

## Guide to the Responsible Conduct of Commercialisation Activities

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<b>TRIM document</b>	2012/0021805
<b>Description</b>	This document details Griffith University's requirements of Applicable Staff when conducting Commercialisation Activities.

### Related documents

[Consultancy and Commercial Research Policy](#)

[Gifts and Benefits Policy](#)

[Griffith University Code for the Responsible Conduct of Research](#)

[Griffith University Code of Conduct](#)

[Griffith University Human Research Ethics Manual](#)

[Intellectual Property Policy](#)

Practicum Placements and Trainee/Intern Supervision Policy and Guidelines

[Private Practice Policy](#)

[Information Security Policy - Schedule A: Access and Asset Security Standards and Operational Guidelines](#)

Information Security Policy - Schedule B: Information Security Roles & Responsibilities

[Staff Members as Directors or Office Bearers of Outside Bodies Application Form](#)

[Public Sector Ethics Act 1994 \(Qld\)](#)

[\[Introduction\]](#) [\[General Principles\]](#) [\[Conflict of Interest\]](#) [\[General Matters\]](#) [\[Annexure A: Definitions\]](#) [\[Annexure B: Application of the Code\]](#) [\[Annexure C: Examples of Conflict\]](#) [\[Annexure D: Conflict Declaration Form\]](#) [\[Annexure E: Management and Resolution of Conflicts\]](#)

## 1. INTRODUCTION

### 1.1 Scope

This Guide provides guidance to Applicable Staff undertaking Commercialisation Activities.

### 1.2 Objectives

The objective of this Guide is to assist Applicable Staff to meet the requirements of the Griffith University Code of Conduct (the "Code") when conducting Commercialisation Activities.

### 1.3 Interpretation

This Guide must be read and interpreted in the context of the Griffith University Code of Conduct and the related Policies, Procedures & Forms.

### 1.4 Definitions

All terms that appear in title case throughout this Guide are defined terms. These terms are defined in Annexure A and form part of this Guide.

## **2. GENERAL PRINCIPLES**

### **2.1 Application of the Griffith University Code of Conduct**

The Code applies to all activities undertaken at the University, including Commercialisation Activities.

### **2.2 Ethical Principles**

When undertaking Commercialisation Activities, Applicable Personnel are required to adopt the four Ethical Principles of the Code:

1. Integrity and impartiality;
2. Promoting the public good;
3. Commitment to the system of government; and,
4. Accountability and transparency.

Please refer to the Code for an interpretation and examples of the Ethical Principles of the Code.

### **2.3 Application of the Code to Commercialisation Activities**

Annexure B provides guidelines for Applicable Personnel to meet the requirements of the Code when conducting Commercialisation Activities.

### **2.4 Breaches of the Code**

Conduct of Commercialisation Activities that fall below the standards discussed in the Code will be addressed as breaches of the Code.

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## **3. CONFLICTS OF INTEREST**

### **3.1 Nature of Conflicts**

A major way in which decision-making may be distorted is through Conflicts. Conflicts may involve conflicts between duties owed to different organisations or conflicts between the interests of Applicable Personnel and those of the University.

Annexure C provides examples of Conflicts that may arise from Commercial Activities.

### **3.2 Declaring Conflicts**

In accordance with the Code, Applicable Staff must immediately disclose and declare Conflicts associated with Commercialisation Activities to their manager and to the Director, Griffith Enterprise.

Annexure D provides a Conflict Declaration Form for this purpose.

### **3.3 Managing Conflicts**

Upon declaration of Conflicts associated with Commercialisation Activities, Applicable Personnel must undertake the Conflict management process detailed in Annexure E.

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## **4. GENERAL MATTERS**

### **4.1 Griffith Enterprise**

The University has established Griffith Enterprise as the office responsible for managing Commercialisation Activities.

Applicable Personnel should seek support from Griffith Enterprise if they do not understand particular duties and responsibilities in relation to Commercialisation Activities at the University.

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Please contact Griffith Enterprise regarding the University's procedures, policies and other guidelines relating to the conduct of Commercialisation Activities.

***Griffith Enterprise***

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## ANNEXURE A: DEFINITIONS

“**Applicable Staff**” means Griffith University staff members and visiting appointments.

“**Code**” means the Griffith University Code of Conduct approved by the Council of Griffith University on 4<sup>th</sup> June 2012 (Approved Doc. No. 2012/0009514).

“**Commercialisation Activity**” means any activity where a staff member undertakes Consulting and Commercial Research or where the University, a Third Party on behalf of the University or a staff member undertakes the direct or indirect commercial exploitation of Intellectual Property for the purpose of generating income or making a capital gain, including licensing or assignment of IP to a Third Party to use, make, have made, distribute, market, sell, have sold, hire out, import, lease, supply, or otherwise dispose of a product or process for money or money’s worth

“**Conflict**” means a potential, perceived or actual Conflict of Interest or Conflict of Duty.

“**Conflict of Interest**” exists where there is a divergence between the individual interests of a person and their professional responsibilities such that an independent observer might reasonably conclude that the professional actions of that person are unduly influenced by their own interests.

“**Conflict of Duty**” exists where there a person has conflicting obligations to two legal entities, due to his role in both entities.

“**Consulting and Commercial Research**” or “**CCR**” has the meaning as defined in the Griffith University Consulting and Commercial Research Policy.

“**Element**” means any school/faculty/department within an Academic Group and includes all Griffith University Research Centres (as defined in Section 2.0 of the University’s Research Centres and Institutes Policy) and colleges. “Head of Element” refers to Head of an Element, including directors of each University Research Centre.

“**Guide**” means this Griffith University Guide to the Responsible Conduct of Commercialisation Activities and all the annexures.

“**Intellectual Property**” or “**IP**” means all statutory and other proprietary rights (including without limitation, rights of registration or application for registration) relating to:

- a. artistic, dramatic, literary and musical works in which copyright subsists;
- b. scientific works (including field and laboratory notebooks) in which copyright subsists;
- c. cinematographic and multimedia works in which copyright subsists;
- d. performances of performing artists, sound recordings and visual and/or sound broadcasts in which copyright subsists;
- e. patentable and non-patentable inventions and discoveries;
- f. registered and unregistered trade marks, designs, plant varieties;
- g. circuit layouts and topographies;
- h. databases, computer software and related material not otherwise coming within any of the other designated items of IP;
- i. Confidential Information; and
- j. all other rights resulting from intellectual activity in all fields of human endeavour,

but does not include any Moral Rights.

“**Officer**” has the meaning given to it by the *Corporations Act 2001*.

“**Private Practice**” has the meaning as defined in the Griffith University Private Practice Policy.

“**Staff**” or “**Staff Member**” means the Vice Chancellor, any one of the Deputy Vice Chancellors, Pro Vice Chancellors, other members of the University Executive, members of academic staff and general staff, and includes any person appointed to a visiting, adjunct, honorary, joint or sessional appointment by way of written employment contract with the University (including but not limited to any externally funded academic titleholder who is engaged pursuant to a relevant agreement between the titleholder’s employer and the University).

“**Third Party**” means any legal entity or individual except Griffith University.

## **ANNEXURE B: APPLICATION OF THE CODE**

Annexure B provides guidelines for Applicable Personnel to meet the requirements of the Griffith University Code of Conduct (the “**Code**”) when conducting Commercialisation Activities.

### **Identifying and Managing Conflicts**

- When involved in Commercialisation Activities, reflect on whether you have any perceived, potential, or actual Conflict, and then address it. Use the declaration form provided in Annexure D and process described in Annexure E. Do not hesitate to ask Griffith Enterprise for support.
- If you are involved with a company outside of Griffith, set clear borders between your activities at Griffith and for the company, and do not mix resources, funding, materials, staff and intellectual property. Think about appropriate notification and approvals for Private Practice work or secondary employment.
- Importantly, ask your supervisor to review and approve your project.

### **Avoiding improper use of position**

- Be conscious about your position - be open and transparent to Staff and students you are supervising when you wish them to participate in Commercialisation Activities. Think about putting into place appropriate agreements to set out the tasks, rewards and implications for Intellectual Property.
- Griffith Enterprise and Legal Services Unit will support you.

### **Adhering to principles of research integrity**

- Apply the principles of the Code for the Responsible Conduct of Research when performing research with potential commercial outcomes.

### **Integrity in research Commercialisation**

- Conduct any Commercialisation Activity in a transparent and honest way and for the benefit of all Staff and students that are contributing.
- Do not compromise scientific quality for commercial outcomes.

### **Making fair decisions**

- Include all potential creators of a material, technology, innovation or intellectual property to determine who is a creator and thus entitled to a share of revenues from Commercialisation. Apply the principles of the Code for the Responsible Conduct of Research when making this determination. If you are not sure, contact Griffith Enterprise for an assessment and advice.

### **Respecting the opinions of others**

- Often, perceptions and actual creative and inventive contributions do not match. In case of a conflict, be transparent and open. If needed, ask Griffith Enterprise to act as a mediator.

## **Line Managers**

- As a Line Manager, make fair decisions and respect the ideas, contributions, and intellectual property of staff and students you are supervising.

## **Using resources for University purposes**

- If you are involved with a company outside of Griffith, set clear borders between your activities at Griffith and the company, and separate resources, funding, materials, staff and intellectual property.
- If you wish to utilise facilities, equipment, or materials of the University, or wish to engage staff or students for a Commercialisation Activity, contact Griffith Enterprise for advice and support. Griffith Enterprise and Legal Services Unit will ensure appropriate arrangements are in place.

## **Complying with law**

- Be conscious about ownership of research materials received from third parties and third party intellectual property that may relate to your Commercialisation Activities. If you are not sure about ownership, intellectual property, and freedom to operate, contact Griffith Enterprise for an assessment, advice, and support.

## **Complying with the University's policies, procedures and decisions**

- Before conducting Commercialisation Activities, familiarise yourself with the Griffith University Policies relating to Commercialisation Activities (Intellectual Property Policy, Consultancy and Commercial Research Policy, Private Practice Policy).
- Do not hesitate to contact Griffith Enterprise regarding any questions relating to the Intellectual Property Policy, and Consultancy and Commercial Research Policy.
- Do not hesitate to contact OHRM regarding any questions relating to the Private Practice Policy.

## **Acting in a professional and conscientious manner**

- Always conduct Commercialisation Activities to the professional and ethical standards of Griffith University.
- Be conscious about the applicable codes of conduct, professional and ethical standards of your clients. If unsure about these standards, ask the client or consult Griffith Enterprise.
- Conduct CCR projects to the professional and ethical standards expected by the University and your clients.

## **Exercising proper care and attention**

- Exercise due care when undertaking Commercialisation Activities, especially where information or advice provided by you will be relied upon by others.
- Avoid Commercialisation Activities that have a negative impact on the performance of your University duties.

## **Creating a safe working environment**

- Conduct CCR projects in accordance with the safe working environment requirements of the University and relevant legislation.

## **Maintaining the confidentiality of information**

- Be aware of confidential information received from a staff member, a student, or a third party and protect against unauthorised disclosure.

## **Appropriately using information technology resources**

- When conducting Commercialisation Activities, be conscious about using the University's information technology resources and consult with INS and Griffith Enterprise before granting access to any non staff member.

## ANNEXURE C: EXAMPLES OF CONFLICTS

This Annexure C aims to help you to identify perceived, potential and actual Conflicts you may have. The examples in this Annexure C are not exhaustive.

Examples of Conflicts not listed in this Annexure are still covered by the Code and the Guide.

If you are uncertain whether you have a Conflict, please contact Griffith Enterprise.

### C.1 Conflict of Interest

The 'Australian Code for the Responsible Conduct of Research' states in Section 7 that:

*"A conflict of interest exists where there is a divergence between the individual interests of a person and their professional responsibilities such that an independent observer might reasonably conclude that the professional actions of that person are unduly influenced by their own interests."*

It is important to understand that many Conflicts of Interest may be perceived or potential Conflicts of Interest, but not actual Conflict of Interest. However, perceived and potential Conflict of Interests may have a similar impact as an actual Conflict of Interest has on your and the University's reputation.

The potential for Conflicts of Interest exists where you conduct Commercialisation Activities with a Third Party or on behalf of a Third Party, and you

- a) are an employee or officer of that Third Party;
- b) are a board member or adviser of that Third Party;
- c) are a consultant to that Third Party;
- d) own or hold any share or interest in that Third Party;
- e) receive benefits from that Third Party outside of the Consulting and Commercial Research (CCR) or Private Practice Policy; or
- f) have a personal relationship (including business relationship, marriage, parenthood, guardianship, and friendship) to any person for whom the cases described in a) to c) apply.

Similar criteria apply if the Third Party for which you conduct Commercialisation Activities is owned or controlled by a Third Party for which a) to f) apply.

#### Examples of Conflicts of Interest:

- a) You are performing research in a particular field, and you are a board member of a company developing and marketing products in the same field.
- b) You are consulting to a government department through the Consulting and Commercial Research (CCR) Policy of the University, and are also consulting to the same government department in a Private Practice capacity.
- c) You are a shareholder of a company and also performing a sponsored research project through the University for that company.
- d) You are a director, officer or shareholder of a Company and you conduct research and development activities on behalf of or for the benefit of the company at the University without having appropriate agreements in place between the company and the University.
- e) You are a consultant, adviser, employee, Officer or board member of a spin out company of the University.

### C.2 Conflict of Duty

Conflicts of Duty occur, where you have duties to both the University and a Third Party, and the carrying out of those duties for one party impacts or has the potential to impact on the other party.

#### Example of Conflicts of Duty:

- a) You are director of a company, and therefore duty bound to act in the best interests of the company. This position leads to a Conflict of Duty with your position as Business Development Manager at Griffith Enterprise where the Staff member is negotiating on

behalf of the University a license agreement with the company and therefore duty bound to act in the best interests of the University.

You are a director of a company. You have obtained third party confidential information in your capacity as a Griffith staff member that may be of benefit to that company. Whilst you are duty bound to act in the best interests of the company, you cannot disclose the third party confidential information to that company.



## ANNEXURE D: CONFLICT OF DECLARATION FORM

### BACKGROUND

This Conflict Declaration Form helps you to declare any Conflict relating to you undertaking Commercialisation Activities for and on behalf of the University.

Please complete the form and submit it to your line manager and to the Director, Griffith Enterprise.

This Form also will help you, your line manager, and Griffith Enterprise to undertake an appropriate Conflict management process to resolve, mitigate or manage your Conflict.

Please fill in all parts of this Form to the best of your knowledge. Include as many relevant details as possible as this will facilitate the process.

If you have any questions regarding this Form or need help in completing it, please contact the Director or Deputy Director, Griffith Enterprise on extension 55489, or visit us in our office at the Bray Centre (N54) 1.06, Nathan campus, or at our Gold Coast campus office in SEA Building (G39), 3.42.

### DETAILS

#### 1. Griffith Staff Member (“YOU”)

<b>Title</b>	<b>Given name(s)</b>	<b>Surname</b>
<b>Email</b>		<b>Phone</b>
<b>Position</b>		
<b>Host Element / School / Institute details</b>		
<b>Manager</b>		

#### 2. 3<sup>RD</sup> Party

<b>Name</b>
<b>Address</b>
<b>Field of Commercial Activity</b>
<b>Contact at 3<sup>rd</sup> Party (please include telephone number and Email address)</b>

#### 3. Are you or any related person or entity obtaining benefits from the 3rd Party?

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#### 4. Description of the Conflict

Please indicate the type of Conflict

Conflict of Interest?	Conflict of Duty?
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Please describe the Conflict.

From what date does the Conflict exist?

Please attach relevant information about the Conflict, including agreements with the 3<sup>rd</sup> Party, project plans, etc. Do not attach any originals.

#### 5. Disclosure

Have you already disclosed the Conflict?

If you have disclosed the Conflict, please list to whom and when.

### SIGNATURES

#### Griffith Staff Member (“You”)

Please sign and date this Conflict Declaration Form. After the form is properly completed, it will be distributed to the relevant persons at the University.

The Director or Deputy Director Griffith Enterprise will contact you to discuss your Conflict and will support you undertaking an appropriate process to manage, mitigate or resolve your Conflict.

Hereby I declare the Conflict as described in this Form.

I confirm that I have completed this Form to my best knowledge and ability and that I have not omitted or misrepresented any information relating to my Conflict.

Hereby I consent to my Conflict being disclosed to my Line Manager, the Director and Deputy Director, Griffith Enterprise, the Director Human Resources Management, my Head of School/Institute, the relevant PVC, the PVC(A), the relevant (DVC)s, and the VC.

**Griffith Staff Member:**

.....

Signature

.....

Date

## Line Manager

I note the formal declaration of the Conflict to the University.

.....

Signature of Line Manager

.....

Date

## Upon Completion

***Please forward the completed form and any accompanying documents to the Director of Griffith Enterprise, Nathan campus, Bray Centre, N54, 1.06.***

Received at Griffith Enterprise:.....

Office Date Received Stamp:.....

Complete?

YES

NO

Complete Form received at: .....

## ANNEXURE E: MANAGEMENT AND RESOLUTION OF CONFLICT

This Annexure describes the process recommended at the University for resolving, mitigating or managing Conflicts. Annexure B also provides some examples for the resolution, mitigation or management of Conflicts.

### E.1 Management of Conflicts of Interest and Conflicts of Duty

Once a Conflict arises and you have declared the Conflict to the University, you can immediately manage your Conflict. You should:

- a) Declare the Conflict to the relevant Third Party in writing;
- b) Remove yourself from any decision making process that is or could be perceived to be tainted by the Conflict;
- c) Re-assign any of your tasks relating to the Third Party the conduct of which is or could be perceived to be tainted by your Conflict; and,
- d) Refuse any benefits from a Third Party where the receipt of those benefits could or could be construed as affecting your judgement.

Advice and support for further immediate management is provided by Griffith Enterprise.

### E.2 Resolving and Mitigating Conflicts

Not all Conflicts can be resolved. However, almost all Conflicts can be mitigated. Griffith Enterprise will support you to resolve, mitigate or manage a Conflict on a case-by-case basis.

The following examples show how Conflicts can be resolved or mitigated.

- a) You are performing research in a particular field, and you are a board member of a company developing and marketing products in the same field.

Declare the Conflict to the company. Remove yourself from any discussion or decision making of the board regarding any possible collaboration or sponsored research project with the University.

- b) You are consulting to a government department through the Consulting and Commercial Research (CCR) policy of the University, and are also consulting to the same government department in a Private Practice capacity.

Declare the Conflict to the government department. Do not consult in the same field through the CCR policy and in Private Practice. Consider stopping consulting in Private Practice to this department. Do not lodge competing tender applications for the same project through the University and in Private Practice.

- c) You are a shareholder of a company and also performing a sponsored research project through the University for that company.

Declare the Conflict to the company. Remove yourself from any pricing and contract negotiations with the company. Consider not performing sponsored research for the company.

- d) You are a director, officer or shareholder of a Company and you conduct research and development activities on behalf of or for the benefit of the company at the University's premises without having appropriate agreements in place between the company and the University.

Declare the Conflict to the company. Stop the work at the University's premises. Fully disclose to Griffith Enterprise and other University administrative groups (e.g. Facilities Management) the scope of the R&D activities and the University resources used. Remove yourself from any further negotiations with the company. Facilities Management will decide whether the University can make space and equipment available and cost and negotiate access with the company. Griffith Enterprise will cost and negotiate an appropriate research agreement with the company.

- e) You are a shareholder, consultant, advisor, employee, Officer or board member of a spin out company of the University.

Declare the Conflict to the company. Remove yourself from any further negotiations with the company. Griffith Enterprise will lead any further negotiations with the spin out company.

- b) You are director of a company and Business Development Manager at Griffith Enterprise. You are negotiating on behalf of the University a licence agreement with the company.

Declare the Conflict to the company. Remove yourself from any negotiations between the University and the company in both roles, as Business Development Manager and director of the company.

- f) You are seeing to involve one of your PhD students to perform experiments for your company at the company's premises. Consider how to manage the situation that you are the student's supervisor and employer. Consider relinquishing your role as supervisor and to find another supervisor at the University to replace you. Document the outcomes. Ask Griffith Enterprise or Work Integrated Learning (WIL) to negotiate an appropriate placement agreement.