



BUNBURY REGIONAL COMMUNITY COLLEGE

BRCC Conflict of Interest Policy



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Purpose

The purpose of this policy is to ensure that all Board Members and employees of Bunbury Regional Community College ('BRCC' or 'the College') effectively identify, disclose, and manage any actual, potential, or perceived conflicts of interest in order to manage risk and to protect the integrity of the College.

BRCC requires all Board Members and employees to be aware of their obligations to disclose any conflicts of interest that they may have, and to comply with this Policy to ensure they effectively manage those conflicts of interest as representatives of the College.

Scope

This policy is applicable to all Bunbury Regional Community College employees and Board Members.

Definitions

CARE School

A Curriculum and Re-engagement school, established and registered solely for the education of students at educational risk.

College community is the students, school staff (teachers, administrators, other staff, and volunteers), parents and carers, board members, and others with an interest in the school.

Conflict of interest is where persons duty to the College is affected by a personal interest. In such cases, the line between personal and professional conduct may become blurred and interfere with a person's capacity to perform their position. A conflict of interest occurs when a person has a personal interest or may be seen to have a relationship with a person or group that has an interest that could cause them to not be, or be perceived to not be completely unbiased when discussing, considering, or making a decision on an issue. A conflict of interest can arise without any intention to 'cross the line' between professional and personal interest. Conflict of interest can **actual, potential, or perceived**.

Matter of Material Personal Interest is best described as a conflict of interest in which the person or a close associate could materially benefit from a particular decision being made. The *Associations Incorporation Act 2015* (the Act) does not use the term "conflict of interest" and instead refers to "matters of material personal interest".

Personal interests may be financial or non-financial, and may be held in relation to:

- family members
- close friends
- associates.



Policy

Bunbury Regional Community College (BRCC) is a 'Curriculum and Re-engagement (CARE) School that caters specifically to students who have disengaged from mainstream education. The College offers a full-time alternative education program under the *School Education Act 1999 (WA)*.

BRCC recognises the importance of providing a policy and framework in which conflicts of interest are identified, disclosed, and managed properly.

BRCC is committed to providing a workplace that is free from any perception or actual bias, self-interest, corruption, or fraud.

This policy has been developed because conflicts of interest invariably arise, but these conflicts of interest do not need to present a problem to staff, Board Members or the College if they are managed appropriately with transparency and openness.

While having a conflict of interest does not necessarily amount to a breach of this policy, choosing not to disclose a conflict of interest may constitute a breach.

Apart from any obligations under this policy, employees and Board Members may also have other obligations to consider arising under their contract of employment, legislation, or under another BRCC policy in relation to:

- engaging in other employment or paid activities
- disclosure of any social/family relationships with students outside the context of the student/employee relationship
- child safety disclosures.

A **potential** conflict of interest is one which is foreseeable from the circumstances, but has not yet become actual (for example, where a job applicant is related to a recruitment panel member, but the applications have not yet been processed).

A **perceived** conflict of interest is one where the circumstances indicate to a reasonable person that an employee's duty to the College is affected, whether there is an actual conflict of interest or not (for example, being on a recruitment panel and one of the candidates is someone you know).

Conflicts of interest can arise in many different activities that we undertake in our everyday work. Purchasing goods for the College, recruiting, or having a family member on staff, engaging a contractor who is a friend or relative, being offered gifts, and undertaking outside work are all common scenarios where a conflict of interest may arise.

A conflict of interest arises where our public duty is influenced, or can be seen to be influenced, by our private interests (including the interests of family members or close friends). Our public duty is our role. Our private interests can be financial or non-financial and means anything that can influence a person: your personal, family, professional or business interests, and those interests of people with whom you have a close association.



Fig. 1 - Conflicts of interest arise in many everyday areas of activity



BRCC Employees

The fact that a staff member has a relationship (e.g. family, friendship) with someone connected with the School does not necessarily mean there is a conflict of interest. Whether a conflict of interest (actual, potential, or perceived) exists depends on the circumstances. For example, a mother and daughter may both teach in different subject areas at the same secondary college and no conflict of interest arises. However, if the mother is the principal and the daughter is applying for a position at the school, a potential conflict of interest arises and the conflict should be disclosed and managed appropriately.

Typical conflict of interest situations

There are many situations where a conflict of interest may arise in a school situation. Some of the more common situations are outlined below.

Other employment/paid activities

An employee undertaking other employment or paid activities may give rise to a potential/actual/perceived conflict of interest, particularly when the other work is related to work duties. Depending on the circumstances, an employee's ability to perform their work duties may be adversely affected by the other employment/activities.

Apart from ongoing obligations under this policy, an employee might be required to meet certain conflict of interest obligations under their contract of employment. The employee must notify the Human Resources department, Principal or Director of the other employment/activities. The Human Resources department, Principal or Director will then determine whether a potential/actual conflict of interest exists. All conflicts of interest are to be managed in the interests of the College.

Disposal of school assets

The disposal of school assets has potential conflict of interest implications such as fraud or unofficial use of equipment.



BRCC employees do not have priority access to surplus school assets. The College reserves the right to notify the public of any asset sales. Employees may make an offer post-notification.

Accepting gifts and benefits

It is a policy at BRCC that employees may accept 'token gifts' from external parties for work they have done, where the total value of the gift is under \$75. For example, a 'token gift' may be a bottle of wine or a moderately-sized food hamper.

Accepting gifts other than a 'token gift' or accepting gifts/benefits over the value of \$75 may be deemed a conflict of interest.

Note that this policy covers gifts/benefits from external parties. It does not include the College or collective staff providing a gift to a departing member of staff or the departing staff/ member accepting such a gift.

If it could be perceived that acceptance of a gift/benefit could constitute a potential conflict of interest, the employee should politely refuse the offer of the gift/benefit and declare the offer to the Director or Principal. Even if the value of the gift/benefit is under the nominated amount listed above, the Gift or Benefit Declaration Form should be completed in most circumstances. The reason for this is to ensure that gifts and benefits are appropriately disclosed, and any perceived or real conflict of interest is managed appropriately.

The minimum requirement for employees when gifts/benefits, other than 'token gifts' or those of a nominal value below \$75 are offered, are that employees:

- do not solicit gifts or benefits
- refuse all offers of gifts or benefits that could reasonably be perceived as undermining the integrity of the College or themselves
- inform the gift giver that 'thanks are enough' and the gift is thoughtful but not required in relation to their work or services
- refuse all offers of gifts or benefits from individuals, or organisations about which they are likely to make decisions (e.g. enrolment, tender processes, procurement or licensing or regulation)
- refuse all offers of money or items easily converted to money, such as shares
- refuse bribes and report bribery attempts to the Principal/Director/Board
- seek advice from the Principal or Director if unsure how to respond to an offer of a gift or benefit of more than a nominal value.

Procuring goods and services

A potential or perceived conflict of interest may exist when a contractor used at the College is also engaged by an employee for private work. In some situations, a contractor may offer or provide private work at a discounted rate to ensure they remain in good favour for future contracts. This may mean that an employee receives a private benefit which could become a potential conflict of interest if they are also involved in decisions for the procurement of goods or services for the College.

If it could be perceived that the contractor's work performed for the employee in their private capacity is a conflict of interest, then the employee should ensure that the private work is charged at standard and published rates. Furthermore, the



employee should declare the engagement of the contractor for private work and/or any relationship with the contractor prior to any future awarding of contracts for the procurement of goods or services for the College.

To avoid a potential or perceived conflict of interest for the procuring of goods and services it is recommended that procurement decisions are made by the executive team/Board rather than one person.

Staff recruitment

A conflict of interest exists in the recruitment of a person with whom an employee has a current or past professional/personal relationship or in whose recruitment they have a vested interest.

Where an employee is part of a recruitment panel and becomes aware of such a relationship to a job applicant, they should declare the conflict of interest to the Director/Principal/Chair. The Director/Principal/Chair will then determine a conflict of interest management plan (see below 'Managing a conflict of interest') in consultation with the employee, for example the employee may remove himself/herself from the recruitment panel.

Identification and disclosure of conflict of interest

All employees have a continuing responsibility for identifying, declaring, and managing any potential or perceived conflict of interest that applies to them.

Where an employee suspects that they may have a potential/perceived/actual conflict of interest, they need to discuss any conflict of interest with the Director/Principal/Chair and provide the Director/Principal/Board with a completed Conflict of Interest Declaration form. Employees/Board Member should provide all information on the reporting form relevant to the identified conflict of interest in order to allow the Director/Principal/Chair to fully assess whether a conflict of interest in fact exists.

There may be circumstances in which a potential/actual/perceived conflict of interest involves the Director or Principal. In such a situation, the Director or Principal should discuss the matter directly with the Director or Chair.

Managing conflict of interest

If the Director/Principal/Chair determines there is a potential/perceived/actual conflict of interest, the Director/Principal/Chair will prepare and propose a conflict of interest management plan. The employee has a responsibility to discuss any proposed conflict of interest management plan with the Director/Principal/Chair.

The Director/Principal/Chair will consider any input the employee may have in relation to the proposed management plan; however the employee is obliged to follow any conflict of interest management plan decided upon by the principal.

There may be circumstances in which a potential/actual/perceived conflict of interest involves the Principal. In such a situation, the Principal will work with the Director to develop the conflict of interest management plan.



Conflict of interest management plans will ensure conflicts are managed and resolved based on the following strategies:

Record and disclose	Ensure all information surrounding the conflict of interest has been disclosed and documented appropriately.
Restrict	Restrictions are placed on the persons involvement in the matter, or the scope of the work is reformulated or there is a restriction on access to certain information.
Recruit and monitor	A non-conflicted third party is used to oversee part or all of the process that deals with the matter.
Remove	The person removes themselves, or is removed, from the matter. For example, in a situation in which a job applicant is related to a member of the recruitment panel for that position, a conflict of interest management plan might be for that panel member to step down from their position during the selection process for that position only.
Relinquish	The person 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 using one of the other options above, the employee may consider removing themselves from the process.

Conflict of interest management plans included in the Conflict of Interest Declaration form should be reviewed regularly to ensure they remain effective.

Consequences of breaching this policy

Conflicts of interest are not in themselves unethical or contrary to this policy. However, if an employee fails to identify (or, where required, manage/monitor) any actual/perceived/potential conflict of interest, this may result in disciplinary action or, depending on the seriousness of the circumstances, termination of employment.

Employees need to also be aware of the various BRCC policies, guidelines and the BRCC Code of Conduct referred to in this policy which are relevant to conflicts of interest.

Conflict of interest checklist for employees

1. Complete the Conflict of Interest Declaration form or the Gift/Benefit Declaration form.
2. Discuss circumstances of the conflict of interest situation with the Principal/Director or Chair.
3. Follow the conflict of interest management plan decided upon by the Principal/Director or Chair.
4. Monitor the conflict of interest situation on an ongoing basis, informing the Principal/Director or Chair of any change to circumstances of the conflict of interest situation.

Related policies

This Conflict of Interest Policy relates to other relevant BRCC policies and professional expectations, including: BRCC Code of Conduct.



Governing Body

Conflicts of interest occur when a member's self-interest is in conflict with the duty owed by all members to the governing body itself.

They also occur when a governing body member owes duties to two people or entities whose interests are in competition or conflict with each other, or are reasonably perceived to be in competition or conflict.

The interest may be direct or indirect, financial, or non-financial. The competing relationship may be another directorship, an employment relationship, a close family, or other personal relationship, among others. The key question is whether the conflict could affect the member's ability to properly discharge the duty owed to the governing body, even if it doesn't affect it in fact.

Conflicts of interest, and the failure or inability of the member or the governing body as a whole to manage them appropriately, are relevant to the Director General's consideration of the fitness and propriety of governing body members. Guide to the Registration Standards and Other Requirements for Non-Government Schools 2022.

As a matter of good governance, Governing Body members should declare any conflict of interest they have before the matter that presents them with a conflict of interest is considered, discussed, or voted on by the Governing Body. As best practice the Board will have a standing agenda item called "conflict of interest" or "declaration of interest" as one of the first items on the agenda.

Adherence to a good conflicts of interest policy provides transparency and protects the integrity of the governing body and the role it undertakes in the governance of the association.

If the conflict of interest is a matter in which the governing body member has a *material personal interest*, the *Associations Incorporation Act 2015* (the Act) requires that the member must declare the conflict of interest immediately, must leave the meeting immediately and must not take part in any discussion, deliberations (irrespective of whether they occur in the meeting or outside the meeting) or vote on the matter.

The Act does not require a governing body member with a conflict of interest that is not a matter of material person interest to not take part in discussions or vote on that matter. Whether the member takes part in any discussion or votes on such a matter should be determined by the governing body, however it is best practice if all conflicts of interest are treated in the same way, that is as matters of material personal interest.

All conflicts of interest must be recorded in a Conflict of Interest Register and, also in the minutes of the meeting at which the conflict of interest is declared and at any subsequent meetings at which the matter is considered. The information to be recorded is to include:

- The nature and extent of the conflict of interest.
- The conflict of interest relationship to the activities of the association.
- How the conflict of interest disclosure, was managed at each meeting, including whether the governing body member left the meeting, abstained from participating in any discussion/debate and/or voting on the matter.



The Act also requires that all conflicts of interest that are of material personal nature **must** be disclosed at the next General Meeting of the Association, identifying the Governing Body member and the extent and nature of the interest. This disclosure must be made even if the person is no longer a member of the Governing Body.

When a material personal interest need not be declared

A Governing Body member need not declare a material personal interest nor have to disclose the nature and extent of the interest at the next General Meeting of the Association, if the interest only exists because the person is an employee of the school; or is a class of person for whose benefit the Association was established; or the Member has something in common with all or most of the Members of the Association.

In the interests of transparency and to avoid any accusation of bias it is recommended that this exemption is not used to allow a Governing Body Member, with an obvious conflict that is a material person interest in a matter, to take part in any discussions or voting on that matter. *For example*, a Governing Body Member who is an employee at the College should be required to remove themselves from the meeting and to take no part in any discussion or vote on any matter that could benefit them, a close family member, or a friend.

Legal Advice

The Governing Body may seek legal advice whenever it thinks that a member of the Governing Body may be at risk of encountering a potential, real or perceived conflict of interest.

Potential consequences of a failure to check for conflicts of Interest

If any concerns, questions, or suspicion are raised about the business dealings of a Governing Body member as they relate to present or past governing body deliberations, they should be asked, by the Governing Body through its Chair, to explain specifically those dealings and any potential conflicts.

Other members of the Governing Body have a duty to not to turn a blind eye to the activities of their colleagues.

It is not appropriate for a Governing Body Chairperson to say, "Well, they should have declared that interest" when it was clear that other members of the Governing Body knew of the interest or had suspicions related to it independently.

Example:

If a person independent of the Governing Body succeeds in convincing a court that he or she was denied (say) a business opportunity because of a failure of a Governing Body to check for a conflict, or failure to act when the conflict was revealed, it is possible that any judgment given in favour of the aggrieved person will have to be paid from school funds.

Any governing body members who have deliberately or recklessly turned a blind eye to an obvious conflict of interest may find that their 'limited liability' protection is no protection. All Governing Body members are vulnerable to civil suit if they act (or knowingly allow others to act) in a way that is against the law, in breach of their duties as a governing body member or against the rules of the Association. In some circumstances they could be found to be



personally liable, and their personal finances could be under real threat. While this scenario it is a remote one, it is still a real possibility.

Further, the Act imposes significant monetary penalties on any governing body member who fails to declare a material personal interest, does not leave a meeting where it is being considered, participates in discussion or deliberations about the issue or votes on the issue.

Guidelines for Governing Body Members

1. Declare early and often. Make sure the declaration is recorded in the meeting minutes and the Declarations of Conflicts of Interest Register.
2. Listen to other members. If you think there is a conflict, then anyone looking at the matter, including a judge, will probably come to the same conclusion.
3. Choose the highest standard. It is best to absent a member and cover all bases rather than risk a legal issue.
4. Develop good policies and procedures for dealing with these issues. Make sure the whole community knows the policy.
5. Maintain a Conflicts of Interest Register, in addition to but separate to meeting minutes, in line with the Conflict of Interest policy. Board Members are to note that that the Non-Government Schools' Regulator currently requires a Conflicts of Interest Register to be provided during a school's renewal of registration audit.

Applicable Legislation

School Education Act 1999

School Education Regulations 2000

School Curriculum and Standards Authority Act 1997

Policy Review Date

This policy is due for review annually.

Contact BRCC

Web <http://www.brcc.org.au/contact/>

Email admin@brcc.org.au

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Approval Process	New Policy or Amendment	Minor Amendment or Review
<i>Reviewed</i>	May 2022	
<i>Endorsed by Principal</i>	5 May 2022	
<i>Endorsed by Director</i>	5 May 2022	
<i>Governing Council Approval</i>	13 May 2022	
<i>Next Review</i>	May 2023	



Appendix 1 - BRCC Conflict of Interest Register - Template

Name	Position	Date Interest Advised	Interest Disclosed	Nature of potential conflict (and estimated value if known)	Action taken / Recommendations	Date implemented	Review / Comments



Appendix 2 - Conflict of Interest - Disclosure Form - Template

Staff-In-Confidence (When completed)

Employee's Surname:

Given name/s:

Position:

Branch and Location:

Manager's Name:

Describe the private interests that have the potential to impact on your ability to carry out, or be seen to carry out, your duties impartially and in the public interest.

(Describe your private interests and/or associations)

Describe the expected roles/duties you are required to perform.

(Describe the duties you are required to perform)

The conflict of interest has been identified as: (Please select one of the following)

- Non-pecuniary interest
- A real conflict of interest
- An apparent conflict of interest
- A potential conflict of interest
- Pecuniary interest

Staff-In-Confidence (When completed)

Employee Declaration

I declare that the above details of my private interests are correct to the best of my knowledge and am aware of my responsibilities to take reasonable steps to avoid any real or apparent conflict of interest in connection with my employment and to advise my manager of any relevant changes in my personal circumstances.

Signature:



Date:

Action by Manager

Describe the action proposed to mitigate the real or perceived conflict which has been disclosed and the reasons for the decisions:

The above action has been discussed with the employee and is appropriate to resolve the real or apparent conflict of interest disclosed above.

Signature of Manager: Date:

Employee Endorsement:

Date:

When finalised this form is to be forwarded to the Human Resources Officer, for retention. A copy of the form should also be kept in the selection process file where the declaration is made in relation to a selection process.



Appendix 3 – BRCC Gift Declaration Form – Template

Gift or Benefit Declaration Form

To be completed by the recipient of the reportable gift and lodged for approval within 21 days of the gift being received. Please read the BRCC Conflict of Interest Policy.

Date gift offered:	Click here to enter text.
Offered to: (insert full name/s)	Click here to enter text.
Job title / Area/s of responsibility:	Click here to enter text.
Offered by: (insert name/s)	Click here to enter text.
Job title/ Area/s of responsibility / Connection to school:	Click here to enter text.
Organisation: (if relevant)	Click here to enter text.
Reason offered:	Click here to enter text.
Description of the gift/ benefit:	Click here to enter text.
Location of the gift: (i.e. current storage location)	Click here to enter text.
Estimated Value: (in \$AUD)	Click here to enter text.
	<input type="checkbox"/> First time offer
	<input type="checkbox"/> Previous offer/s within last 12 months by this individual / organisation
Cumulative value of gifts offered by this individual within the last 12 months:	Click here to enter text.



DECISION REGARDING GIFT

Declined | Retained by staff member/s | Transferred to BRCC/ Employer

Please list details of transfer

Click here to enter text.

Signature/s of person/s
retaining the gift/benefit

ate:

APPROVED BY:

NAME:

POSITION:

SIGNATURE:

DATE

