

Ethical Business: Conflict of Interest Policy

(For staff of the University)

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POLICY

HERIOT-WATT UNIVERSITY

Ethical Business: Conflict of Interest Policy (Staff)

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PART 1

“Standards of behaviour matter. They are particularly important where public money is being spent on public services or public functions. Citizens have a right to expect that holders of public office who take decisions which affect their lives should do so with impartiality, should be truthful about what they are doing and should use public money wisely. Society can expect better outcomes when decisions are made fairly and on merit and not influenced by personal or private interests. Organisations in every sector benefit from greater legitimacy when the public has confidence in their integrity. The UK economy benefits nationally and internationally from that confidence.”

(‘Standards Matter: A review of best practice in promoting good behaviour in public life, Committee on Standards in Public Life’, 2013)

1. INTRODUCTION

The University is committed to maintaining the highest of ethical standards, and recognises that, as a body in which public trust is placed, it must be seen at all times to be acting in accordance with good standards of governance.

The University observes the Nine Principles of Public Life in Scotland set out in the Scottish Code of Good Higher Education Governance as the principles that should guide Scottish universities in the conduct of their affairs. The Principles are: **Public Service, Selflessness, Integrity, Objectivity, Accountability and Stewardship, Openness, Honesty, Leadership, and Respect.**

2. POLICY AIMS AND PURPOSE

2.1 The purpose of this Policy is to heighten awareness about situations that may generate conflicts of interest, to make clear the kinds of situations that the University considers conflict of interest situations, and to explain the means by which potential and real conflicts of interest should be reported and managed.

The **Ethical Business: Conflict of Interest Policy for staff** aims to ensure that the interests and general welfare of the University are promoted and protected and that any situation which could give rise to a conflict of interest is properly managed.

University employees, and any others commissioned to act on behalf of the University, have a duty to avoid conflicts of interest which might be seen to compromise their ability properly to fulfil their obligations to the University.

The University seeks to ensure that activities are undertaken in the best interests of students, staff members and the University as a whole, and are not determined by considerations of personal gain, other than the usual aspirations and behaviours which relate to professional or career development.

2.2 These aims are reflected in the following Principles of Public Life in particular:

- **Selflessness** – *Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.*
- **Integrity** – *Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.*
- **Honesty** – *Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.*

3. SCOPE

- 3.1** This Policy applies to all staff members of the University at all campuses of the University: in Scotland, Dubai, and Malaysia. The requirements which relate to intellectual property (provided in detail in the Intellectual Property Policy) apply also to visiting scholars.
- 3.2** The scope of the Policy is broad in its description of activities which may give rise to conflicts of interest and provides guidance on conflict scenarios and what staff members must or must not do. It is not possible for policy guidance in the area of interests to be all inclusive, therefore staff members must apply reasonable judgement and **comply with the spirit and not just the narrow letter of the Policy**. If in doubt, staff members should first seek the advice of their respective Head, or appropriate line manager.
- 3.3** Nothing in this Policy should be interpreted to detract from individuals' statutory rights, in particular rights under the 'Public Interest Disclosure Act 1998', which are reflected in the University's **Public Interest Disclosure (Whistleblowing) Policy**. This can be found at: <https://www.hw.ac.uk/documents/public-interest-whistleblowing-policy.pdf>

4. CONFLICT OF INTEREST DEFINITIONS

- 4.1** Many differently worded definitions of conflict of interest are to be found. The following is clear and concise:

*"We can define a conflict of interest as a situation in which a person has a private or personal interest sufficient to appear to influence the objective exercise of his or her official duties as, say, a public official, an employee, or a professional."*¹

1 (Source: Chris MacDonald, Michael McDonald, and Wayne Norman, "Charitable Conflicts of Interest", Journal of Business Ethics 39:1-2, 67-74, August 2002. (p.68))

- 4.2** To judge whether a conflict of interest exists, it should be considered whether a private, personal, or commercial interest is likely to interfere, or *appear* to interfere, with the impartial judgement of the person performing their duties. The objective test to apply is whether relevant others (e.g., colleagues, customers, members of the public), who know the facts about the interest(s), might reasonably consider that the person's actions and decision-making could be affected.
- 4.3** Conflicts of interest will commonly arise in any large or complex institution, such as a university. Most interests could be categorised broadly as **financial* interests** or **non-financial interests** and each of these may involve a **direct** or an **indirect** interest. (*a financial interest means anything which has a financial value, e.g., direct financial payments, equity interests, intellectual property rights etc.)
- 4.4** For the purposes of this Policy a **financial** conflict of interest is one in which there is, or appears to be, an opportunity for personal financial gain (**direct**) or the financial gain of a close relative or close friend or business associate, in particular where their finances are interdependent (**indirect**).
- The level of financial interest should not be a determining factor in deciding whether a conflict should be disclosed. The University expects disclosure of any financial interest, however small this might seem to the person concerned.
- 4.5** A **non-financial interest** can take many forms. It is generally one where there is, or appears to be, an opportunity for personal benefit, advantage, or enhancement to the prospects of the person (**direct**), or similar gains to someone in their close family or a person with whom the individual has a close personal relationship (**indirect**).
- 4.6** For the purposes of this Policy, **Personal Relationships** are as set out in the Personal Relationships at Heriot-Watt Global Statement: https://www.hw.ac.uk/uk/services/docs/hr/policies/Personal_Relationships_at_Heriot-Watt.pdf

and considered as:

1. family relationships such as spousal, civil, or other enduring partnership or a relative included extended family
2. business/commercial/financial relationships
3. sexual relationships
4. close friendships

4.7 Other conflicts or potential conflicts that may arise may best be described as **conflicts of loyalty**. This is a particular type of conflict of interest in which a person's loyalty or duty to another body or thing could prevent the person from properly fulfilling the duty of service or loyalty that they have to their employer.

4.8 Situations that may give rise to conflicts of interest include but are not limited to: procurement/purchasing activities; external professional, research, and consultancy activities; the research/scholarship environment, knowledge and technology exchange activities; and staff/staff and staff/student relationships.

Other considerations include practices around: giving or receiving of gifts and hospitality; use of university resources; handling of confidential information; and matters of loyalty and duty of service.

5. HOW THE UNIVERSITY WILL MANAGE CONFLICTS OF INTEREST

5.1 The University will treat as a conflict of interest any situation where a *reasonable person* might consider that the interests of the person involved may interfere with the proper exercise of his or her judgement or decision-making on the University's behalf. The University will then act to ensure the removal of reasonable doubts about the objectivity or loyalty of those acting in support of the University's interests, responsibilities, and general welfare.

5.2 An actual, perceived, or potential conflict of interest should not automatically imply any wrongdoing on the part of the person. However, any personal, commercial, or other interests which give rise to conflict of interest must be identified, appropriately reported and either eliminated or effectively managed.

The approach of the University is therefore to:

- encourage the disclosure of all conflicts of interest;
- manage conflicts or potential conflicts where it is possible to do so; and
- prohibit activities when this is necessary to protect individuals, the public interest or the interests or reputation of the University.

The following sections of this Policy set out the key areas of interest that the University wishes to protect, and the necessary measures to manage actual and potential conflicts of interest.

PART 2

6 PURCHASE OF GOODS AND SERVICES

6.1 Primary interests

- The University aims to ensure that its procurement activity is focused on the delivery of value for money, is conducted to high professional standards, and in accordance with appropriate regulations, legislation, and good guidance applicable to a contracting public body.
- Procurement activities should be guided by the fundamental principles of genuine and effective competition. In its dealings with suppliers and potential suppliers, the University seeks to apply the highest standards of honesty, integrity, and objectivity.

6.2 In support of the above:

- 6.2.1 there shall be clear separation of budgetary authority and procurement authority within the University. In addition, there shall also be an appropriate separation of duties within the purchasing cycle between staff members who place orders, those who receive goods, services or works and those who authorise payment. The relevant Executive Deans /Directors of Professional Services or Chief Operating Officer (Dubai / Malaysia for Professional Services colleagues) are responsible for ensuring the required separation of duties and authorisation controls are in place.
- 6.2.2 all persons who are engaged in commissioning of tenders/contracts must declare a personal interest, where this might affect or be viewed by others to affect their impartiality.
- 6.2.3 where a person is in a position to influence contracts or the tendering process and has a personal relationship with a consultant or supplier of goods or services to the University or its students, such a personal relationship must be disclosed, and the staff member must withdraw from the process. The staff member should declare the interest to the relevant Executive Deans /Directors of Professional Services or Chief Operating Officer (Dubai/Malaysia for Professional Services colleagues). Where appropriate, an Executive Dean / Director of Professional Services or Chief Operating Office (Dubai/Malaysia for Professional Services colleagues) may also consult the Procurement Office in confidence to ensure that the relationship does not breach procurement guidelines.
- 6.2.4 Staff members who have a prejudicial interest in relation to a grant, licence, planning application or a tender **should not** be involved in the following:
- setting criteria for the assessment of the grant, tender etc
 - actual preparation of applications (or subsequent presentations, interviews etc)
 - be present for discussion or decision-making
 - receipt of papers or minutes relating to the meeting at which the topic has been considered
 - use of their position to improperly influence a decision through lobbying of other members
 - activities aimed at having the staff member's interests represented at the meeting at which the decision will be taken.
- 6.2.5 Declarations must be made by members of the bid evaluation team where there is a direct or indirect association with a bidder or potential bidder. This means a bidder, or potential bidder:
- a) with whom the person works, has worked, or intends in the future to work, and has received, or anticipates receiving, payment for that work;

- b) with whom they have a personal interest (whether or not this relates to the particular goods or service for evaluation), e.g., by way of shareholding, or through a close relationship with somebody in a senior position within the company;
- c) with whom someone in the person's close family has a similar interest by way of shareholding, close relationship, or by way of employment;
- d) with whom the institution that the person works (if not an employee of the University) has worked, is working, or intends to work, on the goods or services under evaluation through, for example, a joint development venture; where the institution that the member works in is working, has worked, or intends to work with the bidding/potentially bidding company on the commodity or service under evaluation; and
- e) with whom the institution that the person works (if not an employee of the University) is currently receiving or intends to receive any payment in relation to any goods or services where the institution that the member works in, is currently receiving, or intends to receive any payment from the bidding/potentially bidding company in relation to any goods or services.

The above is not intended to be all inclusive. If in doubt, or if a person's circumstances change, he or she should seek advice and, where any doubt remains, make a declaration. Making a declaration may result in the person being excluded from the tender evaluation and procurement processes.

- 6.2.6 Individuals must not make unauthorised use of, or disclose to a third party, information obtained in a professional capacity about a bidding organisation for personal gain or for the gain of another person. Depending on its nature, such a disclosure may constitute a criminal offence.
- 6.2.7 A person excluded from engaging with tendering firms for reasons of conflict of interest may be involved in other administrative tasks associated with the process, as long as these cannot influence decision making on the appointment or the terms and conditions associated with it.
- 6.2.8 This part of the policy should be read in conjunction with the University's *Financial Regulations*: <https://www.hw.ac.uk/documents/financial-regulations.pdf> and the procurement policy: [Heriot-Watt Sustainable Procurement Policy \(hw.ac.uk\)](https://www.hw.ac.uk/services/procurement.htm) (and guidelines of the University: <https://www.hw.ac.uk/services/procurement.htm>).

7 GIFTS AND HOSPITALITY

7.1 Primary interest

The University shall only give and accept gifts or hospitality for business purposes. Permissible hospitality and gifts will include, for example, ceremonial or promotional gifts, mementos or relatively low value gifts which are proportionate to the circumstances. They should not be of a scale or frequency that they might reasonably be judged to be inducements to undertake business, or to influence business decisions. For the purposes of this Policy a low value gift should have a monetary value of not more than £50.00.

All hospitality and accommodation provided by the University for employees to sustain them in the course of their work or in the course of business-related travel is deemed to be for business purposes. The principle of value for money applies to these arrangements.

7.2 In support of the above:

- 7.2.1 gifts may be freely received where these are low value gifts, as described above, where hospitality offered is associated with business duties, and is proportionate, that is to say, they could *reasonably* be regarded as appropriate, and where gifts are being received on behalf of the University. **Gifts of money should never be accepted.**
- 7.2.2 staff members must not ask for gifts or hospitality and will accept personal responsibility for all decisions connected with the offer or acceptance of gifts or hospitality offered. This includes decisions that should be taken for the purpose of avoiding risk of damage to the public perception of fair and transparent dealings.

- 7.2.3** repeated gifts and hospitality must not be accepted from the same source. Care must also be taken not to accept gifts or hospitality from any person or organisation that might stand to gain from a decision of the University and which a bystander might *reasonably* consider could have a bearing on the judgement of the staff member. Individuals should also consider whether any gifts received by another body in which they have an interest might also influence their judgement, e.g., gifts received by a cohabitee, a partnership the individual is a partner in, or a company in which the individual has a controlling interest.
- 7.2.4** staff members should make themselves familiar with the terms of The Bribery Act 2010 which provides for the offence of bribing another person and offence relating to being bribed. The University's *Ethical Business: Fraud and Bribery Prevention Policy* can be found at: [Ethical Business: Fraud and Bribery Prevention Policy \(hw.ac.uk\)](https://www.hw.ac.uk/ethical-business-fraud-and-bribery-prevention-policy)
- 7.2.5** staff members who accept or offer hospitality or a gift in the course of their duties are required to provide a written record of such exchanges in their locally kept Gifts and Hospitality Register. Maintenance of this Register is the responsibility of the relevant Executive Deans and Directors of Professional Services. Information about School and Professional Service Gifts and Hospitality Register entries shall be reported annually to the Secretary of the University by the respective Executive Deans /Directors of Professional Services or Chief Operating Officer (Dubai / Malaysia for Professional Services colleagues)
. Registers may be subject also to review for audit purposes.
- Further guidance on gifts and hospitality can be found in the *Ethical Business: Gifts and Hospitality Policy*: <https://www.hw.ac.uk/documents/ethical-business-gifts-hospitality-policy.pdf>
- 7.2.6** This part of the policy should be read in conjunction with the University's *Financial Regulations* and the *Ethical Business: Fraud and Bribery Prevention Policy*.

8 USE OF UNIVERSITY RESOURCES

8.1 Primary interests

The University's resources are provided for the advancement of and to promote the University's educational and scholarship objectives. In this context resources include: facilities, equipment, utilities/other consumable supplies, services and staff and students of the University.

8.2 In support of the above:

- 8.2.1** the University's resources must not be misused. In general staff members must not use resources of the University for personal benefit or gain or, without an appropriate level of authorisation and agreement, or for the benefit or gain of an external individual, group, company, or other organisation.
- 8.2.2** the University's resources must not be used to support outside professional activities or for any other non-University purpose unless, by exception, it is agreed that potential benefits to the University might be accrued through deployment of the resources, for example, to promote beneficial relationships with other organisations.
- 8.2.3** the permission of the Executive Deans /Directors of Professional Services or Chief Operating Officer (Dubai / Malaysia for Professional Services colleagues) is required in all cases of proposed use of University resources in circumstances other than to facilitate the regular work of the University.
- 8.2.4** a private company engaged in marketing University-owned IP must operate entirely outside the University and use none of its facilities. Alternatively, it may make full payment at agreed commercial rates for those facilities through a contract with the University. Use of University resources for private profit without such a contract being in place will be treated as a serious disciplinary matter.

- 8.2.5 reimbursements of travel and other expenses will be made only in accordance with the University *Travel and Expenses Policy* which can be found at:
<https://www.hw.ac.uk/documents/travel-expenses-policy.pdf>
- 8.2.6 This part of the Policy should be read in conjunction with the University's *Financial Regulations* and the University's policies on *IT and Communications Facilities Acceptable Use and Computing Facilities Conditions of Use*:
<https://www.hw.ac.uk/documents/it-communications-facilities-acceptable-use.pdf>

The University *Ordinance Q1: Formation of New Companies* provides for a formal contract of agreement for use of University resources by spin-out out companies:
<https://www.hw.ac.uk/documents/ordinances.pdf#page=120>

9 CONFIDENTIAL INFORMATION

- 9.1 Staff members will often receive information of a confidential or private nature in the course of their work for the University which is not yet public, or which may not be intended to be made public.

Confidential information can be taken to mean any information to which the common law duty of confidence applies. The duty of confidence arises when information has been received in such a way that the person receiving the information was aware, or should have been aware, that the information was being shared on the basis of confidentiality and/or that the information, from its character, was obviously confidential. Potential aspects of employees' duty of fidelity have been identified in case law. Amongst these is a duty of confidentiality: i.e., not to disclose an employer's confidential information or trade secrets, or use their employer's information for their own purposes.

Circumstances that would make disclosure of confidential information lawful are: where the body to whom the information relates has consented; where disclosure is in the public interest; or where there is a legal obligation to divulge the information.

- 9.2 Staff members must not use, exploit, or disclose information of a confidential nature which they have received in the course of the work for the University, other than in the proper execution of their duties, through the appropriate channels and with appropriate levels of authorisation. This includes confidential information which relates to the University and its work, its staff, or its students. It also includes confidential Third-Party information and any information of a confidential or secret nature relating to any Third Party or its business.

Staff members should be aware that the obligation not to disclose confidential information extends **beyond the term of their employment**.

- 9.3 Instances may arise when it is in the University's interest for a staff member to take soundings on a topic from an external body, for example, to help inform decision-making or in developing a line of approach. Such support can be helpful, especially where the individual's area of expertise or affiliations are relevant to the topic. However, in such circumstances, discretion must be applied in order to preserve the required degree of confidentiality. Guidance should be sought from the Executive Deans /Directors of Professional Services or Chief Operating Officer (Dubai / Malaysia for Professional Services colleagues) and ultimately the Secretary of the University.
- 9.4 Nothing in this Policy should be interpreted to detract from staff members' obligations to comply with the Freedom of Information (Scotland) Act 2002. Information on how the University meets its Freedom of Information obligations can be found on its webpages at:
<https://www.hw.ac.uk/uk/services/information-governance/access/freedom-information.htm>
- 9.5 This part of the Policy should be read in conjunction with the University Intellectual Property Policy and other IP policy advice, which can be found at: <https://www.hw.ac.uk/documents/HW-IP-Policy.pdf> and the University's Information Security Policies which can be found at:
<https://www.hw.ac.uk/uk/about/policies.htm>

10 LOYALTY AND DUTY OF SERVICE

10.1 Primary interest

This Policy defines some conflict of interest situations as conflicts of loyalty or commitment. These are situations where outside interests or activities, not connected with University business, harm or interfere with an individual's ability properly to fulfil their obligations and their duty of loyalty to the University. Through the *Ethical Business: Conflict of Interest Policy*, the University seeks to identify and resolve conflicts of this nature.

10.2 In support of the above, the University expects that:

- 10.2.1 staff members will make the necessary commitment of effort and time to fulfil their work roles to the best of their ability and will not permit their personal or outside professional activities to harm or interfere with their duty of service to the University as an employee. The treatment of time for personal/domestic commitments will normally be as defined in current terms and conditions of employment and governed by the University's human resources policies.
- 10.2.2 as employees of the University, members of staff will exercise their duty of fidelity to the University under their contracts of employment. Duty of fidelity is defined in common law as the duty of faithfulness and loyalty owed by an employee to their employer by virtue of their employment, and their duty not to act against the interests of their employer. In the case of academic staff, it should be noted that 'academic freedom' does not overrule the duty of fidelity owed by an employee to the University, neither should it give rise to a conflict of interest.

11 EXTERNAL PROFESSIONAL ACTIVITIES, RESEARCH ACTIVITIES AND CONSULTANCY

11.1 Primary interests

- 11.1.1 The teaching, research, knowledge exchange and professional service activities of the University flourish in an environment of continuing interaction between the University and the wider communities that it serves, at all campus locations. This includes fostering relationships with government, industrial, professional, and other organisations. These exchanges can lend great value to the University and its work, assist in the promotion of the University's interests and the attainment of its objectives, and can contribute significantly to the public good. In addition, they provide opportunities for professional development of staff.

The University therefore encourages appropriate staff participation in outside activities and, in support of this, seeks where possible to provide appropriate degrees of freedom and flexibility for staff in the pattern of their work duties. Where an honoraria payment is associated with such duties, this will normally be retained by the member of staff.

- 11.1.2 However, the primary professional commitment of a member of staff during their contract must be to the University. For staff to fulfil their obligations to the University to the best of their abilities requires primary commitments of time, focus and energy.
- 11.1.3 External professional/academic activities should not be permitted to conflict with the proper discharge of a staff member's duties or responsibilities to the University.

11.2 In support of the above, staff members must:

- 11.2.1 maintain an appropriate presence on campus (all campuses of the University) during the term of their contract. All external activity must be managed in agreement with the relevant Executive Dean or Director of Professional Services or Chief Operating Officer (Dubai / Malaysia for Professional Services colleagues), so as not to displace the staff member's primary commitment to the University.
- 11.2.2 adhere to the relevant University policies governing absence from regular duties, e.g., leave of absence, consultancy work, sabbatical leave, and secondment arrangements.

- 11.2.3 ensure that clear boundaries are established to separate University obligations and external activities in order to avoid doubts about appropriate use of resources and attribution of the products resulting from work undertaken.
- 11.2.4 where they are employed to undertake research, not engage in research activities which are not submitted formally through the Research Engagement Directorate.
- 11.2.5 Payments for activities, such as external examination duties at other universities, or for attendance at Research Council panels, as examples, should not normally be considered as giving rise to conflict of interest.
- 11.2.6 It is the responsibility of Executive Deans /Directors of Professional Services or Chief Operating Officer (Dubai / Malaysia for Professional Services colleagues) to define for their staff members what constitutes an appropriate or inappropriate level of absence from the University to undertake external activities.

12 KNOWLEDGE AND TECHNOLOGY EXCHANGE

12.1 Primary interest:

- 12.1.1 The University encourages staff members to become involved in knowledge and technology transfer activities to the benefit of not only the University and the members of staff but for the wider benefit of society and is committed to optimising the value to be gained from all innovations created by members of the University, including commercial value.
- 12.1.2 The University recognises that knowledge and technology transfer processes can create actual or potential conflicts of interest, particularly where there is an opportunity for personal gain on the part of the staff member or any agents assisting in the transfer, and seeks, through this Policy, to manage situations where such conflicts might arise.
- 12.1.3 The primary commitment of time and intellectual contribution of staff and visiting scholars should be to the education, research, and academic programmes of the University. Staff and visiting scholars have a primary obligation to act in the best interests of the University and this should be reflected in any agreements entered into with third parties. Any conflicts of interests arising must be reported promptly to the relevant Executive Dean.

12.2 In support of the above:

- 12.2.1 all members of staff must conduct technology transfer activities through the Research Engagement Directorate / Business and Enterprise Directorate to avoid conflicts of interest from arising, and to ensure the University's contractual obligations are fulfilled. Transactions include but are not limited to: technology licensing; technology sales; spin-out and start-up company formation; intellectual property assessment, protection, and management; and confidentiality agreement execution and management.
- 12.2.2 members of staff in the Research Engagement Directorate / Business and Enterprise Directorate must be especially diligent to avoid conflicts of interest.
- 12.2.3 Intellectual Property:
The University's Intellectual Property Policy stipulates rules for negotiation of an appropriate IP arrangement between Heriot-Watt and another institution where a member of staff holds an academic research or honorary appointment at another institution where the other institution may make a claim on any Intellectual Property created by that staff member during their appointment.

It is the responsibility of visiting scholars to inform the Research Engagement Directorate if Intellectual Property created during the visiting scholar's appointment with the University which would normally be assigned to the University may, or must, be assigned to another body.

With the express written agreement of the University course materials may be used for commercial purposes outside of the University, including agreement of the share of any eventual reserves between the creator(s) and the University. Written clearance is required

from the Research Engagement Directorate where publication of scholarly works might disclose intellectual property.

Creators of potential Intellectual Property that may have commercial value arising from research or related work should disclose such Intellectual Property to the Research Engagement Directorate (an invention disclosure form exists for this purpose).

This part of the Policy should be read in conjunction with the University's Intellectual Property Policy: [Intellectual Property - Policy \(hw.ac.uk\)](http://hw.ac.uk/Intellectual-Property-Policy)

12.2.4 Licensing:

- a member of staff employed in the Research Engagement Directorate/ Business and Enterprise Directorate must not personally invest in non-public companies that have licensed intellectual property of the University.
- Research Engagement Directorate / Business and Enterprise Directorate staff members must ensure that their knowledge of a University licence to a public company is not used in any way for investment purposes to the benefit of themselves, their family members, friends, or any business associates in a way that could affect the stock price of the company.
- it is a conflict for an investigator/inventor to negotiate with the University on the terms of a licence before the matter of ownership has been definitively resolved. Members of staff who are founding companies should not personally negotiate the licensing terms with the University. A solicitor or a company executive acting on behalf of the Company should be appointed for this task.

12.2.5 Equity ownership:

- staff members with equity in or board positions in a company must not be involved in or attempt to influence licence or contract terms between the University and that company;
- no member of staff, without permission of the Commercialisation Advisory Panel (CAP) and ultimately the University Executive shall hold any shares in a company, the establishment of which arose out of or was connected with work done in the University, or any company in a contractual relationship with the university, where the member of staff was concerned or connected with placing or negotiating the contract in question, unless such shares have been acquired following the listing of the company on a recognized stock exchange; and,
- during the time that companies are still privately held, and where there is any personal investment or ownership of shares in the business there may be a conflict of interest between the manager's supervision of the student or subordinate (e.g., assigning grades, approving promotions, determining salary levels, allocating space etc) and the manager's partnership with the student or subordinate. All such conflicts must be declared and where possible the manager's supervisory role must be undertaken or overseen by another independent manager.

13 **EXECUTIVE AND NON-EXECUTIVE DIRECTORSHIPS AND COMPANY FORMATION**

13.1 **Primary interest**

The University recognises that direct conflicts of interest can arise when staff members are in the position of holding directorships or other executive and non-executive positions in third party organisations and companies. Therefore, all such instances must be handled carefully from the outset.

13.2 **In support of the above:**

13.2.1 Interests in companies which may contract with the University:

in general, staff members should not join the boards of companies likely to place contracts with the University, or with which the University itself is likely to place contracts. University staff must not be seen influencing companies to place such contracts, or influencing the University to place contracts with their company, especially where there is any element of private gain.

The University has a clear hierarchy of decision making, and only the appropriate senior officers of the University can take decisions on behalf of the University in relation to dealings with companies. Such dealings shall be clearly defined in the form of a contract. Where a research, consultancy or service contract between the company and the University is under consideration, the staff member concerned should declare his/her interest and should, under normal circumstances, retire from the meeting whilst the contract is discussed.

13.2.2 Professional Service staff working in the Research Engagement Directorate and elsewhere in the University are not permitted to serve in a personal capacity as a director or other officer in a company or commercial enterprise where the establishment of that entity arose out of or was connected with work done in the University. Such staff are also not permitted to serve in a personal capacity as a director or other officer in the company or commercial enterprise which has a contractual relationship with the University where the member of staff was concerned or connected with the placing or negotiation of the contract in question.

13.2.3 staff members are strongly advised to seek the advice of the Research Engagement Directorate if they are in any doubt about the requirements on them if they hold any Directorship or Company Secretary position and must register their interest.

13.2.4 Executive Directorships:

Senior members of staff (e.g., members of the University Executive, Executive Deans, Directors of Professional Services) should not normally be permitted to hold executive positions in companies in which the University has a direct shareholding. Other members of staff shall require the agreement of the relevant Chief Operating Officer (Dubai/Malaysia for Professional Services colleagues) or their Executive Dean or Director of Professional Service and Research Engagement Directorate & Business & Enterprise Directorate (as appropriate) prior to taking up such a position.

13.2.5 Non-Executive Directorships:

- Staff may hold non-executive positions in third party organisations and companies, subject to agreement of their Executive Dean / Director of Professional Service and in consultation with the Research Engagement Directorate.
- staff members may hold non-executive director positions in University-owned or partially owned companies, as a representative of the University. In such situations, where the member of staff is in a senior position, they should not be involved in any University decisions relating to that company, as this would put them in conflict with their legal responsibilities as a director.
- where a non-executive director position is held as a representative of the University and any fee director's fee or other emolument is involved, this shall be credited to the staff member's School or Professional Service to reflect time away from normal duties.

13.2.6 A person holding a director role should ensure that they understand the legal duties and responsibilities associated with this role. Advice is provided in **Guidance Note 1** provided in support of this policy.

13.2.7 Forming a company:

- staff members who wish to form their own companies must seek advice and approval through the Research Engagement Directorate. However, care must be taken when approaching bankers, lawyers, accountants, and other professional advisors to ensure that these advisors fully understand that the member of staff concerned is dealing with them in his/her or her own right as a director of a company and is not representing the University. The University does not provide company secretarial or accounting services directly, save in the most exceptional of circumstances.
- a staff member forming a company must not use University premises as the address of that company's registered office. Further, no approach may be made to Companies House on the University's behalf, other than through the Research Engagement Directorate.

- under no circumstances should a member of staff set up an organisation, whether a company or another vehicle for the purpose of distributing research or consultancy income to themselves.
- where a company set up by a staff member obtains external funding to carry out research within the University, then the conflict of interest must be declared and managed accordingly by the staff member. The research will be carried out according to the University's normal contractual conditions for research, including overhead recovery rates, and the agreement will stipulate the charges made for access to University equipment and services. Such charges will be agreed by the relevant senior staff in accordance with the current Research Proposal Costing (RPC) form. These charges must be set such that there is no public subsidy of the company. In addition, for the avoidance of doubt, the agreement will specify the ownership of any IP generated as a result of the company's activities.
- use of paper displaying the University logo or other resources so as to imply that the University has endorsed the activities of any company set up by a staff member may be treated as a serious disciplinary offence. Such activity may also constitute infringement of registered trademarks owned by the University, for which the University will seek legal remedies.

13.2.8 This part of the Policy should be read in conjunction with Ordinance Q1 Formation of New Companies: [ordinances.pdf \(hw.ac.uk\)](http://www.hw.ac.uk/ordinances.pdf) and the University's Intellectual Property Policy: [Intellectual Property - Policy \(hw.ac.uk\)](http://www.hw.ac.uk/intellectual-property-policy)

14 RESEARCH AND SCHOLARSHIP

14.1 Primary interests

- 14.1.1 The University seeks to maintain the highest standards of integrity in the conduct and the objective and timely dissemination of the results of its research. The integrity of the University as a community of scholars requires the free and open exchange of ideas and results of scholarly activity, free from unwarranted external influences.
- 14.1.2 Conflicts of interest can adversely affect the integrity or validity of the University's research and ultimately its reputation. They must be identified, disclosed, and addressed appropriately to ensure that the University's research practices remain above reproach.
- 14.1.3 Ethical concerns should play a part in whether and how research should be conducted and disseminated by the University as well as consideration of sources of funding.

14.2 In support of the above, staff must:

- 14.2.1 ensure that advice to students, researchers and other staff members is independent of and not compromised by the advancement of personal interests.
- 14.2.2 ensure that the activities of students, research associates and postdoctoral students are free from the personal interests of the staff member (whether commercial or otherwise).
- 14.2.3 ensure that the work of other members of staff, researchers, students, and external collaborators is not appropriated or used unfairly, or in other ways inappropriately, by being open about involvement with, and obligations to, third parties who could benefit from work or ideas generated by staff students and colleagues.
- 14.2.4 in all aspects of research, properly acknowledge the contributions of formal collaborators and others who directly assist, or indirectly support research.
- 14.2.5 enable students, research associates and postdoctoral researchers to have access to information about sources of funding that support their research.
- 14.2.6 encourage a culture whereby staff and students are able to pursue topics of interest, where open and timely dissemination and exchange of the results of scholarly activity to the broader scholarly community and the public is enabled, and where information and facilities are available to support the communication of results; and

14.2.7 ensure that the University's research ethics policy framework is followed.

14.2.8 It is the responsibility of the Principal, Executive Deans /Directors of Professional Services or Chief Operating Officer (Dubai / Malaysia for Professional Services colleagues) and staff in senior positions to support and promote good research practice. Within research groups this responsibility lies also with the group leader or Principal Investigator, who should ensure that their researchers understand the importance of recognising, disclosing, and addressing conflicts of interest in the conduct and reporting of research.

It is the responsibility of all staff involved in research or with managerial or supervisory responsibility for research to identify and declare any conflicts of interest, whether legal, ethical, moral, financial, personal, or of any other nature, so that these do not act against the objectives or interests of the University in relation to its research and scholarship.

This part of the policy should be read in conjunction with the Code of Good Practice in Research and Processes for Handling Allegations of Misconduct in Research, the University Research Ethics Policy and Procedures, and the Postgraduate Research Student Code of Practice.

15 STAFF RELATIONSHIPS

15.1 Primary interests:

15.1.1 To recognise the value of personal and social relationships among staff of the University. The University recognises that a conflict of interest does not necessarily arise just because two individuals who share a close relationship are employed within the same School, Service or Department within the University.

15.1.2 To ensure that all processes and decision-making relating to individual members of staff are guided by the principles of trust, fairness, equal treatment, and concern for the welfare of and access to opportunities for all staff.

15.1.3 To ensure that situations of misuse of power or authority associated with a personal relationship do not arise.

15.1.4 To recognise that there are occasions when a personal relationship could give rise to a reasonable concern that a conflict of interest might exist or that the integrity of the University's processes, or its aims for transparency, fairness and equitable treatment could be threatened. Where one party in the relationship has line management responsibility for another such concerns will certainly be heightened.

15.2 In support of the above staff must:

15.2.1 if they are in a personal relationship, declare their interest to the relevant authority in accordance with the Personal Relationships Policy and Procedures.

15.2.2 withdraw from decisions where, owing to their personal relationship, there might be either real or perceived conflicts of interest.

15.2.3 withdraw from exercising managerial or supervisory responsibilities where a close relative, partner or friend is involved.

15.2.4 withdraw from an interview or promotion panel where a student you have previously supervised, close relative, partner or friend is involved.

15.2.5 not offer casual employment to a close relative, partner, or friend.

15.2.6 if they believe that a situation of misuse of power or authority exists, raise this with the relevant Head of Campus/School/Professional Service and/or under the University's Public Interest Disclosure Policy, and if they believe that they may be personally adversely affected by misuse

of power or authority to raise this under the relevant University procedures (Grievance Policy, including Bullying and Harassment): [Global Grievance Policy & Procedure \(hw.ac.uk\)](http://www.hw.ac.uk/globalgrvance)

This part of the Policy should be read in conjunction with the University's Personal Relationships Global Statement: [Personal Relationships at Heriot-Watt.pdf \(hw.ac.uk\)](http://www.hw.ac.uk/personalrelationships)

16 STAFF / STUDENT RELATIONSHIPS

16.1 Primary interests

The University wishes to maintain the highest of professional and ethical standards in the delivery of good practice learning and teaching and research and expects staff members to recognise the professional and ethical responsibilities and boundaries that are associated with the staff / student relationship, to respect those responsibilities, and to maintain those boundaries.

The University aims to foster relationships with students, and prospective students, that are based on trust, confidence, fair and equal treatment, and will act to safeguard these principles and to serve the wellbeing of its students.

No student or prospective student of the University should be unfairly advantaged, or disadvantaged, due to the conflicted interests of a member of staff who has professional obligations and a duty or care to that prospective or current student.

16.2 In support of the above, University staff must:

- 16.2.1 ensure that decisions made about student access, assessment and access to resources are based on merit, according to the established policies.
- 16.2.2 avoid situations where a close personal relationship with a student might influence academic or professional judgements and decision-making. Staff should be aware of the risk in such relationships of a conflict of interest arising and the imbalance of power which could also arise. Such situations (or just the suspicion of them) can have a detrimental impact on the learning and teaching / research environment for others and could give rise at a later date to accusations such as abuse of power, favouritism or harassment.
- 16.2.3 not take part in any of the following in relation to a student who is, or who has been in the past, in a close relationship with the staff member: selection for entry, teaching and assessment procedures, final award decisions, selection for any scholarship or prize, any role involving supervision, or any disciplinary procedures.
- 16.2.4 inform the relevant Executive Deans /Directors of Professional Services or Chief Operating Officer (Dubai / Malaysia for Professional Services colleagues) if he/she is in a personal relationship or is embarking on a personal relationship with a student, where they have a professional role in relation to that student. Appropriate alternative arrangements must then be put in place by the Vice-Principal (Dubai/Malaysia) or Executive Dean to ensure that the integrity and impartiality of the above-mentioned student-related processes are maintained.

The University recognises and respects that different legislation applies in the different jurisdictions in which it operates. All intimate/sexual relationships between staff and students are strictly prohibited at the Dubai and Malaysia Campuses.

In the UK, in accordance with Sexual Offences Act 2003 (s16-19), a person aged 18 or over commits an offence if they engage in sexual activity with someone under the age of 18 where the person is in a position of trust, this includes in respect of those who are receiving education at an institution. The University explicitly prohibits intimate / sexual relationships between staff members and students under the age of 18 and also strongly discourages any intimate/sexual relationships between staff and students where there is a professional connection, including though acting as a PI or research student supervisor, acting as a student advisor or counsellor.

- 16.2.5 ensure, where they have a family relation who is studying at the University, that they inform the relevant Executive Deans /Directors of Professional Services or Chief Operating Officer

(Dubai / Malaysia for Professional Services colleagues), who shall keep a record of all such relationships in a local Register of Interests.

- 16.2.6 ensure that their personal interests (financial or non-financial / real or potential) do not unduly influence the choices a student might make or infringe on what would be in the best interests of the student. Particular care should be taken around the area of research and related commercial activities which include involvement with postgraduate research students.
- 16.2.7 This part of the Policy should be interpreted to apply also to Professional Service members of staff, who may have roles that involve administration and record keeping associated with students, or the provision of technical or other forms of support.
- 16.2.8 Further advice to assist staff in recognising situations that may give rise to conflicts of interest are included in **Guidance Note 2** to this Policy.

Staff can seek confidential guidance from Human Resources and Development. Students can seek confidential guidance from the Academic Registrar.

- 16.2.8 This part of the Policy should be read in conjunction with the University's Personal Relationships Global Statement [Personal Relationships at Heriot-Watt.pdf \(hw.ac.uk\)](https://www.hw.ac.uk/documents/personal-relationships-at-heriot-watt.pdf)

PART 3

17. ROLES AND RESPONSIBILITIES

- 17.1 It is the responsibility of **individual staff members** to ensure that they comply with the Policy, both in letter and in spirit and make timely declarations of interest, as and when this requirement might arise.
- 17.2 **Staff members** have a duty to report, not only any conflict of interest or potential conflict of interest that may arise relating to them, but to report on any conflicts disclosed to them or which have become known to them relating to other staff members which they have reason to suspect are not being addressed in accordance with this Policy. If necessary, the provisions of the University Public Interest Disclosure (Whistleblowing) Policy may be called on (for staff and Court members). This can be found at <https://www.hw.ac.uk/documents/public-interest-whistleblowing-policy.pdf>
- 17.3 It is the responsibility of the Executive Deans /Directors of Professional Services or Chief Operating Officer (Dubai / Malaysia for Professional Services colleagues) to ensure that their staff are made aware of and comply with this Policy.
- 17.4 Executive Deans/ Directors of Professional and the Chief Operating Officers (Dubai / Malaysia) shall report on any conflicts of interest set out in 17.2 above to their respective University Executive line manager. University Executive members shall report to the Principal and the Principal shall report to the Chair of Court.
- 17.5 It is the responsibility of the **Secretary of the University** to secure the operation of the Policy across the University and to maintain and update the Register of Interests for the relevant senior staff of the University.
- 17.6 It is the responsibility of **Human Resources** to ensure that all new members of staff are provided with access to this Policy and a Conflict of Interest Policy Compliance Form.
- 17.7 It is the responsibility of **line managers** to be aware of and to act in accordance with this Policy as and when a potential conflict of interest arises.
- 17.8 It is the responsibility of the **Audit and Risk Committee** of the Court to satisfy itself that Registers of Interests are appropriately maintained and updated.

- 17.9** Responsibility for the management of conflicts of interests in the University lies ultimately with the Principal in relation to staff conflicts. **The Principal** may delegate some responsibility to the **Secretary of the University**.
- 17.10** It is the responsibility of the Staff Committee of the Court to approve this Policy and any subsequent updates made to it according to the agreed programme of review.

18 POLICY IMPLEMENTATION

It is the duty of all staff members to make timely disclosure of any actual or perceived conflict of interest. In the case of staff this shall normally be to their Executive Dean or Director of Professional Service in the first instance. Where there is doubt then advice and guidance can be sought from the staff member's Executive Dean / Director of Professional Service or Chief Operating Officer Dubai /Malaysia for professional services colleagues, an appropriate University officer depending on circumstances (e.g., Director of Human Resources, Director of the Research Engagement Directorate, Director of Governance & Legal Services, Head of Procurement).

Executive Deans/ Directors of Professional and the Chief Operating Officers (Dubai / Malaysia) shall disclose any conflicts of interest to their respective University Executive line manager. University Executive members shall report to the Principal and the Principal shall report to the Chair of Court.

Staff members of the Court should make the disclosure to the Secretary of the University in relation to conflicts or potential conflicts affecting their governor role.

18.1 Registers of Interests

The Registers of Interests of senior members of staff shall be maintained by the Secretary of the University in accordance with the supporting Procedures set out alongside this Policy. For the purposes of this Policy, senior members of staff include: members of the University Executive, Directors of Professional Services and further senior staff members as the Secretary of the University may determine. The latter category shall include any other staff who are in the position where they can commit the University to a significant level of expenditure, members of staff who have connections with commercial spinouts of the University, and staff who are employed in other areas potentially vulnerable to conflicted interests such as procurement and business development.

The above registers form part of the University's Freedom of Information (Scotland) Act (FOISA) Publication scheme and shall be made available for inspection: a) on written application where this relates to senior staff and b) via posting on the University's webpages where this relates to University governors. In consultation with the FOI and Data Protection Officer, appropriate considerations shall be given to determine whether any of the information held on either Register is exempt from the public right of access under the FOISA, e.g., where releasing the information would breach any Data Protection Principles.

18.2 Conflict of Interest Policy: Disclosure Form for staff

All staff members shall be asked to complete a Conflict of Interest Policy Disclosure Form from their first day of employment and shall be responsible for updating the information held on the Form annually and as and when their circumstances might change, in accordance with the Procedures set out alongside this Policy.

Information disclosed by a staff member will be held in complete confidence and will not be used for any purposes other than compliance with this Policy. Information submitted to the register of interests may be required to be disclosed under the **Freedom of Information (Scotland) Act 2002**.

The Conflict of Interest Disclosure Form is provided as Appendix 1 to this Policy.

18.3 Making a disclosure at a meeting

Guidance for making a declaration at a meeting is provided in Procedures attached to this Policy.

19 BREACH OF DUTY TO DECLARE AN INTEREST

Failure to disclose an actual or perceived conflict of interest may result in disciplinary action and, in serious cases, may result in the case of staff members, in dismissal. The extent to which the individual staff member was aware of the actual or perceived conflict of interest, and/or made a deliberate decision not to declare it or to mislead, and the severity of the matter in question will be taken into account in determining whether it should be referred for consideration under the relevant staff disciplinary procedure.

20 MONITORING AND EVALUATION

This Policy will be reviewed in full every five years, or more frequently as necessary, e.g., in accordance with any changing legislation or internal policy changes.

Following review by the Global Operations Executive and the University Executive, the Policy will be approved by the Staff Committee of the Court.

The efficacy of this policy might be reviewed by the University's Internal Auditor from time to time as part of the internal audit programme of review.

The Secretary of the University will ensure that appropriate mechanisms are in place to ensure that staff Declarations Forms are completed, stored, and updated at the appropriate time and compliance is monitored.

The Secretary of the University will ensure that a full Register of Interest log for the agreed group of senior managers is maintained and updated annually, or as necessary to ensure that it is up to date.

21 RELATED POLICIES, PROCEDURES AND FURTHER REFERENCE

Policies / Regulations

Public Interest Disclosure (Whistleblowing) Policy

<https://www.hw.ac.uk/documents/public-interest-whistleblowing-policy.pdf>

Ethical Business: Fraud and Bribery Prevention Policy

<https://www.hw.ac.uk/documents/ethical-business-fraud-bribery-prevention-policy.pdf>

Ethical Business: Gifts and Hospitality Policy

<https://www.hw.ac.uk/documents/ethical-business-gifts-hospitality-policy.pdf>

Travel Expenses Policy

<https://www.hw.ac.uk/documents/travel-expenses-policy.pdf>

University Financial Regulations

<https://www.hw.ac.uk/documents/financial-regulations.pdf>

Intellectual Property Policy

<https://www.hw.ac.uk/documents/HW-IP-Policy.pdf>

Personal Relationships at Heriot-Watt Global Statement

https://www.hw.ac.uk/uk/services/docs/hr/policies/Personal_Relationships_at_Heriot-Watt.pdf

University Ordinance Q1 Formation of New Companies

<https://www.hw.ac.uk/documents/ordinances.pdf#page=120>

Research Ethics Policy and Procedures

<https://www.hw.ac.uk/documents/research-ethics-policy.pdf>

<https://www.hw.ac.uk/documents/research-ethics-procedures.pdf>

Postgraduate Research Degree Candidate Code of Practice:

<https://www.hw.ac.uk/uk/services/docs/academic-registry/cop-pgr.pdf>

22. POLICY VERSION AND HISTORY

Version No	Date of Approval	Approving Authority	Brief Description of Amendment
V. 1	March 2023	Staff Committee of Court	This policy supersedes the Conflict of Interest Policy approved by the Court in 2010.

**ETHICAL BUSINESS: CONFLICT OF INTEREST DISCLOSURE FORM (Appendix 1)**

Name:	
Position within University:	
School / Directorate:	

Please answer the following questions (Place 'X' in the appropriate response box):		NO	YES
1.	Is there any relationship, either internal or external, which you feel could cause potential or apparent conflict of interest with your University activities? If yes, please provide further details of the relationship below.		
2.	Have you performed consultancy work or engaged in any other paid work in the last academic year other than that which has been pre-approved?		
3.	Do you have outside activities that involve Heriot-Watt University students?		
4.	To your knowledge, do you or any member of your immediate family have a significant or influential relationship with (or a financial interest when aggregated for your immediate family in) any other the following: a. a third party that tests, markets or manufactures a product which could be evaluated or developed further through your research or other work activities? b. a third party, whose actions you are in a position to influence, which does business with Heriot-Watt University? c. a sponsor or collaborator involved with research projects? d. any other business in which there could be a conflict of interest?		
5.	Do you hold any position or appointment as a Director (Executive or Non-executive) or Company Secretary in any company, whether or not this company does business with Heriot-Watt University?		
6.	Are you aware of any other circumstances that could constitute a conflict of interest with your position within the University?		

If you have answered '**YES**' to any of the questions above, please provide full details in the relevant section overleaf. **PLEASE TURN OVER.**

1.	Provide details of the relationship confirmed in 1. above:	
2.	For consultancy and other outside activities, please list the organisation(s) you have worked for, the duties performed and the time spent on the activity. Where students are involved specify the group of students involved:	
3.		
4.	Please give details of the relationship or financial interest.	
5.	For Directorships/ Company Secretary positions, provide the date of appointment, name and address of company and state if company is involved IN ANY WAY with your research activities e.g. studentship provision, in-kind support, cash contributions, collaborator etc:	
6.	Give details of any other conflict of interest with your position within the University that you are aware of:	

I acknowledge that I have read and understood the Ethical Business: Conflict of Interest Policy. I confirm that this form has been completed to the best of my knowledge and that the information contained on this form is true and correct. I understand that if the information is later found to be false I may be subject to disciplinary proceedings.

I understand that as a public authority under the Freedom of Information (Scotland) Act 2002(FOISA), the University may be required to disclose information I have submitted to the register of interests.

Signed:		Date:	
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Reviewed by the Head of School / Directorate on:					
Approved by Head of School / Directorate		YES		NO	
Signed by Head:				Date:	
Approved by Global Director of HR or their nominee		YES		NO	
Signed by Global Director of HR or their nominee:				Date:	

On completion this form must be returned to the relevant local campus HR Office.