

# Conflicts of Interest

## Purpose and Scope

This Policy deals with conflicts of interest that occur between an officer's official duties and their private interests (ie external conflicts of interest).

## External Conflicts of Interest

Officers of local authorities will, from time to time, find that there is a conflict of interest between their official duties and their private interests, or the interests of their family or friends or close associates. Officers serve the whole authority and must act, and be seen to act, in the public interest. Failure to recognise a conflict of interest can give the impression that the authority or the officer is not acting in the public interest but serving particular individuals or sectors of the community. It can also lead to disciplinary action, or even to a criminal prosecution and a fine of up to £2,500. It is therefore important that all officers of the authority operate according to a clear and consistent set of rules, for their own protection and for the protection of the authority.

## Summary

This Code of Conduct sets out:

- (a) what constitutes a conflict of interest;
- (b) when officers must declare that conflict of interest, and how to make a declaration and where this information will be held;
- (c) when they must withdraw from participating in a matter because of such a conflict of interest;
- (d) a procedure to deal with instances where an officer wishes to take on a new private interest which might conflict with the interests of the authority or the performance of their post;
- (e) a procedure to deal with instances where the officer's private interests are such that they are unable to perform the duties of their post.

This policy does not apply to Members, whose conduct is governed by the Member Code of Conduct.

Applicable to:

ALL ( ) Non-management ( X ) Management ( X ) Members ( )  
Grades

## Policy

### External Conflicts of Interest

#### 1 What is an External Conflict of Interest?

As an officer, you will have private interests. These may be ones of a material nature , such as:

- ownership of, or an interest in, a house

- shares in a company,
- your spouse or partner's employment
- a friend's position as an employee of a firm which is tendering to provide architectural or building services to the authority

In such instances, you, your family, friends or close associates stand to gain or lose financially if that interest is affected by a decision of the authority.

Interests may also be of a non-material nature, such as:

- membership of a recreational club
- your children's attendance at a particular school
- membership of a sports association such as the Lawn Tennis Association
- membership of a campaigning organisation such as the Ramblers' Association.

In such cases you, your family, friends or close associates may not stand to gain or lose financially, but your and / or their interests or well-being can be affected by a decision of the authority.

There is nothing wrong with you having such private interests, and the authority encourages its officers to engage in the community in which they live.

However, when you act as an officer of the authority, you have to serve the whole authority and to take decisions on the merits of the individual case. Where your private interests or those of your family, friends or close associates might be advantaged or disadvantaged by a decision or action which you take in the course of your job, there is a conflict of interests. You may be clear that you would not allow such private considerations to affect your performance of your duties as an officer, but the public perception of impartiality is just as important. So, whenever you have a conflict of interests, you must act in accordance with this policy.

## 2 Register of Interests

(a) On appointment to a post, if you have authorised signatory status for groups **A1, A2 and D1** (essentially the initiation of goods and services – check with your service area's group accountant if you are unsure what this means) you will be required to complete the **Private Interests Register** (Form 1). This sets out your principal interests, which will then be passed to the appropriate officer, who will check and sign the declaration and ensure that you are aware of the requirements of this policy (See below for the definition of "principal interests" and of the "appropriate officer"). The appropriate officer's are defined as:

- For Corporate Directors and the Chief Executive the Monitoring Officer or in his or her absence the Corporate Human Resources Manager
- For Heads of Service and equivalent (other than the Monitoring Officer), their Corporate Director or, in his/her absence the Monitoring Officer; for the Monitoring Officer, the Chief Executive or the Corporate Human Resources Manager

- For all other officers, their Head of Service or equivalent.

**All forms will be held by Directors, the Chief Executive or the Monitoring Officer**

(b) You must advise the appropriate officer of any additional conflicts of interest or change in any such interest within 28 days of becoming aware of such a change and provide written notification to be held in the Register.

(c) Whenever any officer finds that a conflict of interest has arisen between a private interest and a decision which they may be asked to take in the course of their job, they must notify the Appropriate Officer, in writing as soon as possible, by entering it on the appropriate **Conflicts of Interests Register Form 2**. The Appropriate Officer, as identified on Form 2, needs to consider the request and decide on the course of action to be taken, if any. The duty specifically arises where an officer has previously declared the private interest. For example where they have previously declared their ownership of their home, but now a planning application has been received from a supermarket company which could adversely affect the property and in their job they would be required to provide technical advice in relation to the planning application. It may arise due to the interests of your family, friends or close associates for example processing grants to voluntary organisations, housing needs assessments and licence applications are also potential areas where conflicts may arise and should be declared in the Register.

These forms will be kept by the Chief Executive, Strategic Director or Monitoring Officer.

(d) At the start of the financial year the appropriate officer will send you a copy of all the Declarations of Interests which he/she holds on your behalf and will ask you to confirm that they are correct and up-to-date. On this occasion you may ask that a particular interest be removed where it is not a principal interest and you are of the opinion that it is now unlikely that any conflict will arise between this interest and any decision, which you may be asked to take in the course of your job. The Appropriate Officer will also review these declarations and the Register at this time. In order to ensure that the authority is complying with this policy along with its corporate governance arrangements, Audit & Consultancy Services (or equivalent) will carry out an annual audit of the process.

All interests in contracts must also be declared in writing in the **central register** (Interests in Contracts form 3) held by the Monitoring Officer as per the guidance found in the Councils Contract Standing Orders

### **3 Inspection of the Register**

- (a) At any time you may ask the Appropriate Officer to see the declarations of interest, which he/she holds on your behalf, and correct or update these declarations.
- (b) The Register of Interests is open to inspection at any time by the appropriate officer, the Chief Executive, the Monitoring Officer, the Chief Finance Officer, the

Chief Internal Auditor (or equivalent) and the Corporate Human Resources Manager.

- (c) The Register of Interests is also open to inspection by the authority's auditors (Internal and External), the Ombudsman and the Standards Board for England (or any successor organisation).
- (d) Apart from the above persons, declarations of interest made on your behalf can only be inspected with your prior consent or under any statutory right of access. It is not open for public inspection.

#### **4 Taking on Additional Private Interests**

- (a) Whilst the authority encourages its officers to engage with the community which the authority serves, you should not take on any new interests which are likely to:
  - (i) give rise to conflicts which mean that you would be conflicted out from taking a particular decision or action e.g. sit on the Board of a Council funded project;
  - (ii) place such demands on your time or energies that you are unable to undertake your job satisfactorily;
  - (iii) reflect adversely upon the authority by reason of your association with the authority.
- (b) If you wish to take on any personal interest which is likely to:
  - (i) conflict with the discharge of your responsibilities as an officer of the authority;
  - (ii) require you to take time off work or change your working hours;
  - (iii) place demands on your time or energies such that you are unable to undertake your job satisfactorily;
  - (iv) result in your being conflicted out from taking a particular decision or action as part of your job;
  - (v) be incompatible with the objectives or obligations of the authority; or
  - (vi) which is only available to you by reason of skills or knowledge which you have acquired as a result of your employment with the authority; you must first obtain the written consent of the appropriate officer as set out above at point 2.
- (c) Where the appropriate officer refuses such consent, you may appeal to the Corporate Human Resources Manager or the Chief Executive.
- (d) Where the personal interest is closely associated with your job with the authority and you would receive any reward or remuneration for undertaking that interest, the appropriate officer may make such consent conditional upon your paying all or some of that reward or remuneration to the authority. This would include, for example, fees for lecturing or training where the lecture or training is based upon knowledge or skills which you have gained through your employment with the authority, even if you proposed to undertake such activities outside working hours.

- (e) Taking on a personal interest as set out in point 4(b) above without the prior consent of the appropriate officer can result in disciplinary action being taken against you by the authority.

## **5. Dealing with External Conflicts of Interest**

Where a conflict of interest arises, the authority can deal with it in a number of different ways. Decisions on how they will be dealt with must be made by your Strategic Director and a record kept with appropriate officers and in the registers:

### **(a) Insubstantial conflicts**

The conflict may be so insubstantial that the authority is content simply to note the conflict, but for you to continue to perform your normal duties despite that conflict. Indeed, in some cases your private interest may be of positive assistance in the performance of your job, such as membership of a professional association.

### **(b) Discrete conflicts**

In some cases the authority may take the view that the conflict would preclude you from undertaking a particular discrete task, but would not be incompatible with the general performance of your job. Thus, where your job includes the technical assessment of planning applications and a new application has been received which adversely affects your home, the authority may decide that you should not take any part in the assessment of that particular application, but apart from this one discrete matter, you may continue with the performance of the rest of your job. In such cases, the authority may instruct you to have no part in that particular application, and arrange for another officer, or an outside consultant, to perform what would otherwise be your job in relation to that particular application.

Where the authority is considering letting a contract to an organisation in which a member of staff, their family, friend or close associate has an interest in as a partner or Director, that interest must be disclosed to the relevant Strategic Director who will notify the Chief Executive. The Chief Executive's permission is required before the contract can be let to that organisation.

### **(c) Incompatible conflicts**

In other cases, it is possible that the nature of the conflict of interests is such that you cannot reasonably continue to perform any or a substantial part of the duties of your job. In such cases, the authority will have to consider whether it is reasonable to pursue one of the following courses of action:

- (i) Provision of temporary assistance

Where the conflict is of limited duration and is simply one of time, for example where you wish to take on the presidency of a professional association for a year or take time off to secure further education or qualification, the authority may be prepared to offer you flexibility in working hours. A reduction to part-time working or leave of absence, and may employ temporary staff or re-arrange the duties of other officers in order to ensure that your workload is covered in your absence. The authority will consider the potential

benefits to the authority from your private interest, in deciding whether it would be appropriate to pay your salary pro rata to your reduced working hours or to approve paid or unpaid leave of absence;

(ii) Re-arrangement of duties

In particular cases, where the conflict means that you cannot perform all or any part of the duties of your job, the authority may seek to re-arrange your duties and those of other officers, so that you can continue to perform your job, or an equivalent job, but in a manner which avoids the conflict.

(iii) Redeployment

Where it is not possible to re-arrange duties, the authority may be able to offer you alternative employment in a capacity which does not give rise to such conflicts. This may require you to undertake re-training to enable you to undertake the duties of the new post;

(iv) Termination of employment

In some cases the nature of the private interest may be incompatible with continued employment in your present capacity and the authority may not be able to re-arrange duties or a re-deployment, or the private interest may simply be incompatible with any employment with the authority. In such cases, the authority may terminate your employment.

It is not possible to provide a complete list of the circumstances in which this might arise, but the following are examples of incompatible private interests which might justify termination of employment:

- membership of an organisation whose objects or activities conflicted with the authority's commitment and statutory duties to promote good relations between different racial groups, or to protect children and vulnerable citizens;
- seeking or acceptance of employment with an organisation which acts in competition with the Council's own operations, for example where an officer whose job was as Commercial Manager of one of the authority's trading organisations accepted a post with a contractor in the same field of activity;
- seeking or acceptance of employment with an organisation which is seeking a contract with the authority, for example where an officer whose job comprised the procurement of IT accepted a post with a computer software provider which was currently tendering for a substantial software contract;
- standing as a political party's candidate for election to public office, whether with this authority or elsewhere, where you are the holder of a politically-restricted office with the authority.

## **6 Consequences of failure to declare an external conflict of interest**

- (a) The form for declarations of interests and this policy set out clearly the descriptions of interests which you are required to declare. Deliberate failure to declare a relevant interest, or to notify the appropriate officer of a change in any

declared interest is a breach of trust with the authority as your employer and may lead to disciplinary action.

- (b) Failure to declare an interest in a contract which has been, or is proposed to be, entered into by the authority as soon as practicable after becoming aware of the interest is a criminal offence which can lead to a fine of up to £2,500. This does not apply to contracts between you and the authority, such as your contract of employment, the purchase of tickets at events or venues operated by the authority, or your purchase of goods or services from the authority. However, it does apply not just to contracts entered into directly between yourself and the authority, but also to contracts between your spouse and the authority (if you are aware of them) and contracts between any legal partnership, company or other body in which you have an interest and the authority.

Links to relevant information:

Policies:

Standard documentation:

Private Interests form - Form 1

Conflicts of Interest Form – Form 2

Interests in Contracts Form - Form 3

Other:

Constitution

For further advice contact :

**Employee Relations Policy Officer**  
**Corporate Human Resources**  
**Manager**  
**Corporate Legal Manager**  
**Audit Manager (or equivalent)**

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Policy Sponsor :

**Corporate Legal Manger/Monitoring**  
**Officer**