



Finance and Risk Management

Conflict of Interest Policy

Introduction

1. It is essential that Ofgem should establish and maintain a reputation for impartiality, integrity and high professional standards. There must never be any reason for people outside Ofgem to suspect that our decisions may be influenced by private interests. We therefore impose certain restrictions on staffs' financial and non-financial activities.
2. These requirements form part of your employment contract, the Ofgem HR Gateway and the wider Civil Service Code.
3. All staff at Ofgem, as well as Authority members, are subject to these requirements.

Your obligations under this policy

4. It is the responsibility of Ofgem staff themselves to be alive to possible conflicts and, where they arise, to bring them to the attention of their line manager or Partner/Director. All identified conflicts of interest must be resolved. Failure to resolve conflicts may result in disciplinary action. Staff should not simply rely on any examples or lists set out in this guidance.
5. Staff should ensure they are aware of and understand the personal implications of conflict of interest and information handling provisions within:
 - This policy and guidance;
 - The Civil Service Code and Ofgem HR Gateway;
 - Insider dealing legislation – **insider dealing is a serious criminal offence under the Criminal Justice Act 1993, which contains special provisions relating to civil servants**; and,
 - Other Acts that prescribe our treatment of official information - Official Secrets Act 1989, Gas Act 1986, Electricity Act 1989, Competition Act 1998, Utilities Act 2000, Enterprise Act 2002, Energy Act 2004
6. In addition, the 'Third Package' directives¹ require staff and the persons responsible for the management of the Authority to act independently from any market interest when carrying out regulatory tasks under the Third Package and related legislation. The European Commission's interpretation is that this requirement prevents all staff and the persons responsible for their management from pursuing any activity or holding any position or office with an electricity or gas undertaking, and from holding shares or having any other interests in an electricity or gas undertaking. This obligation does not, however, prevent the persons concerned from taking part in e.g. pension funds or similar investment schemes that might among other things hold shares in electricity or gas undertakings.
7. If in doubt, seek guidance from your Director/Partner or Finance and Risk Management.

¹ Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC and Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

What is a conflict?

8. The most obvious conflict for a member of staff is that related to monetary gain. That is, that through a decision made or influenced by the individual, or knowledge of that decision, usually prior to it entering the public domain, a staff member has been able to gain financially through the trading of financial instruments, selling of knowledge, etc.
9. The potential for conflict can depend on a number of circumstances, for example, the precise nature of any financial holding and the staff member's position in the organisation.
10. However, there may also be other non-financial benefits. These could include:
 - Favourable treatment of an individual or company in return for a benefit – e.g. procurement of services from an organisation the staff member is connected to (i.e. a family member may have a financial interest in) or that they may wish to work for in the future, or have done so in the past.
 - Favourable treatment of an individual or company as a result of previously working for that individual or organisation – e.g. awarding a procurement contract to an organisation you have previously worked for, irrespective of financial benefit to oneself.
 - The securing of a favourable decision to a political party or other non-political body for personal enhancement within that organisation.
 - Gifts or hospitality, when in a non-Ofgem role. For example, access to sporting events, functions, etc. related, or otherwise, to energy companies or the energy sector (please refer to Ofgem gifts and hospitality guidance - (<http://sharepoint/Ops/HR/micrositehr/Home/Joining/Gifts/default.aspx>))
 - Securing any of the above benefits for family or friends.

Who do these rules apply to?

11. These rules apply fully to all staff members (permanent, casual, fixed, agency staff and contractors), and spouses, unmarried partners and dependent children.

Dependents

12. Dependents means spouses, unmarried partners (including civil partners) and dependent children.
13. As an Ofgem staff member you are required to identify any financial or non-financial conflicts involving dependents. Any conflicts must be declared and resolved. Failure to resolve dependent's conflicts may result in disciplinary action.
14. Your Director/Partner and/or Finance and Risk Management should be informed if your spouse or unmarried partner works for an energy company (including, but not limited to, regulated companies), major supplier or contractor to an energy company, or a company in the financial or technology sectors with significant interest in the energy sector.

Non-dependents and wider relationships

15. Whilst specific provision is made within this policy to staff members and their dependents, staff should also be aware of potential conflicts that might arise involving non-dependent family, friends and wider acquaintances. For example, being involved in a procurement

exercise, a licence application or investigation involving a non-dependent family member or friend's business or employer.

16. Any conflicts of this nature should be raised with your Director/Partner and/or Finance as soon as it arises.

What action will Ofgem take when notified of potential conflicts?

17. Declarations should be notified, in the first instance, to either HR for new starters, or Finance and Risk Management for existing staff.
18. Each declaration will be dealt with on its own merits. The potential for conflict can depend on a number of circumstances, for example, the precise nature of any financial holding and the staff member's position in the organisation.
19. All declarations will be reviewed by Finance. If necessary further information will be sought from the staff member or appropriate others (for example, where advice may need to be sought on a particular company's activities).
20. Finance and Risk Management will provide for each potential conflict an assessment of whether a conflict in fact exists, the appropriate remedy and the time period over which the action must be taken.
21. Staff will be notified of the final decisions and actions required of them and the time span over which such actions should be taken. Any such action should be taken no later than - for NEDs/SCS actions will be required to be completed within 6 months of notification. For band E/D/Cs actions will be required within 12 months. For grades A/B a time period of 18 months will be applied.

Appeals

22. Where a staff member disagrees with the decision of Finance and Risk Management, the Group Finance Director, and the E-Serve MD, they may ask that the decision be reviewed. This review will be carried out by the Chief Executive. The Chief Executive's decision will in all cases be final.

Sanctions

23. The Senior Management Team regard the above arrangements as extremely important for the protection and reputation of Ofgem and its staff. Disciplinary action will be taken against any staff member who is found not to have complied with them (please refer to the HR Gateway).

What companies/organisations are involved?

24. Conflicts will not just relate to the companies we regulate. For example, other organisations that could be impacted by Ofgem decisions could include:
- UK energy companies that we do not regulate;
 - equipment suppliers to the electricity and gas industry;
 - overseas utility companies;
 - technology companies, e.g. those working in the renewables sector;

- financial institutions that may own, or hold significant financial positions in, energy companies; and,
- companies tendering for Ofgem contracts (either to be working for Ofgem or as part of a scheme we are administering – e.g. Offshore Transmission).

Political activity

25. All Ofgem staff are civil servants. As such there are party political activities that are proscribed by the Civil Service. The Civil Service Code and the HR Gateway provide full details. Essentially, however:

- if you are band C or below you can participate in most political activities with approval from Ofgem;
- if you are band D or above you cannot take part in national political activities but may ask permission to take part in local activities.

26. All members of staff, at any level, are entitled to be members of political parties. You do not need to declare this. This will not be viewed as constituting a conflict of interest as long as the requirements noted above, and in relevant guidance, are adhered to.

27. In addition to the restrictions on party political activity Ofgem also applies restrictions on non-party political activity. These activities might include:

- demonstrating on behalf of a pressure group, charity or similar body; or
- representing to the media, or elsewhere, a pressure group, charity or similar body.

28. If in doubt about what activities are conflicts raise with your Director/Partner and/or Finance.

Licensed companies regulated by Ofgem

29. Any member of staff who holds shares in any company licensed under the Gas or Electricity Acts, or in companies that are affiliated to any such company (such as parent companies and their other subsidiaries), should declare them as part of the annual conflict of interest declaration process, or, if within year, inform their Director/Partner or Finance immediately. Details of licensed companies can be found at:

- for electricity -
(http://www.ofgem.gov.uk/Licensing/Work/Documents1/external_electricity_list_excel1.pdf)
- for gas
(http://www.ofgem.gov.uk/Licensing/Work/Documents1/external_gas_list_excel1.pdf)

30. Any member of staff proposing to deal in or exercise rights attached to shares in any company licensed under the Gas or Electricity Acts or in companies that are affiliated to any such company (such as parent companies and their other subsidiaries), should let their Director/Partner or Finance know immediately.

31. In addition, staff are prohibited from investing in infrastructure, private equity or pension funds (where the member of staff manages the investment) that either have or are potentially likely to have investments in any company licensed under the Gas or Electricity Acts, or in companies that are affiliated to any such company (such as parent companies and their other subsidiaries).
32. References to "shares" and "shareholdings" should be read to include all types of security, debt instruments and derivative products including preference shares, loan stocks, bonds, commercial paper, bills of exchange, convertibles, warrants, futures, options, contracts for difference and spread-betting contracts. It does not include collective investment schemes such as PEPs / unit trusts / OEICs and investment trusts where the individual concerned has no influence on investment decisions. However, it does include these investment schemes if they are energy sector specific or have significant emphasis on the energy sector.
33. Shares may not be held in a trustee or comparable representative capacity when the staff member has primary responsibility for investment decisions. However, investments managed by an appropriately authorised person or organisation on a fully discretionary basis (whereby the fund manager makes all the decisions and the client has no influence) will be allowed, subject to prior approval by Finance.

Organisations not licensed by Ofgem

34. The rules noted at paras 29-33 above will also be applied to other relevant organisations.
35. It is staff members' responsibility to be aware of potential conflicts involving companies of this nature. Staff should in all cases declare ownership and seek advice as to the appropriate action.

Share options

36. Where a member of staff, as part of a remuneration package with a previous employer, is entitled to exercise future share options in organisations that may lead to a conflict of interest, any such entitlements should be notified to their Director/manager and/or Finance.

Pensions

37. As noted above, this guidance covers pension schemes if the investment decisions are made by the member of staff, or under instruction from them. If the pension is managed without interaction from the member of staff (it is remotely managed by a fund manager or similar) the above do not apply.
38. If staff members hold pensions from a period of employment with a regulated company they should declare this.

Procurement

39. This guidance covers staff involvement in procurement processes – both the procurement of products/services for use by Ofgem and related to any area of policy or delivery administered by Ofgem. This would include, for example, ownership of shares in companies bidding for tenders under the Offshore Transmission regime, where the member of staff is in a position to affect the outcome of that procurement exercise.

40. In all cases, staff should be aware of Ofgem and wider Government procurement guidance in relation to conflicts of interest, and any potential conflicts that may affect them. Any such conflicts should be declared immediately to your Partner/Director or Finance.

Previous Employment

41. Staff members should be careful in undertaking any work for Ofgem if it brings them into contact with organisations for which they have previously worked. This is particularly the case where financial transactions or allocation of work is involved – e.g. procurement contracts. You should declare any possible conflict of this nature immediately it arises.