

## **Governance Policy**

### **Purpose:**

The purpose of this policy is to effectively document required governance standards that meet legislative and organisational requirements in order for Councillors, staff and Club and Society (C&S) to ensure operations are conducted in a lawful, accountable and responsible manner.

### **Scope:**

This policy applies to all persons administered by or working for JCUSA including:

- Employees, whether full-time, part-time, casual, volunteer or contractor;
- Elected and appointed association council members and respective association committees and affiliated C&S;
- Consultants whose contracts specify that they are bound by this policy; and
- How contractors or vendors for provision of good and services to JCUSA are selected.

### **Policy Statement:**

It is the policy of the JCUSA as well as a responsibility of the Student Council and Affiliated Clubs and Societies Executives, that:

- Ethical, legal, financial or other conflicts of interests are to be avoided and that any such conflicts (where they do arise) do not conflict with obligations to JCUSA.;
- Sound governance principles and organisational documentation is reviewed and adhered to;
- Financial records are retained that correctly record and explain transactions, financial position and performance;
- For the association council only: provide financial audit outcomes to the association council and share this information on the JCUSA website under the governance heading;
- Business decisions are made in good faith, with integrity in a fair, transparent, and accountable manner that is free from any bias;
- The JCUSA and C&S have a clear purpose and a strategy with activities that are aligned to and support the achievement of said purpose and strategy;
- Clarity of roles, responsibilities and relationships of councillors, the general manager and executive members of affiliated C&S;
- The association council and affiliated C&S are run effectively and performance is reviewed, as well as the understanding of and management of risk;
- Effective resource allocation and use occurs;
- Undertaking care and diligence when exercising powers in the best interest of the Student Association and members;
- Accountability and transparency by providing information to stakeholders in a timely and accessible manner;
- Stakeholder engagement will occur;
- Meeting expected behaviour standards; and

- Effectively managing conflicts of interest in that persons must:
  - Disclose any actual, perceived or potential conflict of interest;
  - Seek independent advice about how a conflict will be managed; and
  - Are encouraged to report any actual, perceived or potential conflict of interest that they observe.

## Responsibilities:

Councillors, JCUSA staff and affiliated Clubs/Societies Executives and members:

- Are to exercise their judgement in fulfilling their duties and to act responsibly within the direction of documented organisational governing documents, policies, procedures and safe work procedures.

General Manager and the Student Association Council:

- Managing and documenting identified and disclosed conflicts of interest;
- Monitoring compliance with this policy, and
- Reviewing this policy on an annual basis to ensure that the policy is operating effectively.

## 1 Definitions:

Actual conflict of interest	Occurs when a reasonable person, knowing the facts, would consider that a conflict of interest may exist, whether or not this is the case.
Association Council	James Cook University Student Association
Conflict of interest	A conflict of interest arises where there is a divergence between the individual interests of a person and their professional responsibilities such that an independent observer might reasonably conclude that the professional actions of that person may be unduly influenced by their own interests. This can include actual, perceived or potential conflicts of interest.
Executive Members (C&S)	President, Vice President, Secretary (optional position), Treasurer and any other positions identified on Form 368 Club/Society Executive and Membership List.
Good faith	Exercise powers reasonably, well intentioned and with honesty.
Management Committee	Of an incorporated association means the association's management committee formed under this Act (Associations Incorporation Act 1981 (QLD)).
Non-pecuniary	Benefits that are not in a monetary form

Officer	<p>Officer: for a corporation, partnership or unincorporated association is as defined in section 9 of the Corporations Act 2001 (<i>Cth</i>), and includes a person:</p> <ul style="list-style-type: none"> <li>• who makes, or participates in making decisions that affect the whole or a substantial part of the business;</li> <li>• has the capacity to significantly affect the corporation's financial standing; and</li> <li>• on whose instructions the directors of the corporation are accustomed to act.</li> </ul> <p>Officer of an incorporated association means the following individuals—</p> <ul style="list-style-type: none"> <li>a) the association's president;</li> <li>b) the association's secretary;</li> <li>c) the association's treasurer;</li> <li>d) a member of the association's management committee;</li> <li>e) a manager appointed by the management committee for the association.</li> </ul>
Pecuniary	Consisting of or measured in money
Personal interest	Includes the private, professional or business interest of a person, or of the individuals or groups with whom they have a close association, such as relatives; friends or even enemies. Personal interest may be pecuniary or non-pecuniary.
Perceived conflict of interest	Occurs when a reasonable person, knowing the facts, would consider that a conflict of interest may exist, whether or not is the case
Potential conflict of interest	Occurs where a person has a personal interest that could conflict with their official duties in the future
President	Of an incorporated association means the member of the association's management committee who usually presides at management committee meetings, whatever the person's position is called.
JCUSA staff	Full-time, part-time, casual, volunteer and contractors
Secretary	Of an incorporated association means the person elected or appointed as the association's secretary under this Act (Associations Incorporation Act 1981 (QLD)).
Senior Staff Member	of an incorporated association, means a person who— (a) makes, or participates in making, decisions that affect the whole, or a substantial part, of the activities of the association; or (b) has the capacity to affect significantly the association's financial standing.
Student Council	Refers to the elected representative of the student council or councillors acting an acting capacity as a member of the student council

Treasurer	Of an incorporated association means the member of the association's management committee responsible for the finances of the association, whatever the person's position is called.
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## 2 Acronyms

ACNC	Australian Charities and Not-for profits Commission
C&S	Clubs and Societies
JCUSA	James Cook University Student Association
WHS	Workplace Health and Safety

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### 3 Policy

#### Accountability to members

The JCUSA Constitution and Regulations and Affiliated Clubs and Societies governing documents are to be made available to members on the relevant JCUSA website page. This ensures that stakeholders can access the information and demonstrates accountability and transparency.

Annual general meetings and general meetings are to occur in order to provide:

- Members opportunities to ask questions and vote on resolutions (depending on Constitution/Regulations requirements);
- Provide information to members on activities and finances, and
- Have clear processes for appointing Responsible Persons - executive or committee members.

#### Compliance with legislation

JCUSA and Affiliated Clubs and Societies are not to act in a way that undermines any Australian legislation, across all of its operations. To meet this the following occurs:

- The Association Council and C&S Executives are familiar with and act within regulations and laws;
- DOC019 Legislation is on the JCUSA C&S Website;
- Policies and practices to protect the entities finances and assets, and
- Processes and procedures to ensure legal obligations are met.

#### Responsible Persons

As JCUSA is registered with the Australian Charities and Not for Profits Commission (ACNC), despite election outcomes, persons can only be appointed if they are not disqualified from managing a corporation:

- under the Corporations Act 2001 (*Cth*);
- not banned by the ACNC from taking up a role as a Responsible Person in the previous 12 months; and
- by the Australian Securities and Investments Commission (ASIC).

People convicted of certain offences can sit on a management committee after 5 years (reduced from 10 years) and when the rehabilitation period for the conviction has not expired.

The 5-year period begins on the later of the following dates:

- The day the conviction is recorded;
- The day the person is released from prison (if applicable); and
- The day any other court order relating to the conviction or term of imprisonment is satisfied.

Whether a conviction affects a person's eligibility to sit on your committee depends on the offence and how they were convicted. A person may be ineligible if:

- They have been convicted of any indictable offence
- They have been convicted of a summary offence and sentenced to a period of imprisonment (other than in default of payment of a fine).

JCUSA has council nominees sign a declaration via Form 372 Ticket Registration Form and 373 Nomination Pack as a process to be satisfied that the nominee is not disqualified from managing a corporation nor disqualified by the ACNC from being a Responsible Person.

### **Duties of Responsible Persons**

JCUSA is to take reasonable steps to ensure that Councillors and the General Manager are 'fit and proper' and comply with several duties. These include:

- Acting with reasonable care and diligence;
- Acting honestly and fairly in the best interests of the charity, and for its charitable purposes;
- Not misusing their position or information they gain as a responsible person;
- Disclosing conflicts of interest;
- Ensuring the financial affairs of the charity are managed responsibly, and
- Not allowing the charity to operate while insolvent.

### **Roles and Responsibilities**

JCUSA Councillors and Club/Society Executives are responsible for ensuring the entity has a clear purpose and that this purpose is captured in governing documents. These positions are also responsible for approving the entities strategy to carry out the entity's purpose and ensuring decisions made support the purpose and strategy and they are reviewed frequently to ensure the entities strategy continues to align with their purpose.

Clarity about the roles, responsibilities and relationships of the board is required and hence position descriptions exist for JCUSA. The JCUSA organisation chart also defines that the role of Council and the General Manager are separate.

Delegations of the Association Councils authority are recorded and periodically reviewed in JCUSA formal policies and other governing documents. The Association Council may by resolution, delegate any of its powers and authorities, duties and functions (except for this power of delegation) to any Office Bearer, any appropriately qualified member of staff of the Association, or to any committee of the Association which includes one or more Office Bearers.

The Council is comprised by elected students, Students Association Executives and appointed University and community representatives and is chaired by the President. The Council's role is to oversee the strategic direction of the Association and to carry out the duties laid out by the Constitution. The elected students reflect a mix of student cohorts.

## Duties

A Councillor and C&S Executive must:

- exercise the officer's powers and discharge their duties with a degree of care and diligence that a reasonable person would exercise; and
- act in good faith in the best interests of the Council or C&S and for a proper purpose.

## Use of Position

A Councillor and C&S Executive must not improperly use the officer's position to:

- a) gain, directly or indirectly, a pecuniary benefit or material advantage for themselves or another person; or
- b) cause detriment to the organisation they represent.

## Use of information

A person who obtains information because the person is, or has been, a Councillor or C&S Executive must not improperly use the information to:

- a) gain, directly or indirectly, a pecuniary benefit or material advantage for the person or another person; or
- b) cause detriment to the association.

## Disclosure of remuneration and other benefits

The members of the management committee of an incorporated association must ensure the prescribed details of the remuneration paid or other benefits given for the financial year to the following persons, if any, is presented to the association's annual general meeting in the way prescribed by regulation—

- a) each member of the management committee of the association;
- b) each senior staff member of the association; and
- c) each relative of a person mentioned in paragraph (a) or (b).

Note that in the Associations Incorporation and Other Legislation Amendment Act 2020, Section 70D, point (2) states that:

*relative*, of a person, means a spouse, parent, sibling, child, grandparent or grandchild of the person.

*remuneration*—

- a) includes salary, allowances and other entitlements; and
- b) does not include reimbursement of out of pocket expenses.

*senior staff member*, of an incorporated association, means a person who—

- a) makes, or participates in making, decisions that affect the whole, or a substantial part, of the activities of the association; or
- b) has the capacity to affect significantly the association's financial standing.



## **JCUSA Council and Club/Society Leadership Group Effectiveness**

Council and Club/Society meetings are to be:

- chaired effectively;
- provide opportunities for contributors; and
- be minuted, stored and easily accessible.

Induction is provided to Councillors and Clubs/Societies Executives attend 2 JCUSA facilitated Club/Society Induction events a year to ensure they can fulfil their responsibilities and duties.

JCUSA Councillors as the WHS Officers for the JCUSA and affiliated Clubs and Societies complete WHS Officers training as part of their induction. They also are to complete Form 325 Officers Due Diligence Register.

## **Risk Management**

The Council and C&S Executive positions are to oversee a risk management framework that supports and is linked to the purpose and strategy and they are responsible for reviewing this information annually.

## **Organisational Performance**

JCUSA and affiliated C&S are to:

- use provided resources appropriately and as intended;
- approves an annual budget for the organisation; and
- monitors the solvency of the organisation.

JCUSA Remuneration and Review Committee oversees the performance of the General Manager.

## **Stakeholder Engagement**

The Association Council and Affiliated C&S are to actively participate and promote meaningful stakeholder engagement so member interests and any concerns are understood and heard and if applicable, forward this feedback onto JCU stakeholders.

Such feedback could pertain to a complaint and hence JCUSA Councillors and Staff are to follow POL041 Complaint Handling Policy.

## **Misconduct**

- Staff misconduct will be managed in accordance with POL042 Code of Conduct Policy;
- Association Council misconduct will be managed in accordance with the JCUSA Constitution; and
- C&S misconduct will be managed in accordance with POL048 Clubs and Societies Policy and POL091 Clubs and Societies Disaffiliation Policy

## **Conflict of Interest/Matters of Material Personal Interest**

A person who works or affiliates with JCUSA and identifies that a conflict of interest exists or may exist is required to disclose the matter in writing as soon as possible to:

- Staff: the General Manager;
- Councillors: the secretary to Council and
- C&S Executive member or voting member: the Secretary or President.

A disclosure of a material personal interest must give details of:

- a) the nature and extent of the interest; and
- b) how the interest is related to the activities of the association.

This information is to be recorded in the minutes of the meeting and if a member of the association or C&S asks for details, they are to be provided to the requesting member. Affiliated C&S are to also document any conflicts of interest in minutes of their meetings.

Once an actual, potential or perceived conflict of interest is identified for JCUSA Councillors or staff, it must be entered into the applicable JCUSA Register of Interests, those being: DOC039 JCUSA Council Register of Interests or DOC040 JCUSA Staff Register of Interests.

Regardless of the nature of the conflict of interest, any breach of this Policy may be subject to disciplinary action. The consequence of serious misconduct may include:

- termination of employment for staff;
- a no confidence vote for student council member; and
- disaffiliation.

## **Voting on a matter in which the Councillor has a material personal interest**

As per Section 70c (1) of the Association Incorporation and other Legislation Amendment Act 2020 (QLD), a Councillor of an incorporated association who has a material personal interest in a matter being considered at any formal JCUSA meeting must not:

- a) be present while the matter is being considered at the meeting; or
- b) vote on the matter.

However under Section 70c (3) the Committee, with the exception of the person/s who has a material interest in the matter, can decide if that person/s can:

- a) be present while the matter is being considered at the meeting; or
- b) vote on the matter.

If the committee decides that a member of the committee who has a material personal interest in a matter may be present at a meeting while the matter is being considered, or may vote on the matter, the committee must ensure that—

- a) the committee's decision is recorded in the minutes of the meeting and disclosed at the next general meeting of the association; and
- b) details of the committee's decision are given to a member of the association, if requested.

If there are not enough members to form a quorum to consider a matter because of 70c (1):

- a) 1 or more committee members, including the member/s who have a material personal interest in the matter, may call a general meeting; and
- b) the general meeting may pass a resolution to deal with the matter.

In exceptional circumstances, such as where a conflict is very significant or likely to prevent a council member from regularly participating in discussions, it may be worth considering whether it is appropriate for the person conflicted to resign from the Council in accordance with JCUSA Regulations and JCUSA Constitution.

### **What should be considered when deciding what action to take**

The President or General Manager must consider the following when deciding what course of action to follow:

- Whether the conflict needs to be avoided or simply documented,
- Whether the conflict will realistically impair the disclosing person's capacity to impartially participate in decision-making,
- Alternative options to avoid the conflict,
- The organisation's objects and resources, and
- The possibility of creating an appearance of improper conduct that might impair confidence in, or the reputation of JCUSA.

The approval of any action against JCUSA employees must be referred to the General Manager. Where a conflict of interest raises serious concerns likely to bring JCUSA into disrepute the General Manager will refer the matter to the Association Council for determination.

The Association Council must follow the rules outlined in clause 4.8 of the JCUSA Regulations as approved on 12 June 2017 by the Association Council.

The approval of any action against an office bearer of the Association Council member require the agreement of at least a majority of the Association Council (excluding any conflicted board member/s) who are present and voting at the meeting. The action and result of the voting will be recorded in the minutes of the meeting pursuant to clause 4.8 of the JCUSA Regulations.

### **Compliance with this Policy**

If all Association Council members share a conflict, the Secretary to the Council should refer to Governance Standard 5, Duties of Responsible Persons as outlined in ACNC and the JCUSA Regulations to ensure that proper disclosure occurs.

The register of interests relating to employees, volunteers and contractors must be maintained by the General Manager, and record information related to a conflict of interest; including the nature and extent of the conflict of interest and any steps taken to address it.

The register of interests relating to the Association Council members, Association Council committee boards, other governance structure must be maintained by the Secretary to Council, and record information related to a conflict of interest; including the nature and extent of the conflict of interest and any steps taken by the Association Council to address it.

The approval of any action against JCUSA employees must be referred to the General Manager. Where a conflict of interest raises serious concerns likely to bring JCUSA into disrepute the General Manager will refer the matter to the Association Council for determination.

The approval of any action against an office bearer of the Association Council member requires the agreement of at least a majority of the Association Council (excluding any conflicted board member/s) who are present and voting at the meeting. The action and result of the voting will be recorded in the minutes of the meeting and in the register of interests.

If management has a reason to believe that a person subject to this policy has failed to comply with it, it will investigate the circumstances and make a decision about whether the conflict of interest is serious enough to warrant termination of employment or engagement with JCUSA.

#### **4 Related Legislation and Documents**

Associations Incorporation Act 1981 (QLD)  
Associations Incorporation and Other Legislation Amendment Act 2020 (QLD)  
Associations Incorporation Regulation 1999 (QLD)  
ACNC Managing Conflicts of Interest - A guide for charity board members  
ACNC Governance Standards  
Australian Institute of Company Directors, The Not-for-Profit Governance Principles  
JCUSA Regulations  
JCUSA Constitution  
POL041 Complaint Handling Policy  
POL042 Code of Conduct Policy  
POL044 Performance Management Policy  
POL048 Clubs and Societies Policy  
POL091 Clubs and Societies Disaffiliation Policy  
DOC012 Clubs and Societies Role of the President  
DOC013 Clubs and Societies Role of the Vice President  
DOC014 Clubs and Societies Role of the Secretary  
DOC015 Clubs and Societies Role of the Treasurer  
DOC016 Clubs and Societies Governance  
DOC017 Clubs and Societies Meetings  
DOC018 Clubs and Societies Finance  
DOC019 Clubs and Societies Legislation  
DOC039 JCUSA Council Register of Interests  
DOC040 JCUSA Staff Register of Interests  
Form 325 WHS Officer Due Diligence Register  
Form 368 Club/Society Executive and Membership List  
Form 372 Ticket Registration Form  
Form 373 Nomination Pack

## Administration

Note: Printed copies of this policy are uncontrolled and currency can only be assumed at the time of printing.

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