



Ollscoil
Teicneolaíochta
an Atlantaigh

Atlantic
Technological
University

Conflict of Interest Policy and Procedure

Version 1.0

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This Policy was approved by the Governing Body on 13th April 2022. It shall be reviewed and, as necessary, amended by the University annually. All amendments shall be recorded on the revision history section above.

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1. Purpose

The 2017 *Review of IP Management and Conflicts of Interest* commissioned by the HEA and Knowledge Transfer Ireland includes the following as one of its Key Recommendations:

‘More robust governance and management of conflict of interest: Whilst responsibility for recognising and avoiding conflicts of interest should remain with the individual, HEIs must take more responsibility at a senior level to put robust procedures in place to identify, manage and record the approach taken to avoid or manage conflicts of interest. A summary of all potential conflicts reported and management mechanisms put in place should be reviewed by the Governing Body at least annually.’

This document sets out the policy and procedures of Atlantic Technological University (ATU) for the identification, disclosure and management of conflicts.

2. Scope

This policy applies to all members of staff, student, Governing Body members and external parties involved in the activities of the University.

3. Definition:

A ‘conflict of interest’ be it actual , potential or perceived arises when an individual holds a personal interest, whether direct or indirect, which in the opinion of a reasonably-informed and well-advised person is sufficient to call into question the independence, impartiality and objectivity the individual is obliged to exercise in the performance of his/her duties.

General examples of conflicts of interest, as well as examples specific to certain areas within the University including academic activities and intellectual property commercialisation, are set out in Appendix 1 to this policy.

“[A] conflict of interest exists whether or not decisions are actually affected by a personal interest; [it] implies only the potential for bias, not a likelihood.”¹ Individuals may not always be conscious of the effects of a conflict of interest on their own judgment². (A conflict of interest may be presumed where it may reasonably appear to an independent observer with knowledge of the relevant facts that the professional decisions or actions of an individual acting on behalf of ATU may be determined by a secondary, outside interest (be it financial or personal gain, professional advantage, intellectual bias, or any other interest)³.)

¹ Columbia Center for New Media Teaching and Learning, Responsible Conduct in Research, Conflicts of Interest, 1.1, http://ccnmtl.columbia.edu/projects/rcr/rcr_conflicts/foundation/#1

² American Association of University Professors, Statement on Conflicts of Interest, revised version November 2013, <http://www.aaup.org/report/statement-conflicts-interest>

³ Ibid.

The existence of an actual, perceived or potential conflict of interest does not necessarily imply wrongdoing on anyone's part. However, any private, personal or commercial interests which give rise to such a conflict of interest must be recognised, disclosed appropriately and either eliminated or properly managed.

In many instances, the exercise of individual discretion to identify and disclose a conflict sufficiently minimises perceived bias and reputational risk to make further corrective or preventative action unnecessary.⁴

A 'conflict of commitment' occurs when the commitment to external activities of a staff member adversely affects his or her capacity to meet University responsibilities. This form of conflict may be recognised by a perceptible reduction of time and energy devoted by the individual to University activities. Conflicts of commitment primarily involve questions of obligation and effort, but are often tied to financial remuneration or other inducements and in such cases they may also constitute a conflict of interest. Therefore, the terms 'conflict' and 'conflict of interest' in this policy should also be read as including conflicts of commitment.

4. Policy

4.1 Context

The maintenance of public confidence in the University requires that University employees, members of Governing Body, as well as external contributors engaged in its activities, perform their duties with integrity and proper professional judgment, aspiring to the highest ethical, professional and academic standards. At the same time, in an outward-facing academic and research environment which seeks to foster two-way engagement, knowledge exchange and collaboration with a wide range of external partners, it is neither possible nor desirable to forestall all activities and engagements which may at one point or another give rise to a conflict, whether actual or apparent.

4.2 General Principles

This section sets out the general principles for addressing conflict of interest in the University.

4.2.1 Basic Principle

Atlantic Technological University (ATU) is committed to achieving the highest standards of integrity and conduct in teaching, research and all other activities in which we

⁴ See also University of Southern California, Policy on Conflict of Interest in Research, Section 1, March 2013, <http://policy.usc.edu/research-conflict-interest/>

are engaged. We strive to avoid any actual, perceived or potential conflicts between the interests of the University and any personal interests of ATU's staff, students and Governing Body members.

4.2.2 Disclosure

Conflicts should be disclosed promptly and fully. Responsibility for disclosure lies first and foremost with the individual whose outside interests/activities give rise to the conflict.

4.2.3 Management

Upon disclosure the University, in accordance with this policy, will review the circumstances and decide on an appropriate course of action for managing the conflict. In many cases, full and prompt disclosure will be the only measure required to manage the conflict. The conflict will also be recorded on the University's Conflicts Register.

4.2.4 Discontinuation

In cases where a conflict of interest cannot be managed, the University activity affected must not commence, or current arrangements must be discontinued where an activity is ongoing.

5. Procedure

This section sets out procedures for the disclosure and management of conflicts.

5.1 Evaluation

Individuals should evaluate their interests for sources of potential conflict before they initiate an activity. They should also be alert to conflicts which may arise when circumstances change in the course of ongoing activities.

5.2 Disclosure

Prompt and full formal disclosure should be made prior to the commencement of any activity or commitment which may be, or may appear to be, affected by a conflict. Disclosure of the circumstances surrounding the conflict should be detailed enough to permit an informed, accurate and objective evaluation.

In cases where a conflict emerges or arises in the course of an ongoing commitment, the conflict should be disclosed as soon as it is identified.

Disclosures should be made as well as received, recorded, and referred onwards with all due regard for the professional and personal integrity of all involved and the rights of the individual regarding privacy and confidentiality of personal information.

Disclosures should be made to the relevant person as outlined below:

5.2.1 Conflicts Involving Members of ATU Staff:

Disclosure should be made to the staff member's line manager in the first instance. Where a staff member's line manager is a party to the conflict, disclosure should be made to the next most senior person in the management chain.

An appropriate form for making such a disclosure is attached in appendix 2.

In accordance with the Academic Code of Practice regarding Student Assessment (Marks and Standards), in discharging their duties, an Internal Examiner or any other staff member must inform their Head of Department or Head of Academic Unit/Function about any conflict of interest that may arise or that may be perceived to arise. The Vice President for Academic Affairs & Registrar should be informed by the Head of Academic Unit/Function and shall advise on the appropriate course of action. In this situation the Conflict of Interest Form within the Academic Code of Practice should be used to disclose the conflict.

Good practice guidelines for avoidance of conflicts of interest in the appointment of external examiners for taught or research programmes and review panel members are provided in the relevant Codes of Practice.

External appointees to these functions are referred to the relevant Appendix for initial guidance on the most significant conflict of interest issues pertinent to their specific role.

If a member of staff requires advice on the declaration of a conflict, and any paperwork associated with same, they may contact their line manager.

5.2.2 Conflicts involving Students of ATU

Disclosure should be made to the student's supervisor, principal investigator, lecturer or Head of Department where appropriate.

An appropriate form for making such a disclosure is attached in appendix 2.

If a student requires advice on the declaration of a conflict, and any paperwork associated with same, they may contact the Head of Faculty or the Registrar.

5.2.3 Conflicts involving members of the Governing Body.

Governing Body members should report conflicts of Interest to the Chair of the Governing body and to the Secretary to Governing Body.

5.2.4 Conflicts Involving External Parties (Declaration of Interest):

Notwithstanding the fact that responsibility for disclosure lies with the individual with whom the conflict arises, ATU staff seeking to engage external parties in relation to their academic

activities should draw the attention of contributors to this policy, and where relevant seek a written declaration of interest prior to confirming the engagement.

Formal declarations of interest should always be sought, prior to engagement, from external parties to activities related to examination and assessment, research projects and research degree provision, and academic quality assurance. Amongst others, this includes prospective external examiners, research supervisors, and members of academic validation and review panels.

Outside of these contexts, where it reasonably appears to the designated member of ATU staff that an intended external contribution to University activity – such as delivery of a guest lecture on a module – is unlikely to engender conflict for ATU, it may be decided not to seek a declaration in the first instance.

Declarations of interest in this context – whether indicating a conflict of interest, or the absence of one – should be made to the designated ATU point of contact for the external party.

Likewise, conflicts arising for external parties during ongoing University engagements should be disclosed to the designated ATU point of contact in the first instance.

Where warranted by the circumstances, or in case of doubt, the University contact receiving a disclosure should report the conflict onwards to her/his line manager, who may take a decision regarding management of the conflict or may in turn refer the disclosure onwards to the appropriate University function or board.

The University will also seek to address conflicts with potential contractors through appropriate declarations in its tender documents.

5.2.5 Undisclosed Conflicts:

Identification and disclosure of a conflict is first and foremost the responsibility of the individual(s) whose outside interests give rise to the conflict.

Where, however, it appears to someone, based on specific factual circumstances, that another individual may have an unidentified or undisclosed conflict in relation to an ATU activity, they may notify the perceived conflict to the University member responsible for directing the activity (normally, a Head of Department or Function)⁵.

Upon evaluation of the reported circumstances, the ATU staff member receiving the notification may decide that no action is required at this point, may decide to approach the individual concerned with a request to assess and declare her/his outside interest(s), or may in turn refer the issue to her/his own line manager.

⁵ Except where there may be a legal or ethical obligation to report observations made.

5.3 Managing Conflicts of Interest Reported

Following disclosure, the appropriate University manager will review the facts and decide on the management of the conflict.

The following may be appropriate ways in which to manage the conflict of interest but this is not an exhaustive list:-

- Abstention from meetings, decisions, or discussions on certain matters;
- Agreeing not to act as a particular student's supervisor or the appointment of a second supervisor;
- Not sitting on an interview panel and signing the conflicts of interest notification form prior to the interview
- Referring to others certain matters for decision;
- Standing aside from any project that creates the conflict of interest;
- Re-assigning certain tasks or duties to another person.
- Relinquishing a financial interest.
- Declaring the conflict of interest to a relevant third party (for example a funding body).

In the event that a conflict cannot be adequately resolved at Faculty/Function level it should be referred to the President.

Where advice received in relation to a given conflict (from the appropriate reporting line) is adhered to then there will be no further University accountability to that person, this is subject to full disclosure of the conflict. It should be noted that this does not remove any external obligations such as legal obligations outside of the University.

Once a conflict has been disclosed and steps to manage it as deemed appropriate have been identified, the manager to whom it was first disclosed should provide details of it (using the form attached in appendix 2) to the University's President or the President's nominee for entry in the Conflicts Register. Further updates in relation to the conflict should also be provided by the manager to whom it was first disclosed.

Discontinuation

Where a conflict pertaining to a planned ATU activity cannot be managed, the activity must not commence until alternative arrangements have been put in place which remove all sources of conflict. In some cases, the intended activity may need to be abandoned altogether.

Where a conflict emerges or arises during an ongoing activity, current arrangements must likewise be promptly discontinued, and the activity suspended until suitable alternative

arrangements have been implemented. In extremis, the University may be obliged to cease an existing activity altogether. In such a case, due regard would need to be given to all statutory obligations e.g. with regard to learner protection.

Where an unmanageable conflict involves an external party, engagement of this individual must not proceed, or must cease if the conflict is identified during an ongoing commitment. In the latter case, it may be necessary to review the overall arrangements for the activity in order to contain any risk arising from the past involvement of the contributor.

5.4 Conflicts Register

In accordance with the THEA Code of Governance, the University will create a Conflicts Register which will be maintained by the Corporate Governance Officer. A summary report on conflicts disclosed will be provided to the Governing Body on an annual basis. This report should have due regard to the requirements of Data Protection legislation and policy.

5.5 Non-compliance

Failure to disclose a conflict or external work, or failure to keep such disclosures accurate and up to date, or a refusal to cooperate with any measures/action to neutralise a conflict may constitute a breach of an employee's contract of employment and may result in disciplinary action under the University's Disciplinary Procedure.

A failure by a member of the Governing Body to disclose a conflict of interest may be deemed a breach of the Code of Conduct for Members of the Governing Body.

5.6 External Work

External work does not create a conflict in of itself but has the potential to do so. All staff of the University are obliged to declare and seek approval for external work through HR and to keep those declarations accurate and up to date. This is in addition to the obligations to declare conflicts as set out above.

6. Review

This policy shall be reviewed at intervals not exceeding two years.

Appendix 1: Examples of Conflict

General:

- An individual using his/her University position to:
 - influence a contract or other favourable terms for a company in which he/she, or a relative or friend, had a financial interest;
 - obtain financial or non-financial benefits for him/herself or for a relative or friend in return for providing advantage, or potential advantage;
 - use University resources or confidential information for personal financial or non-financial benefit, or benefit to a relative or friend.
- Financial interests in matters the University deals with. Employees may find themselves in a position in which fulfilment of their functions and duties may confer material benefits to themselves, their families, relatives or close associates.
- Personal relationships with students - staff should avoid and must disclose to the University any situations which may require them to supervise or assess a student with whom they have or have had a personal, commercial, familial or other significant relationship.
- Personal relationships with other employees:
 - Employees must disclose to the University any situations which may require them to supervise another member of staff with whom they have or have had a personal, commercial, familial or other significant relationship
 - Employees must disclose to the University any personal relationships with a current or prospective employee which may give rise to a conflict of interest;

Personal relationships with people the University is dealing with e.g. contractors or tenderers

- Paid work for or on behalf of ATU (whether as an employee or contractor) outside the scope of an individual's primary contract with ATU that may lead to conflicts of commitment or interest.
- Secondary external employment or work that compromises the integrity of the University or exposes the University to risk or a weakening of public confidence in the University. Any secondary employment/work should not expose the University or any other party to a risk of non-compliance with public sector rules re multiple sources of publicly funded pay, the Organisation of Working Time Act 1997, Health & Safety legislation and related University policies, or affect the employee's ability to undertake full duties in a safe manner.

- Secondary employment that compromises the integrity of the University or exposes the University to risk arising from Health & Safety legislation & related ATU policies or which affects the employee's ability to undertake full duties in a safe manner.

Academic Activities:

- An external examiner for a viva voce examination in a specialised research area is likely to have interacted or collaborated with some or all of the candidate's supervisors and internal examiners, but may also compete with these, and with the candidate, for publication or career advancement opportunities.
- An external academic serving on a programme approval panel may be aware that a comparable programme is in development at her/his own institution, which, even though the market may sustain both programmes, may give a significant reputational boost to the academic's home department if it were to launch first.

IP Commercialisation:

Conflicts of interest that may arise in connection with IP commercialisation include, but are not limited to, the following:

- An individual using his/her University position to:
 - influence a contract or other favourable terms for a company in which he/she, or a relative or friend, had a financial interest;
 - obtain financial or non-financial benefits for him/herself or for a relative or friend in return for providing advantage, or potential advantage;
 - use University resources or confidential information for personal financial or non-financial benefit, or benefit to a relative or friend.
- Conducting business, employment or activity outside of the University, which adversely affects the individual's ability to perform his/her duties.
- An individual compromising research objectivity or independence in return for financial or non-financial benefit for him/herself or for a relative or friend.
- A researcher having a financial interest in the company sponsoring research, this being exacerbated if the value of the researcher's interest may be affected by the outcome of the research.
- An individual is an inventor of patents or creator of other IP whose value may be affected by the outcome of research in which they are involved.

- An individual holds a position in an enterprise (e.g. as director) that may wish to restrict (or otherwise manage) adverse research findings for commercial reasons or not wish to publish the results of the research.
- An individual having a financial interest or other personal interest in a spin-out or may have personal IP with which they are intending to create a start-up company.
- An individual having a financial interest in the licensee (or proposed licensee) of University intellectual property.
- An individual taking part in the negotiation of a contract between the University and a company, where the individual or his or her family or a close personal friend has a financial or non-financial interest (e.g. a directorship) in that company.
- Where a researcher holds shares in a spin-out company, but may also be in a position to influence decisions relating to ongoing collaborative research between the University and the spin-out.
- Where it is proposed to license University technology to a company which is owned by a family member of the creator of that technology.
- Where a decision is being made on distribution of equity in a spin-out company between the University and creator, but the creator is part of the normal decision making process for spin-out approval.

Appendix 2: Conflict of Interest Notification Form

The purpose of this form is to declare and record any conflict of interest with your role in the University.

Completing the Form:

- Please read the University's Conflict of Interest Policy and Procedure before completing this form (available on the staff portal).
- The form should be completed by the individual making the declaration of any activities related to a perceived or actual conflict of interest.
- You should sign and send the form to your line manager.
- Your manager will review the form and may decide that no conflict (actual, perceived or potential) arises, or if such a conflict does arise, the steps that will be taken to manage it.
- Your manager will then send a copy of the form to the President or the President's nominee for recording in the Conflicts Register.
- Any approvals given in relation to a particular conflict remain valid for 3 years, at which point it should be renewed. The individual with the conflict is responsible for initiating the renewal process.
- If the approval has not been secured prior to the renewal date, approval will be deemed to have lapsed.

If there is a material change in circumstances related to a declared conflict during the 3 year approval period, you should submit a further version of this form to obtain approval for the revised circumstances.

Individual details

Name:	
Position:	
Staff Number	
Email:	
Faculty/Function:	
Line Manager	

Conflict details

Describe in full, the potential, actual or perceived conflict of interest in relation to your role at ATU:

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Insert name of any third party connected to the conflict:

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Declaration

I hereby declare the above conflict of interest in accordance with the University's Conflict of Interest Policy. I agree that, if necessary, I shall take the necessary steps to manage this conflict. I note that recommendations may be made to me with respect to the management of the conflict, and where necessary, I may be directed to take certain actions. I confirm that I have no other conflicts of interest, other than conflicts which I have disclosed, with respect to any activities carried out by me at the University.

I understand that my personal data will be processed in line with the below data protection notice.

Signed: _____ Date: _____

University Decision

In approving this declaration , I confirm that:

I have reviewed and/or discussed the conflict with the individual and I am satisfied that either (please tick):

<input type="checkbox"/>	No conflict arises
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Or

<input type="checkbox"/>	If a potential conflict exists, the approach to managing it will be effective. The following proposed action(s) will be implemented to effectively manage the conflict.
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Signed: _____ Date: _____

Manager

Signed: _____ Date: _____

Head of Faculty/Function

Data Protection Notice:

Personal data disclosed as part of this Conflict of Interest Notification Form will be processed in line with ATU's Record Retention Schedule and Data Protection Policy.

Details from this notification form will be included in the University Conflicts of Interest Register.