



Australian Government
Australian Research Council

ARC Conflict of Interest & Confidentiality Policy

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1. Introduction

1.1 *The Australian Research Council*

The Australian Research Council (ARC) is a Commonwealth entity within the Australian Government. The ARC's purpose is to grow knowledge and innovation for the benefit of the Australian community through funding the highest quality research, assessing the quality, engagement and impact of research and providing advice on research matters.

The ARC funds research and researchers under the National Competitive Grants Program (NCGP). The NCGP consists of two elements—Discovery and Linkage. Within these elements are a range of schemes structured to provide a pathway of incentives for researchers to build the scope and scale of their work and collaborative partnerships. The majority of funding decisions under the NCGP are made on the basis of peer review.

The ARC evaluates the quality of research undertaken in higher education institutions through the Excellence in Research for Australia (ERA) program. ERA is an established evaluation framework that identifies research excellence in Australian higher education institutions by comparing Australia's research effort against international benchmarks. ERA assesses quality using a combination of indicators and expert review by research evaluation committees.

The ARC is also responsible for developing and implementing an Engagement and Impact (EI) assessment, which assesses the engagement of researchers with end-users, and shows how universities are translating their research into economic, social, environmental, cultural and other impacts.

1.2 *Purpose of policy*

The ARC is committed to maintaining the highest standards of professionalism and ethical conduct in its operations to meet its obligations under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). The PGPA Act underpins the duty of the ARC and its officials to act honestly, in good faith and for a proper purpose.

This policy is designed so that all material personal interests are disclosed. This will support the identification and management of conflicts of interest in a rigorous and transparent way that ensures the integrity, legitimacy, impartiality and fairness of ARC processes and the ARC's administration of Australian Government resources. Management of conflicts of interest in this way is designed to maintain public confidence in the ARC's business processes and ensure that both ARC-funded projects and research outcomes supports and primarily benefits the Australian community.

This policy also outlines the confidentiality obligations of individuals carrying out ARC business, to ensure that information obtained in the course of ARC business is managed appropriately to maintain the credibility of the ARC's processes and its reputation.

2. Scope

2.1 *Who does the policy apply to?*

This policy applies to:

- ARC staff, including Australian Public Service (APS) employees and contractors
- Committee members, assessors, peer reviewers, consultants and any other parties engaged by the ARC for the provision of services and/or to undertake business on its behalf

- Administering Organisations, researchers named in ARC funding applications and ARC-funded projects.

2.2 Definitions

2.2.1 A **material personal interest** is an interest of a type that can give rise to a real or perceived conflict of interest that could affect the ability of the person to discharge their duties or obligations appropriately. In the context of the ARC this also includes those named on ARC grants being able to discharge their obligations under the relevant ARC Funding Rules/Grant Guidelines or ARC Funding/Grant Agreement.

Material personal interests also include interests that would pose a risk of a conflict of interest arising if the individual became involved in relevant ARC official duties and responsibilities in the future.

2.2.2 A **conflict of interest** is a situation in which someone in a position of trust has competing professional or private interests. Such competing interests could make it difficult for an individual to fulfil his/her duties impartially and could improperly influence the performance of their official duties and responsibilities.

2.2.3 A **perceived conflict of interest** exists where it could be reasonably perceived that an individual's professional or private interests could improperly influence the performance of their duties and responsibilities. Individuals should be conscious that perceptions of conflict of interest may be as important as an actual conflict.

3. Disclosing interests

3.1 What to disclose?

3.1.1 When undertaking ARC business, an individual must clearly disclose any material personal interests that may impact, or be perceived to impact, their ability to perform the role for which they have been engaged.

3.1.2 In accordance with any additional ARC guidance or procedures relevant to their role, individuals must consider and disclose interests in all possible areas including:

- professional positions
- membership of committees of other organisations
- consultancies
- foreign financial support (cash or in kind) for research related activities
- current or past associations or affiliations with a foreign sponsored talent program
- current associations or affiliations with a foreign government, foreign political party, foreign state-owned enterprise, foreign military and/or foreign policy organisations
- boards of directors
- advisory groups
- professional relationships
- family and personal relationships, or
- financial interests, including receiving recompense in the form of cash, services or equipment from other parties to support research activities.

3.1.3 A material personal interest may also exist where an individual's partner or immediate family member has any of the interests listed in clause 3.1.2. The term 'partner' may refer to personal or business partners.

- 3.1.4 It should be noted that enmity as well as friendship can give rise to a real or perceived conflict of interest.
- 3.1.5 The overriding principle for a declaration of a material personal interest is, if in doubt, the individual should declare the interest in accordance with the appropriate process pertaining to their role. This is to ensure that the ARC is able to take account of varied individual circumstances to ensure conflicts of interest are managed appropriately and consistently. This also ensures that, should any issues or queries arise, the individual can demonstrate that they have taken appropriate action.
- 3.1.6 The obligation to disclose interests is ongoing. Declarations of interests are subject to regular review by the ARC; however, the responsibility to identify, disclose and update these interests remains with the individual. Individuals are required to update that information as soon as possible if any significant changes occur to their or their immediate family/partner's interests.

3.2 ARC committee members, assessors and peer reviewers

- 3.2.1 For ARC committee members and reviewers, material personal interests include, but are not limited to, situations where an individual:
- has had a contractual or employment arrangement with a university, or any organisation that is named in a current application, evaluation process, or other documentation relating to any ARC business under his/her consideration
 - owns shares in, or exercises control in a company or other organisation named in any current application or evaluation process that is under his/her consideration, or in which he/she has direct involvement
 - is involved in any other ARC committee process where he/she may have a direct or indirect involvement in the matters being considered
 - has a professional relationship with an individual who is named in an application or whose work forms a significant part of the material under review in an assessment process. This includes having published with, held research funding with, or been in a supervisory relationship with the individual, or
 - has a close personal relationship (including enmity) with an individual who is named in an application or whose work forms a significant part of the material under review in an assessment process.

The above is not an exhaustive list. Where relevant, please refer to the information provided to you by the ARC, as pertaining to your role. Relevant information will include specific details on the timing that the ARC applies to disclosing certain types of interests.

- 3.2.2 Committee members are required to complete a declaration of interests form upon engagement, including information relating to foreign financial support, foreign affiliations and foreign honorary positions. The obligation to disclose interests is ongoing. Where required by the ARC, committee members must disclose interests to the ARC annually. Committee members are also required to update that information as soon as possible if any significant changes occur to their or their immediate family/partner's interests.
- 3.2.3 Committee members and non-contracted assessors for NCGP grant applications should refer to *Identifying and Handling a Conflict of Interest in NCGP processes* to help determine whether their interests constitute a conflict of interest in relation to individual grant applications and, if so, they must reject the assignment within the Research Management System.

- 3.2.4 ERA peer reviewers are required to complete a declaration of interests form upon engagement before accepting any peer review tasks for ERA. Further guidance is provided in ERA peer review handbooks.
- 3.2.5 If, during the course of an assessment or peer review task, a committee member, assessor or peer reviewer becomes aware that they have a material personal interest(s) related to the task they must declare these as soon as practicable.

3.3 ARC funding applications and ARC-funded projects

- 3.3.1 Under ARC Funding Rules/Grant Guidelines and ARC Funding/Grant Agreements, all ARC-funded research must comply with the conflict of interest requirements outlined within the *Australian Code for the Responsible Conduct of Research 2018* (the Code) and any relevant successor documents, in addition to this policy.
- 3.3.2 Conflicts of interest may exist, or arise, for those individuals applying for ARC funding or undertaking ARC-funded research, including between parties involved with the same application or project. All parties must disclose any interests that exist, or are likely to arise, to the Administering Organisation. It is the responsibility of all parties engaged in ARC-funded research to disclose any interests that arise for the duration of the project.
- 3.3.3 It is the responsibility of Administering Organisations to bring the *ARC Conflict of Interest and Confidentiality Policy* requirements to the attention of researchers and relevant employees. Administering Organisations must certify that all material personal interests have been disclosed to them and that they will be managed appropriately.
- 3.3.4 Individuals applying for ARC grants are required to answer questions in their application relating to foreign financial support and foreign affiliations, including current and previous associations.
- 3.3.5 If an application for ARC funding is successful, participants named on grants have ongoing disclosure requirements to update changes to material personal interests, including advising the ARC of those changes.

3.4 ARC staff

- 3.4.1 All APS employees have a duty to adhere to the Australian Public Service Values and Code of Conduct (APS Code of Conduct), as set out in section 13 of the *Public Service Act 1999*, and to section 29 of the PGPA Act, both of which include requirements for declaring material personal interests whilst working in the APS.
- 3.4.2 Other ARC staff, including contractors, are also required to observe the principles outlined within the APS Code of Conduct and the PGPA Act, including the duty to disclose interests, while working at the ARC.
- 3.4.3 The ARC requires all employees and contractors to disclose any material personal interests within four weeks of commencement of employment.
- 3.4.4 The obligation to disclose interests is ongoing. The ARC requires all staff, including contracted employees, to make a disclosure of material personal interests annually. ARC staff are also required to update that information as soon as possible if any significant changes occur to their or their immediate family/partner's interests.
- 3.4.5 Standard operating procedures for individual business units within the ARC provide more information about the implementation of this policy across different areas of the ARC.

4. Evaluation and management of conflicts of interest by the ARC

4.1 *Identifying and evaluating interests*

- 4.1.1 The ARC has robust processes in place for evaluating interests and identifying and managing conflicts of interest that may occur in its various areas of business. At all times decisions will maintain the fairness, timeliness and impartiality of ARC processes.
- 4.1.2 In cases where an individual declares a material personal interest(s), the ARC will evaluate whether that interest amounts to a real or perceived conflict of interest and, if so, determine the extent to which that individual may be involved in discussion or decisions. Any measures taken by the ARC will be documented.
- 4.1.3 For the purpose of managing the large volume of interests relevant to NCGP, ERA and EI assessment and evaluation processes, the ARC may apply rules, such as time limits for determining when past relationships and circumstances are considered to be conflicts of interest, and automated processes for managing conflicts. The ARC will advise where those limits apply and may apply those limits internally.
- 4.1.4 The ARC will consider the potential implications of conflicts of interest in determining the most appropriate management strategy.
- 4.1.5 In some instances, it may be necessary to remove the individual with a conflict of interest from any involvement in the matter in which the conflict arises and to recruit an impartial third party to oversee part or all of the processes involved in the matter.
- 4.1.6 Where a conflict of interest is grounds for the individual to be excluded from access to the information under consideration, the individual will not take part in any decision-making processes and will absent themselves from the room when the information is being discussed.
- 4.1.7 The ARC may disclose interests to other government agencies for the purposes of grant administration and legislative compliance.

4.2 *Balance of benefit vs risk*

- 4.2.1 Decision-making processes in research-related areas often require expert advice. In some cases, the available pool of experts in a field can be so limited that all available experts have an association with the matter under consideration. In such instances, judgements will be made by the ARC that balance the benefit of having persons with expertise involved against the risks of their interests causing bias in a process.
- 4.2.2 The ARC (or appropriate persons appointed by the ARC) may determine that some interests do not affect the individual's ability to give full and unbiased consideration to the matter at hand and the existence of the interests should not deprive the ARC of the individual's expertise and knowledge.

4.3 *Operating procedures for identification and management of conflicts*

- 4.3.1 Standard operating procedures specific to each ARC business area ensure that the requirements identified in this policy are met and that identified conflicts are evaluated and managed in a clear, transparent and consistent manner.
- 4.3.2 Throughout ARC committee business (including preparation for, and during, selection and evaluation meetings), interests and conflicts of interest are recorded in the ARC's IT systems, registers and/or minutes of meetings.

- 4.3.3 For other processes, the ARC keeps general records noting interests that have arisen and decisions made relating to these interests.
- 4.3.4 The ARC keeps information about conflicts of interest of a personal nature in secure ARC IT systems, registers and/or files.

4.4 Management of conflicts of interest by ARC-funded researchers and Administering Organisations

- 4.4.1 Administering Organisations are required to have documented processes in place for managing conflicts of interest relating to ARC-funded projects. Such processes must comply with the applicable ARC Funding/Grant Agreement, the Code, and any relevant successor documents.

5. Failure to disclose and manage interests

5.1 ARC-funded projects and applications

- 5.1.1 Administering Organisations who fail to follow proper process in the disclosure of interests and management of conflicts of interests, may be in breach of ARC Funding Rules/Grant Guidelines and ARC Funding/Grant Agreements that require compliance with this policy.
- 5.1.2 Researchers named in ARC funding applications or ARC-funded projects who do not follow proper processes in disclosing and managing their interests may also be in breach of the Code, which in some serious cases, may amount to research misconduct. Institutions are required to investigate such matters and report to the ARC on any research integrity breaches or research misconduct in accordance with the *ARC Research Integrity Policy*.
- 5.1.3 Under ARC Funding/Grant Agreements, the ARC can terminate funding for a project if the Administering Organisation commits any breach of an Agreement which the Commonwealth considers is not capable of remedy; or if the ARC considers that the integrity of its grant selection processes, funding recommendations and/or funded research projects have been compromised.

5.2 ARC committee members, assessors and peer reviewers

- 5.2.1 ARC committee members who fail to follow proper process in the disclosure and management of interests may be in breach of their fiduciary duty. This will lead to termination of their appointment and may result in the ARC seeking legal redress for breach of that duty.
- 5.2.2 If an assessor or peer reviewer who is not contracted formally to the ARC fails to follow proper process in the disclosure and management of interests, the ARC may stop the individual from further involvement in ARC business, and may refer the matter to their employing institution for investigation as a potential breach of the Code.

5.3 APS staff

- 5.3.1 ARC APS employees who fail to follow proper process in the disclosure and management of interests may be in breach of the APS Code of Conduct and the PGPA Act.
- 5.3.2 This may lead to sanctions being imposed on the employee should they have been found to have breached the APS Code of Conduct and the PGPA Act.

- 5.3.3 ARC contractors who fail to follow proper process in the disclosure and management of interests may be in breach of their contract and fiduciary duty, which may result in the termination of their contract with the ARC.

6. Confidentiality

6.1 General obligations of APS staff

- 6.1.1 The APS Values and Code of Conduct, and section 28 of the PGPA Act outline the responsibilities of APS employees in relation to the management and disclosure of information obtained in the course of their duties.
- 6.1.2 Specifically, APS employees must not improperly use information obtained in the course of their duties to:
- a) gain, or seek to gain, a benefit or an advantage for himself or herself or any other person; or
 - b) cause, or seek to cause, detriment to the Commonwealth entity, the Commonwealth or any other person.
- 6.1.3 The ARC is required to comply with the *Privacy Act 1988*, which regulates how personal information is managed by entities.

6.2 Confidentiality obligations related to ARC business

- 6.2.1 All officials and individuals carrying out ARC business, including contracted employees, committee members, assessors and peer reviewers, are required to preserve the principles of confidentiality outlined in this document.
- 6.2.2 Information contained in application, assessment and evaluation processes is provided and received in confidence. This information will be handled and treated as confidential material and used only for the specific purposes of the ARC business for which it was made available. In order to preserve confidentiality, individuals should not discuss ARC business with any other party at any stage, unless specifically authorised to do so. The obligation to keep the information confidential continues after the completion of the individual's engagement with the ARC.
- 6.2.3 It is unethical and unlawful for individuals to use for other purposes any information contained in applications, assessment and evaluation material or other documentation provided to them by the ARC. To protect confidentiality, individuals must destroy all such information provided by the ARC once the purposes, for which it was provided, have been fulfilled.
- 6.2.4 Under the *Australian Research Council Act 2001*, one of the functions of the ARC Chief Executive Officer (CEO) is to provide advice to the Minister on research matters. In preparing advice for the Minister, the ARC consults widely and often enters into public consultation on issues relevant to its responsibilities. The ARC's advice to the Minister remains confidential, unless advised otherwise by the ARC.
- 6.2.5 This policy should be read in conjunction with any relevant business area documentation.

7. Public Interest Disclosure

The *Public Interest Disclosure Act 2013* (the PID Act) facilitates disclosure and investigation of wrongdoing and maladministration in the Commonwealth public sector. The ARC encourages and supports the reporting of wrongdoing by public officials in accordance with the PID Act. A public official can disclose information that they believe on reasonable grounds tends to show 'disclosable conduct'.

8. Interacting legislation, policies and documentation

The following is a list of legislation, policies and documentation relevant to this policy:

- *Public Governance, Performance and Accountability Act 2013* (PGPA Act)
- *Public Service Act 1999* (Public Service Act)
- Resource Management Guide No. 203: General duties of officials (November 2016)
- Australian Public Service Values and Code of Conduct (APS Code of Conduct)
- Australian Code for the Responsible Conduct of Research 2018 (the Code)
- *Privacy Act 1988* (Privacy Act)
- *Public Interest Disclosure Act 2013* (PID Act)
- *Espionage and Foreign Interference Act 2018*
- *Foreign Influence Transparency Scheme Act 2018*
- ARC Research Integrity Policy
- ARC Standard Operating Procedures (internal documents)
- ARC Funding/Grant Agreements
- ARC Funding Rules/Grant Guidelines
- ARC assessor and peer review handbooks
- ARC Identifying and Handling a Conflict of Interest in NCGP processes
- Guidelines to Counter Foreign Interference in the Australian University Sector

9. Summary

When engaging with the ARC as a committee member, reviewer, researcher or employee, the individual is responsible for reading and understanding this policy and for reviewing their current activities for any interest(s) they may need to disclose.

Individuals must also act in accordance with the confidentiality obligations outlined in Section 6 of this policy.

10. Contact details

Stakeholder Relations

Australian Research Council

Phone: 02 6287 6600

communications@arc.gov.au

www.arc.gov.au

Level 2, 11 Lancaster Place, Canberra Airport ACT 2609

GPO Box 2702, Canberra ACT 2601

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