



PUBLIC APPOINTMENTS

PROBITY & CONFLICTS OF INTEREST

A GUIDE FOR CANDIDATES

“Probity – Board members of ENDPBs and HPSS bodies must be committed to the principles and values of public service and perform their duties with integrity”

- Commissioner for Public Appointments Code of Practice

The Seven Principles Underpinning Public Life

In 1995, the Committee on Standards in Public Life defined seven principles, which should underpin the actions of all who serve 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.

Introduction

All candidates who put themselves forward for public appointment must be able to demonstrate their commitment to the principles and values of public service. The Commissioner's Code of Practice states that it is the responsibility of Government Departments to ensure that the individuals they appoint can demonstrate that they meet the probity principle.

It is important that the candidate's commitment to the probity principle is tested and assessed at interview. One of the issues which might arise in relation to this, is that of conflict of interest.

What is a conflict of interest?

Public Appointments require the highest standards of propriety, involving impartiality, integrity and objectivity, in relation to the stewardship of public funds and the oversight and management of all related activities. This means that any private, voluntary, charitable or political interest which might be material and relevant to the work of the body concerned, should be declared. There are specific issues for Charity Trustees, and in collaboration with the Charity Commission we have produced a separate leaflet describing these – *Charitable Museums and Galleries: A guide to conflicts of interest policies, trustee benefits and transactions between trustees and charities.*

There is always the potential for a conflict of interest to arise. Sometimes, rather than an actual conflict, the perception of a conflict alone may arise. Both are a problem, as the perception of a conflict may be as damaging as the existence of an actual conflict.

It is important, therefore, that you consider your circumstances when applying for a public appointment and identify any potential for conflicts of interest arising.

Surely a perceived conflict is not a problem, as long as I act impartially at all times?

The integrity of the individual is not in question here. However, it is necessary for the standing of the individual and the board that members of the public have confidence in their independence and impartiality. Even the perception of a conflict of interest in relation to a board member can be extremely damaging to the body's reputation and it is therefore essential that these are declared and explored, in the same way as an actual conflict would be. The fact that a member acted impartially may not avoid accusations of bias.

What should I do if I think I have a conflict of interest?

You should complete the relevant part of the Application Form, which asks you to consider and declare whether or not you have any interests that may give rise to a potential or actual conflict of interest or the perception of such a conflict. If you are unsure if your circumstances constitute a possible conflict, you should still complete this section, in order to give the Selection Panel as much information as possible.

If I declare a conflict, does this mean I will not be considered for appointment?

No – each case is considered individually. If you are shortlisted for interview, the Panel will explore with you how far the conflict might affect your ability to contribute effectively and impartially on the Board and how this might be handled, if you were to be appointed. For example, it may be possible to arrange for you to step out of meetings when a particular issue is discussed, in which you have an interest. However, if, following the discussion with you, the Panel believes that the conflict is too great and would call into question the probity of the Board or the appointment, they can withdraw your application from the competition.

What happens if I do not declare a known conflict, which is then discovered by the Department after my appointment?

Again, each case would be considered on its merits, but the Department may take the view that by concealing a conflict of interest, you could be taken to have breached the Seven Principles of Conduct Underpinning Public Life and may terminate your appointment.

What happens if I do not realise a potential conflict exists?

This situation may arise where an applicant is not familiar with the broad range of work which a body covers and therefore does not realize that a conflict might exist. In some cases, the Panel, with their wider knowledge of the body, might deduce that there is a potential conflict issue, based on the information on employment and experience provided by the candidate in the application form. They will then explore this at interview with the candidate.

What happens if a conflict of interest arises after an appointment is made?

This could arise for two main reasons. The first is that the member's circumstances may change, for example, they may change jobs and in doing so, a conflict with their work on the board becomes apparent. The second is where a member is unfamiliar with the range

of the work of the body, but after appointment, it becomes clear that a conflict exists where none had been appreciated during the appointment process.

If a conflict arises, the issue should be discussed with the Chair of the board and the Chief Executive of the body concerned, in consultation with the Sponsoring Department, to decide whether or not the member can continue to carry out their role in an appropriate manner. Each case arising will need to be considered individually.

It may be that the conflict is such that it would be impractical for the member to continue on the board, if for example, it results in them having to withdraw from a considerable amount of the body's routine business. In such cases, the member may be asked to stand down from the body.

Areas where a conflict could arise

There are five main issues, which could lead to real, or apparent, conflicts of interest. These are:

- Relevant pecuniary or other interests outside the organisation;
- Relationships with other parties/organisations which could lead to perceived or real split loyalties;
- Pending Government Policy could give unfair personal advantage to people with allied business interests – for example access to privileged information – trade secrets;
- Perception of rewards for past contributions or favours;
- Membership of some societies or organisations.

Some examples of potential, real or perceived, conflicts of interest are:

- You are a director of a building supplies firm and the board to which you are seeking appointment conducts regular procurement exercises for building materials. *You could benefit personally from decisions taken by the board.*
- You are a manager in a voluntary organisation, whose funding applications are considered by the board to which you are seeking appointment. *The body for*

which you work could benefit financially from decisions taken by the board.

- ***You are a director of a pharmaceutical company and the board to which you are seeking appointment will be directing policy on medical research. Your company could have access to information, which would give them a commercial advantage over their rivals.***
- ***You have, in the past, contributed significant funds to the political party to which the appointing Minister belongs. Your appointment could be viewed as a reward for past favours.***
- ***You and a senior official who is on the selection Panel are both members of an organisation, whose membership is kept secret. Your appointment could be viewed as the “old boy network” in operation.***

- You are the director or shareholder of a company that has a shareholding in a second company, which in turn has a number of high value contracts with the body whose board you are seeking to join. ***You could potentially benefit from decisions taken by the board and even if you do not actually benefit from any decisions taken you could be perceived as deriving such a benefit by members of the public.***
- Your son or daughter is a director of a company operating in an area which falls within the remit of the body upon whose board you wish to sit. ***You or your family may be perceived as receiving a benefit through your position on the board.***

In other words, no-one should use, or give the appearance of using, their public position to further their private interests. This is an area of particular importance, as it is of considerable concern to the public and receives a lot of media attention.

The above are examples only, so you should consider carefully your own circumstances to gauge whether or not a real, or perceived, conflict might exist.

Acknowledgements

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