



National Audit Office



REPORT

# Managing conflicts of interest

Cabinet Office

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## Key facts

**71%**

of surveyed public bodies told us they have changed their system for managing conflicts of interest in response to Cabinet Office's guidance on *Declaration and management of outside interests*, first published in June 2022

**83%**

of public bodies report in our survey that there are still further changes and improvements that can be made to their systems for managing conflicts of interest

**91%**

of surveyed public bodies require an annual declaration of interests from senior staff members, including 96% of departmental public bodies

**40%**

of surveyed public bodies require an annual declaration of interests from all their staff

### Glossary

We found terms used differently by different organisations. For this report we use:

**Conflict**

A set of circumstances that creates a risk that an individual's ability to apply judgement or act in a role is, could be, or could be perceived to be impaired or influenced by a secondary interest.

**Interest**

A thing that may affect an individual's judgement such as a financial interest, outside role, family relationship or friendship.

**Potential conflict of interest**

Where an interest may become a conflict due to the nature of the postholder's role or organisation. These require internal declaration and may require mitigations.

**Actual or perceived conflict of interest**

Where a reasonable person might believe that a conflict of interest is likely to occur in a specific activity. There is no need for a system to differentiate between actual and perceived conflicts because both require declaration and mitigation.

**Mitigations**

The agreed actions to manage a conflict of interest. These can range from letting other people know about the conflict to removal of the interest (such as selling shares).

# Summary

**1** Conflicts of interest arise when an individual's ability to apply judgement or act in a role is, or could be perceived to be, impaired or influenced by a secondary or competing interest. Conflicts of interest are a common and unavoidable part of the management of any organisation, including ministerial departments (central government organisations with ministers) and arm's-length bodies (government-funded organisations without ministers). However, failure to recognise or mitigate conflicts does not meet the high ethical standards of integrity, openness and selflessness set out in the Seven Principles of Public Life that people working in the public sector are required to adhere to. Such failures can damage the reputation of, and undermine confidence in, government operations.

**2** It is therefore important that all public bodies – including both departments and arm's-length bodies – have appropriate systems and processes in place to manage conflicts of interest effectively. A good system includes a central online register for recording declarations, an annual requirement for all staff to declare any conflicts and to attest that their declarations are complete, a helpdesk function that employees can reach out to for support (such as a shared inbox monitored by a team trained to provide advice), mandatory training on how to manage conflicts well, and the collection of management information on compliance rates.

**3** The government sets separate declaration and publication regimes for ministers, special advisers, non-executive directors and senior civil servants that cover personal, financial and familial interests. Parliament also sets separate requirements for members of Parliament and the Lords. Public bodies are responsible for identifying and managing any conflicts that may arise from these declarations, so that they can meet the high standards expected by Parliament and the public with regards to public expenditure and the administration of government. Managing conflicts forms part of an accounting officer's responsibilities for ensuring the propriety of public expenditure.

**4** Cabinet Office sets the central government guidance on managing conflicts of interest. Departmental bodies (ministerial departments, non-ministerial departments and executive agencies) must have policies that comply with this guidance. Non-departmental public bodies are encouraged to have their own policies. Cabinet Office also provides support to public bodies to meet their ethical responsibilities and publishes codes of conduct that outline the principles of expected behaviour for civil servants and board members.

## Scope

**5** This report looks at the governance, systems and processes that public bodies have used to manage conflicts of interest. It aims to answer the following questions:

- Is central government guidance effective in supporting public bodies to manage conflicts of interest? (Part one).
- Do public bodies have effective and proportionate governance, systems and controls over the management of conflicts of interest? (Part two).
- Have public bodies done enough to set a culture where conflicts are managed properly? (Part three).

**6** We asked six public bodies to walk us through how they managed conflicts in practice and supplemented this with a survey of 35 public bodies. We did not look to identify new conflicts or test the completeness of declarations, and we did not review the application of the *Ministerial Code* except to define what it is and how it overlaps with the accounting officer's responsibilities as set out in *Managing Public Money*.<sup>1</sup> Parliamentarians follow a separate declaration and publication regime which is not in the scope of this audit. Appendix One sets out more on our audit approach and evidence base.

## Key findings

The cross-government landscape

**7 Cabinet Office provides support to ministers and the most senior officials to help them manage conflicts of interest in their organisations.** Cabinet Office's Propriety and Ethics Team speaks to each new minister and provides a standardised declaration form to support them as they complete their initial return. These returns are reviewed by the Independent Adviser on Ministerial Standards,<sup>2</sup> who is an independent office-holder appointed by the Prime Minister and who is responsible for publishing relevant declarations on a quarterly basis. The Propriety and Ethics Team can also provide ad hoc support to public bodies on the most complex, high-profile or politically sensitive conflicts from others within that organisation. However, to retain accounting officer responsibility for conflicts, the Team will generally only provide advice on matters that have already been escalated to the relevant permanent secretary in each department (paragraphs 1.11, 2.2 to 2.7, Figure 3).

<sup>1</sup> HM Treasury, *Managing Public Money*, May 2023.

<sup>2</sup> The Independent Adviser on Ministerial Standards was known as the Independent Adviser on Ministers' Interests until 6 November 2024.

**8 In recent years the government has sought to improve departmental systems for declaring, identifying and managing conflicts of interest.** Following a number of well-publicised concerns about propriety during the COVID-19 pandemic, Cabinet Office first published new guidance on the *Declaration and management of outside interests* in June 2022. This guidance applies to all departments and executive agencies and aims to support them as they develop their own organisational policies in this area. Most of our case study bodies were able to demonstrate that they had recently sought to improve their systems, and 71% of surveyed public bodies told us that they had changed their system since the publication of this guidance. This included some non-departmental public bodies who were not required to follow the guidance but had voluntarily adopted it as good practice. However, the government has not sought to manage the rollout of this new guidance as a central programme. This report is therefore the first insight into how well public bodies have implemented the new guidance (paragraphs 1.3 to 1.8).

**9 Central government guidance is not prescriptive about the governance, systems and controls that public bodies need to put in place.** June 2022's *Declaration and management of outside interests* supplemented existing government guidance on managing conflicts of interest. This existing guidance is owned by a range of government bodies and each publication covers different individuals in different ways, with some going further than others. None of the guidance is prescriptive about the systems and controls that public bodies need to set up, which has led to diverse policy approaches across government and within public bodies. Some of the terminology used in these publications also leads to unnecessary confusion: we saw a variety of definitions for 'actual', 'potential' and 'perceived' conflicts of interest within the public bodies we spoke to (paragraphs 1.14 to 1.17).

**10 The government can learn from how other professions manage conflicts.** There are many regulated professions where members are expected to behave in line with a set of common principles, values and standards as set out by their regulator. These include doctors, accountants, chartered surveyors, and lawyers. There are things that the government could learn from looking to the established processes that such regulators have put in place, including the importance of taking a proactive approach, understanding implementation and setting a clear minimum standard. We have set out what we consider to be good practice for the governance, systems and controls that public bodies should put in place in our companion good practice guide on managing conflicts of interest, published alongside this report (paragraphs 1.18 to 1.20).

## Declaring, identifying and managing conflicts

**11 The effective management of ministerial conflicts relies on accounting officers supporting ministers to manage any interests they have declared.** Ministers and special advisers are responsible for declaring their personal and familial interests. The accounting officer is responsible for reviewing ministerial declarations and agreeing appropriate mitigations with the minister. Accounting officers also provide advice on a continuing basis if a minister's circumstances change, or if developments in government business within the department create a possible conflict. Effective management of ministerial conflicts is therefore dependent on a strong relationship between the minister and accounting officer, supported by the Independent Adviser on Ministerial Standards. In some departments we spoke to, ministerial declarations and agreed mitigations were not routinely shared outside of the accounting officer's small team of immediate support staff, commonly referred to as their private office (paragraphs 2.2 to 2.7).

**12 91% of public bodies have now put in place a system of annual declaration for senior staff, but only 40% have extended this to all staff.** Of the departmental public bodies responding to our survey, 96% had complied with Cabinet Office guidance and put in place an annual declaration system for their senior civil servants, including annual attestation that their declarations are complete. Some 36% have voluntarily extended this annual declaration requirement to cover all staff. For non-departmental public bodies who do not have to comply with the guidance, these figures were 71% and 57% respectively. Where public bodies did not have an annual requirement for all staff to declare, junior staff remained personally responsible for declaring conflicts as and when they arose (paragraphs 2.12 to 2.14, Figure 4).

**13 Not all staff comply with the requirement to declare their interests, but most organisations do not collect information on rates of non-compliance.** Management information can be used to help improve compliance across an organisation. Our survey of public sector bodies showed that 71% did not have management information on compliance. Of the five organisations that required all staff to complete a declaration or provide a nil return and who were able to share management information with us, four had compliance rates of between 81% and 95%. Only one body was able to demonstrate 100% compliance. One reason that our case study bodies gave for a lack of compliance was the difficulty of navigating their online e-registers. Other bodies do not have central declaration systems and are therefore unable to track compliance (paragraphs 2.19, 3.8 to 3.9, Figure 7).

**14 Many of the systems that public bodies have put in place fall short of the good practice expectation of a working register of interests that can be used to manage conflicts.** Since 2019, the Government Internal Audit Agency (GIAA) has identified a broad range of weaknesses in the systems that public bodies use to manage conflicts of interest. In particular, inadequate audit trails limited the assurance it was able to provide over ten of the systems it reviewed. Our own audit testing, which included in-depth reviews of six public bodies and a survey of 35 public bodies, also highlighted shortcomings in these systems:

- We saw some departmental policies that lacked clarity on who is expected to make a declaration, and what interests are required to be declared.
- We saw examples of organisations failing to retain records of declarations made, meaning there was no audit trail and staff were at risk if later accused of impropriety.
- More than two thirds of surveyed bodies have a helpdesk that could provide staff with support and help to ensure consistency of approach in making and managing declarations. However, our case study testing showed that even where helpdesks existed, they were sometimes under-resourced and under-qualified to provide useful advice.
- Declarations could not always be seen by those who needed to help manage them, with only nine surveyed bodies making relevant declarations available to their direct teams.
- None of the public bodies we spoke to could demonstrate that they routinely checked the completeness of staff declarations across their organisation.
- Only one of our case study bodies could demonstrate that they had follow-up checks in place to verify that agreed mitigations had been successfully implemented (paragraphs 2.10 to 2.21 and Figure 4).

**15 Public bodies rarely expect functional and project leaders to prompt declarations and check for conflicts within their teams.** One of the most common times for a conflict to arise is as an individual starts a new project or area of business activity. However, public bodies tend to rely on individuals complying with corporate policies on conflicts of interest and redeclaring conflicts when they change role. Those responsible for specific projects – such as paying a grant, designing a policy or making a regulatory decision – are not normally expected to check whether project staff have conflicts or to prompt these declarations. As such, the systems for recording and managing declarations are rarely set up to support project leaders to think in this way, or to give them access to the central registers if they are not the individual's direct line manager. Failure to consider conflicts at a project or activity level has also resulted in little to no established process for considering whether senior staff outside a core project team, but who remain in a position to influence the work, have any conflicts that need to be managed (paragraph 2.22 and Figure 4).

**16 The government is enhancing the requirement for procurement project managers to take responsibility for managing conflicts in their team.**

The government already has additional requirements over managing conflicts of interest in procurement when compared to other activities.<sup>3</sup> These are formalised and strengthened by the Procurement Act 2023. We found procurement teams have put in place stronger processes to manage conflicts of interest, including clear ownership and responsibility for policy implementation. We also saw examples of decision-makers being prompted to consider potential conflicts of interest and recusing themselves in response. However, to be effective, these additional controls over procurement need to be supported by effective corporate systems of declaration and management (paragraphs 2.23 to 2.26).

Culture and support

**17 Public bodies aim for a culture where people want to do the right thing when managing conflicts of interest.**

All of our case study bodies were able to evidence that they do try to set a culture of awareness and compliance on conflicts. This includes putting in place internal policies that require at least senior staff to identify and declare conflicts and making sure that the potential consequences of non-compliance are clear. We also saw evidence of leaders trying hard to do the right thing. In one of our case study bodies, staff described how new leadership had brought a renewed emphasis on the importance of effective declaration and management of conflicts. In another, the Accounting Officer for the Department of Culture, Media & Sport voluntarily published their own interests in order to aid transparency (paragraphs 3.2 to 3.6, 3.11 and Figure 4).

**18 Not all public bodies offer training to staff on declaring and managing conflicts of interest.**

Some organisations ask the senior policy owner for their conflicts of interest policy to attend central Cabinet Office training whilst others provide in-house training to all staff on declaring and managing conflicts. However, there is no central training offer available to all civil servants on managing conflicts of interest, and some public bodies instead use organisation-wide communications and prompts to remind staff of their declaration responsibilities. Line managers told us that they would benefit from more timely, targeted guidance and training that would support them to get this right (paragraphs 3.5 to 3.7).

<sup>3</sup> Cabinet Office, *Procurement Policy Note 04/21: Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing*, May 2021.



**19 Government bodies were unable to demonstrate that sanctions for non-compliance were effective and applied appropriately.**

We would expect sanctions to be used wisely by public bodies as it can be more appropriate to encourage late declaration than to punish honest mistakes, but not visibly using sanctions in the most serious or repeated cases of deliberate non-compliance can hamper an organisation's ability to effectively deal with and deter future breaches. All six of our case study bodies made clear in their conflict of interest policies that non-compliance could lead to disciplinary action. However, it is not obvious how much non-compliance is tolerated, because not all bodies collect management information on compliance rates centrally. We saw examples of non-compliance in our case study bodies where sanctions had not been used in response. Only one of our survey respondents said they had used sanctions in the last 12 months, and that was for two cases of serious misconduct (paragraphs 3.11 to 3.13, Figure 8).

**20 Officials are aware of the shortcomings in their systems.**

Many of the officials we spoke to at our case study bodies highlighted the shortcomings in their own processes. Similarly, 83% of public bodies responding to our survey said they could improve their systems further. They identified three ways in which their systems could be improved: increased digitalisation and automation of systems and processes, increased staff compliance, and more mandatory training. However, limited capacity within digital teams and an inability to collect centralised management information were cited by multiple bodies as barriers to making these improvements (Figure 6). Some organisations have developed more robust systems at a modest cost, using readily available Microsoft or Google software. We did not find any examples of public bodies sharing good practice on how they managed conflicts (paragraph 2.27 to 2.29, Figure 6).

**Conclusion on value for money**

**21** There are well-established systems in place to manage ministerial conflicts, which are dependent on the vigilance of accounting officers working in partnership with their minister. In contrast, many public bodies lack an effective system for managing the conflicts of civil servants and other public officials. Public bodies take inconsistent approaches to who needs to make a declaration and what this should include, and compliance with policies is variable and often not recorded. The government therefore exposes itself to the risk that unmanaged and unmitigated conflicts are on occasion influencing the objectivity of its operations. This makes it difficult for the government to be sure that it is always acting with propriety and making decisions that are in the public interest.

## Recommendations

**22** The government should make clear that it expects public bodies to put in place the governance, systems and processes that facilitate annual declarations on conflicts from every member of staff. There would necessarily be a small cost in implementing this, but it would help to embed a culture where all public servants understand what is expected of them in managing conflicts of interest. We recommend Cabinet Office:

- a** sets a clear minimum standard for the governance, systems and processes that it expects departmental public bodies to put in place. We would expect non-departmental public bodies to consider this standard as they design their own policies. We have published a good practice guide alongside this report that sets out some of the best practice we have seen and which Cabinet Office should use as the basis for this minimum standard;
- b** facilitates the creation of a temporary good practice forum which would allow public bodies to build networks and learn from each other as they implement the minimum standard; and
- c** encourages each public body to commission their internal auditors to review their implementation of the standard, including whether mitigations have been properly implemented. To help with this, it should invite the Government Internal Audit Agency (GIAA) to participate in the good practice forum and to share best practice on the role of internal audit in auditing conflicts.