

2023



GRACE COMMUNION
INTERNATIONAL

CONFLICT OF INTEREST POLICY

JULY 1

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Part A: Background and purpose

1. Purpose

As a charity registered with the Australian Charities and Not-for-Profits Commission (**ACNC**), it is important that Grace Communion International (GCI) adopts best practice governance policies and protocols to ensure that it upholds the highest standards of ethical conduct and maintains public integrity and trust.

The purpose of this policy is to enable the GCI to set out procedures for declaring and managing conflicts of interest and duty and related party transactions. This policy is intended to support individuals and the GCI to appropriately manage and disclose conflicts of interest and related party transactions, to comply with its legal requirements, the GCI Constitution and to align with community expectations of a charity such as GCI. The Australian Institute of Internal Auditors notes:

Conflicts of interest and corruption are intertwined as a conflict of interest exists where an official could abuse his or her position for private gain, whereas corruption exists where an official does abuse his or her position for private gain. In practice conflicts of interest exist on a spectrum of severity.¹

Conflicts of interest and related party transactions are to be appropriately identified, declared, and managed. When left undeclared or unmanaged, conflicts of interest and related party transactions compromise the integrity of or the procedure for making certain decisions and can result in a breach of laws and undermine public trust and confidence in GCI.

2. Application

This policy applies to Board Members, the Company Secretary, and Members of any Committee established by the Board, or under the GCI Constitution. This policy is structured as follows:

- Part A: Background and purpose.
- Part B: Conflicts of Interest and Duty;
- Part C: Related party transactions; and
- Part D: General terms and conditions.

This policy is to be read in conjunction with *Whistleblower Policy* and is to be understood in the context of GCI's Constitution, the *Corporations Act*, and the ACNC Act.

3. Objectives

This policy aims to assist with the identification, declaration and management of conflicts of interest and related party transactions in order to comply with GCI's Constitution, the *Corporations Act*, the ACNC Act.

The Board fosters a culture of integrity. Each Decision Maker has a duty to ensure where

- the Decision Maker has a personal interest or other interest in a decision giving rise to a real, potential or perceived conflict; or
- the Decision Maker's duty to the GCI conflicts with, or gives rise to, a possibility of conflict with his or her duty to another body or organisation,

the matter is properly declared in accordance with this policy and that the corresponding procedures to manage the conflict are properly followed.

Decision Makers are supported to identify conflicts of interest and to speak freely if they believe another Decision Maker may have an undeclared conflict. A conflict of interest must be declared whether it is real, potential, or perceived.

Additionally, directors and committee members of GCI have duties under the ACNC Governance Standards, including²:

- to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were in the position of a director or committee member of GCI;
- to act in good faith in the GCI's best interests, and to further the purposes of GCI;
- not to misuse their position;
- not to misuse information obtained in the performance of their duties as a director or committee member of GCI;
- to disclose perceived or actual material conflicts of interest;
- to ensure that GCI's financial affairs are managed in a responsible manner; and
- not to allow GCI to operate while insolvent.

4. Principles

GCI is committed to the following principles in applying this policy:

4.1 Interests of the GCI

Directors have a legal duty to place the interests of the GCI above their own Vested Interests when carrying out their functions. They will attempt to avoid situations that could raise actual, potential or perceived conflicts of interest and will not participate in decisions where they have Vested Interests.

4.2 Compliance with the Law

GCI acts in accordance with the law, the guidance of the ACNC and best practice governance policies and protocols.

GCI and its Officers and employees are subject to law that prohibits the involvement in or benefiting from decisions in circumstances where conflicts of interest are not appropriately declared and managed, or appropriate member approval is not obtained in relation to a related party transaction where required. A breach of these laws may carry both civil and criminal implications and may void any benefit gained by a Decision Maker as a result of their conflict.

As a requirement flowing from AASB 124 *Related Party Transactions*, related party transactions must be reported in the Annual Report whilst other conflicts of interest do not need to be. Although all related party transactions are likely conflicts of interest, not all conflicts of interest will be related party transactions.

4.3 Accountability

Directors and other Decision Makers are accountable for:

- identifying and declaring all conflicts of interest, whether their own or of other Directors, including in relation to related party transactions; and
- managing their own conflicts and interests, including in relation to related party transactions.

4.4 Materiality

This policy refers to material conflicts of interest in reference to both conflicts of interest and material personal interests. Materiality is a common concept used particularly in accounting to denote a substantive or non-trivial transaction.

ASIC Regulatory Guide RG 76 describes materiality in the context of related party transactions as an interest of some substance or value, rather than merely a slight interest. It goes on to state that in interpreting the phrase,

'material personal interest', and in considering whether the related party transaction prohibition applies, companies should bear in mind that a purpose of the prohibition is to minimise risks or harm to the company arising from conflicts of interest.³

When considering conflicts of interest, whether in the context of related party transactions or not, Decision Makers should consider the concept of materiality as it applies to the situation and err on the side of making disclosures, which are important risk minimisation tools.

Part B: Conflicts of Interest & Duty

5. Conflicts

There are two types of conflicts covered by this policy, namely conflict of interest and conflict of duty.

5.1 Conflicts of Interest

A conflict of interest occurs where there is a conflict between a Decision Maker's duty to act in the best interests of the GCI and their Vested Interests.

A conflict of interest includes:

- actual conflict of interest;
- potential conflict of interest which may arise contingent upon the circumstances or some other action; and
- perceived conflict of interest where the public could reasonably form the view that a conflict exists or could arise that may improperly influence the Decision Maker's performance of their duty to the GCI now or in the future.

A Vested Interest may be:

- direct, where the Decision Maker holds the interest or controls the interest; or
- indirect, where the interest is held by a relative or close associate of the Decision Maker; and
- pecuniary, where the interest may be monetary or convertible into money such as ownership of property, shares, a right to assets, a beneficiary under a trust or a recipient of benefits, whether in-kind or not; or
- non-pecuniary where the interest arises from a personal relationship which may give rise to favouritism or undue influence.

In considering whether a Decision Maker's Vested Interest may give rise to a conflict of interest, the Decision Maker must consider the:

- nature and type of the Vested Interest;
- relationship distance between the Vested Interest and the duty to the GCI. For example, the interest of a second cousin may be seen to be less proximate than the interest of a spouse;
- quantum of the interest if pecuniary; and

- overall circumstances and context of the interest.

5.2 Conflicts of Duty

Conflicts of duty occur where a Decision Maker's duty to act in the best interests of the GCI conflicts with another duty such as the duty to another organisation, another employer or a private organisation such as an advocacy group, business or other interest group.

A conflict of duty may arise for example where a Decision Maker is:

- bound by competing sets of confidentiality restrictions;
- unable to act in the best interests of multiple entities at the same time; or
- under conflicting duties to disclose and maintain confidentiality at the same time.

Conflicts of duty are to be managed in the same way as conflicts of interest. Conflicts of duty are more likely to arise for contractors to the GCI, who may have other ongoing contracts with other employers.

5.3 Consequences

Undeclared or unmanaged conflicts may result in:

- legal claims by those adversely affected by the decisions or actions, including claims against the GCI or Decision Makers (including Directors) personally;
- investigative or enforcement actions by regulators;
- decisions or actions that are not primarily in the interests of the GCI;
- breaches of Directors' Duties;
- bias or lack of impartiality in decision-making leading to Member dissatisfaction or legal claims;
- a lack of open and frank discussion in meetings; and
- damage to the public's perception of the Board; and GCI.

5.4 Declaration and Register of Interests

Upon commencement as a Decision Maker, that officer must complete a Declaration of Interests Form (the pro-forma of which is attached as Appendix 1) and provide it to the Company Secretary

The Company Secretary must:

- maintain a Register of Interests in whatever form the Company Secretary thinks fit which contains the Declarations of Interest of every Decision Maker; and
- ensure that the information in the declarations is included in the Register of Interests and that the information is held in compliance with the *Privacy Act 1988* (C'th), and the *Privacy Policy*.

The Chair must:

- ensure the Register is available for reference at each Board meeting and is accessible to Decision Makers between meetings for ease of reference.

Decision Makers must:

- update their Declaration of Interests on the February or March board meeting each calendar year by completing an Updated Declaration of Interests Form (the pro-forma of which is attached as Appendix 2) and provide the updated declaration to the Company Secretary; and
- as soon as practicable, provide an Updated Declaration of Interests Form to the Company Secretary when their interests change.

Examples of changes which might give rise to potential conflicts include secondary employment, joining a club, receiving a gift of more than a nominal value or a relative becoming employed by the GCI. Decision Makers must use their best judgment when considering how a change might give rise to a potential conflict.

A Declaration of Interests Form is attached at Appendix 1

5.5 Public Terms and Other Interests Not Conflicts

A Decision Maker does **not** have a conflict of interest if:

- in a matter relating to the supply of goods or services to the Decision Maker if the goods or services are, or are to be, available to members of the public on the same terms and conditions; or
- in a contract or arrangement only because that contract or arrangement may benefit a company or other body in which the Decision Maker has a beneficial interest that does not exceed 1% of the total nominal value of beneficial interests in that company or body.

A Director does not have an interest in a contract merely because the contract insures, or would insure, the Director against:

- a liability incurred by the Director as an officer of the GCI; or
- any legal costs incurred by the Director in the defence of civil or criminal proceedings against the Director as an officer of the GCI.

6. Management of Conflicts of Interest

6.1 Standing Item in Board Meetings

At the start of every Board meeting the Chair will ask every Decision Maker:

- whether they have an interest in any item on the agenda; and
- cause any declaration made by a Director to be recorded in the minutes of the meeting.

Decision Makers in a meeting must:

- declare any interests in any item on the agenda including the nature of the interest and any possible conflict;
- if becoming aware of an undeclared interest during the meeting, declare the interest immediately; and
- correct or update their Declaration of Interests if necessary when asked by the Chair.

The Company Secretary will ensure that:

- the Minutes record any Declaration of Interest made by a Director during the course of the meeting and the steps taken to manage any conflict arising from the interest;
- the Minutes record any changes to Declarations of Interests; and
- the Register is updated to reflect those changes.

A Decision Maker who believes another Decision Maker may have an undeclared interest will raise this as a query (and may do so in accordance with any whistleblower policy that may be in place), allowing that Decision Maker to declare the interest, if it exists.

The existence of an interest does not always result in there being a conflict of interest. Where a conflict of interest does exist however, the procedures for managing conflicts of interest as set out in Sections 6 and 7 of this policy must be followed.

6.2 Management of Conflicts

Once an actual, potential or perceived conflict of interest is identified, there are a range of options to manage the relevant conflict of interest such as:

- remove – the Decision Maker does not participate at all in any decisions involving the matter in which they have an interest, including attending meetings or receiving information about the decision;
- record – details of the conflict of interest are recorded by the Company Secretary. Monitoring occurs to check whether this remains the appropriate option;
- restrict – the Decision Maker's involvement in discussion or decision making on the matter is restricted to the extent that minimises the conflict. Monitoring occurs to check whether this remains the appropriate option;
- recruit – an impartial third party is engaged to provide advice;
- relinquish or resign – the Decision Maker relinquishes their Vested Interest or steps down from their role with the other organisation on a temporary or permanent basis.

Where a Decision Maker identifies a possible conflict of interest (whether their own or anybody else's), the Chair, in consultation with the Company Secretary must determine how that conflict is to be managed (which may include one or more of the actions outlined above). The Chair will notify the Board at the next Board meeting or sooner if practicable.

Where the Decision Maker with the possible conflict is the Chair, the Superintendent in consultation with the Company Secretary, must determine how the conflict is to be managed. The relevant person will notify the Board at the meeting or sooner if practicable.

Management of any potential conflict should seek to minimise its effects and be consistent with the best interests of the GCI.

If the means for managing a conflict of interest includes excluding a Decision Maker from receipt of papers or discussion on a matter, the Company Secretary will advise the Decision Maker concerned, in writing, of the broad nature of the withheld information and the reason it has been withheld.

Information withheld from a Decision Maker may later become public knowledge, or the potential for conflict may pass. In these circumstances, the conflicted Decision Maker may request the Chair for a briefing about the status of the matter and the particulars of any decisions.

6.3 Option Selection

In considering how a conflict of interest is to be managed, the relevant Decision Makers must take into account:

- the objectives and functions of the GCI;
- the matter that is to be discussed and determined;
- the nature of the conflict (e.g. is it real, potential, or perceived?);
- the severity of the conflict, including:
 - the amount, scope, and likelihood of any expected benefit (For example, is it a large benefit primarily to the Decision Maker or a small benefit that thousands of people including the Decision Maker will receive?); and
 - any other relevant circumstances (For example, if the conflict relates to a Decision Maker's partner working at an organisation about which the GCI is to make a decision: is the partner currently working there as a Decision Maker? Or did they leave a few years ago from a large organisation in which their work was not connected to the decision being made by the GCI?);
- the potential effect of the conflict, including:
 - the extent to which the Decision Maker's ability to make an impartial decision in the interests of the GCI could be compromised, or could reasonably be seen to be compromised; and
- the overall likelihood that the conflict of interest may affect public or government confidence in the integrity of the GCI and its decisions.

6.4 Management of Conflicts during Board Meetings

Where at the commencement of a meeting a Decision Maker declares an interest and its potential for conflict, the Board may direct that Decision Maker to leave the meeting to enable the remaining Decision Makers to determine what if any steps should be taken to manage the potential conflict of interest.

Regardless of whether or not the Decision Maker making the declaration is required to leave the meeting, that person must (in accordance with clause 76 of the GCI Constitution) abstain from discussion on the matter the subject of the conflict and must not vote in respect of the matter.

If that Decision Maker does so vote that vote does not count.

The Company Secretary will record the decision taken by the disinterested Decision Makers in the Minutes, including the nature and extent of the conflicted Decision Maker's interest in the matter, its relation to the affairs of the GCI and the steps taken to address the conflict of interest.

If the Decision Makers who do not have an interest in the matter decide there is a conflict of interest, as a minimum standard of conduct, conflicted Decision Makers must (in accordance with clause 76 of the GCI Constitution):

- a. at the request of the disinterested Decision Makers, leave the room at the start of the relevant agenda item and not return until the start of the next agenda item;
- b. not discuss the matter at all with any other Decision Maker (in the meeting or otherwise); and
- c. not participate in any decision on the matter (and if the relevant Decision Maker does so vote their vote does not count).

The above procedure for managing conflict of interests at meetings will not apply to Board members who have sought and obtained ASIC's approval to participate under section 195(3) (Participation with ASIC approval) of the *Corporations Act 2001* (Cth).

7. Recording of Decisions to Manage Conflicts

The Company Secretary must ensure that a decision relating to how a conflict of interest is to be managed, including if no action is taken, is accurately recorded. That record must describe:

- the action taken to manage the conflict of interest (if any); and
- why the relevant Decision Maker has chosen that action and why it is in the public interest to manage the conflict of interest in that way.

Part C: Related party transactions

8. Related party transactions

Transactions between GCI and a related party of GCI may raise a number of issues, both legally and reputationally, including the following:

- an actual or perceived conflict of interest between GCI (or its directors) and the related party;
- a potential breach of duties by GCI directors where they fail to act in the best interests of GCI, given their interests in the related party; and
- a potential breach of Chapter 2E of the *Corporations Act*, which provides that a public company must not provide a financial benefit to a related party without first obtaining member approval, subject to certain exceptions.

A 'financial benefit' is defined broadly in the context of related party transactions, and can include providing or receiving services, buying or selling assets, and taking up or releasing obligations in relation to the related party.

9. Who are 'related parties' of GCI?

While the term 'related parties' is currently not defined in the ACNC Act, the ACNC refers to the definition of 'related parties' provided by the Australian Accounting Standards Board to include the following in the context of charities registered with the ACNC4:

- a person that is connected to the charity, such as a director or a Close Family Member of the director that has control or joint control of the charity;
- an organisation that is connected to the charity and has control or significant influence over the charity, such as a parent entity of the charity;
- an organisation that the charity has control or significant influence over, such as a subsidiary entity;
- an organisation that is a member of the same group as the charity (for example, fellow subsidiaries);
- a member, or a Close Family Member, of the key management personnel of the charity (the people with authority and responsibility for planning, directing and controlling the activities of the charity directly or indirectly); and

- an associate (an entity over which the charity has significant influence) or joint venture (a joint arrangement whereby the charity with another entity or other entities have joint control of the arrangements and have rights to the net assets of the arrangement).

10. Arm's length exception to obtaining member approval

If the financial benefit is provided on terms that would be reasonable if the parties were dealing at arm's length (i.e. if the parties were unrelated), or terms which are less favourable than that, then member approval does not need to be obtained.

In determining objectively what constitutes "arm's length" in the circumstances, GCI must consider the following factors:

- how the terms of the overall transaction compare with those of any comparable transactions in similar circumstances where the parties were dealing on an arm's length basis;
- the nature and content of the bargaining process involved prior to entering into the transaction;
- the impact of the transaction on GCI (for example, considering a cost/benefit analysis of the transaction from GCI's perspective, and whether the transaction is aligned with the purpose or strategic goals of GCI);
- any alternative options available to GCI; and
- any expert advice received by GCI in relation to the transaction.

In certain circumstances, it may be appropriate for GCI to obtain independent advice on whether the terms of a proposed related party transaction are fair, reasonable and "arm's length".

The GCI should only rely on the arm's length exception from obtaining member approval for related party transactions where the Board has determined that the arm's length exception does apply. The Board must not rely on the arm's length exemption where it is merely arguable that the arm's length exemption could apply.

11. Protocol for related party transactions

GCI has adopted the following protocols in order to manage and appropriately disclose related party transactions:

- all related party transactions and relevant interests must be disclosed to the Board (and in the case of transactions before the transaction is entered into);
- directors must not vote on, and must not be present for discussion or votes in relation to, any proposed transaction in which they have a material, personal interest;
- decisions and negotiations in relation to the proposed related party transaction must only be undertaken by those directors who are independent of the related party. This may require a subcommittee of the Board to be established for consideration of and decision-making in relation to the related party transaction;
- the terms of the related party transaction must be fair and reasonable, and on arm's length terms or otherwise in accordance with the Corporations Act;
- member approval must be sought in advance of entering into the related party transaction where required (i.e. subject to the "arm's length" and other exceptions provided in the Corporations Act);
- the related party transaction must be determined to be in the best interests of GCI and consistent with the charitable purpose and objectives of GCI; and
- where the Board (or independent subcommittee) determines to enter into a related party transaction, it must be:
 - appropriately documented;
 - recorded in a register of GCI-related party transactions; and
 - disclosed to members of GCI.

Directors must also ensure that they comply with their duties (including those under the ACNC Governance Standards as noted in section 3 above) when considering any related party transaction.

Part D: General terms and conditions

12. Amendment of this Policy

The Board may make amendments to this policy at any time.

13. Breach of this Policy

A Decision Maker who believes they may have breached this policy must notify the Chair immediately.

If the Chair is of the view that a breach has not occurred, the Decision Maker will declare the interest and potential conflict of interest or related party transaction at the next scheduled meeting, which will then be considered in accordance with the procedure in clauses 6.2 – 6.4.

If the Chair is of the view that a breach of this policy may have occurred, the Chair will notify the Company Secretary. The Company Secretary will notify the Board and will arrange for the Board to determine urgently, and minute, whether a breach has occurred and what steps are to be taken to mitigate the breach.

A Decision Maker who believes another Decision Maker may have breached this policy, but not yet notified the Chair, will bring this to the attention of the Chair, or will approach the other Decision Maker, who will then notify the Chair. If a breach has occurred, the Chair will notify the Company Secretary in writing as soon as practicable.

If the matter concerns a possible breach by the Chair, the Decision Maker will arrange through the Company Secretary for the Board to determine urgently, and minute whether a breach has occurred, and what steps are to be taken to mitigate the breach. If a breach has occurred, the Company Secretary will notify the Board.

Where a breach of this policy is referred to the Board, the Board may make a determination regarding what consequences, if any, should apply for the breach of policy. Failure to act in accordance with the policy may amount to misconduct, and in the most serious cases may lead to a request that the relevant Decision Maker resign or the members of the GCI being asked to vote on the Decision Maker's removal.

A Decision Maker who breaches this policy, or improperly uses their position to gain an advantage for themselves or someone else or to cause detriment to the GCI, may be personally liable for their actions under both civil and criminal law.

Breach of this policy may also be a breach of relevant directors' duties under the Corporations Act, the ACNC Act and/or the Constitution of GCI.

Appendix 1

Conflict of Interest Disclosure Statement for Grace Communion International

Period of Declaration: _____(DD MMM YYYY) – _____(DD MMM YYYY)

1. Board Members, Management members, staff, and volunteers (referred to as the members) have an obligation to act in the best interest of Grace Communion International (GCI). Hence, it is pertinent that they avoid situations where a member’s personal or family interest conflicts with those of GCI.

2. Declaration

With regard to my service as [board / management / staff / volunteer] member of Grace Communion International, this is to certify that I, except as described below, am not now nor at any time during the past year have been:

- A participant, directly or indirectly, in any arrangement, agreement, investment, or other activity with any vendor, supplier, or other party doing business with the GCI which has resulted or could result in personal benefit to me.
- A recipient, directly or indirectly, of any salary payments or loans or gifts of any kind or any free service or discounts or other fees from or on behalf of any person or organization engaged in any transaction with the [GCI].
- I do not know of any potential or actual conflict of interest situations between myself, including persons affiliated¹ to me and GCI.

Any exceptions to 1, 2 or 3 above is stated below with a full description of the transactions and of the interest, whether direct or indirect, which I have (or have had during the past year) in the person or organisations have transactions with GCI.

- I have the following potential conflict of interest to declare:

S/n	Area of Conflict	Details
1		

¹ Affiliated refers to the following:

- Spouse, domestic partner, child, mother, father, brother, or sister, or close associates;
- any corporation, business, or non-profit organization of which you are a staff, officer, Board Member, partner, or participate in the management or are employed by;
- any trust or other estate in which you have a substantial interest or as to which you serve as a trustee or in a similar capacity.

S/n	Area of Conflict	Details
2	Affiliation to any vendor, supplier, or any other party providing or bidding for providing services with the GCI, having a direct or indirect interest in any business transaction(s), agreement, or investment	
3	Having any business dealings or transaction with a vendor, supplier or any other party which could result in benefit to me. I or person(s) I have affiliation with have interest in purchasing services from the GCI.	
4	Affiliated to any staff or Board Members of the [Charity Name].	
5	Affiliated to any person(s) who is involved in/is a party to or have an interest in any pending legal proceedings involving the [Charity Name].	
6	Other interests:	

**Please attach a separate sheet if space is insufficient*

Please elaborate on the potential conflict arising from the above situation with regards to the transaction concerned (e.g., nature of service/ transaction, if affiliated person involved, the identity of the affiliated person and your relationship with that person):

I hereby confirm that:

- The disclosure made above are complete and correct to the best of my knowledge and belief.
- I agree that should any conflict-of-interest situation arise in the course of my service, will abstain from participating in the discussion, decision making and/or voting (where applicable) on the said matter.
- I will notify the Board Chair or Superintendent if I become aware of any information that might indicate that this disclosure is inaccurate or that I have not complied with the conflict-of-interest policy.

Signature	Name and Designation	Date

