

Office of the Parliamentary and Health Service Ombudsman

CONFLICT OF INTERESTS POLICY

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PURPOSE AND SCOPE OF POLICY

1. PHSO's core values are Excellence, Leadership, Integrity and Diversity. Our commitment to maintaining our integrity requires us to be open, honest and straightforward in all our dealings and to use time, money and resources effectively, so that:
 - we are consistent and transparent in our actions and decisions;
 - we take responsibility for our actions and hold ourselves accountable for all that we do; and
 - we treat people fairly.
2. As part of this commitment we seek to ensure that we are open and clear about any actual or potential conflicts of interests between our work and other interests and relationships, and this policy provides the framework for dealing with any actual or potential conflicts of interests. The definition of a conflict of interests in this context is provided at Annex I.
3. This policy covers all PHSO employees, including those on fixed-term and casual contracts and those on secondment from other organisations. A conflict of interests may arise from an employee's own interests or activities or from that of a member of their family or an individual with whom they have a close personal relationship. In addition this policy covers applicants for PHSO jobs.
4. Agency workers, contractors and consultants working at PHSO are also required to declare any conflicts of interests pertaining to the work they have been engaged to undertake, in line with the principles and guidelines laid out in this policy.
5. This policy should be read in conjunction with PHSO's Code of Conduct and the accompanying Guidance Notes.
6. Governance and accounting requirements mean that certain types of interests that need to be declared under this policy must also be disclosed in PHSO's Resource Accounts. This is normally restricted to the financial and commercial interests of senior managers and other key decision makers.

PRINCIPLES

7. We accept that PHSO employees can have a variety of interests and relationships within and outside the work environment and that most of these interests do not impact upon the work of PHSO in any way. However, we also recognise that PHSO's effectiveness as an organisation depends on its reputation for being open, fair and impartial and it is essential that we are scrupulous in maintaining this reputation.
8. Primary responsibility for identifying and declaring any actual or potential conflicts of interests rests with the employee. All employees are required to seek advice immediately if they intend to take up a new interest, activity or relationship that may create or be perceived to create a conflict of interests or if an existing one develops in such a way.
9. PHSO requires that its employees behave in all work-related situations in a way that reflects PHSO's core values outlined above and in accordance with PHSO's Code of Conduct. Behaviour, conduct or actions that breach the Code of Conduct (such as a conflict of interests which brings into jeopardy the reputation of PHSO) are likely to be treated as serious misconduct under PHSO's Disciplinary policy.
10. We seek to ensure an appropriate balance between transparency and privacy, and information declared for the requirements of this policy will be published only as necessary to demonstrate probity and inspire confidence in the work of PHSO. Information declared will be processed in accordance with Data Protection Act (1998) principles and will not be used for any other purpose.
11. If a potential employee (job applicant) has an actual or potential conflict of interests in relation to the job applied for, we will discuss this at an appropriate stage of the process. If no resolution is possible, however, PHSO reserves the right to withdraw a job offer on this basis.
12. Our policy will comply with and exceed statutory requirements, as appropriate and in accordance with current good practice.

OBJECTIVES

13. The objectives of this policy are that:
 - all PHSO employees have a clear understanding of what constitutes a conflict of interests;
 - all employees declare potential conflicts of interests promptly and regularly;
 - all employee are aware of the consequence of failing to declare a conflict of interests;
 - the Conflict of Interests Register in HR is kept updated, secure and confidential at all times; and
 - PHSO can comply with its obligations to disclose the financial and commercial interests of senior managers and other key decision makers in the Resource Accounts where required.

OUTCOMES

14. The outcomes of this policy are that:
 - PHSO maintains its reputation for integrity, transparency and fairness; and
 - any declared conflicts of interests are managed effectively so as to protect the interests of both our customers and employees.

MONITORING AND REVIEW

15. HR will keep this policy under review in consultation with Senior Management and Office Trade Unions on an ongoing basis.
16. HR will provide the Executive Board with information from the Conflict of Interests Register as and when necessary for operational or management purposes.
17. HR will monitor the implementation of this policy to ensure that the Conflict of Interests Register is updated and kept secure and confidential at all times.
18. A formal review of this policy will take place every 3 years unless there is a significant change in relevant legislation which triggers a review before then.

DATE AGREED BY EXECUTIVE BOARD: 27 November 2007

Annex I: Definitions and examples

1. Definitions

1.1. An actual or potential conflict of interests can arise if an employee:

- enters into any official, professional or personal relationship which may, or could reasonably be perceived to, cause them inappropriately or unjustifiably to limit the scope, extent or rigour of their work or impair the objectivity of their judgment; or
- makes a complaint as a member of the public to PHSO or another Ombudsman or a body in jurisdiction, or has a close personal relationship with an individual making such a complaint.

1.2. The PHSO Code of Conduct requires employees:

- not to misuse information acquired in the course of their official duties nor disclose without authority information received in confidence from other individuals or organisations;
- not to accept gifts, hospitality or benefits of any kind from a third party which may be seen to compromise their personal judgment or integrity;
- not to take part in any political or public activity which compromises or may be seen to compromise their impartiality;
- not to misuse their official position or information acquired in the course of their work to further their personal interests or those of others, during or after their employment at PHSO; and
- not to undertake any work outside PHSO (whether paid or unpaid) that may create a conflict of interests.

1.3. An actual or potential conflict of interests may arise from their own interest or activity or from that of a family member or an individual with whom they have a close personal relationship.

2. Examples

2.1. Some examples of potential conflicts of interests are given below but this is not intended to be a definitive list. The overriding test to be used is the definition given in para 1 above and employees must seek advice from their line manager and/or HR. An employee should always register the actual or potential conflict of interests if in any doubt.

2.2. **Financial or personal interests:** There is potential for conflict of interests if the employee or someone close to them has a personal interest (such as previous employment or non-executive directorship) or financial interest (such as investment, employment or the expectation of future employment) in an organisation which:

- is under investigation or is linked to an investigation conducted by PHSO;
- is within PHSO jurisdiction or within the jurisdiction of another body with which PHSO is conducting a joint investigation; or
- transacts business or has any kind of commercial contract with PHSO.

2.3. **Political activities:** PHSO places a restriction on employees' engagement in political activities which may compromise or be seen to compromise their impartiality. Employees may not stand as candidates in parliamentary elections and require prior permission from PHSO to stand for local authority elections, canvas on behalf of candidates or publicly express views on matters of political controversy.

2.4. **Membership:** An actual or potential conflict of interests may arise if the employee is a member of an organisation which is not open to the public without formal membership and commitment of allegiance, and which has secrecy about rules, membership or conduct (eg. Freemasons).

- 2.5. **Acceptance of gifts or hospitality:** This may create a conflict of interests in relation to both investigations and purchasing supplies and services or awarding such contracts.
- 2.6. **Relationships at work:** An intimate or close (eg. family) relationship between two employees may lead to a conflict of interests (eg. if one manages the other or if they interact professionally) and must be disclosed.

Annex II: Dealing with a conflict of interests

1. Primary responsibility for identifying and declaring any actual or potential conflict of interests rests with the employee. All employees are required to seek advice immediately if they intend to take up a new interest, activity or relationship that may possibly create or be perceived to create a conflict of interests or if an existing one develops in such a way.
2. If an employee considers that there may be a potential conflict of interests they should:
 - seek advice from their line manager and involve HR as necessary; and
 - if there is an actual or potential conflict of interests, declare this in the Register of Interests.
3. Once a conflict of interests has been identified and declared, the employee and their line manager should discuss what action can be taken to resolve the conflict. This may involve:
 - a reorganisation of work responsibilities (eg. reallocating a case to another employee);
 - moving the employee to another area of work;
 - an agreement that the employee will give up the interest that is causing the conflict, if this is possible; or
 - not taking any action but being aware that future action may be required if the potential conflict becomes an actual conflict of interests.
4. Where an employee wishes to make a complaint to the Parliamentary and Health Service Ombudsman, another Ombudsman or a body in jurisdiction, they should first discuss this with their line manager to consider how this may be approached in such a way that does not advantage, nor disadvantage the employee, and ensures that the credibility of the PHSO service is maintained throughout any subsequent investigation.
5. With regard to complaints made to the Parliamentary and Health Service Ombudsman by employees or their close relatives, the following steps should be taken:
 - The manager of the person making the complaint (or with an interest in the complaint) and the manager of the individual dealing with the complaint should take advice from their respective Directors as to how the complaint should be handled. There should be a clear, agreed plan for this, which should be documented and agreed by both managers, signed off by their Directors and copied to the complainant and investigator.
 - The plan must ensure that the complainant and the investigator and their team are kept appropriately separate. For example, in the event that the employee is in the team that would normally have investigated the case, then the complaint should be transferred to a different team.
 - The Systems Administrator for Visualfiles should be contacted to arrange for the individual making the complaint to be barred from accessing the case on Visualfiles (which means that the complainant would not be able to see the file cover or access any documents about their case).
 - The organisation complained about should be told that the complainant is an employee and of the steps that we have taken to prevent any conflict or potential conflict of interests. A brief note of the steps taken or planned should also be entered in the Register of Interests.
6. These steps should also be taken in cases where an employee is a witness in an investigation.
7. PHSO will always seek to resolve a conflict of interests collaboratively with the employee, so that any action to be taken is discussed and agreed. However, the requirement to protect the reputation and integrity of PHSO is paramount and if a mutually satisfactory solution cannot be agreed with the employee and/or if immediate action is required, necessary management steps will be taken to resolve the situation, for example, removing an employee from a particular case.

8. In the unlikely event that an employee refuses to co-operate in resolving a conflict of interests or fails to declare a conflict of interests they may be subject to formal disciplinary action in accordance with PHSO's Disciplinary policy.
9. A Register of Interests is maintained by HR who send out an annual notice reminding employees that the Register must be updated on a regular basis (see Annex III for a copy of the Annual Declaration Form). For governance reasons Executive Board and Advisory Board members are asked twice a year to confirm that their potential conflicts of interests have not changed.
10. The Register of Interests for Senior Staff is included in the PHSO publication scheme and is, therefore, openly available. The section for all other employees is not published; however, PHSO reserves the right to disclose interests on request or as necessary, subject to the principles of the Data Protection Act 1998.
11. Individuals applying to join PHSO, contractors and secondees will be required to complete a Declaration of Interests. If there are interests which create an actual or potential conflict in relation to the job or contract applied for, these will be discussed with them to agree a resolution. It is expected that only in the most exceptional circumstances will a Declaration lead to the withdrawal of a job offer. An example might be a post involving purchasing decisions offered to a candidate who was unwilling to sever links with a key supplier.
12. Explanations of PHSO Policy on Conflict of Interests will form part of the induction training for all employees.
13. Further advice and information on Conflict of Interests is available from HR Employee Relations.



ANNUAL DECLARATION: CONFLICT OF INTERESTS

Whilst working for and on behalf of PHSO you have the responsibility to identify if an actual or potential conflict of interests exists. You will be asked to complete this declaration on an annual basis; however, if an interest arises during the year please speak to your line manager. If you are unclear about your interest please speak to your manager and HR before completing the form, but if in doubt it is better to declare the interest even if there does not appear to be any actual or potential conflict.

I confirm that I have read and understood the Conflict of Interests policy.

I declare that: *delete as appropriate

***No** I have nothing to declare.

***Yes** I would like to declare an official, professional or personal interest (see para 1, Annex I in the Conflict of Interests policy for definitions and further information).

If yes, please outline details of your interest:
Date interest expires: (if applicable)

Name:

Job title and pay band:

Signed:

Date:

Please return to Employee Relations on the 14th Floor.