

## Confidentiality and Conflict of Interest Guidelines for ARC Members

### 6.1 Introduction

The Board structure has been developed as a means of providing high-quality, expert and independent advice to the Minister. The independence of the Board and its high degree of autonomy are critical factors that underpin its effectiveness.

In preparing advice, the Board consults widely and often enters into public debate on issues relevant to its responsibilities. Once advice is developed, however, it is essential that it remain confidential until the Minister has considered it and released it into the public domain by tabling in Parliament.

Members may experience actual or potential conflict of interest between their activities on behalf of the Board and those arising from personal or professional responsibilities. The guidelines are designed to ensure that all such conflicts are identified and addressed in a rigorous and transparent way that accords with the requirements of section 27 of the *Australian Research Council Act 2001* (see page 59 for extract).

### 6.2 Scope

These guidelines apply to all 'members' who are defined as:

- holders of public office appointed by the Governor-General and/or the Minister to the Board of the Australian Research Council;
- members of committees appointed by the Board (eg. ARC College of Experts) with the approval of the Minister under Part 4 of the Act; and
- people co-opted to assist the work under (a) and (b) above on working parties, working groups, steering committees and the like.

### 6.3 Legislative Requirements and Policy

The legislative requirement to disclose interests is contained in the Act. The Governor-General and/or Minister are required to terminate a Board member's appointment for failure to disclose interests without reasonable excuse. Non-disclosure also puts at risk any consultancy contract, grant or other award.

The following guidelines do not attempt to cover all cases where a conflict of interest may occur. Members may find themselves in situations that are not clear-cut and where there is a genuine doubt as to whether a conflict of interest should be declared. In such circumstances, members should err on the side of caution and declare a potential Conflict of Interest. The procedures outlined below for declaring an indirect pecuniary interest should then be followed.

#### Direct Pecuniary Interest

A direct pecuniary interest should be declared wherever there is a potential for a member to gain financially from the results of discussions or decision-making processes. This may include a company directorship or shareholding, a financial investment, and a consultancy or a grant involving financial gain to the member's employer (eg. a company, community organisation, TAFE college, school system, school or higher education institution) in circumstances where the member will benefit directly from the consultancy or grant. In applying the provisions of section 27 of the *Australian Research Council ACT 2001*, it is ARC policy that members not only:

- not take part in any decisions to which the potential conflict of direct pecuniary interest applies; but also
- physically absent themselves from all or any part of a formal meeting or other discussion at which the matter in question is being discussed.

*All declarations of Conflict of Interest are to be recorded in the minutes of the relevant meeting or in the appropriate workbook.*

### **Indirect Pecuniary Interest**

An indirect pecuniary interest may arise from members' employment or professional interests or from their personal relationships. In the case of employment or professional interests, members who hold a formal position of authority in a non-commercial organisation such as an educational institution should be considered to hold an indirect pecuniary interest in a wider range of circumstances than would be the case for those without such a position. A university Deputy Vice-Chancellor (Research), for example, should declare an interest in any project, grant or consultancy for which a member of the university has applied, and a head of department should similarly declare an interest wherever departmental members are involved.

With respect to members' personal relationships, an indirect pecuniary interest may involve, for example, an application for a consultancy or grant from a member's partner or relative, a close personal friend or a close professional colleague.

In cases where a member declares an indirect pecuniary interest, the Board or Committee should determine the extent to which a member may be involved in the discussion or decision concerning the matter involving the potential conflict of interest.

All declarations are to be recorded in the minutes of the relevant meeting.

### **Non-pecuniary Conflict of Interest**

An actual or potential non-pecuniary Conflict of Interest may arise from a member simultaneously having an appointment to, or employment or consultancy or other involvement with, another organisation or body in some way involved with the ARC programs. The situation may arise if the interests of ARC and the other body or organisation are in conflict, or if access to information arising from the Board membership could be used to unfair advantage if divulged to the other organisation or body. In certain circumstances, the member may need to consider resigning Board membership, or severing links with the other organisation or body as appropriate, to avoid an ever-present Conflict of Interest. In less extreme cases, the member may need to refrain from participating in, or to constrain participation in, relevant discussions or activities of the other organisation or body in order to protect the Board's or Committee's interests.

### **Avoiding a Conflict of Interest**

The Board recognises that, in certain specialised areas of research or consultancy, there may be a very limited number of individuals, project teams or organisations with the expertise and knowledge required. The above requirements for declaring an interest must nevertheless be applied if a Conflict of Interest actually arises or may be seen to have arisen. However, it may be possible to foresee a potential Conflict of Interest at some future time and to take steps to prevent it from actually arising. For example, a steering committee or working party may decide to develop a brief for a consultancy or research project in an area in which a member of that committee or working party is expert.

In such cases, the member may wish at the outset to state an inability to take any part either in developing the brief or in evaluating proposals received in response to it, thereby enabling her or him to tender for the project without Conflict of Interest.

## **Declaration of Financial Interests**

All ARC members must also declare any relevant financial interest in writing. Declarations are retained in custody of the ARC and are available for reference if required by the Minister or other authorised person.

Extract from *Australian Research Council Act 2001*

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### **27 Disclosure of interests**

- (1) A Board member who has an interest, pecuniary or otherwise:
    - (a) that is in a matter that is being considered, or is about to be considered, by the Board; and
    - (b) that could conflict with the proper performance of his or her functions in relation to that matter;must disclose the nature of the interest at the meeting of the Board.
  - (2) The disclosure must be made as soon as possible after the relevant facts have come to the member's knowledge, and must be recorded in the minutes of the meeting.
  - (3) Unless the Board otherwise determines, the member:
    - (a) must not be present during any deliberation by the Board on the matter; and
    - (b) must not take part in any decision of the Board on the matter.
  - (4) For the purposes of any determination being made under subsection (3), a Board member who has an interest, pecuniary or otherwise, that could conflict with the proper performance of his or her functions in relation to the matter to which the disclosure relates:
    - (a) must not be present during any deliberation of the Board on whether to make the determination; and
    - (b) must not take part in making the determination.
  - (5) This section has effect subject to subsection 38(5) (which completely prohibits the CEO from participating in deliberations and decisions relating to a proposal to appoint a person as the next CEO or to terminate the CEO's appointment).
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