Conflict of Interest Policy

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1 Introduction and Purpose

1.1 The Office of the Police Ombudsman for Northern Ireland (the Office) recognises that its employees may have a diverse range of interests and associations outside of their employment within both a local setting and a national or international context. The Office recognises that links between employees of the Office and outside bodies are often in the public interest as well as of benefit to individual. There will be occasions when such links may be of benefit to the Office, however the Office also recognises that it is possible that such links or associations may give rise to conflict of interest or the perception of a conflict of interest.

1.2 The independence and impartiality of the Office are fundamental to the discharge of the Police Ombudsman's statutory function and as such it is imperative that the Office manages all actual perceived and potential conflicts of interest in a clear and consistent manner.

1.3 It is expected that generally individual members of staff will recognise situations in which there are actual, perceived or potential conflicts of interest and will want to ensure that there can be no perception of any such conflict either interfering in the performance of their duties or that there can be no perception of any such conflict furthering private interests.

1.4 The purpose of this policy is to

- Define what is meant by a conflict of interest
- Assist in identifying conflicts of interest
- Establish a system for disclosure of conflicts of interest
- Provide guidance to staff and those responsible for managing conflicts of interest

1.5 This policy applies to all employee's and post holders in the Office (including contract, agency or seconded staff) and relates to any actual, perceived or potential conflicts of interest that may arise in the performance of an individual's duties.

2 Principles

2.1 The independence and impartiality of the Office are fundamental to the discharge of the Police Ombudsman's statutory function and as such it is imperative that the Office manages all actual perceived and potential conflicts of interest in a clear,consistent and timely manner.

2.2 Each employee has an obligation to act in the interests of the Office in relation to the proper performance of their duties, activities and employment.

2.3 There is a requirement to balance the rights and responsibilities of employees with those of the Office in relation to the management of conflicts of interest. To this end the Office accepts that it has no right to interfere in the private concerns of employees where these have no bearing on the interests of the Office.

2.4 The existence of an actual, perceived or potential conflict of interest does not of itself imply wrongdoing on anyone's part. However any private, voluntary, charitable, commercial, political or personal interest which gives rise to an actual, perceived or potential conflict of interest must be recognised, appropriately disclosed and either eliminated or properly managed.

2.5 Police Ombudsman for Northern Ireland Code of Ethics

All staff are required to adhere to the Code of Ethics. Paragraph 5 of the Police Ombudsman for Northern Ireland Code of Ehics states

> "Police Ombudsman staff shall disclose to the Police Ombudsman any private interest relating to their public duties and should seek assistance from the Police Ombudsman to resolve any conflict arising in a way that protects the public interest".

2.6 Seven Principles underpinning Public Life (Nolan Principles)

In 1995, the Committee on Standards in Public Life defines seven principles which should underpin the action of all who servce the public in any way. These are:

- **Selflessness** - Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or other friends.
- **Integrity** - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
- **Objectivity** - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- **Accountability -** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

- **Openness** - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **Honesty** - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership** - Holders of public office should promote and support these principles by leadership and example.

2.7 Police Ombudsman for Northern Ireland Public Values

In addition to the Nolan Principles included above, the Office has also 9 stated Public Values which all staff in the Office are expected to comply with. These are:

- **Independence - T**he Police Ombudsman operates independently of the PSNI and NI Policing Board and strives to investigate all complaints objectively and even-handedly.
- **Impartiality -** The Police Ombudsman and his staff handle and investigate complaints free of bias or influence.
- **Integrity -** The Police Ombudsman and his staff operate with integrity in all their dealings with the public and the police.
- **Openness -** The Police Ombudsman must not disclose any information in relation to a complaint except as provided by the Police (NI) Act 1998.
- **Fairness -** The Police Ombudsman gives all complainants and police officers an opportunity to state their case.
- **Human Rights -** The Police Ombudsman observes the relevant international principles and standards on policing and respects human rights.
- **Accessibility -** The Police Ombudsman's Office is open to the public during normal working hours. There is a dedicated phone number for making complaints. All complaints are acknowledged, whether by e-mail, telephone, fax or via our website.
- **Accountability -** The Police Ombudsman is accountable to the Northern Ireland Assembly and to the Courts. An Annual Report and Accounts is provided to the Department of Justice and laid before the Assembly.
- **Satisfaction -** The Police Ombudsman welcomes from members of the public and police officers any complaints, criticisms or comments in relation to the manner in which complaints or investigations have been handled.

3 Definitions

3.1 Conflict of Interest

A conflict of interest may arise in any situation in which an employee has a private, voluntary, charitable, commercial, political or other personal interest which could influence or could be perceived to influence them in the performance of their duties.

3.2 For the purposes of this policy the term conflict of interest means an actual, perceived or potential conflict of interest.

3.3 Perceived Conflict of Interest

A perceived conflict of interest is one in which a reasonable person could consider it likely to influence a person in the performance of their duties.

3.4 Potential Conflict of Interest

A potential conflict of interest is a situation which could develop onto an actual or perceived conflict of interest.

4 Determining a Conflict of Interest

4.1 In order to determine whether a conflict of interest exists, it should be determined whether the interest Is likely to interfere or be perceived to interfere with the objective judgement of the employee in the performance of his or her duties of employment. An employee should ask him or herself whether their private, voluntary, charitable, commercial, political or personal interest might reasonably be perceived by others (including complainants, police officers, managers, colleagues, members of the public) to influence or potentially influence them in the performance of their duties in accordance with the principles outlined above.

4.2 If others could reasonably consider that the interest might influence the employee to act other than in the interests of the Office then in accordance with the Principles outlined above, the member of staff must declare the existence of the actual, perceived or potential conflict.

4.3 In any circumstance where an employee is uncertain whether a conflict of interest exists they must assume that it does exists and act accordingly.

4.4 It is not possible to list all possible conflicts of interest since the circumstances and relationships may vary so widely. However common areas in which a conflict of interest may arise include:

- Where an employee may be asked to investigate a complaint from a friend, family member or person otherwise known to them
- Where an employee may be asked to investigate a complaint about a friend, family member or person otherwise known to them
- Where the provisions of the Article 2 Policy apply (see section 7 below).
- Where an employee may be involved in the procurement of a supply or service from a business in which he or she or a relative or friend has a financial interest
- Where an employee may be involved in the recruitment and selection process for a post for which a relative or friend has applied
- Where an employee seeks to hold a position as an elected representative.

4.5 In any situation where a member of staff considers that there may be an actual, perceived or potential conflict of interest they must disclose the matter as detailed in section 5 below.

4.6 Similarly where a manager becomes aware of a possible conflict of interest that an employee appears not to have considered the manager should remind the employee of the existence of this policy and how it should be applied and fully consider the matter with the employee as detailed in section 5 below.

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5 **Disclosure of a Conflict of Interest**

5.1 The responsibility for avoiding a conflict of interest lies in the first instance with the individual employee. It is the personal responsibility of every individual to whom this policy applies to disclose to their line manager any actual, perceived or potential conflict of interest in relation to any matter related to the performance of their duties providing sufficient detail that an assessment can be made as to how to best deal with the issue.

5.2 There may be circumstances when it was not initially apparent that an actual, perceived or potential conflict of interests exists. As soon as it becomes apparent any such conflict of interest must be disclosed.

5.3 Where a manager is uncertain about how to address a matter which has been brought to his or her attention advice should be sought from the HR manager.

5.4 Where a member of staff does not wish to reveal the details of a conflict of interest to his or her line manager and is unable to withdraw from the situation in which the conflict of interest arises he or she should seek advice either from the second line manager of the HR manager.

5.5 In all cases disclosure must include sufficient information to enable appropriate resolution. This information is likely to include (where applicable);

- The type of the potential conflict of interest
- The nature of the activity giving rise to the conflict of interest
- The details of the parties involved
- Any financial or non-financial benefit involved
- Any other relevant information.

5.6 Confidentiality of disclosures made in respect of conflict of interest discussions will be maintained as far as is possible and information will only be shared where there is a need to do so.

5.7 <u>Senior Management Team meetings</u>
The declaration of conflicts of interest is a standing item on the Senior Management Team agenda. All members of the Senior Management Team are required to declare any Conflicts of Interest prior to the commencement of the business of the meeting. Where a conflict of interest is declared that member of the Senior Management Team may be required to withdraw from all or part of the meeting. The declaration of conflicts of interest, including nil declarations and any related actions are recorded in the minute of the meeting.

5.8 <u>Audit Committee meeting</u>
The declaration of conflicts of interest is a standing item on the Audit Committee agenda. All members of the Audit Committee are required to declare any Conflicts of Interest prior to the commencement of the business of the meeting. Where a conflict of interest is declared

that member of the Senior Management Team may be required to withdraw from all or part of the meeting. The declaration of conflicts of interest, including nil declarations and any related actions are recorded in the minute of the meeting.

5.9 Register of Interests

A register of interests is maintained which is reviewed and updated on an annual basis which contains the details of any interests of members of the Senior Management Team and Non – Executive Members of the Audit Committee which is available on the website.

5.10 Recruitment Panels

All recruitment panels are required to consider the potential for conflicts of interest. It is recognised that there may be occasions when panel members know individuals who have applied for a position within the Office. In all such situations the fact that a particular candidate(s) is known to a member of the panel must be disclosed to the other members of the panel for a consideration as to how to proceed. In situations where there is a close association it is possible that the panel member may be required to withdraw from the panel. In other situations where a candidate is known but there is no close association it may be appropriate that the panel remains unchanged. Queries in respect of the application of these principles should be referred to the Human Resources Manager.

5.10 Disclosure of Conflicts of Interest on Application Forms

All applicants for a position with the Office will be provided with a copy of this Conflict of Interest Policy and a guidance note for applicants. Applicants are required to disclose on completed application forms whether there are any conflicts of interest which might be relevant in relation to their possible employment with the Office. Any relevant conflict of interest which is not disclosed may result in dismissal.

6 Resolution of Conflicts of Interests Declared

6.1 Once a conflict of interest has been declared the person to who the conflict has been declared (usually the line manager) is responsible for resolving the conflict of interest as soon as is reasonably practicable, taking into consideration the impact of the conflict of interest that has been declared.

6.2 Where possible the resolution of a conflict of interest should be with the agreement of the employee concerned.

6.3 Where the person to whom the conflict of interest has been declared is uncertain how to proceed he or she should refer the matter to their more senior colleague and/or seek advice from the Human Resources manager.

6.4 Where resolution cannot be reached within one working week a preliminary decision must be reached either to permit the employee to continue in the activity in the interim (possibly with modifications or to require the employee to suspend involvement in the activity in the interim pending final resolution and this decision communicated to the employee . Where interim suspension has been decided, the reasons for this should be communicated to the employee.

6.5 Where a conflict of interest is considered there will be one of 3 outcomes

- An agreement that the matter raised does not present a conflict of interest to the Office
- An agreement that the activity can be allowed to continue with modifications such as
    - Disclosure of pertinent information to relevant individuals
    - Exclusion from decision making authority
    - Third party review of decisions made by the employee
    - Limited involvement only in the activity
    - Increased supervision or monitoring of the activity
    - Removal of others (eg friend or relative) from the activity that caused the conflict
- An agreement that the employee should not be involved further in the activity

6.6 Where no agreement can be reached by the employee and their manager the default position will be that the employee should not be involved further in the activity

6.7 In all circumstances where a manager is required to consider a conflict of interest, the manager to whom the conflict of interest has been disclosed must maintain a written record of the disclosure and all subsequent related actions and decisions. Where a conflict of interest is ongoing it is important that the current and future line managers are aware of it. The fact that there is an ongoing conflict of interest which has been identified must be communicated to any subsequent line manager of the individual concerned.

6.8 In all cases a copy of the conflict of interest consideration and decision must be forwarded to the HR manager who is responsible for maintaining such conflicts of interest in a register.

7 Article 2 Policy Considerations

7.1 When conducting investigations where Article 2 is engaged, the Police Ombudsman is obliged to ensure that such investigations comply with the requirements of independence under the European Convention and Human Rights Act. The are therefore specific circumstances in which the Office considers that it may not be appropriate for staff from a former RUC, PSNI or Military background to investigate certain matters.

7.2 While the requirement to maintain hierarchical and structural independence is met by the independence of the Office from the PSNI, the additional requirement to ensure the practical independence of those conducting an investigation from those under investigation can present some difficulties.

7.3 Employees who previously served in the RUC or PSNI may have practical links to persons under investigation in any given case and while there is no suggestion of impropriety on the part of any employee, there will be situations where , through no fault of any individual person, the Article 2 requirement would be breached by permitting certain employees from investigating certain allegations.

7.4 Paragraph 7.5 below provides examples of situations in which a conflict of interest may arise over and above those possible conflicts of interest detailed at section 4.4 above. Should a conflict of interest arise, the employee concerned should immediately notify and seek direction from their line manager.

7.5 Situations where direction from line management should be sought include

- Where an investigator at any time served in a line management position relative to a person under investigation (namely where they supervised or were supervised by the person under investigation)
- Where an investigator was in any way in any capacity linked to the incident under investigation
- Where a police policy is the subject of the investigation and the investigator was in any way involved with the setting or maintenance of that policy

This list is not exhaustive and as in 4.5 above where an investigator has any doubt as to their practical independence, they should seek direction from line management

7.6 On occasions where practical independence is impacted management may remove an investigator from a particular Article 2 investigation. This step is necessary to ensure compliance with legislation, to protect the integrity of the investigation, protect the individual investigator and to maintain confidence in the police complaints system. Such a decision does not suggest any improper conduct on the part of the investigator concerned.

7.7 It is possible that a conflict of interest may not be immediately apparent at the outset of an investigation but that an issue may arise during the course of enquiries. In such

circumstances the investigator affected should bring this matter to the attention of line management at the earliest possible opportunity.

7.8 The family of a deceased person has the right to ask if investigators or managers connected to their case are Article 2 compliant and to raise an objection if they have concerns about the background of staff involved in investigating their complaint. The objection will be considered by the Chief Executive who will advise the Police Ombudsman. The final decision on the deployment of staff to the case is for the Police Ombudsman.

8 Failure to Disclose of a Conflict of Interest

8.1 Failure to disclose an actual, perceived or potential conflict of interest is a breach of the Code of Ethics and may be considered under the Disciplinary Policy and Procedure of the Office. In serious cases this may result in dismissal. In any disciplinary procedure which may arise in relation to failure to disclose a conflict of interest, consideration will be given to the extent to which the employee was aware of the actual, perceived or potential conflict of interest and the reasonableness of any decision made not to declare it.

9. Linked Policies

- Code of Ethics
- Investigation Manual
- Investigation of State Related Deaths Policy (Article 2 Policy)
- Witness Policy
- Fraud Policy
- Discipline Policy
- Gifts and Hospitality Policy
- Whistleblowing Policy
- Procurement Policy

10. Equality Screening

10.1 This policy has been screened for impact in accordance with the Equality Scheme of the Office. There is no evidence to suggest that this policy will have an impact on equality of opportunity or good relations.