



AUSTRALIAN CHEER UNION

Australian Cheer Union

CONFLICT OF INTEREST POLICY

VERSION 2

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AUSTRALIAN CHEER UNION Ltd.

CONFLICT OF INTEREST POLICY



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1. Purpose

This policy states the Australian Cheerleading Union's (ACU) position on conflict of interest, including the requirement of Elected Directors, State Advisory members and employees that conflict of interest is avoided wherever possible, or:

- identified and declared; and
- actively managed.

Elected Directors, State Advisory Members and employees (honorary members) will encounter conflict of interest and the ACU acknowledges that conflicts will not always be able to be avoided. They must however be identified and appropriately managed to ensure we earn and maintain the highest levels of integrity and public trust in the ACU National Board and administrative functions by the wider ACU membership and Australian cheer and dance community.

The ACU has issued this policy to support behaviour consistent with the *Australian Cheer Union Ltd Constitution*. All Directors and honorary members are required under Section 2 of the Constitution to comply with this policy.

2. Application

This policy applies to all participant members. For the purpose of this policy, this includes: Elected Directors, State Advisory Members, employees, contractors, consultants and any individuals or groups undertaking activity for or on behalf of the ACU.

3. Policy principles

The ACU is committed to and will uphold the following principles in applying this policy:

Public interest: all participant members have a duty to place the public interest above their private interests when carrying out their official functions. One way they do this is by applying the ACU Objectives] (Constitution 2.2) to their actions and decision-making.

Accountability: all participant members are accountable for avoiding wherever possible or identifying, declaring and managing any actual, potential or perceived conflict of interest that applies to them. Participant members with direct reports are accountable for overseeing management of their direct report's conflict of interest, modelling good practice and promoting awareness of this conflict of interest policy and process.

Risk-based approach: the ACU will take a proactive approach to assessing, managing and mitigating conflict of interest risks. Employees with direct reports will ensure they are aware of the conflicts inherent in their team's work and functions and monitor the risks to which their direct reports are exposed.

4. Definitions

Conflict of interest

A conflict of interest is where a participant member has private interests that could improperly influence, or be seen to influence, their decisions or actions in the performance of their duties and the fulfillment of their responsibility to act in the best interests of ACU and its members.

Conflicts may be actual, potential or perceived:

- Actual** conflict of interest: there is a real conflict between a participant member's public duties and private interests.
- Potential** conflict of interest: a participant member has private interests that could conflict with their public duties. This refers to circumstances where it is foreseeable that a conflict may arise in future and steps should be taken now to mitigate that future risk.
- Perceived** conflict of interest: the public or a third party could form the view that a participant member's private interests could improperly influence their decisions or actions, now or in the future.

Private interest

A private interest means anything that can influence a participant member. Private interests include **direct** interests, such as a participant member's own personal, family, professional or business interests. They also include **indirect interests**, such as the personal, family, professional or business interests of individuals or groups with whom the participant member is, or was recently, closely associated.

Private interests may be **pecuniary** (i.e. financial), which includes any actual, potential or perceived financial gain or loss. They may also be **non-pecuniary**, which includes any tendency toward favour or prejudice resulting from personal or family relationships, such as friendships, enemies or sporting, cultural or social activities.

Consensual personal relationships

Consensual personal relationships include consensual sexual, intimate and/or romantic relationships between adults of any sex or gender identity. Relationships of this kind may be on a casual, periodic or regular basis and may or may not constitute a primary relationship.

A familial relationship of spouse or de facto partner also constitutes a consensual personal relationship.

5. Constitution

All participant members bound by this policy must comply with clause 12.2 of the ACU Constitution relating to conflicts of interest and the corresponding clause in the constitution of the State Member of which that person is a member. To the extent this policy is inconsistent with the relevant clause in either the ACU Constitution or the State Member constitutions, the respective constitutional clauses shall prevail.

6. Process

Participant members must avoid wherever possible or identify, declare and manage conflict of interest in accordance with this policy.

Specific processes have been established to manage consensual personal relationships as a specific category of interest.

A) Identify conflict of interest

Participant members should regularly consider the relationship between their private interests and public duties in order to identify any conflict of interest so that the policy is practically applied (for example, before major events and/or competitions, contractual negotiations, managing athlete disputes and/or grievances, in recruitment, before major projects, tender decisions, legal proceedings or policy development).

Private relationships, including family relationships, business relationships and consensual personal relationships carry a high risk of conflict of interest arising.

Additionally, participant members with direct reports must consider the risk profile of their team and its functions and ensure direct reports are aware of any increased risks of conflict of interest in their work.

Whilst conflict of interest may occur in any part of the ACU, some functions and activities are higher risk than others and may require increased risk mitigation measures.

The following functions are high risk within the ACU (not exhaustive):

- internal committee governance;
- recruitment; and
- procurement, contract management and tendering.

B) Declare conflict of interest

A conflict of interest **must be declared**.

Participant members should discuss any conflict of interest with one of the following persons (as appropriate):

- The ACU National President or Board member(s);
- their working group leader;
- their manager; or
- a designated disclosure officer (e.g. Human Resources officer); or
- a designated management representative.

Participant members are to complete and submit a *Conflict of Interest Declaration and Management* form. The declaration form sets out specific instructions for completing and submitting the form and details a conflict of interest management plan.

Participant members should also complete the declaration form in the following circumstances, regardless of whether a conflict of interest is identified:

- They are directly involved in a procurement activity;
- They are on a selection or procurement panel; or
- Their manager or a designated disclosure officer has assessed them as warranting declaration on the basis of potential, perceived or actual conflict of interest risk (this will be decided having regard to the risk based approach set out in this document).

Participant members (eg. National or State Managers/supervisors) with direct reports must work with the employee to manage the conflict of interest and related risks and provide completed declaration forms to the designated disclosure officer for risk management, reporting and auditing purposes.

The ACU National Board Secretary or Chief Executive Officer will maintain a register of Conflict of Interest disclosures and store the register and related forms in a secure electronic environment. The ACU National Board Secretary or Chief Executive Officer will prepare a report for the National Board at least annually on the administration and quality control of the conflict declaration process.

C) Manage conflict of interest

Participant members' conflict of interest management plans will ensure conflicts are managed and resolved in favour of the interests of ACU rather than that of the participant member and will be based on the following mitigation strategies:

- | | |
|------------------------------|---|
| Restrict: | Restrictions are placed on the participant member's involvement in the matter. |
| Recruit: | A disinterested third party is used to oversee part or all of the process that deals with the matter. In most circumstances, a subordinate would not be considered a disinterested third party. |
| Remove: | The participant member removes themselves, or is removed, from the matter (for example, a board member removing themselves from a board meeting where they have a conflict with a matter being considered at the meeting). |
| Relinquish or Resign: | The participant member relinquishes the private interest that is creating the conflict. Where relinquishing the interest is not possible (e.g. relationship with family) and the conflict cannot be managed in the public interest using one of the other options above, the employee may consider resigning. |

D) Process for managing consensual personal relationships in the ACU

The ACU has a responsibility to ensure a safe and fair workplace for all participant members. Lawful sexual activity, gender identity, marital status and sexual orientation, amongst others, are protected attributes under the *Equal Opportunity Act 2010*. Discrimination on these grounds is prohibited in the context of employment.

Consensual personal relationships between ACU participant members within the same organisation level may occur. Consensual relationships are not prohibited and are private in nature, but they may give rise to an actual, potential or perceived conflict of interest.

The ACU considers any consensual personal relationships involving people in a direct hierarchical relationship (i.e. in the same reporting line, where one person has supervisory or

decision making authority over the other) to represent a potential conflict of interest. The risks of potential conflicts of interest are likely to be heightened for individuals in senior leadership positions e.g. National Board members or workgroup leaders.

Participant members who are in a consensual personal relationship with a direct hierarchical relationship, must disclose the relationship to their manager, a designated disclosure officer or a designated management representative. This disclosure will allow any necessary arrangements to be put in place to manage the conflict of interest, which may include temporary or permanent changes to reporting or supervisory arrangements. Any process must avoid discrimination or action that unfairly impacts upon a person's employment/engagement in an administrative activity and should be commensurate with the seriousness of the identified risk.

Participant members who are in a consensual personal relationship without a direct hierarchical relationship, are required to manage the risk of a conflict of interest arising. Participant members without a direct hierarchical relationship are required to confidentially disclose a consensual personal relationship where an actual, potential or perceived conflict of interest cannot be appropriately avoided.

Declarations of consensual personal relationships can be made in confidence to protect personal privacy, with only those persons in the ACU being advised of the conflict of interest which are necessary to make any arrangements necessary to manage it. Representatives of the employer involved in a matter raised under this policy are required to respect the privacy of personal information provided and the sensitivity of the matters raised. Disclosure of personal information should be limited to a strict 'needs to know' basis.

The ACU provides multiple avenues for disclosure to ensure that participant members may confidentially report consensual personal relationships while protecting personal privacy.

7. Declaration and management of private interests

The following employees must complete the ACU's *Declaration and Management of Private Interests Form* upon appointment, annually after appointment and within five working days after the employee's circumstances change (i.e. to the extent that they relate to the topics covered in the declaration form):

- All Executive Officers eg Board members and CEO.
- Participant members holding a financial delegation of \$500 or more.
- Participant members assessed by the designated disclosure officer, acting reasonably, as warranting declaration of private interests on the basis of potential, perceived or actual conflict of interest risk (this will be decided having regard to the risk based approach set out in this document); and
- Any other persons as determined by ACU from time to time, acting reasonably.

The declaration form sets out specific instructions for the participant member and their manager or authorised representative for completing and submitting the form. It also provides instructions and guidance to participant members, including that a participant member is only required to record family interests that are known to them and that may reasonably raise an expectation of a conflict of interest. Where family members are in a direct hierarchical relationship, this relationship must be disclosed.

8. Related policy, legislation and other documents

- *Australian Cheer Union Constitution, July 2019*
- *Equal Opportunity Act 2010 (Vic)*
- *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- *Privacy and Data Protection Act 2014 (Vic)*
- *Privacy Act 1988 (Cth)*
- *Fair Work Act 2009 (Cth)*
- *A guide to applying COI policy principles*
- *Declaration and Management of Private Interests Form*
- *Declaration and Management of Conflict of Interest Form*

9. Authorising Officer

This policy is issued under the authority of the President, Australian Cheer Union and is subject to annual review.

10. Breaches

A participant member's failure to avoid wherever possible or identify, declare and manage a conflict of interest in accordance with this policy could lead to disciplinary action in accordance with ACU's disciplinary procedures in its Constitution and Member Protection Policy (as amended from time to time). Contractors may be subject to contract re-negotiation, including termination.

Additionally, actions inconsistent with this policy may constitute misconduct which includes participant members making improper use of their position.

For further information on managing breaches of this policy, please contact Kym Grieve kym@australiancheerunion.org.

11. Speak up

Participant members who consider that conflict of interest within the ACU may not have been declared or is not being appropriately managed should speak up and notify their authorised representative or manager.

The ACU will take decisive action, including possible disciplinary action, against participant members who discriminate against or victimise those who speak up in good faith.

12. Contacts for further information

A conflict of interest is not always clear to those who have them. Participant members who are unsure about a possible conflict of interest, or the application of this policy, should ask their authorised representative or manager for advice.

Appendix A

MANAGING CONSENSUAL PERSONAL RELATIONSHIPS WITHIN THE AUSTRALIAN CHEER UNION

Purpose

The Australian Cheer Union (ACU) recognises that many people have consensual personal relationships that start at work or an organisational setting (the workplace). However, it is important to be aware of and to manage the impacts that these relationships may have in the workplace, especially where these give rise to actual, potential or perceived conflicts of interest.

This document is intended to promote clarity and to support the ACU and its employees (including National Board members, working group participants and employees) to have a consistent approach to the management of consensual personal relationships and any related risks.

The ACU has issued this advice to ensure compatibility with the *Equal Opportunity Act 2010*, *Privacy and Data Protection Act 2014* and the *Fair Work Act 2009* (Cth), and to support behaviour consistent with the Code.

Application

This advice applies to all National Board members, working group participants and employees of the Australian Cheer Union Ltd.

Definitions

Consensual personal relationship: include consensual sexual, intimate and/or romantic relationships between adults of any sex or gender identity. Relationships of this kind may be on a casual, periodic or regular basis and may or may not constitute a primary relationship.

A familial relationship of spouse or de facto partner also constitutes a consensual personal relationship.

Direct hierarchical relationship: a relationship where National and/or State Board members, working group participants or employees are of different levels of seniority in an organisation with the same reporting line. The senior individual may not have direct management or supervision of the subordinate individual but has some level of decision power or other authority over the latter's role.

Professional relationship: a relationship between National and/or State Board members, working group participants or employees within an organisation that involves professional interactions.

Direct supervision: where there is an immediate reporting, management or supervisory line between National and/or State Board members, working group participants or employees.

Indirect supervision: where the line of supervision is mediated by one or more National Board members, working group participants and employees.

Principles

National Board members, working group participants and employees who work for the ACU who are in a consensual personal relationship and who also have a professional relationship, are required to ensure that the risk of an actual, potential or perceived conflict of interest is managed appropriately.

Each National Board members, working group participants or employee is responsible for managing their own conflict of interest risk within the relationship.

While a conflict of interest can arise between National Board members, working group participants or employees of the same level of seniority, the risk may be heightened for hierarchical relationships where the individuals are of differing levels of seniority, particularly if there is a direct line of supervision.

National Board members, working group participants or employees in positions of senior leadership should, in particular, be mindful of their responsibility to model appropriate behaviour in line with the objectives of the ACU consistent with the objectives articulated in Section 2 of the organisation's constitution. They should also be cognisant of the power imbalance in place between different staffing levels.

National Board members, working group participants or employees in consensual personal relationships with a direct hierarchical relationship

The ACU considers any consensual personal relationship involving people in a direct hierarchical relationship (i.e. in the same reporting line, where one person has supervisory or decision making authority over the other) to represent a potential conflict of interest.

Where such a relationship exists, National Board members, working group participants and employees are to declare the relationship to their manager, a designated disclosure officer or a designated management representative. This will allow appropriate arrangements to be put in place to manage the conflict of interest, which may include temporary or permanent changes to reporting or supervisory arrangements.

Any decision to move one of the individuals concerned should not automatically preference the senior individual and each case should be considered on its own merits. Any process to manage a conflict must avoid discrimination or action that unfairly impacts upon a person's appointment, administrative responsibility and/or employment and should be commensurate with the seriousness of the identified risk.

Employees in consensual personal relationships without a direct hierarchical relationship

Where a consensual personal relationship exists without direct reporting or supervisory lines, employees are, in the first instance, required to manage the risk of a conflict of interest arising as a result of the relationship.

Employees without a direct hierarchical relationship are only required to confidentially disclose a consensual personal relationship where an actual, potential or perceived conflict

of interest cannot be appropriately avoided. Confidential disclosure of consensual personal relationships provides the opportunity for the risk to be managed.

Privacy

Declarations of consensual personal relationships can be made in confidence to the ACU in order to protect an National and/or State Board member, working group participant or employee’s personal privacy. Only relevant persons in the ACU will be advised of the declaration and any arrangements necessary for the purpose of recording and managing the conflict of interest. At the time a disclosure is made, the ACU should notify the parties who within the organisation may be privy to this information.

Further information on the ACU’s disclosure process can be found on www.australiancheerunion.org or by contacting Kym Grieve, Chief Executive Officer, kym@australiancheerunion.org, 0411 252 036.

Document Control:

Version	Date reviewed	Date endorsed	Content reviewed/purpose
1	19/12/19	30/01/20	• <i>Original Document</i>
2	12/08/22		• <i>Reviewed in line with new constitution</i>