

1. RACGP Conflict of Interest Policy

- 1.1 Policy number: CO-O-022.1
- 1.2 Category: Organisational
- 1.3 Approval date: February 2015
- 1.4 Revision date: February 2018
- 1.5 Unit responsible Office of the President and CEO

2. Policy declaration

Conflicts of Interest, when unmanaged and left unchecked, can compromise the integrity of or the procedure for making Decisions within an organisation.

The policy articulates those standards the RACGP expects concerning the prevention, identification and management of Conflicts of Interest.

This policy is approved by Council and authorised by the CEO.

3. Background

3.1 Conflicts of Interest

The management of Conflicts of Interest is a process integrated into all legal frameworks involving organisations.

The RACGP as a company it is subject to corporate regulation, under which there are several sources of law prohibiting the involvement in or benefiting from Conflicts of Interest in certain situations. A breach of these laws may carry both civil and criminal implications, and may result in the nullification of any benefit gained by a Decision Maker as a result of their conflict.

3.2 Objectives

This Policy aims to assist in the identification and management of Conflicts of Interest.

3.3 Scope

This Policy applies to any Decision made on behalf of the RACGP by Councillors, members, employees or contractors (including members who are engaged in these capacities).

3.4 Out of scope

This Policy does not apply to any person making decisions in their own personal capacity, or in any capacity that does not have the ability to influence the RACGP or its direction (however small or remote that ability).

4. Definitions

In this Policy:

Conflict of Interest includes any situation where it could reasonably be concluded a Decision Maker's capacity to make a Decision on a matter is influenced by the fact they hold other Interests. Conflicts of Interest include:

- i. *actual conflicts of interest*, where duties and responsibilities owed to the RACGP conflict with duties, responsibilities or Interests external to the RACGP
- ii. *potential conflicts of interest*, where it is reasonable to conclude the line of decision making may lead to an actual Conflict of Interest in the future, and

- iii. *perceived conflicts of interest*, where despite the absence of any actual or potential Conflict of Interest, it is reasonable to conclude the circumstances surrounding the Decision Maker and the decision to be made are such that external perceptions of the process may conclude there was a Conflict of Interest, whether or not this was the case.

Constitution means the RACGP's constitution, as adopted in October 2010.

Corporations Act means the *Corporations Act 2001* (Cth)

Decision means any conclusion or decision made for or on behalf of the RACGP with the ability to influence the RACGP or its direction (however small or remote that ability).

Decision Maker means that person or those persons making Decisions, and includes people:

- i. who act in the capacity of the Decision Maker(s), and
- ii. people whose instructions, directions or wishes the Decision Maker is accustomed to follow.

Interest is defined in section 5.1, and includes any legal or other interest in a thing, or any right, power or privilege over a thing or an individual, or circumstances whereby another individual holds the same influence over the Decision Maker.

Policy means this document, and includes the attached Conflict of Interest Procedures.

5. General Principles

5.1 Interests

Decision Makers have an Interest in a matter if:

- A. they, or
- B. a person or organisation affiliated with them,

would directly or indirectly receive a benefit or incur a detriment (whether or not monetary) from a Decision being decided in a particular way. Interests can be professional or personal, indirect or direct, and include:

- C. pecuniary interests, where the Interest provides a reasonable likelihood or expectation of appreciable financial gain or loss, and
- D. non-pecuniary interests, where the Interest provides a reasonable likelihood or expectation of appreciable non-financial gain or loss, or where somebody associated with the Decision Maker (including family, friends, associates etc) receives a benefit or avoids a detriment (whether financial or non-financial).

5.2 Declaration of Conflicts of Interest

All RACGP Councillors, members and staff must disclose any Conflicts of Interest in any matter being considered for a Decision.

Irrespective of any standing notice or any disclosure made on a prescribed form for that purpose, it is the relevant individual's responsibility to ensure their Conflict of Interest is declared and noted prior to the commencement of any relevant discussion.

5.3 Management of Conflicts of Interest

Any Decision Maker with a Conflict of Interest in a matter must not:

- A. be present while the matter is being considered, or
- B. participate, directly or indirectly, in a Decision on the matter.

Clauses 5.3a and b do not apply for Councillors with a Conflict of Interest, if they are otherwise permitted to be present under sections 195(2) (Participation with other Councillors' approval) or 195(3) (Participation with ASIC approval) of the Corporations Act.

Council notes the Constitution clause 76 sentence commencing "*At the request of Council...*" may conflict with the Corporations Act, and to that extent the Corporations Act provisions will apply for the purpose of this Policy.

5.4 **Examples of Conflicts of Interest**

A Conflict of Interest would arise where the RACGP or a Faculty is considering contracting with another organisation for goods or services where a Councillor, Faculty Board member or Faculty staff member (as appropriate):

- A. is an employee or owner (whether whole or part) of that organisation
- B. has a private or professional relationship with members of that organisation
- C. has received benefits from that party, such as grants funding, conference entitlements, gifts or hospitality, or
- D. intends or expects to receive any of these in the future.

It is not usually a Conflict of Interest to:

- E. to hold membership of another organisation, association, society, company, union or trusteeship where there is no possible benefit or perception of benefit which might impact on the individual's motives, actions and/or decision making
- F. to be involved in RACGP approved collaborations with another person or organisation (other than that approval process itself),
- G. in those situations stipulated in clause 77 of the Constitution.

5.5 **Gifts and hospitality**

Gifts or hospitality received by an RACGP Councillor, member or staff which may reasonably be considered as connected to their position as a Decision Maker (or potential future Decision Maker) must not be accepted or solicited. Any such gift or hospitality must promptly be reported to the individual's direct report.

This provision excludes gifts directed to the RACGP, where it can reasonably be considered the gift is provided in consideration of some purpose other than an attempt to influence Decisions.

Gifts or hospitality must not be accepted from any person engaged or who proposes to engage in an RACGP tender.

5.6 **Codes of Conduct**

In addition to this Policy, all RACGP Councillors, members and staff remain subject to the:

- A. RACGP Code of Conduct for College Representatives and Appointees to Faculty Boards, College Committees and Other Advisory Bodies, and
- B. HR Code of Conduct,

as appropriate.

5.7 **Interaction of Policy with other laws**

This Policy has effect in addition to, and not in derogation of, any rule of law relating to the duty or liability of a person concerning Conflicts of Interest, including those in the Corporations Act.

6. Responsibilities of RACGP personnel

6.1 Councillors

All Councillors are individually responsible for understanding and complying with their duties concerning Conflicts of Interests both under this Policy, the common law and the Corporations Act. These duties apply to all matters presented to or discussed at Council.

The Chair of Council is responsible for enforcing this Policy within Council.

6.2 Faculty Board members

All Faculty Board members are responsible for understanding and complying with their duties concerning Conflicts of Interests under this Policy, and to the extent they apply, the common law and the Corporations Act. These duties apply to all matters presented to or discussed by the Faculty Board.

The relevant Faculty Board Chair is responsible for enforcing this Policy within their Faculty.

6.3 Managers

All managers are responsible for understanding and complying with their duties concerning Conflicts of Interests, and those of the staff who report to them.

6.4 Staff

All staff are responsible for understanding and complying with their duties concerning Conflicts of Interests.

6.5 All

Any Councillor, member or staff connected with the making of a Decision, must not knowingly and willingly condone any Decision Maker with a Conflict of Interest to infringe their obligations under section 5 concerning that Decision.

This obligation may be satisfied by reporting the Conflict of Interest to a direct line manager for staff, the Faculty Board Chair for Faculty Board members or the Chair of Council for Councillors.

7. Non-compliance with this Policy

A failure to comply with this Policy may be met with disciplinary proceedings.

In addition, where the common law and/or Corporations Act applies, a failure to comply with the relevant laws may result in considerable civil penalties, restitution orders or even criminal sanctions.

8. Related policies, documents and legislation

8.1 Policies

Disciplinary Action Policy

8.2 Documents

RACGP Acceptance form

Declaration of Interests form

8.3 Legislation

Corporations Act 2001 (Cth)

9. **Administrative procedures**

9.1 **Access to published policy**

This policy will be available via the RACGP intranet.

9.2 **Promulgation of published policy**

Relevant staff members will be provided communications explaining the function and role of this policy.

9.3 **Review of this policy**

This policy will have a review cycle of 3 years.