



## Conflict of Interests Policy

Approval Resolution No: 6.6 Date: 21 July 2008

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## *Part A: Policy*

### 1. Purpose and Scope

This policy applies to all Directors, Officers, Chairs and Members of boards, committees, panels, etc., employees (including contract employees), consultants and volunteers of the Australian College of Theology Limited.

The purpose of this policy is to ...

- (a) protect the integrity of the decision-making processes of the College by avoiding ethical, legal, financial or other conflict of interests;
- (b) set out the requirements with which all Relevant Persons must comply in order to avoid actual, potential or perceived conflict of interests;
- (c) provide guidance for dealing with any conflicts of interests in an open and transparent way;
- (d) give all stakeholders confidence in the College's decision making processes; and
- (e) protect the integrity and reputation of the Relevant Persons and the College.

### 2. Policy Level

*Governance/Academic/Management/Operational:* Governance

### 3. Background

The Board of Directors of the College is committed to responsible corporate governance. This Conflict of Interests Policy should be read in conjunction with the Codes of Conduct of the ACT Limited and shall be part of its Corporate Governance Policy.

### 4. Definitions

**The College** is the Australian College of Theology

**Relevant Persons**, for the purposes of this Policy, comprise the College Board of Directors, Committees of the Board, Officers, members of boards, committees and panels, etc., employees (including contracted employees), consultants and volunteers of the College

**The Board** is the Board of Directors of the Australian College of Theology Limited

**Personal relationships** are relationships with people that extend outside the College, or relationships where a reasonable person might perceive that there could be some bias, either positive or negative, resulting from that relationship.

An **interest** means either ...

- (a) material (or pecuniary) interests, where financial advantage or disadvantage or other benefits or detriments accrue; or
- (b) non-material (or non-pecuniary) interests such as personal, family, institutional, social, sporting or cultural affiliations that may be advantaged or otherwise by a decision or action.

A **conflict of interests** arises when a personal relationship or interest, material or otherwise, conflicts with, or has the potential to conflict with, one's duty to the College.

A **perceived conflict of interests** occurs where a reasonable person might perceive that a conflict of interests may or could exist.

**"arm's length" transaction** – a transaction is conducted at "arm's length" if the parties to the transaction are not, or behave as if they are not, related or associated in any way with appropriate documentation to attest to the legitimacy of the transaction.

## 5. Principles

- (A) The College promotes, through the Code of Conduct and other policies, an environment based on Christian values, founded on the principles of honesty, responsibility, fairness and accountability, to maintain the integrity of its decision-making processes.
- (B) In order to sustain and enhance the integrity and reputation of the College and maintain the confidence of all stakeholders, the decision-making processes in the College must be free of any actual or perceived conflicts of interests.
- (C) Relevant Persons must avoid conflict between the interests of the College on the one hand, and their own personal, professional or business interests on the other hand.
- (D) It is incumbent on all Relevant Persons to disclose and manage conflicts of interests as they arise. When disclosed, the conflict of interests should be avoided or, where this is not possible, action must be taken to ensure that the conflict (or perceived conflict) is managed in a transparent and appropriate manner.
- (E) As required by ASIC Policy Statement 181, the College will maintain, for at least 7 years, records of conflicts identified in relation to the College and actions taken in accordance with this policy.

## 6. Policy Content

### (A) Disclosure of conflicts of interests

- A1. Any Relevant Person who has an interest in a matter that is being considered, or is about to be considered, must disclose the nature of their interest as soon as possible after the relevant facts are known.
- A2. Disclosure of a conflict of interests should be made by the Relevant Person to the Dean, Chair of Board/Committee or other group in the College or other relevant person as soon as possible after the conflict is identified or perceived, preferably in writing [*see 2. Procedures (B)*], but if this is not possible, verbally with the disclosure formally noted (eg. in the minutes of a meeting) and supplementary documentation prepared for storage with the minutes [*see 2. Procedures (B)*].
- A3. The Dean, Chair of Boards/Committees or other groups convened in the College and other responsible parties are responsible for ensuring that disclosed conflicts of interests, real or perceived, are evaluated and properly managed.
- A4. Disclosure of conflicts of interests should be a formal item on College committee agendas as a prompt to the Chair.
- A6. If a conflict of interests cannot be avoided, the Dean, Chair of Boards/Committees or other groups convened in the College and other responsible parties and the Relevant Person who is one party to the conflict must manage the conflict of interests in accordance with the guidelines presented in Part B: Procedures.
- A7. If the Dean, Chair of Boards/Committees or other groups convened in the College, or other responsible party becomes aware of an undisclosed actual or perceived conflict of interests, s/he should discuss the matter with the Relevant person and manage the conflict in accordance with the guidelines presented in Part B: Procedures.

### (B) Disclosure by College staff

- B1. Officers, employees (including contracted employees), consultants and volunteers shall advise the Dean (Company Secretary) of any actual or potential conflict of interests as soon as practicable after it is recognised.

**(C) Disclosure by Directors**

- C1. A Director must disclose to the other Directors ...
- (a) any interest they have in a matter that relates to the affairs of the College; and,
  - (b) any other interest which the Director believes is appropriate to disclose in order to avoid an actual or perceived conflict of interests.
- C2. Directors are required to disclose, ...
- (a) current employment and directorships;
  - (b) any previous employment in which the Director still has a financial or other interest where the organisation has a relationship with the College or an affiliate college;
  - (c) any appointments (voluntary or otherwise) – eg. trusteeships, tribunals, panels, enquiries which have a relationship to the College or an affiliate college;
  - (d) professional, organisational or other memberships which have a relationship to the College or an affiliated college;
  - (e) gifts or hospitality offered to the Director by external bodies and whether this was accepted or declined (see Codes of Conduct);
  - (f) family connections where relevant;
  - (g) any contractual relationship between the Director and an affiliated college or a theological college external to the affiliated colleges of the ACT.
- C3. Directors must disclose the interest as soon as practicable after becoming aware of their interest or need to make a disclosure. The disclosure will be reported in the minutes of the Directors' meetings and supplementary documentation prepared for storage with the minutes [*see 2. Procedures (B)*].

**(D) Standing Notices of Interests of Directors**

- D1. Each new Director shall complete a Standing Notice about Interests which shall be tabled at a meeting of Directors soon after commencement as a Director.
- D2. The Company Secretary shall maintain a Standing Notice about Interests for each Director and shall provide copies to each new Director on commencement.
- D3. Whenever there is any change in interests notifiable under a Director's Standing Notice, the Director shall disclose the change as soon as practicable and an updated Standing Notice shall be tabled at the next Board meeting, the tabling recorded in the minutes of that meeting and the documentation stored with the minutes.
- D4. The Director who has completed a Standing Notice must ensure that the nature and extent of the interest(s) disclosed is/are recorded in the minutes of the meeting at which the Standing Notice is tabled.
- D5. The Company Secretary shall include the content of Standing Notices in the Conflict of Interests Register.

**(E) Annual declaration of Conflict of Interests Register**

- E1. The Company Secretary shall maintain a Conflict of Interests Register for the Company.
- E2. The Company Secretary shall ask Directors to review and update their Standing Notice of Interests prior to the first meeting of the Directors in each calendar year so that the updated Notice may be tabled at that meeting.
- E3. An annual declaration of any conflict of interests shall be compiled by the Company Secretary and referenced in the Notice of AGM of members.

**(F) Consequences for breach of the Conflict of Interests Policy**

- F1. An instance when a Relevant Person fails to disclose potential or actual conflict of interests may lead to an allegation of misconduct. Some breaches may result in additional legal proceedings being taken by the College.
- F2. Sanctions will be determined in accordance with the circumstances in question and may include counselling, use of disciplinary procedures, civil action or reporting of actions to relevant authorities that may result in the laying of criminal charges.
- F3. Victimisation of an individual as a result of disclosure of an actual or potential perceived conflict of interests is not permitted and may lead to an allegation of misconduct.

**7. Associated Documents**

*List related College documents (including policies/procedures) and external legislation. Major sub-sections within this Section should be labelled (A), (B), (C), etc and minor sub-sections A1, A2, A3, etc. Any subsequent points shall be labelled a, b, c, etc. and dot points rarely used. Where possible provide a folder reference or HTML link to each document.*

**(A) Related External Documents**

- (a) Chapters 2B of the Corporations Act 2001 (Cth) (**Corporations Act**) which prescribes the duties of Relevant Persons that are appropriate for avoiding conflicts of interests;
- (b) Section 52 of the Trade Practices Act 1974 (Cth) which prohibits misleading and deceptive conduct;
- (c) Division 70 of the Criminal Code 1995 (Cth) which prohibits the payment of bribes and secret commissions;

**(B) Related Internal Documents**

- (a) the College's contractual obligations
- (b) Codes of Conduct Policy

## 8. Responsibility and Authority

*State here those staff positions or bodies with responsibility in relation to this policy.*

Body/Position with authority to initially approve the policy and procedures and amend the policy:

Board of Directors

Body/Position(s) with delegated authority to amend the procedures consistent with the policy:

Company Secretary (Dean)

Body/Position(s) accountable for:

<b>Responsibility</b>	<b>Position</b>
Development of the policy	Quality Manager
Provision of advice in development of the policy	Directors, Dean, College Staff
Distribution of the policy	Quality Manager
Implementation of/Advice concerning the policy	Chairs of Directors, A/Board, Committees, Dean
Monitoring of and compliance with the policy	Company Secretary/Quality Manager
Evaluation and recommending amendment of the policy	Quality Manager

## 9. Approvals

<b>Document Title:</b>	Conflict of Interests Policy	<b>Document Number:</b>	DIR 0807/6/6
<b>Approval Authority:</b>	Board of Directors	<b>Approval Date:</b>	21 July 2008
<b>Resolution No:</b>	6.6	<b>Effective Date:</b>	21 July 2008
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Revision History			
<b>Authority</b>	<b>Action</b>	<b>Resolution No.</b>	<b>Date</b>
Chair of Board	Amend Part B: Procedures > 2. Procedures > (D) Resolution of an intractable conflict of interest	Follow-up from Board meeting on 21 July 08	1 Aug 2008

## 10. Communications

<b>Date</b>	<b>Recipient</b>	<b>Purpose</b>	<b>Mode</b>
29 May 08	College staff	Draft early version of this policy for comment	Email
25 June 08	Directors	Draft early version of this policy for comment	Email

## *Part B: Procedures*

### 1. Introduction

#### **(A) Contents of the Conflict of Interests Register**

- A1. On advice of an actual/potential/alleged conflict of interests, the Company Secretary shall record in the Register:
- (a) The Date of the advice
  - (b) The Person providing the advice
  - (c) The Person about whom the advice is being given
  - (d) The Context in which the conflict was recognised
  - (e) The Status of the Conflict (actual or potential or alleged)
  - (f) The Circumstances causing the Conflict – the nature and extent of the interests held by the member and the relationship to the affairs of the College
  - (g) Whether it is possible to avoid the conflict
  - (h) Whether the transaction is or can be kept at “arm’s length”
  - (i) The agreed method of Managing the Conflict or action by the Company Secretary in relation to the advice

#### **(B) Commitment to the Conflict of Interests Policy**

- B1. All Relevant Persons shall commit to the Conflict of Interests Policy and disclose such interests as may be relevant to their role in the College.

### 2. Procedures

#### **(A) Timing of Commitment to Conflict of Interests Policy**

- A1. Directors shall commit to this policy prior to appointment and prior to any occasion for re-appointment and disclose relevant interests in accordance with *Section 6. C & D* above.
- A2. External members of committees of the Board of Directors shall commit to this policy and disclose relevant interests on appointment for tabling on the first occasion of attendance at a meeting of the committee.
- A3. The Dean and Executive Officer shall commit to this policy and disclose relevant interests on acceptance of appointment and on the occasion of each annual review.
- A4. Chairs and members of the Academic Board and related committees/panels shall commit to this policy and disclose any relevant interests on appointment for tabling on the first occasion of attendance at a meeting of their board/committee/panel.
- A5. Permanent (full-time or fractional) and long-term casual staff of the ACT Office shall commit to this policy and disclose any relevant interests on acceptance of appointment and on the occasion of each annual review.
- A6. ACT staff on short-term appointment shall commit to this policy and disclose any relevant interests on occasions as determined by the Dean.

#### **(B) Guidelines for managing conflicts of interests**

- B1. To ensure any appearance of impropriety is avoided, Relevant Persons who have a conflict of interests will restrict their involvement, or have it restricted, in a particular activity or process by:
- abstaining from voting on, making or influencing decisions or proposals; and/or

- withdrawing from discussion of affected proposals; and/or
  - having their access restricted to information relating to the conflict of interests; and/or
  - having their access denied to sensitive documents or confidential information relating to the conflict of interests.
- B2. Where a Relevant Person abstains from voting or leaves the room in order to avoid being placed in a situation of conflict of interests, the abstention or absence of that person from the proceedings of a meeting shall be recorded in the minutes of the meeting.
- B3. In cases of ongoing serious conflicts of interests it may be in the interests of all parties for the Relevant Person to be removed from involvement in the area of activity as long as the conflict persists.
- B4. In certain circumstances, resignation from a position held with the College may be necessary.

**(C) Recording of occasional conflicts of interests**

- C1. The Company Secretary, on advice by a College staff member of an actual/potential conflict of interests, shall record the advice and the agreed method of managing the conflict in the Conflict of Interests Register.
- C2. In regard to Occasional Conflicts of Interests which are disclosed in meetings of boards, committees, panels, etc., the Chair of the meeting shall cause the disclosure to be recorded in the minutes, and supplementary documentation stored with the minutes noting:
- (a) The Date of the advice
  - (b) The Person providing the advice
  - (c) The Person about whom the advice is being given
  - (d) The Context in which the conflict was recognised (duties, meeting agenda, etc.)
  - (e) The Status of the Conflict (actual or potential or alleged)
  - (f) The Circumstances causing the Conflict – the nature and extent of the interests held by the member and the relationship to the affairs of the College
  - (g) Whether it is possible to avoid the conflict
  - (h) Whether the transaction or event revealing the conflict is or can be kept at “arm’s length”
  - (i) The agreed method of dealing with the conflict

After agreement by the Chair to the accuracy of the minutes, the Executive Officer of the meeting shall ensure each disclosed occasional conflict of interests is reported and a copy of the supplementary documentation provided to the Company Secretary for inclusion in the Conflict of Interests Register.

**(D) Resolution of an intractable conflict of interest**

- D1. On the very rare occasions that the Dean, Chair of Boards/Committees or other groups convened in the College, or other responsible party finds him/herself unable to expediently determine a method agreeable to the Relevant Person making the disclosure to manage a disclosed actual or potential conflict of interest, s/he shall document the matter and refer it to the Company Secretary for noting in the Register of Conflicts of Interest, after which the Company Secretary shall refer the matter to the Chair of the Board of Directors.
- D2. The Chair shall report the reference to the Board and, having taken account of the matter under consideration, the Chair shall advise the Board of the two members of the College s/he has invited to form a panel to consider the information provided and recommend to the Board how the conflict may be managed and whether and how to proceed with any related transaction. The Panel may confer with the Company Secretary, and may take external legal advice, as appropriate, in determining its recommendation to the College Board.

- D3. On completion of their consideration, the Panel shall make recommendations to the Board in relation to:
- (a) managing the conflict,
  - (b) proceeding with any associated transaction, and
  - (c) a response to the Relevant Person.

The Company Secretary will document the decisions of the Board, and the procedure to control the conflict, if applicable.

- D4. The decisions of the Board of Directors in relation to the management of such an “intractable” conflict of interest and the action concerning any associated transaction shall be final.

***When a transaction is related to the conflict of interest***

- D5. Where the College Board decides that the conflict cannot be dealt with by acting at “arms length”, the transaction should be the subject of external legal advice, to ensure that if proceeded with, the transaction may be carried out in a manner that is compliant with the obligations imposed by the Corporations Act and the Constitution of the College.
- D6. Where the College Board decides that the conflict has such a serious impact on the College that it cannot be adequately managed by acting at “arms length” or by disclosing it to stakeholders and seeking their approval, the Board may determine that the transaction not proceed in the manner proposed.
- D7. Where the Board approves the transaction to proceed, the transaction may then be carried out in accordance within the usual operational procedures of the College.



## Director's Annual Standing Notice about Interests

The undersigned person acknowledges receipt of a copy of the 'Conflict of Interests policy of the Australian College of Theology' dated \_\_\_\_/\_\_\_\_/\_\_\_\_.

This notice relates to the period: \_\_\_\_/\_\_\_\_/\_\_\_\_ to \_\_\_\_/\_\_\_\_/\_\_\_\_

By my signature affixed below I acknowledge my agreement with the spirit and intent of this policy.

I agree to report to the Chair of the Board any actual or potential conflicts (other than those stated below) that may develop before completion of the notice period and the Company Secretary shall table an updated Standing Notice for the balance of the period.

Should a disclosed actual or potential conflict of interests cease to apply during the period I shall advise the Chair of the Board, and the Company Secretary shall table an updated Standing Notice for the balance of the period.

*(Please complete one of the responses below)*

(a) I \_\_\_\_\_ am not aware of any conflict of interests.  
*(Please print your full name)*

(b) I \_\_\_\_\_ have a conflict of interests or potential conflict  
of \_\_\_\_\_  
*(Please print your full name)*

interests in the following area(s):

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For each area I attach supplementary documentation in accordance with the policy.

Signed: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Director's Annual Standing Notice about Interests

SUPPLEMENTARY INFORMATION

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Name of Director: \_\_\_\_\_

Area of Interest: \_\_\_\_\_

The Status of the Conflict:                    *actual*            or            *potential*

The Circumstances causing the Conflict - the nature and extent of the interest held by the Director and the relationship to the affairs of the College

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Whether it is possible to avoid the Conflict:

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Whether the transaction or event revealing the Conflict is or can be kept at "arm's length":

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The proposed method of dealing with the Conflict:

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Signed: \_\_\_\_\_

Date:        /        /