

CONFLICT OF INTERESTS

PREFACE

We aim to be an effective organisation and to be a leader in standards of service. An important principle of good administration is the avoidance of any situation that may compromise the ability of our office to fulfil its functions objectively, impartially and in the public interest.

It is therefore imperative that all members of staff try to avoid any real or perceived conflicts of interests, but if such a conflict arises, that they report the conflict to the appropriate person and take steps to minimise the impact of that conflict on the exercise of their public duties.

PURPOSE

The purpose of this policy is to set out how real or perceived conflicts of interests should be dealt with by members of staff.

RESPONSIBILITY

All members of staff are responsible for declaring any conflict or reasonably perceived conflict of interests that may arise, in accordance with this policy. The Manager Corporate is responsible for maintaining a Conflicts Register.

LEGISLATIVE FRAMEWORK

Not applicable.

DEFINITIONS

Not applicable.

POLICY STATEMENT

1. What is a 'conflict of interests'?

The term 'conflict of interests' refers to situations where a conflict arises between public duty and private interest. Such conflicts generally involve opposing principles or incompatible wishes or needs. The term refers to circumstances where a member of staff could be influenced, or could be reasonably perceived to be influenced, by a private interest when performing an official function.

Conflicts of interests can involve pecuniary interests (ie, financial interests or other material benefits or costs) or non-pecuniary interests. They can involve the interests of the staff member or his or her immediate family or relatives (where these interests are known), business partners or associates or friends. Ill will as well as friendship can give rise to an actual or reasonably perceived conflict of interests.

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Related policies:	Code of conduct
This policy supersedes the Conflict of Interests Policy dated 30 May 2005.	

Where you make a decision that could affect the rights or interests of any person, you must apply the principles of procedural fairness. A key element of procedural fairness is the so-called 'rule against bias', ie, that a person must not act as a judge in their own cause. The basis of this rule is that even if a person was able to make an impartial judgement on a matter affecting his or her interests, the perceived bias would cast doubt on the impartiality of the decision.

2. Avoidance of conflicts of interests

Staff must avoid situations in which their private interests conflict or might reasonably be perceived to conflict with the impartial fulfilment of their official duties and the public interest. In other words, staff members should not allow the pursuit of private interests to interfere with the proper discharge of their public duties.

3. Disclosure of conflicts of interests

The Ombudsman is entitled to know if there is even a remote possibility of a conflict arising. You may often be the only person aware of the potential for conflict. It is therefore your responsibility to disclose any actual or reasonably perceived conflict of interests to your team manager or statutory officer at the first available opportunity.

There are two primary circumstances where conflicts of interests may arise in your work for the Ombudsman:

- (a) involvement in complaint handling, investigations, audits or reviews, and
- (b) office management (including supervision of staff, involvement on interview panels, contracts with third parties and the provision of opportunities to staff).

4. Involvement in complaint, investigations or reviews

All staff involved in complaint handling, investigations, audits or reviews should disclose the following matters:

- current memberships of boards, committees or other agencies whose work or activities are within the jurisdiction of the Ombudsman
- voluntary work that they do for any agency whose work or activities are within the jurisdiction of the Ombudsman
- the name of and position held by a relative (including a grandparent, parent, sibling, child, past or present partner, uncle or aunt) employed or holding any executive or senior management position in any agency whose work or activities are within the jurisdiction of the Ombudsman.

Note: Under the *Public Sector Employment and Management Act 2002* and the Ombudsman's Code of Conduct, members of staff are required to obtain approval for any secondary employment.

All staff involved in complaint handling, investigations, audits or reviews must make specific disclosures of any conflict of interests. Conflict or the perception of conflict might arise in situations including where:

- a complaint, investigation, audit or review touches on your personal interests — for example matters that could potentially affect the value of your property or the interests of an organisation in which you have some involvement
- a complaint, investigation, audit or review involves conduct or decisions of a relative (including a grandparent, parent, sibling, child, past or present partner, uncle or aunt), personal friend or associate, neighbour or business partner
- a complaint, investigation, audit or review includes a matter in which you have a prior involvement, a particular interest, or strongly held personal beliefs — where the matter concerns a matter where you could reasonably be perceived to lack objectivity because you

have strong pre-conceived views or significant previous involvement, particularly where these are well known, either to people with an interest in the complaint or to the community generally

- a complaint, investigation, audit or review is about a politically sensitive matter — where you have had any past or present formal political affiliation or other association that might directly relate to such matters or may reasonably be seen to affect the handling of such a matter.

Simple acquaintance with a person concerned, or the fact you have previously had official dealings with that person, will not necessarily give rise to a reasonable perception that you have a conflict of interests. Such a conflict must be based on something more, or something particular to the matter in question.

5. *Office management*

In relation to previous employment, it can be assumed the Ombudsman is aware of matters disclosed in job applications, and generally this in itself will not constitute an actual or reasonably perceived conflict of interest unless you are allocated a complaint that concerns:

- the conduct of former colleagues, relatives or personal friends, or
- policies or practices for which you bear some responsibility (for example involvement in development or approval).

Where you are on an interview panel, you must disclose to the other members of the panel (and in particular the independent member) at the time of reviewing the applications if an applicant is your personal friend, or past or present close work colleague. It is not appropriate to be on an interview panel where any applicant for the position is your relative (including a parent, sibling, child, or past or present partner). It is acceptable to be a referee for somebody being interviewed, provided other referee(s) are also nominated and are consulted prior to that person being appointed to a position.

You must make a disclosure where you are in an intimate relationship (or some other relationship that might lead to a perception of conflict) with a member of staff in relation to whom you have supervisory or management responsibilities, or by whom you are being supervised.

Where you are involved in the assessment or approval of a tender or contract, you must make a disclosure, immediately you become aware, if any person who has an interest in or may benefit from the contract is a relative, personal friend, or business partner.

6. *Procedures for disclosures*

Where you become aware of an actual or reasonably perceived conflict of interests you must at the first available opportunity make a full and frank disclosure to your statutory officer and/or your team manager. They are responsible for assessing whether there is an actual or reasonably perceived conflict of interests and if so, will decide what action should be taken to avoid or deal with the conflict. Team managers must report any contentious issues to a statutory officer.

If you are in any doubt whether to disclose your potential conflict of interests, you have an obligation to consult your team manager, your statutory officer or the Manager Corporate. Such consultations may avoid harm or embarrassment to the office and you.

The relevant statutory officer, team manager or delegate is responsible for dealing with conflict issues. Management decisions must deal with any actual or reasonably perceived conflict of interests. Options that are available, once a decision is made that there is or could be an actual or reasonably perceived conflict of interests, include:

- recording the details of the disclosure and taking no further action because the potential for conflict is minimal or can be eliminated by disclosure or effective supervision (with an appropriate file note being placed on any relevant file where the disclosure relates to complaint management)

- re-allocating duties or responsibility to make decisions in relation to which the conflict arises and re-allocating those duties or responsibilities to a member of staff who is not supervised by the staff member with the potential conflict (decision-making responsibility should not be passed to a subordinate as this may create a conflict of interests for the subordinate)
- requiring the staff member with the potential conflict to disqualifying themselves from having any involvement in particular matters where the actual or perceived conflict arises
- transferring the staff member with the potential conflict (without disadvantage) within their team or to another team, or
- requesting that the staff member with the potential conflict relinquish or divest their personal interest which creates the conflict.

7. The Conflicts Register

In addition to taking action on a declared conflict of interests, the staff member with the potential conflict and their team manager/statutory officer is responsible for reporting the conflict to the Manager Corporate, who will enter the disclosure in the Conflicts Register. The Register contains all disclosures by staff of matters that are or could potentially result in conflicts of interests arising out of the performance of their duties with this office.

By its very nature, information contained in the Register is highly sensitive. The information will be held confidentially and only be made available:

- a. to the Ombudsman, Deputy Ombudsman and Manager Corporate (or delegate assisting in maintaining the Register)
- b. in respect of members of each team, to the relevant statutory officer and team manager through requests made to the Manager Corporate.

If requested, the Manager Corporate will provide regular reports to the relevant statutory officer about any declared conflicts of interests in their team. Supervisors or other staff will only be advised of a staff member's conflict of interests if it is necessary for their supervision or the allocation of work within the team.

8. Conflicts faced by the Ombudsman

The Ombudsman must also disclose any conflict of interests that may arise. This disclosure is to be made to the Deputy Ombudsman or, if it is more appropriate, to another statutory officer. The statutory officer to whom such a disclosure is made has authority under this policy to deal with the disclosure in accordance with section 6 of this policy without reference to the Ombudsman. A conflict of interests declared by the Ombudsman will be entered in the Conflicts Register.

OMBUDSMAN APPROVAL



Bruce Barbour
OMBUDSMAN