interest, they must immediately complete an additional written statement of interest and declare it to the relevant College Officer, being:

- College Officer – 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.

### 6.2 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 *Conflict of Interest Policy*.

### 6.3 Failure to Disclose an Interest

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.

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.

#### **6.4 Management of Conflict of Interest Management Plan**

If a conflict of interest is identified in respect of an individual or entity (being a staff member or College member), an appropriate plan should be developed to resolve or manage the conflict of interest.

A conflict of interest management plan must include:

- 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; and
- the timeframe for the plan to be reviewed.

Once a management plan is devised it must be signed by all parties and placed on the College's file for the individual or entity and reviewed regularly or on an as-needs basis, as agreed. This management plan will be treated as a confidential document in accordance with the College's Privacy Policy. However, a register of interests is disclosable.

### **7. MANAGEMENT OF CONFLICTS DURING MEETINGS**

#### **7.1 Disclosure in Meetings**

A College member must disclose conflicts of interests prior to the commencement of any relevant discussion of the matter, unless the conflict of interest:

- has already been documented in a Conflict of Interest Form (and remains identical to that documented); and/or
- 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.

Irrespective of procedures followed by the chair or any conflict of interest form or any prior disclosure (written or otherwise), the relevant individual is responsible for ensuring their conflict of interest is declared, minuted and managed prior to the commencement of any relevant discussion.

#### **7.2 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.

### 7.3 Deliberations and Voting

Conflicted individuals must act in accordance with their Management Plan and in the absence of a Management Plan or an express provision in a Management Plan to the contrary, 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.

### 7.4 Assessment of Quorum

Unless otherwise determined by the Chair of a meeting, a conflicted individual may be counted for the purposes of determining whether a quorum exists for a vote on the matter in respect of which a conflict exists.

If the exclusion of one or more conflicted individuals results in a lack of a quorum, the chair of the meeting must:

- If the matter requires resolution before the entity can reconvene with a quorum, refer the matter to the Board, relevant Council or entity to which it reports;
- If there is no reasonable prospect of the entity achieving a quorum, refer the matter to the Board, relevant Council or entity to which it reports; or
- If the matter can be deferred and considered by a quorum within a reasonable time, defer the matter for consideration at a subsequent meeting.

### 7.5 Teleconferences and Circular Resolutions (Out of Session Decisions)

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

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 teleconference or similar means, a conflicted individual is entitled to receive notice of the matter, but may be asked to leave the teleconference 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.

### 7.6 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;
- perusing 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 clause 7.5.

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.

## 7.7 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 Management Plan associated; and
- the resolution or conclusion of the entity following its consideration of the matter, including any actions that were taken.

A conflicted individual may not access minutes concerning the matter in respect of which a conflict of interest arose.

## 8. 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 which 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 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.

## 9. DOCUMENT REVIEW

Timeframe for review: every two (2) years, or earlier if required.

### 9.1 Responsibilities

Document authorisation:	Board
Document implementation:	Board / all College entities
Document maintenance:	CEO

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## 9.2 Revision History

Version	Date of Version	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