

QUALITY MANAGEMENT SYSTEM

PL-001A-CCT Conflict of Interest and Disclosure Policy

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Purpose of Document: The purpose of this policy is to inform staff and Council members of what constitutes a Conflict of Interest, and how interests must be declared annually, as well as reminding staff of the necessity for prior permission to conduct work for remuneration outside the College.	Commencement date	7 April 2016
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PL-001 A-CCT

CONFLICT OF INTEREST AND DISCLOSURE POLICY

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1. LEGISLATIVE FRAMEWORK AND BEST PRACTICE REGULATIONS

Key principles contained in the following legislation were applied to develop this policy:

- a) CET Act No.16 of 2006, as amended (the “Act”),formerly the FET Act;
- b) Public Service Regulations 2001, as amended;
- c) Public Finance Management Act, 1999 (Act No 1 of 1999, as amended by Act 29 of 1999) (PFMA);
- d) National Treasury Regulations, March 2005;
- e) Draft National Treasury Regulations Gazetted 30 November 2012;
- f) The Prevention and Combating of Corrupt Activities Act, 2004; and
- g) Amended Public Service Integrity Management Framework.

2. PURPOSE

The primary purpose of this policy is to:

- a) define under which circumstances an interest shall be declared as a Conflict of Interest;
- b) promote transparency and provide a framework for the identification and management of Conflict of Interest relating to the College and its Employees, DHET Employees at the College, members of Council, or external members of Council committees; and
- c) document the process for the disclosure, approval and review of actual, potential and/or perceived Conflict of Interest.

3. DEFINITIONS, ACRONYMS AND ABBREVIATIONS

For the purpose of this policy, unless the context indicates otherwise, the following definitions are set out for the terms indicated:

- 3.1 **“Accounting Officer”** – is the College Principal.
- 3.2 **“College”** – is the College of Cape Town.
- 3.3 **“Conflict of Interest”** – means a conflict between the public duties and private interests of an employee, member of Council or external member of a College committee or a member of their immediate family which could improperly influence him/her. This includes but is not limited to:
 - a) a financial interest;
 - b) an ownership interest; and
 - c) any relationship with a third party.
- 3.4 **“Council”** - is the governing structure of the College of Cape Town.
- 3.5 **“DHET”** – is the Department of Higher Education and Training.
- 3.6 **“Employee”** – is any official, employed by the College, irrespective of grade, full-time or part-time, or Council, or appointed by the Department of Higher Education and Training, or paid on a salaried or an hourly/daily individual basis.
- 3.7 **“Ethics Champion”** – is a person designated, by the Accounting Officer, at executive level with the delegated authority to drive ethics and anti-corruption initiatives.
- 3.8 **“Financial interest”** - means an interest that can result directly or indirectly in a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a business entity or venture, or as a result of salary, gratuity or other compensation or remuneration from any person or entity.
- 3.9 **“Immediate family”** – in relation to a member, means his or her parent, sibling, child, including an adopted child or a step-child, or spouse (whether by statutory, customary or religious law), and including a life partner who is a person living with that member as if they were married to each other.
- 3.10 **“Registerable interest”** – means the financial interests listed for declaration in Annexure A.
- 3.11 **“Remuneration”** – means receipt of benefits in cash or in kind.

4. SCOPE

The requirements outlined in this policy apply to all employees, members of Council of the College and members of the public appointed to Council committees. The Principal and Vice principals are DHET employees and subject to DHET policies as well as the College.

5. ROLES AND RESPONSIBILITIES

5.1 Council

The members of Council are ultimately responsible for the implementation of the Conflict of Interest Declaration Policy but may delegate certain responsibilities to the Executive Committee of the College, and the internal audit function as set out below.

5.2 Executive Committee of the College

The Executive Committee of the College is responsible for the following with respect to this policy:

- a) Ensure that all Employees, members of Council and external members of College committees, are made aware of the contents of this policy, including training and education thereof.
- b) Ensure that the policy is published on the College website and that it is easily accessible for public inspection at all reasonable times.

5.3 Ethics Champion function

The Ethics Champion function is important in embedding the policy in the College. It is responsible for the following:

- a) Report in the quarterly and annual compliance reports submitted to DHET on the monitoring of, compliance with and accessibility of this policy.
- b) Maintain a Conflict of Interest register in which all declaration forms or meeting declarations completed by nominated employees, members of Council or external members of College committees, are recorded.
- c) Assist the Executive Committee of the College in discharging its responsibilities including arranging training of employees, members of Council and external members of College committees.

6. POLICY

6.1 Policy statement

6.1.1 A conflict of interest may arise when an employee, member of Council or external member of any College committee has the opportunity to influence the College's business, administrative, academic or other decisions in a way that could lead to personal gain or advantage of any kind for them or a member of their family.

6.1.2 An employee, member of Council or external member of any College committee shall not participate in any decision of the College that relates to or has any effect on a business in which the person or a family member has a financial interest or with which such person has or is negotiating to have any paid employment or a consulting relationship.

6.1.3 The College has the right, via an appropriate register of companies, both to verify the information supplied by employees, members of Council or external members of College committees as well

as to ascertain whether any employee has a financial interest that has not been declared.

6.1.4 In accordance with the CET Act a member of Council or an interim Council:

- a) must, before he or she assumes office, declare any business-commercial or financial activities undertaken for financial gain that may raise a possible conflict of interest with the College;
- b) may not place himself or herself under any financial or other obligation to any individual or organisation that might seek to influence the performance of any function of the Council;
- c) may not have a conflict of interest with the College;
- d) may not have a direct or indirect financial, personal or other interest in any matter to be discussed at a meeting and which entails or may entail a conflict or possible Conflict of interest with the College; and
- e) must, before the meeting and in writing, inform the chairperson of that meeting of the conflict or possible conflict of interest.

6.2 Conflict of Interest Disclosure Framework

6.2.1 The conflict of interest disclosure framework is guided by the following key principles:

- a) Employees, members of Council and external members of College committees may not use public office for private gain.
- b) Employees, members of Council and external members of College committees must act impartially and may not give preferential treatment to any private organisation.
- c) Employees may not undertake remunerative work outside their employment in the Public Service without prior approval.

6.2.2 The framework reflects the aim to prevent rather than to punish. The framework further serves not only to guide the relevant officials in making decisions, but also to protect them.

6.2.3 In addition to the amended Chapter 3 of the Public Service Regulations that requires all members of the Senior Management Service to disclose their financial interests, the Amended Public Sector Integrity Management Framework extends the requirement to disclose financial interests to all employees in the Public Service.

6.3 Annual declaration requirements

6.3.1 Every employee, member of Council or external member of a College committee shall not later than 31 January of a year, disclose to Council on the form determined for this purpose (page 10), particulars of all her/his registerable interests in respect of the period 01 January of the previous year to 31 December of the year in question. During the year disclosure shall be made every time new registerable interests are obtained.

6.3.2 Any person who assumes duty as an employee, member of Council or external member of a College committee after 01 January in a year shall make such disclosure within 30 days after assumption of duty in respect of the period of 12 months preceding her/his assumption of duty.

6.3.3 The form to be used for the submission of financial disclosures is will be made available via the College QMS on the Intranet and via the College web site at **www.cct.edu.za**.

6.3.4 The form must be signed by the Chairperson of Council or Accounting Officer after all requested items have been completed.

6.3.5 The original completed form must be submitted to the Ethics Champion for updating of the Financial Interest Declaration register and record keeping. The disclosure of the Ethics Champion shall be submitted directly to the Accounting Officer.

6.3.6 Information disclosed to the Ethics Champion is of a confidential nature and steps must be taken to protect the confidentiality of information. Access to such information is limited to certain

specified functions which must be authorised by the Accounting Officer. Any unauthorised disclosure of such information constitutes misconduct.

- 6.3.7 An employee, member of Council or external member of a College committee whose spouse, partner, business associate or close family member, stands to acquire any direct benefit from a contract concluded with the College, shall disclose in writing full particulars of the benefit to the Ethics Champion and withdraw from participating in any manner whatsoever in the process relating to that contract.
- 6.3.8 A member of the Council or a member of a committee of the Council who contravenes subsections 6.4.1 to 6.4.5, after the Council has followed a due process, may be:
- suspended from attending a meeting; or
 - disqualified as a member of the Council or a member of a committee of the Council.

6.4 Mechanisms for the Identification of Conflict of Interest

6.4.1 Mechanisms to identify potential conflict of interest:

- a) All employees, members of Council and external members of committees are to be trained on the content of this policy and made aware of the specific circumstances that may give rise to a conflict of interest.
- b) When an employee, member of Council or external member of committees becomes aware of a potential conflict of interest, the process set out in this document for the disclosure and or declaration thereof must be followed.

6.4.2 Measures to consider:

- a) Avoid any situation where objectivity may be impaired when conducting business with a supplier or interest group.
- b) The following must be disclosed and or declared immediately in writing which may result in a conflict of interest with a supplier or interest group or prospective supplier or prospective interest group:
 - an existing financial interest; or
 - an existing ownership interest.

6.4.3 Measures to mitigate:

- a) Implement the process set out in this policy regarding disclosure, declaration and any guidance that may be issued following the assessment of any disclosure/declaration.
- b) Implement the processes included in the College Charter and Code of Conduct for committees with respect to declaration of conflict of interest.

7. FINANCIAL DISCLOSURE FRAMEWORK

7.1 Why the framework

Employees, members of Council and external members of College committees are entrusted with public funds. As such, they need to maintain the highest standards of professional ethics. Their integrity and that of the College must be beyond question.

This framework is aimed at preventing a possible Conflict of interest by requiring employees, members of Council and external members of College committees to disclose their financial interests.

7.2 Who must file

The disclosure framework is applicable to any employee, member of Council or external member of a College committee.

7.3 Immediate family

For the purpose of this section, 'immediate family', in relation to a member, means his or her parent, sibling, child, including an adopted child or a step-child, or spouse (whether by statutory, customary or religious law), and including a life partner who is a person living with that member as if they were married to each other.

7.4 Where must I file the form

The original completed form must be submitted to the Ethics Champion.

7.5 Who will have access to the information

Under normal circumstances only the Ethics champion, the Accounting Officer and those acting on his/ her behalf, will have access to the information.

An employee, member of Council or external member of a College committee is required to liaise with the Ethics Champion if they are concerned about a possible Conflict of interest. Only the Accounting Officer with respect to employees and Council Chairperson with regards to members of Council or external members of College committees may grant a waiver if a Conflict of interest is evident. Such a waiver needs to be attached to the original form.

No person who has access to the information may, except when a court so orders, disclose the information. Any person, other than a person referred to above, may only be given access to the information in terms of section 11 of the *Promotion of Access to Information Act, 2000*.

7.6 When must I file

An employee, member of Council or external member of a college committee, must not later than 31 January of each year, disclose to the Chairperson of Council or the Accounting Officer on the attached form particulars of all her/ his registerable interests in respect of the period 1 January of the previous year to 31 December of the year in question.

During the year disclosure shall be made every time new registerable interests are obtained.

Employees, members of Council or external members of College committees who are appointed after 01 January must make such disclosure within 30 days after assumption of duty in respect of the period of 12 months preceding her/ his assumption of duty.

7.7 What happens if I do not disclose my interests

Any employee, member of Council or external member of a College committee who fails to disclose her/his interests or wilfully provides incorrect or misleading details can be charged with misconduct.

7.8 Where/how can I obtain a copy of the form

The form will be made available via the College QMS on the Intranet and via the College web site at www.cct.edu.za.

7.9 Queries and difficulties

Queries in regard to this form may be directed to the Ethics Champion at the College.

8. ADOPTION AND REVIEW

8.1 Adoption of policy

This policy is effective from the date on which it is adopted by the Council.

8.2 Availability of conflict of interest declaration policy

A copy of this policy and other relevant documentation should be made available on the College website.

8.3 Annual review of policy

This policy will be subject to an annual review by College management to ensure its relevance. Colleges should forward any inputs and recommendations to the TVET Branch of DHET for possible consideration during the annual review process.

Any recommended changes to the Conflict of Interest Declaration policy should be presented to the College Council for adoption.