



**NHMRC public consultation on identifying and managing conflicts of interest:
draft policies for NHMRC committees and working groups**

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The Association of Australian Medical Research Institutes (AAMRI) welcomes the opportunity to comment on Draft Policies for NHMRC Committees and Working Groups Developing Guidelines. AAMRI is the peak body for Australia's pre-eminent medical research institutes, representing 41 research organisations, comprising over 7,800 full time equivalent research scientists, staff and students.

AAMRI recognises the importance of these guidelines, not only for ensuring the integrity of NHMRC committees and working groups developing guidelines, but also because these guidelines are likely to set a precedent for conflict of interests management policies for other NHMRC working groups and committees in the future.

Does the document strike the right balance between ensuring adequate expertise is available to be deployed on the committee and creating a framework to ensure conflicts are managed appropriately?

Conflicts of interest pose a problem when they prevent the most expert/experienced individuals from serving on NHMRC committees or working groups. Wherever possible, AAMRI encourages the NHMRC to develop conflicts of interest management plans so that the best (possibly conflicted) expertise is available for NHMRC committees and working groups developing guidelines, rather than routinely resorting to eliminating such people from making any contribution.

Regarding measures to mitigate conflicts of interest (Section 1.5.1c), AAMRI suggests that disclosure of potential conflicts of interest by the relevant member to the rest of the committee prior to any committee business might be all that is required in some cases (i.e. having declared the conflict in open session, committee members must then be seen to be fair). Alternatively, a potentially conflicted member could participate in discussions of the committee but not in final decision-making.

Do you have any suggestions for further guidance on matters to be declared?

AAMRI suggests that it is be made clearer in Section 1.3 of the draft policy that while prospective committee members may have more than one interest (i.e. duality, multiplicity), they need not be in conflict.

We suggest that it be made explicit in this section that the onus to decide whether a dual/multiple interest is a material conflict is on the organisation (NHMRC) based on the disclosed facts provided by prospective committee members. The prospective committee members are not necessarily in the best position to judge whether they have conflicts of interest in fact or especially in the perception of others.

Suggested amendments to the wording of Section 1.3 to incorporate this feedback are:

- *...participants in guideline development "disclose" (rather than "identify") any potential conflict(s) of interest....*
- *a. such interests can then be assessed "by the NHMRC" and managed appropriately.*

Is the amount to trigger a declaration of interests reasonable?

AAMRI members do not have a consensus view on the disclosure thresholds of \$1000 per annum or \$3000 over the past three years for disbursements received from entities with a commercial interest in guidelines (Section 1.5.2e). Some AAMRI members have indicated that these thresholds are appropriate. Other members have suggested removing reference to threshold dollar amounts and requiring prospective NHMRC committee members to provide an estimate of all disbursements received from entities with a commercial interest in the guidelines.

Are there any gaps in this section in relation to the guidance for the responsible Senior Officials at the Office of NHMRC to apply their judgement in how to manage any conflicts?

AAMRI commends the NHMRC for developing clear, transparent and consistently implemented procedures for managing conflicts of interest for prospective members of NHMRC working groups and committees involved in guideline development.

However, we strongly urge the NHMRC to reconsider the procedures outlined in Section 2.1 of the draft document, particularly with regard to publishing prospective committee members' disclosures of

potential conflicts of interest (including their proposals to manage any conflicts) on the NHMRC website and in the final guidelines.

AAMRI does not support the public disclosure of prospective committee members' conflicts of interest, other than that required by law:

- While it is imperative for the procedures for managing conflicts of interest (potential, perceived or real) to be rigorous and transparent, these procedures should not be at the expense of the privacy of prospective NHMRC committee members. In AAMRI's view, publicly disclosing committee members' conflicts of interest impinges on their privacy. Further, it might ultimately be counter productive in that it could deter prospective members from participating in such committees or from disclosing relevant information that they deem as private.
- AAMRI is not aware that publicly disclosing conflicts of interest is common practice in other organisations. The ARC, for example, treats private information in the *Statement of Private or Other Professional Interests* as confidential. General conflicts of interest are recorded in a register and/or minutes of meetings available to ARC staff and other committee members. Conflicts of interest of a personal nature are kept in a secure register.¹

Should the NHMRC deem the public disclosure of committee members' conflicts of interest necessary, there are several issues with the procedures outlined in the draft document:

- The draft document states that members' disclosure of potential conflicts of interest (including their proposed plans to manage these) will be published on the NHMRC website and in the final guidelines. However, prospective committee members are not in a position to judge whether their disclosed interests are in fact material conflicts (perceived, potential or real); nor will their proposed management plans necessarily be appropriate or required. These will be the decision of the Senior NHMRC Official.

AAMRI suggests that all prospective members' disclosures be kept in a confidential register held by the NHMRC. Should the NHMRC decide that conflicts of interest must be disclosed to the public, it should only be those interests judged to be material conflicts by the Senior NHMRC Official, together with the final agreed management plan. In such cases, it should be made clear to prospective committee members that their appointment is conditional on this public disclosure.

- The current document does not adequately address commercial-in-confidence disclosures. How will such information be dealt with, given that it cannot be publicly disclosed?
- It is noted in Section 2.1.1 that the NHMRC might be legally required in some circumstances to obtain the direct consent of family members to publish disclosures relating to them on NHMRC's website and in final guidelines. The current policy does not provide guidelines should a family member not consent to having their personal information made publicly available. Would this preclude a prospective member from serving on a committee? Such a policy would not be fair and reasonable, or efficient, in AAMRI's view.
- In section 2.1.2 of the draft document, it is proposed that the prospective Chair of a committee will preside over the meeting to finalise prospective members' disclosure statements and management plans. However, the prospective Chair might not have sufficient knowledge or experience with respect to managing conflicts of interest, and might him/herself be deemed to have a conflict of interest. AAMRI suggests that an NHMRC Senior Official be present at this meeting to provide expertise and consistency in the finalisation of members' disclosure statements and proposed management plans.
- It is not currently clear in the draft document what the procedure is should a prospective committee member disagree with an NHMRC Senior Official's ruling. Is the NHMRC Senior Official's decision final, or is there an appeal process?

Is the flow chart an adequate representation of the proposed process?

AAMRI suggests amending the flow chart to take into account the suggestions above, including an active role of a Senior Official in the meeting to finalise prospective members' disclosures.

¹ http://www.arc.gov.au/about_arc/coe_guidelines.htm

The publishing of conflicts of interest on the NHMRC website (and in the final guidelines) is not represented in the flow chart. AAMRI does not support the public disclosure of committee members' conflicts of interest, other than that required by law. However, should the NHMRC decide to publish conflicts of interest on their website, this should be indicated on the flow chart, and should only occur in the case of 'Option 2', when a potential, perceived or real conflict of interest has been identified and a management plan has been implemented.