



Northern Ireland

Public Services

Ombudsman

Policy on Handling Conflicts of Interest

November 2022

Introduction

This policy has been developed by the Northern Ireland Public Services Ombudsman (the Ombudsman) to provide guidance on circumstances where any actual or perceived conflict of interest exists in relation to any investigation or adjudication function of the Ombudsman or in relation to any function of the Ombudsman. The Ombudsman recognises the importance of having a policy on Conflicts of Interest and is committed to addressing issues of conflict of interest.

The Ombudsman considers it important to remind all staff and other appointees that this policy is underpinned by the Values of her Office which are:

Fairness

Independence

Excellence

People Focused

The policy applies to the Ombudsman her staff and all other appointees including the independent members of the NIPSO Audit and Risk Committee. The policy will be published on the Ombudsman's website and reviewed regularly by the Senior Management Team (SMT). The SMT will ensure that all staff receive training on this policy as part of their induction and/or refresher training as appropriate.

The Purpose of this Policy

There is clearly a public interest in protecting the integrity of public decisions and in managing the private interest of individual officers of a statutory office that provides a public service such as the Ombudsman's office.

This policy has a dual purpose

1. To clearly set out the Ombudsman's commitment and that of her staff and other appointees to the effective management of Conflicts of Interest;
2. To provide a framework for dealing with those conflicts (including potential/perceived) in a proportionate, consistent and open and transparent manner.

It is difficult for a policy to cover every circumstance and it is important to retain some flexibility to allow for individual cases where an objective judgment can be made by the Ombudsman and the Senior Management Team (SMT).

What is a Conflict of Interest?

In March 2015 the NIAO published a Good Practice Guide on Conflicts of Interest (see link [here](#)). That guide defines a conflict of interest as follows:

'A conflict of interest involves a conflict between the public duty and the private interest of a public official in which the official's private-capacity interest could improperly influence the performance of his/her official duties and responsibilities.'

A conflict of interest can also be **perceived**.

As well as being actual, it is important to remember that conflicts of interest can also be potential or perceived. A perceived conflict of interest exists where it could be perceived, or appears, that private capacity interests could improperly influence the performance of the Ombudsman or a member of her staff's official duties and responsibilities. While such a conflict may pose no actual risk to any function of the office, it requires proper management in order to minimise the risk of reputational damage both to the organisation and the individual(s) concerned. An appearance of a conflict of interest in terms of public perception can be just as significant as an actual conflict of interest.

Whose interest?

The interest in question need not be that of the Ombudsman, her staff or other appointees. It can also include the interests of close relatives¹, friends or associates who have the potential to influence the individual's behaviour.

The NIAO guide describes a 'friend or associate' as someone with whom the individual has a longstanding and/or close relationship, socialises with regularly or has had dealings with which may create a conflict of interest.

Is a conflict of interest always wrong?

In many instances a conflict of interest will be neither wrong nor unethical. It is important that the conflict is identified early and any risks are managed appropriately. In general the best way of dealing with conflicts of interest is to prevent them from arising in the first place. Where conflicts occur, it is important to declare them and then handle them appropriately.

¹ The NIAO guide describes a 'close relative' as the individual's spouse or partner, children (adult and minor), parent, brother, sister, in-laws and the personal partners of any of these. For other relatives it is dependent upon the closeness of the relationship and degree to which the decisions or activity of the public entity could directly or significantly affect them.

How do I recognise a conflict of interest?

A checklist to assist in identifying a conflict of interest is attached at **Appendix 1** to this policy. This checklist was developed by the NIAO. If in doubt, staff should seek the advice of their line manager and/or the Chair of the Audit and Risk Committee. This attached checklist is to be used in considering whether a conflict or perceived conflict of interest has arisen or may arise.

Managing the Conflict

Some conflicts of interest are relatively easy to identify and manage. Where a conflict arises, the Ombudsman or relevant staff member/appointee is prohibited from:

- involvement in any decision that could lead to financial gain or benefit to the individual, close relatives, friends or associates;
- involvement in any decision that could lead to the appointment of a close relative, friend or associate;
- involvement in, or influencing, the award of a contract or grant where the individual is connected to any of the tenderers or applicants;
- carrying out business on behalf of the Office with their own or a close relative's company;
- owning shares in, or working for, organisations that have dealings with the Ombudsman or Office; and
- Accepting gifts or hospitality etc which could create or appear to create an undue obligation or to interfere or appear to interfere with the individual's objective judgement when undertaking his/her duties

Declaration of Interest

The Ombudsman, her staff and other appointees must declare any personal or business interests which may conflict with their official duties and responsibilities. Any such conflicts must be identified at an early stage so that appropriate action can be taken. The Ombudsman, her staff or other appointees must not participate in the consideration of any matter in which they have a financial or non-financial interest. A register of the internal and external interests of the Ombudsman, her staff and the independent chair and members of the NIPSO Audit and Risk Committee will be kept for that purpose. The register shall be updated at the end of each calendar year and is available for public inspection and audit. The Ombudsman, members of staff and all other appointees make an initial declaration of interest when they join the Office by completing a standard form, as attached to this policy at **Appendix 2**.

Completed declarations should be submitted to corporate services who will ensure recording and inclusion in NIPSO's register of interests. Where applicable the DOFCS will notify others, including

the relevant line manager, the Ombudsman and/or the Deputy Ombudsman where it is appropriate to do.

Any declarations made will cease to be available for public inspection once the individual concerned leaves the Office.

The following identifies the key interests that the Ombudsman her staff members and other appointees are required to declare in the Register (the list is not exhaustive):

- (a) Bodies of which the Ombudsman, staff member or appointee is or was (within the previous four years) a paid employee.
- (b) Non-profit making organisations (e.g. charities, housing associations) of which the Ombudsman, staff member or appointee is a trustee, or on the committee of management or other controlling body and which might have significant official dealings with the individual or the Ombudsman collectively.
- (c) Any land or property in which the Ombudsman, staff member or appointee has an interest and which is relevant to the Ombudsman's functions.
- (d) Any company or organisation in which the Ombudsman, staff member or appointee (or any close relative* thereof):
 - (i) has/have a controlling interest, or
 - (ii) is/are a director or partner, or
 - (iii) has/have shares or securities with a nominal value of more than £25,000 or one hundredth of the total issued share capital, and which could be involved in the supply of goods or services to, or have business dealings with, the Office.
- e) Any employment, appointment or other business relationship with a body which is within the jurisdiction of the Ombudsman.

* *Close Relative* is as defined on page 2 of this policy.

Individual declaration of interest forms are compiled into a 'Register of Interests'. The register enhances transparency within the Office and is a useful tool to help identify conflicts at an early stage and take the necessary steps to manage them. The register should be kept up-to-date through the annual declaration of interests process described above. The Ombudsman, her staff and other appointees are required to declare any changes to their interests as and when they arise.

A Register of Interests should record the following information for each conflict of interest:

- the individual concerned;
- the circumstances involved;
- an assessment of the situation;
- how the matter was resolved or how the risk was reduced/eliminated; and ☐ any action taken by the organisation.

In addition to the annual declaration of interests and notification of changes as they arise, conflicts of interest should also be declared at the beginning of each Audit and Risk Committee and SMT meeting and at any other point should they arise in discussion.

A declaration of interests form should also be completed as part of the appointment process in the Office. This allows any conflict to be explored to determine how it might affect the individual's ability to contribute effectively and impartially to their proposed role and how the conflict may be handled following appointment. If an interview panel regards a conflict as serious, the individual's application may be rejected.

Awareness of potential conflicts of interest

When a conflict of interest has been identified, the Ombudsman must carefully consider what action, if any, needs to be taken to adequately avoid or mitigate the associated risks. If the conflict relates to the Ombudsman the matter should be considered by another Ombudsman to consider appropriate action, with an update provided to the Chair of the Audit and Risk Committee. The seriousness of the conflict, as well as the range of options available to handle, lessen or monitor it, must be assessed. Policies and procedures cannot cover every type of situation which may occur and judgement needs to be exercised in individual cases. This is particularly important where the circumstances giving rise to the conflict of interest are novel or rare, or where the degree of seriousness needs to be taken into consideration.

While individuals are best placed to identify whether they have a conflict of interest, and are responsible for declaring it, public bodies should not rely solely on individuals. Line managers and SMT should always be alert for situations that may create a conflict, particularly one that has not yet been declared.

Gifts and Hospitality

The Ombudsman and all of her staff must not accept hospitality or any material gift which might prejudice or conflict with their duties or responsibilities as set out in the Public Services Ombudsman Act (Northern Ireland) 2016, or this policy. This is further detailed in NIPSO's separate "Gifts and Hospitality Policy".

Related Party Transactions

As the Ombudsman's Office follows generally accepted accounting practice to the extent that it is meaningful and appropriate in the public sector context (as interpreted by the Financial Reporting Manual (FRM)), the Ombudsman and her staff must facilitate compliance with the need under International Accounting Statement (IAS) 24 for material transactions with related parties to be disclosed in financial statements. 'Related parties' in IAS 24 include a person or a close member of

that person's family as interpreted under the relevant section of HM Treasury's *Financial Reporting Manual (FReM)*.

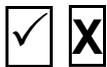
Failure to Comply

A failure to comply with this policy by any member of staff may be a disciplinary offence.

Margaret Kelly
OMBUDSMAN
7 November 2022

Appendix 1 Figure 1: Checklist for public officials and Board members

Do you think you have an actual, perceived or potential conflict of interest? The following questions may help when assessing an issue being considered and the situation in which you are involved².



- Would I or anyone associated with me benefit from, or be detrimentally affected by, my proposed decision or action?
- Could there be benefits for me in the future that could cast doubt on my objectivity?
- Do I have a current or previous personal, professional or financial relationship or association of any significance with an interested party?
- Would my reputation or that of a relative, friend or associate stand to be enhanced or damaged because of the proposed decision or action?
- Do I or a relative, friend or associate stand to gain or lose financially in some covert or unexpected way?
- Do I hold any personal or professional views or biases that may lead others to reasonably conclude that I am not an appropriate person to deal with the matter?
- Have I contributed in a private capacity in any way to the matter my organisation is dealing with?
- Have I made any promises or commitments in relation to the matter?
- Have I received a substantial gift, benefit or hospitality from someone who stands to gain or lose from my proposed decision or action?

² Managing Conflicts of Interest in the Public Sector- toolkit, Independent Commission Against Corruption and Crime and Misconduct Commission (Queensland), Sydney and Brisbane, 2004

- Am I a member of an association, club or professional organisation or do I have particular ties and affiliations with organisations or individuals who stand to gain or lose by my proposed decision or action?

- Could this situation have an influence on any future employment opportunities outside my current official duties?

- Could there be any other benefits or factors that could cast doubt on my objectivity?

APPENDIX 2 to NIPSO Policy on Handling Conflicts of Interest

DECLARATION OF INTEREST FORM

Period: 1 January 20 to 31 December 20

Surname:	
Forename:	
Title:	
Department:	
Job Title:	
Date of Appointment to Current Position:	
Date of NIPSO Appointment (if different):	

Where relevant in the boxes below please include dates, role and any specific financial interests

1. Interests in bodies within NIPSO’s jurisdiction – any relationship with an authority that is within NIPSO’s; Directorships, paid employment, consultancy, (including close relative³ connections).

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2. Company interests – any relationship with a company or commercial organisation; Directorships, paid employment, consultancy, (including close relative⁴ connections).

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3. Land or Property Holdings

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³ The NIAO describes a ‘close relative’ as the individual’s spouse or partner, children (adult and minor), parent, brother, sister, in-laws and the personal partners of any of these. For other relatives it is dependent upon the closeness of the relationship and degree to which the decisions or activity of the public entity could directly or significantly affect them.

⁴ The NIAO describes a ‘close relative’ as the individual’s spouse or partner, children (adult and minor), parent, brother, sister, in-laws and the personal partners of any of these. For other relatives it is dependent upon the closeness of the relationship and degree to which the decisions or activity of the public entity could directly or significantly affect them.

4. Charities – trusteeships, governorships or employment with any charities or voluntary organisations.

5. Public Appointments – remunerated or unremunerated.

6. Memberships – including membership of professional or external bodies, trade or other associations.

7. Close Relative Links – specific close relative interest in any of the above.

8. Other Interests – any other interests held by you or your close relatives (including self employment) , relevant to the business of NIPSO

I confirm that the above declaration is complete and correct to the best of my knowledge and belief. The interests I have declared include both direct and indirect interests (i.e. those of a close relative, friend or associate) and any specific financial interests are shown.

Signature _____ **Date** _____

PRINT NAME _____

NOTE: Upon completion, annually or when relevant new interests/connections arise, please submit this declaration to the Director of Finance and Corporate Services (DOFCS) for recording and inclusion in NIPSO's register of interests. Where applicable the DOFCS will notify others, including your line manager, the Ombudsman and/or the Deputy Ombudsman where it is appropriate to do.