



THE UNIVERSITY OF
WESTERN AUSTRALIA

SENATE CODE

This Code was adopted for the information and guidance of members of Senate and Senate committees by Senate Resolution 275/2000 (amended by SR37/02, SR106/02, SR110/04, and SR11/07). All members receive a copy of it, and are responsible for familiarising themselves with its contents.

1. Definitions

In this Code:

"Senate" includes the Senate and committees appointed by the Senate.

"Member" means an elected, appointed or co-opted member of Senate or a committee of the Senate.

2. Rationale for the Code

The responsibilities of the Senate, as the governing body of a large and prestigious public institution, are heavy. The actions of the Senate or of individual senators have the potential either to promote the interests of the University or to damage its reputation and standing. It is therefore critical to the continued well-being of the University that members understand and fully accept the responsibilities of membership. This Code is intended:

- to ensure that, from the outset of their membership of Senate, members are aware of, and accept, the legal and other responsibilities associated with that membership
- to promote good practice and appropriate behaviours among members, in the interests of the Senate, individual members, and the University as a whole

3. Members' legal responsibilities, accountabilities and liabilities

3.1 Relevant legislation

- *The University of Western Australia Act 1911*

The Act gives the Senate responsibility for "the entire control and management of the affairs and concerns of the University" and empowers it to "act in all matters concerning the University in such manner as appears to it best calculated to promote the interests of the University." The specific powers of the Senate are set out in Sections 13-16F of the Act.

Clearly it is neither practicable nor appropriate for Senate to involve itself in the minutiae of the control and management of the University, and it therefore delegates operational responsibility for the management of the institution to the Vice-Chancellor. In its Charter, Senate has defined for itself a role as steward and custodian of the university, in which it exercises a broad overview of strategic directions, monitors performance against established goals, and monitors, guides and supports the work of the Vice-Chancellor and Executive.

The specific duties of Senate members are set out in the Act (Schedule 1, Division 1), together with provisions relating to: safeguards, exemptions and protections; sanctions for breaches; and automatic vacation of office for a disqualified member. They reflect the requirements of the National Governance Protocols and, like the Statutory Corporations (Liability of Directors) Act 1996 (WA), mirror the provisions of the Corporations Act 2001 (Commonwealth).

The duties of members are summarised in the following extract from the National Governance Protocols:

- (a) act always in the best interests of the higher education provider as a whole, with this obligation to be observed in priority to any duty a member may owe to those electing or appointing him or her;
- (b) act in good faith, honestly and for a proper purpose;
- (c) exercise appropriate care and diligence;
- (d) not improperly use their position to gain an advantage for themselves or someone else; and
- (e) disclose and avoid conflicts of interest (with appropriate procedures for that purpose similar to those for public companies).

3.2 Accountability

While the day-to-day operations of the University are the responsibility of the Vice-Chancellor and other managers, the Senate is accountable for satisfying itself that the University has appropriate structures, policies and processes in place for the effective management of its activities, such that statutory and legal requirements are met and that there is a likelihood of efficient, effective and defensible outcomes. This it does by ensuring that it is properly informed; satisfying itself that the University is complying with statutory and legal requirements; analysing financial statements and management reports with due care, and seeking explanations where necessary; and satisfying itself on audit reports.

Senate members may be held accountable for perceived or actual mismanagement in a range of ways. For example:

- Senate would be accountable for any decision it made which was contrary to the law or clearly negligent.
- Senate could be held accountable if it chose to make decisions which it has no authority to make, particularly if it could be shown that such decisions were taken with the intent of causing harm.
- Senate could be held accountable for mismanagement where this could be shown to be the outcome of failure to ensure the existence of adequate procedures or policies within the University.
- Senate could be held accountable for financial mismanagement where this could be shown to be the outcome of negligence in monitoring financial reports and compliance with audit requirements.

Members should therefore be aware that their office potentially exposes them to various risks. They may become the targets, either as part of the Senate body, or as individuals, of public or Press attention over particular issues. They may be held responsible by the public and the

Press for the effect of unpopular decisions. Similarly if they make decisions which are, or are perceived to be, poor or negligent, exposure of those decisions through the Press may have an adverse impact on their personal reputations. In extreme cases they may be legally accountable for the effects of mismanagement within the University, where this can be shown to be the outcome of failure to ensure the existence of proper management procedures.

The Chancellor, or Senate as a body, or individual members, or groups of members could potentially be sued for negligence in certain circumstances. In all cases the courts would look more sympathetically on members who could be shown to have acted honestly and in good faith and to have fulfilled their obligations conscientiously.

3.3 Liability

Senators are covered by the Directors' and Officers' Liability Insurance held by the University and, from 2007, enter into a Deed of Indemnity and Access on their appointment to the Senate.

4. **General responsibilities**

4.1 Understanding the role of the Senate

Members will:

- take advantage of the opportunities provided for induction
- develop and maintain a clear understanding of the role and purpose of the Senate within the context of the changing nature of the University activities
- familiarise themselves with the contents of the Senate Charter
- develop an understanding of the political and social environment in which the Senate operates
- stay informed about all relevant activities affecting the Senate
- develop and maintain a clear understanding of the role of any Senate committee on which they serve.

4.2 Being an active member

Members will:

- submit an apology if attendance is not possible
- obtain leave of absence if absence will extend for three or more consecutive meetings
- familiarise themselves with the contents of key University documents provided to them
- seek clarification and take advice in respect of matters outside the member's expertise
- prepare for meetings and seminars/ retreats by reading and considering all papers circulated with the agenda
- participate actively and work co-operatively with fellow members and stakeholders to achieve agreed goals.

4.3 Raising concerns

Members will:

- express concerns to the Chancellor as Chair of Senate about decisions or actions which appear contrary to the Senate's public duty, and do so as soon as those concerns arise.
- as required under the Anti-Corruption Commission Act, report to the Commission any information about actual or potentially corrupt or illegal activities preferably through the Chancellor or the Vice-Chancellor.
- draw relevant matters to the attention of the Chancellor for possible consideration, information or action by Senate or a University Officer.
- approach the Chancellor if at any time they believe that the information provided to Senate is insufficient to enable it to fulfil its responsibilities effectively.

4.4 Professional conduct

Members will:

- treat each other, and University staff and students with professionalism, courtesy and respect
- not improperly influence other Senate members
- not allow sectional or factional interests to deflect Senate's focus on the University's general welfare.
- not act as spokespersons for the University in any form unless specifically requested by the Chancellor or Vice-Chancellor to do so.

4.5 Security of Information

Members will:

- ensure that appropriate care is taken to ensure the security of sensitive Senate and other University documents, whether in paper or electronic form.
- avoid discussing confidential Senate or University business in public places where there is a likelihood of being overheard
- dispose of duplicate copies of records no longer required, in accordance with archive procedures.

5. **Record Keeping and use of Information**

5.1 Documentation of decisions

All decisions affecting the policy, practice and welfare of a public body or public officers must be transparent. Decisions and processes should be documented. Documentation protects all parties involved in a decision, both collectively and individually.

The Senate will:

- ensure that minutes of all official meetings are prepared and retained
- ensure adequate procedures are observed for documenting all decisions, events and transactions involving the Senate

5.2 Use of confidential information

Sometimes highly sensitive matters are discussed by the Senate. These may be discussed with only Senate members present and in strict confidence. Nevertheless all decisions should be documented and appropriate minutes prepared, while according certain records an extra level of security.

The Senate will:

- ensure that confidential records are subject to appropriate access procedures
- respect confidential information and observe any restrictions agreed by the Senate (subject to Freedom of Information Act requirements)
- maintain confidentiality and not divulge information deemed confidential or sensitive. (If members are uncertain they should seek direction from the Chancellor as Chair of Senate)
- ensure that information obtained in the course of Senate duties is not misused for direct or indirect gain or advantage, or to do harm to other people, the Senate or the University
- respect the privacy of individuals

6. **Conflicts of Interest**

6.1 Gifts and gratuities

Members should not accept gifts or benefits likely to place them under an actual or perceived financial or moral obligation to other organisations or individuals.

Members will not, in their capacity as members:

- seek or accept in connection with their official duties any fee, favour, reward, gratuity or remuneration of any kind
- use their public position for personal profit, gain or advantage
- accept a gift if it could be seen by the public, knowing the full facts, as intended or likely to cause a member to act in a particular way or deviate from public duty.

6.2 Employment and Private interests

For the purpose of this clause, 'immediate family' may include spouse or partner, parents and parents-in-law, children and children's spouses or partners.

The employment or private interests of a senator or members of their immediate family may have the potential to create an ongoing conflict of interest or the perception of an ongoing conflict of interest for the senator in his/her responsibilities as a senator. Alternatively, there may be instances in which these interests conflict with, or may be perceived to conflict with, a member's responsibilities in relation to an isolated, unforeseeable activity of the Senate or a Senate committee. Interests in the first category should be declared both via the Register of Interests which members complete annually and under the "Declaration of Interests" item at

the meeting/s concerned. Interests in the second category should be declared at the meeting/s concerned under the “Declaration of Interests” item.

Members are expected to place the public interest above employment or private interests and not use their position for employment or private gain or advantage.

Conflicts between employment or private interests and public duties can arise when:

- a senator’s employer or private business or those of a member of his/her immediate family has a commercial relationship with, or is in conflict with the University
- a member stands to make a financial gain from, or to be otherwise advantaged by a Senate decision
- a member of the senator’s immediate family stands to make financial gain from or to be otherwise advantaged by a Senate decision
- a member holds membership of, or ownership in another organisation likely to benefit from a Senate decision
- a member of the senator’s immediate family or a close associate is a member of an organisation affected by Senate decisions.

Accordingly members will, through the appropriate mechanism:

- openly declare situations in which their employment, or that of a member of their immediate family, may conflict, or be perceived to conflict, with their responsibilities as senators.
- openly declare matters of private interest such as investments, relationships, voluntary work and membership of other groups that may conflict or be perceived to conflict with their public duty as members
- record any issues of conflict to ensure they are transparent and capable of review
- disqualify themselves from any discussions and decisions where a conflict of interest has occurred, or could occur.

7. Induction and professional development

In accordance with the Senate Professional Development Strategy and in order to support members in the exercise of their duties, the University provides an induction programme for each new member and an ongoing professional development programme for all members.

The terms of reference for the Chancellor’s Committee state that the role of the Committee includes the following:

review the Induction Programme for new Senators every three years;

review the Ongoing Professional Development Programme for Senators every three years;

make recommendations to the Senate on the assessment of its performance and compliance with the National Governance Protocols through the annual Senate performance survey, including the identification of skills and expertise needed for the future.

Members are expected to participate in induction and ongoing professional development activities. In addition at any time members are encouraged to seek guidance from appropriate University officers if they have any queries concerning their duties.