

Conflicts of Interest Policy and Procedures

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Alternative Formats

This documentation can be made available in alternative formats such as large print, Braille, disk, audio tape or in an ethnic-minority language upon request. Requests for alternative formats can be made to the Probation Board using the following contact information:

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1. Introduction

PBNI is committed to the values of probity and accountability which foster a positive organisational culture. PBNI requires all staff, at all times, to act honestly and with integrity, and safeguard the public resource for which they are responsible. The purpose of the arrangements set out in this policy is to safeguard the integrity of all staff and maximise public confidence in the PBNI's delivery of public services by providing a framework through which conflicts of interest can be identified, declared and managed. This builds on the requirements currently set out within the PBNI code of conduct.

2. Application

This policy applies to all those who work for PBNI including Board members, employees, agency workers, secondees, students and volunteers.

3. Definition

For the purposes of this policy a conflict of interest is defined as ;

'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, and a perceived conflict is where it could be perceived, or appears, that private-capacity interests could improperly influence the performance of a Staff or Board members official duties and responsibilities.

The perception of a conflict can be just as significant as an actual conflict of interest. There may be no actual risk to the conduct of the individual's official duties, but it still requires proper management to minimise the risk of reputational damage. The key consideration is whether a fair-minded outside observer, acting reasonably, would conclude that there is a real possibility of bias.

4. Policy Statement and Principles

Conflicts of interest are common and often unavoidable. We all have private interests, and it is common for situations to arise where they conflict, or could reasonably be perceived to conflict, with our official duties. **It is important to note, however, that it is not wrong to have a conflict of interest but when conflicts of interest are not identified and declared – or, worse, deliberately concealed – problems can arise.** There is an onus on PBNI to manage any conflicts when they arise, the procedures outlined in this policy are designed to ensure that no-one representing the PBNI is compromised in their ability to do their job in a fair and unbiased manner, and to protect individual staff and the wider organisation from potential criticism. This policy and procedure is based on the NIAO's Conflicts of Interest: A Good Practice Guide.

5. Policy Outcome

These arrangements are in place to help staff meet their obligations under the PBNI code of conduct section 5 that states ' In carrying out their duties, PBNI staff must ensure that private interests do not influence their decisions or actions in any way and

must not use their position, or PBNI's activities to obtain a personal or business financial gain or some other advantage either for themselves or for others.'

6. Stages

The procedures below aim to set out the key stages in respect of conflicts of interests.

- Identifying a Conflict
- Declaring a Conflict
- Managing a Conflict
- Recording of a Conflict.

8. Linkages

This policy links to:

Code of Conduct

Extra Mural Activities Guidance

Procurement Policy

· Disciplinary Policy

· Grievance Policy

· Anti- Fraud Policy.

Gift & Hospitality Policy

· Complaints Policy

8. Complaints

Any complaint relating to the operation of this policy will be dealt with in accordance with the Board's Grievance Policy and Procedures or through the Complaints Policy.

9. Policy Review

This policy will be reviewed 12 months from the date of approval. Interim reviews may also be prompted by feedback, challenge or identified best practice.

CONFLICT OF INTEREST PROCEDURES

IDENTIFYING A CONFLICT OF INTEREST

1. Conflicts of interest may not always be easy to identify and will ultimately rely on the judgement of individual staff.

How do I know if I have a conflict?

2. A good general question to ask is

‘could my private interest improperly influence the performance of my official duties, or be reasonably perceived to do so?’

3. The answer will depend on the nature of the interest and the nature of your role and responsibilities.

4. A conflict does not have to be your own personal interests and can extend to a staff or Board members personal/business relationships, and these should also be considered. The following relationships should be considered.

- **Immediate family** – This is defined as spouse or partner, in-laws and step relations to the extent of parent, siblings, children, grand-parents. Or any relationship as above resulting from adoption.
- **Business Associates**- of staff/Board member, spouse or partner, including the immediate family of those associates.
- **Others** including close friends and associates with whom you have regular dealings and who could be regarded as a PBNI customer/stakeholder/service user.

5. Not every case is clear cut. The relationship between a persons official duties and private interests can be complex. If in doubt, it is better to err on the side of caution and discuss the possible conflict with your line manager, Assistant Director or HR team. A list of questions that staff/Board members can ask to help identify possible conflicts is set out in Annex A.

Types of conflict of Interests

6. It is not possible to provide an exhaustive list of all the different types of conflict of interest which can arise. There are, however, some broad types which commonly arise, some examples of which are set out below

Examples of Conflicts of Interest

Activity	Consequence
You are a close friend of an individual whose company regularly tenders for PBNI/government contracts related to your area of responsibility and you are in a position to influence the decisions in relation to the specification and procurement strategy.	You could be perceived as specifying services and influencing strategies in favour of the company your friend is employed by. Where a conflict (or perceived conflict) exists, you should: <ul style="list-style-type: none">• not get involved in the setting of criteria for the assessment of the grant, tender etc

	<ul style="list-style-type: none"> • not get involved in the actual preparation of the grant, tender, licence application (e.g. involvement with the business case or procurement strategy) or subsequent presentations, interviews etc. • not receive any relevant papers in advance of the meeting. • not be present for the discussion or voting or receive any minutes relating to that part of the meeting. • not use your position to try and improperly influence a decision by lobbying any other person.
Being involved with an external body that is seeking funding from PBNI or have inside knowledge of a funding application.	You could be perceived as influencing either the funding application or the allocation of funds if the application is successful.
You are having a meeting with a PBNI supplier/potential supplier in a restaurant/coffee shop.	This could be perceived as having too cosy a relationship with an individual supplier and they are favoured over others.
A cash payment or other offer is made from a supplier to a staff/Board member.	You could be perceived as being influenced by the supplier/accepting a bribe.
You have been offered hospitality e.g. lunch/dinner/concert tickets from an organisation and the organisation has applied for funding or is the potential bidder for a PBNI contract.	If accepted, you could be perceived as influencing the allocation of funds/award of contract if the application is successful or contract is awarded to this supplier/organisation, even if the hospitality was in support of business objectives
You are a Board member who is also director/manager in a voluntary body that has submitted a grant application to PBNI, and it is due to be considered by the Board.	You have a direct conflict and could be perceived as influencing the decision to award grant to which you/your organisation will benefit

SPECIFIC ISSUES FOR CONSIDERATION

Extra Mural Activities

7. Extra mural activities have the potential to raise a conflict of interest between a staff members duty and obligation to the Board and the nature and demands of the outside activity. PBNI guidance sets out the approval process for such applications. Staff and management should have cognisance of this guidance on actual/perceived conflicts of interest when completing such applications.

Procurement

8. A conflict of interest is a very real risk at every stage of the procurement process. The Public Contracts Regulations 2015 which govern the public procurement process require that PBNI take appropriate measures to prevent, identify and remedy conflicts of interest arising in the conduct of procurement processes so as to avoid any distortion of competition and to ensure equal treatment to bidders.

9. There is also the real risk, if a conflict of interest is not declared, of legal challenge that could result in a decision to award a contract being overturned. This in turn could lead to allegations of fraud, bribery and corruption which could have further legal implications.

Operational Issues

10. A conflict of interest may arise through the ordinary course of PBNI operations, for example if a new service user is allocated to a team where a friend/relative or associate is based or is manager.

11. In such instances the staff member will need to declare a possible conflict of interest and their line manager/Assistant Director will have to assess appropriate actions to be undertaken to mitigate the risk.

Employment related Legal Cases

12. Employment related legal cases can involve either Industrial/Fair Employment Tribunal proceedings (managed by the HR team) or other Court proceedings where PBNI will be expected to work directly with the Crown Solicitors Office.

13. In most instances a Senior staff member will provide a lead role in the response to cases. That individual must not be the manager involved in taking decisions, handling concerns or implementing processes that may have given rise to employment-related legal action. Staff members leading on the response to cases must also not be the subject of the complaint or be a claimant in any action.

14. Where a staff/board member is leading on the response, they shall consider this Guidance to ensure that they do not have any actual or perceived conflict of interest and must inform their line manager/HR if they consider that they have such a conflict.

Examples of Conflicts in Employment related Legal Cases

Activity	Consequence
Senior staff may become aware of (management) information about a case in which they are a claimant.	Is party to management information about the perceived risks of a case – could be potential for perception that they have passed on information to their union or lawyers or otherwise use this information to further/influence their case.
Finance staff become aware of perceived value of cases by managing provisions and liabilities.	Could be perceived conflict of interest in being aware of the value of cases in which they are a claimant – could be potential for perception that they have passed on information to their union or

	lawyers or otherwise use this information to further/influence their case.
HR staff may become aware of management information about a case in which they are a claimant.	Could be potential for perception that they have passed on information to their union or lawyers or otherwise use this information to further/influence their case.

DECLARING A CONFLICT OF INTEREST

15. A key principle is that as soon as any member of staff or Board Member identifies that they have any type of conflict of interest, it should be declared immediately. If in doubt, err on the side of caution and declare as it is better to be open and transparent.

How to Declare

16. Declarations of conflicts of interest should be made formally and in writing using the [PBNi declaration of conflicts of interest template](#). The template is designed to capture potential conflicts of interest under various categories, related to your ongoing role.

17. Staff/Board members should use their judgement when completing the template. It is not necessary to provide an exhaustive record of all outside interests held by yourself, your close friends and relatives. You should focus on those areas most likely to conflict with your official duties.

18. It is important to remember that perception is as important as reality. Even if you feel there is no meaningful risk you must consider whether a fair-minded observer, acting reasonably, could perceive that a conflict of interest exists. If this is the case, you should declare the conflict of interest.

19. If you intend to disclose the personal data of another person in the template, you should make the individual aware of this. Information captured will be, managed in line with PBNIs [privacy notice](#).

20. If a potential conflict of interest has been identified, that should be indicated on the template and passed to your line manager and Assistant Director/Head of Team. They are responsible for considering how best to deal with the declared conflict in consultation with this guidance and the staff member, and ultimately to record any management action on the template along with an explanation of the rationale. Copies will then be issued to HR for compiling of a register of conflicts.

21. It is **not** appropriate, under any circumstances, for an individual to agree the management action for their own declared conflict of interest

22. Board Members should provide copies of their templates to the Board secretary.

When to declare

23. Declarations of interest should be made as soon as they are identified. The exact timing of when they are declared may differ depending on the circumstances, and your role within PBNI. Conflicts of interest should be declared.

- a. **Upon Appointment.** New Board members, members of the senior leadership team and those appointees at band 12 or above should complete a conflicts of interests declaration form disclosing any conflicts of interest or confirming they have none. For new staff this will be sought by the HR team.
- b. **Annually** – All board members, and senior leadership team members will be asked to annually review and update this declaration of interests form.
- c. **As and when** – Staff should provide a declaration form where an actual or perceived conflict relating to their ongoing duties arises. Senior staff and Board members, must update their declarations when circumstances change at any point after declarations on appointment or after the annual declarations have been made, by submitting a revised Declaration of Interests form.

24. Conflicts of interest will also need to be considered and declared in specific circumstances, such as those set out below.

- **At meetings** - At the beginning of meetings, including Board meetings, taking into consideration the meeting purpose/agenda/papers, any interest that presents a conflict must be declared and recorded in the minutes. This will include potential/perceived conflicts of interest. Any action taken to manage any conflicts of interest e.g. the individual leaves the meeting for a particular agenda item, should also be recorded in the minutes
- **During a procurement process** When initiating a procurement competition, staff involved in any part of the procurement process (e.g. developing business case, specification, evaluation strategy and tender evaluation panel) will need to declare if there is any actual or perceived conflict of interest in respect of the industry/sector or suppliers tendering.
- **Contract Management** - Staff responsible for the management of a contract or approval of invoices should declare if there is any actual or perceived conflict of interest in respect of the supplier or the industry/sector.
- **Recruitment/promotion panels** – At the initiation of a recruitment or promotion competition, panel members must declare any perceived or actual conflict of interest. Panel members are made aware that any perceived or actual conflict of interest must be declared at any stage that it arises within the selection process. Panel members must also record at each stage of the selection process if a perceived or real conflict of interest exists.
- **Legal processes** – Staff involved in PBNI responses to legal cases, including employment related cases, should declare if they have any perceived or actual conflict of interest in the case.

MANAGING A CONFLICT

25. Once a conflict is identified and declared, an assessment should be carried out to agree how it should be managed. Each case will be unique, and judgments should be exercised on what the appropriate actions should be taken. The list below provides the main options available to manage a conflict.

Types of Management Action

26. Where conflicts do arise, there are a number of practical ways of managing a conflict of interest:

- a. **Register** -where the conflict is declared, and management are content to tolerate the associated risks with no further actions required.
- b. **Restrict** – where restrictions are placed on the staff/Board member's involvement in the matter.
- c. **Recruit** – where a disinterested third party is used to oversee part or all of the process that deals with the matter.
- d. **Remove** – where a Staff/Board member is removed from the matter.
- e. **Relinquish** – where the staff/Board independent member relinquishes the private interest that is creating the conflict.
- f. **Resign** – where the staff/Board member resigns from their position with the organisation.

27. The kind of management action will depend on the significance of the conflict and the assessed level of risk. Where there appears to be a real risk of a staff/Board member being influenced in the performance of their official duties, it would be normal to at least restrict their involvement in the area of work or remove them from it entirely. For example, if PBNI is developing a grant scheme which a staff member's close relative is hoping to apply for, management may decide to restrict their involvement in areas such as designing the eligibility criteria and assessing applications, or it may be decided to remove the staff member entirely from the role.

28. Annex B sets out some examples of when the types of management action may be most appropriate.

29. Any management action agreed should be documented in the individual's Conflicts of Interest Declaration form and subsequently recorded in the PBNI Conflicts of Interest Register. It is important to not only document the agreed management action but also its supporting rationale for the benefit of a clear and unambiguous audit trail.

RECORDING & PUBLICATION CONFLICTS OF INTEREST

30. We not only need to ensure conflicts of interest are identified and managed accordingly but we also need to be able to *demonstrate* that this is the case through formal record keeping. This section will outline the arrangements for recording conflicts of interest.

31. Declarations of Conflicts of Interest should be maintained as part of a staff member's personal folder for as long as they are relevant. All completed declarations will be passed to HR.

32. HR will maintain a Conflicts of Interest Register. The Register will capture details of any conflicts of interest which staff have declared using the formal declaration forms, including agreed management actions and their rationale. Information will be held securely on content manager to ensure that access is restricted accordingly.

33. When staff are asked to complete new conflicts of interest declarations and they are content no potential conflicts of interest exist, a simple nil return will be sufficient. Records of nil returns will also be held on content manager for audit purposes.

34. Declarations of Conflicts of Interest for Board Members will be held and managed by the Board Secretary.

Data Protection and Confidentiality

35. Conflicts of interest declaration forms will contain personal data, dissemination of this information will be no wider than is necessary for the efficient conduct of PBNI business and by implication, information will be limited to those individuals who are appropriately authorised to have access to it. Adherence to this principle is fundamental to the protection of all PBNI information.

36. Information provided by members of the PBNI Board shall also be published on the PBNI Website.

37. All declaration of interest registers are potentially disclosable under Freedom of Information, subject to relevant exemptions. In particular, the personal data exemption will typically be applicable in relation to staff who are not members of the Senior Leadership Team/PBNI Board.

Annex A – CONFLICT OF INTEREST CHECKLIST

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 involved.

- 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 anyone associated with me stand to be enhanced or damaged because of the proposed decision or action?
- Do I or anyone associated with me 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 PBNI is dealing with?
- Have I made any promises or commitments in relation to the matter?
- Have I received or do I expect to receive a substantial gift, benefit or hospitality from someone who stands to gain or lose from my proposed decision or action?
- 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 action or decision?
- 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?

Where the answer to any of the questions above are positive staff members should look to declare any identified actual or perceived conflict of interest.

ANNEX B-Management of Conflicts of Interest Guide

The table below sets out the possible management actions available and when these may be the most/least suitable.

Management Action	When most suitable	When least suitable
<p>Register Where details of the existence of a possible or potential conflict of interest are formally registered.</p>	<ul style="list-style-type: none"> • For very low-risk and potential conflict of interest. • Where the act of transparency through recording the conflict of interest is sufficient. 	<ul style="list-style-type: none"> • The conflict of interest is more significant or higher risk. • The potential or perceived effects of a conflict of interest on the proper performance of the Staff/ Board member's duties require more proactive management
<p>Restrict Where restrictions are placed on the Staff/Board member's involvement in the issue/programme/ procurement etc</p>	<ul style="list-style-type: none"> • The Staff/Board member can be effectively separated from parts of the activity or process. • The conflict of interest is not likely to arise frequently. 	<ul style="list-style-type: none"> • The conflict is likely to arise more frequently. • The Staff/Board member is constantly unable to perform a number of their regular duties because of conflict-of-interest issues.
<p>Recruit Where a disinterested third party is used to oversee part or all of the process that deals with the matter.</p>	<ul style="list-style-type: none"> • It is not feasible or desirable for the Staff/Board member to remove themselves from the decision-making process. • In small or isolated cases where the particular expertise of the Staff/Board member is necessary and genuinely not easily replaced. 	<p>The conflict is serious and ongoing, rendering ad hoc recruitment of others unworkable.</p> <ul style="list-style-type: none"> • Recruitment of a third party is not appropriate for the proper handling of the matter. • A suitable third party is unable to be sourced.
<p>Remove Where a Staff/Board member chooses to be removed from the matter.</p>	<p>For ongoing serious conflicts of interest where ad hoc restriction or recruitment of others is not appropriate.</p>	<ul style="list-style-type: none"> • The conflict of interest and its perceived or potential effects are of low risk or low significance. • The Staff/Board member is prepared to relinquish the relevant private interest rather than radically change their work responsibilities or environment.
<p>Relinquish Where the Staff/Board member relinquishes the private interest that is creating the conflict.</p>	<ul style="list-style-type: none"> • The Staff/Board member's commitment to public duty outweighs their attachment to their private interest 	<ul style="list-style-type: none"> • The Staff/Board member is unable or unwilling, for various reasons, to relinquish the relevant private interest
<p>Resign Where the Staff/Board member resigns from their position with the organisation.</p>	<ul style="list-style-type: none"> • No other options are workable. • The Staff/Board member cannot or will not relinquish their conflicting private interest and changes to their work responsibilities or environment are not feasible. • The Staff/Board member prefers this course as a matter of personal principle. 	<ul style="list-style-type: none"> • The conflict of interest and its potential or perceived effects are of low risk or low significance. • Other options exist that are workable for the Staff/ Board member and PBNI.