

Conflicts of Interest

Purpose and Scope

This Policy deals with two distinct types of conflicts of interest. These are conflicts that occur between an officer's official duties and their private interests (i.e. external conflicts of interest) and those that occur within the Council often when the Council is carrying out more than one of its functions (ie internal conflicts of interest). This Policy is therefore divided into two parts – Part A for external conflicts of interest and Part B for internal conflicts of interest.

Part A – 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.

Part B – Internal Conflicts of Interest

Officers of local authorities will also, from time to time, find that there is a conflict of interests between different departments or even within departments. This is particularly likely where the Council has more than one function on a project, for example being both landowner and Planning Authority, or acting through a Trust as well as in its usual corporate functions. In these situations the Council is not able to assign its functions to others and therefore it is important to ensure proper governance arrangements are in place. Officers may find they are advising one side of the project and colleagues within the same team are advising the other side. It is important in situations such as this to ensure that there is clarity of role for officers, that their ability to act independently is not compromised by undue influence and that there is a proper audit trail to ensure that there is no maladministration (or perception of such) which may make decisions vulnerable to challenge.

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;

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- (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.
- (f) how to identify potential internal conflicts of interest before they arise
- (g) what issues need to be considered
- (h) what procedures may be considered to provide safeguards when working with potential internal conflicts of interest.

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

Part A – 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

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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 of the Council, but the public perception of impartiality is just as important. So, whenever you have a conflict of interest, 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 officers** are defined as:

- For the Chief Executive and Strategic Directors, the appropriate officer is the Monitoring Officer or in his or her absence the Corporate HR Manager
- For Heads of Service and equivalent (other than the Monitoring Officer), the appropriate officer is their Strategic Director or, in his/her absence, the Monitoring Officer
- For the Monitoring Officer, the appropriate officers are the Chief Executive or the Corporate HR Manager
- For all other officers, their Head of Service or equivalent

Forms will be held as appropriate, by the Chief Executive, Strategic Directors or Monitoring Officer.

- (b) You must advise your 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 submit a revised conflicts of interest form for inclusion in the register.
- (c) There are specific requirements to follow where a private interest you have previously declared could conflict with a decision which you may be asked to take in the course of your job. You must notify your appropriate officer of such a situation, in writing as soon as possible, by entering it on the appropriate **Conflicts of Interests Register Form 2**. The Appropriate Officer needs to consider the request and decide on the course of action to be taken, if any. Conflicts of interest you would need to declare include where you have previously declared ownership of your home, but now a planning application has been received from a supermarket company which could adversely affect the property and in your job they you would be required to provide technical advice in relation to the planning application. Other areas where potential conflicts may arise due to the interests of your family, friends or close associates include the

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processing of grants to voluntary organisations, housing needs assessments and licence applications. You should declare all such interests.

These forms will be kept as appropriate, by the Chief Executive, the relevant Strategic Director or the 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 Council complies with this policy, the internal audit service will carry out a regular audit of the process.
- (e) You must declare all interests in contracts on the **Interests in Contracts Form 3** in line with the requirements of the Council's Contract Procurement Rules. The Monitoring Officer is responsible for holding a register of all such forms.

3. Inspection of the Register

- (a) You may ask the appropriate officer to see the declarations of interest, which he/she holds on your behalf, at any time and correct or update your declarations.
- (b) The Register of Interests is open to inspection at any time by the appropriate officers and the Corporate HR Manager.
- (c) The Register of Interests is also open to inspection by the authority's auditors, both 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 you 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.

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- (b) You must first seek the written consent of your appropriate officer if you wish to take on any personal interest which is likely to:
- (i) conflict with you effectively undertaking 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
 - (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
- (c) Where your appropriate officer refuses such consent, you may appeal to the Chief Executive or the Corporate HR Manager.
- (d) Where the personal interest is closely associated with your job with the authority and you would receive reward or remuneration for undertaking that interest, your appropriate officer may allow you to carry out the personal interest but require you to pay 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 interest 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, and 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

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should not take any part in the assessment of that particular application. However, apart from this one discrete matter, you may continue with the performance of the rest of your job.

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 interest 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 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 or leave of absence. The authority will consider the potential benefits to it 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.

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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 conflict 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 accepting 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) It is a criminal offence if you fail 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. You could be fined 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 the authority and any legal partnership, company or other body in which you have an interest.

Part B – Internal Conflicts of Interest

1. What is an Internal Conflict of Interest?

The Council has a number of different functions. For example it is a statutory authority for planning, licensing, environmental protection and other functions. It also provides a number of non-statutory services. The Council is also a landlord, owning various property interests within the district. The Council also functions as a community leader, promoting projects for the betterment of the district. The Council often faces situations in which more than one of its functions is engaged.

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Examples could include a town centre redevelopment promoted by the Council which will be decided upon by the Council acting as Local Planning Authority. Another example could be events promoted in the Council's community facilities which are subject to the Licensing Act 2003, or an event which generates noise complaints to environmental protection. These are often referred to as situations where the Council is 'wearing more than one hat'.

You may be placed in a position where you are acting for or advising one function and a colleague within the same team is acting for or advising the other function. Alternatively, you may be requested to advise both functions. It is recognised that this may place you in a position in which you do not feel comfortable. This is a good indicator of you being in a conflict of interest situation. One of the benefits of putting into place procedures to deal with internal conflicts of interest is to ensure that you and your colleagues are clear about your roles. The procedures will also provide an audit trail of how information has been shared which will protect both you and your colleagues and the Council.

It is important to identify where these internal conflicts of interest arise in order to ensure that appropriate safeguards are in place. The necessary safeguards need to be assessed on a case by case basis depending on the nature of the conflict and the extent of risk that the conflict presents.

Where the interests of two or more functions are aligned (ie the same) this is not a conflict of interest. However, conflicts may still arise during the course of a project and therefore the situation should be kept under review. It should also be noted that even where two or more functions have the same aim it may be that there are conflicts

2. Identifying a potential Internal Conflict of Interest

During the planning stages of a project, prior to its initiation, the lead officer should consider whether any conflicts of interest between the Council's different functions are likely to arise. If any are identified, the lead officer should seek guidance from the Corporate Legal Manager and Audit Manager as to whether the situation is an internal conflict of interest and, if so, the severity of the potential conflict.

It is recognised that some internal conflicts of interest may only materialise during the course of a project or event, for example when an unexpected situation arises. The lead officer should immediately seek the guidance of the Corporate Legal Manager and Audit Manager and, where possible, avoid taking any further steps on the project until that advice has been obtained.

3. Dealing with Internal Conflicts of Interest

Once a conflict of interest has been identified the relevant lead officer must identify, by reference to the specific services and activities being carried out, procedures to be followed and measures to be adopted in order to manage such conflicts. It is recognised that there is no 'one size fits all' solution to internal conflicts of interest and therefore the lead officer may wish to seek guidance from

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the Corporate Legal Manager and Audit Manager on possible procedures to adopt.

The lead officer must adopt procedures and measures which:

- (a) ensure that relevant officers engaged in different business activities involving a conflict of interest carry on those activities at a level of independence appropriate to the size of the task and to the materiality of the risk of damage to the interests of the Council; and
- (b) include such of the following as are necessary and appropriate for the officers to ensure the requisite degree of independence:
 - (i) effective procedures to prevent or control the exchange of information between relevant officers engaged in activities involving a risk of a conflict of interest where the exchange of that information may harm the interests of one or more of the Council's interests;
 - (ii) the separate supervision of relevant officers whose principal functions involve carrying out activities on behalf of, or providing advice to, service areas whose interests may conflict, or who otherwise represent different interests that may conflict, including those of the Council;
 - (iii) the removal of any direct link between the remuneration of relevant officers principally engaged in one activity and the remuneration of, or revenues generated by, different officers principally engaged in another activity, where a conflict of interest may arise in relation to those activities;
 - (iv) measures to prevent or limit any officer from exercising inappropriate influence over the way in which a relevant officer carries out activities or provides advice; and
 - (v) measures to prevent or control the simultaneous or sequential involvement of a relevant officer in separate services or activities where such involvement may impair the proper management of conflicts of interest.

If the adoption or the practice of one or more of those measures and procedures does not ensure the requisite level of independence, the service area must adopt such alternative or additional measures and procedures as are necessary and appropriate.

4. Examples of types of procedure for managing internal conflicts of interest

There are a number of different ways to manage an internal conflict of interest and the appropriate response should be considered on a case by case basis in consultation with the Corporate Legal Manager and Audit Manager. Listed below are example procedures which might be considered. Please note that this list is not exhaustive.

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- (i) Effective procedures to prevent or control the exchange of information between relevant officers engaged in activities, for example password protecting or limiting access to files and documents on G drive, ensuring confidential storage of any paper files, establishing communication protocols so that there is an audit trail of contact between the officers.
- (ii) Separate supervision of relevant officers, for example by changing line management or supervision arrangements in relation to specific projects or issues.
- (iii) Measures to prevent or limit any person from exercising inappropriate influence, for example through communication protocols or supervision arrangements or reminding of relevant Council HR policies.
- (iv) Measures to prevent or control the simultaneous or sequential involvement of a relevant officer in separate services or activities, for example through workload management, line management arrangements.
- (v) Ensuring the relevant officers have separate access to professional advisors including, where necessary, the use of external consultants.

Another method by which the Council can manage internal conflicts of interest is to establish and maintain internal arrangements restricting the movement of information within the organisation. This requires information held by an officer in the course of carrying on one part of the Council's business to be withheld from, or not to be used by, officers in the course of carrying on another part of the Council's business. Such an arrangement is typically referred to as a Chinese Wall, although is now more often known as an Ethical Wall or Information Barrier.

Information Barriers are administrative and physical barriers, internal arrangements designed to restrict the flow of sensitive information and to manage potential conflicts of interest. Information Barriers can be established and maintained in the following ways:

- A physical barrier restricting the flow of information between officers, which is monitored and enforced.
- Restricted access to documents and information, including electronic documents.
- Prohibition and restriction of certain communications between officers.
- A written policy and procedure statement for a project affected by an internal conflict of interest, communicated to and acknowledged by officers, and disciplinary sanctions for breach of the policies and procedures.
- Acknowledgements by officers of receipt of policies, attendance at training concerning Information Barriers and the management of conflicting interests.
- Separate management and supervision of officers on different sides of the Information Barrier. Limiting employee crossings of the Barrier.
- Review and monitor use of the Barrier.
- Reminding officers that if they become aware of information due to the failure of an Information Barrier or for any other reason, which could lead to an internal conflict of interest you must refer the matter to the Monitoring Officer.

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5. Consequences of Failing to Identify a Conflict of Interest

The Council strives to ensure that the performance of multiple functions by its relevant officers does not and is not likely to prevent those officers from discharging any particular functions soundly, honestly and professionally. Its policies concerning the segregation of duties within the Council and the prevention of internal conflicts of interest will be monitored to ensure compliance. This monitoring will include evaluation of the adequacy and effectiveness of its systems, internal control mechanisms and arrangements in relation to internal conflicts of interest. It will take appropriate measures to address any deficiencies. The Council is aware that effective segregation of duties is an important element of its commitment to ensuring good governance. Effective management of conflicts of interest protects the Council against negative perception of its activities when it is simultaneously exercising more than one of its functions.

Where the Council is unable to ensure the complete segregation of duties due to a limited employee base, it will ensure adequate compensating controls are in place including the frequent review of an area by relevant senior managers.

Failure to effectively manage internal conflicts of interest exposes the Council to risk of challenge on its decision making processes.

Deliberate or negligent failure to follow procedures put in place in relation to an internal conflict of interest may lead to disciplinary action.

<p>Links to relevant information:</p> <p>Policies:</p> <p>Standard documentation: Private Interests form - Form 1 Conflicts of Interest Form – Form 2 Interests in Contracts Form - Form 3</p> <p>Other: Constitution</p>	<p>For further advice contact :</p> <p>Employee Relations Policy Officer Head of Human Resources Corporate Legal Manager Audit Manager</p>
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