

Protocol on conflicts of interest

Background

1. A conflict of interest occurs when the commitments and obligations owed by an individual to the University or other bodies are likely to be compromised or may appear to be compromised by:
 - a. The individual's personal gain, or gain to immediate family (or a person with whom the individual has a close personal relationship)
 - b. The commitments and obligations the individual owes to another person or body
2. On occasion, Staff activities, whether they are usual University duties or outside activities, may give rise to conflicts of interest, whether potential or actual, perceived or alleged. It is recognised that it is inevitable that conflicts of interest sometimes occur. The issue is not the integrity of the individual concerned but the proper management of the situation.
3. The key to managing conflicts of interest is to ensure that they are declared. It is not the University's intention or desire to prevent members of Staff from carrying out their normal spare time activities.
4. In line with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership, all Staff are therefore required to recognise and declare activities or circumstances that might give rise to conflicts of interest or the perception of conflicts and to ensure that such conflicts are seen to be properly managed or avoided.
5. If properly managed, the activity or situation can usually proceed as normal whilst at the same time upholding the individual's obligations to the University, meeting regulatory and other external requirements and protecting the integrity and reputation of the University and its members. By contrast, conflicts which are not managed effectively may jeopardise the University's public standing and may cause serious damage to the reputation of the University and of the individuals concerned.
6. These guidelines have been produced to ensure that individuals are aware of what is required of them and to ensure that the University is not placed at risk of action against it, or damage to its reputation.

Scope

7. These guidelines apply to all Staff of the University as well as Honorary Staff and Emeritus Professors. They also apply to undergraduate and postgraduate students and doctoral researchers insofar as they are carrying out work for or on behalf of the University. A reference in this Protocol to Staff or individuals includes any person within the scope of the Protocol.
8. It is the primary responsibility of each individual:
 - To recognise situations in which s/he has a conflict of interest, or might reasonably be seen by others to have a conflict;
 - To disclose that potential conflict to the appropriate person as soon as it is recognised as such; and
 - To take such further steps as may be appropriate as set out in more detail under the procedure below (see 'Declaring a potential conflict of interest' below).
9. Whilst this document describes and provides guidelines for many situations in which conflicts can arise, it is not meant to be exhaustive. If an individual is uncertain about how this Protocol might affect his or her activities or has any questions about its application, s/he should contact his/her manager or supervisor in the first instance.

Where a conflict of interest may arise

10. Conflicts of interest may be financial or non-financial or both.
11. There can be situations in which the appearance of conflict of interest is present even when no conflict actually exists. Thus it is important for all individuals when evaluating a potential conflict of interest to consider how it might be perceived by others.
12. The duty to declare a possible conflict applies to the perception of the situation rather than the actual existence of a conflict. However, this duty is not infringed if the situation cannot reasonably be regarded as likely to give rise to a conflict of interest.

Financial conflicts of interest

13. A financial conflict of interest, for the purposes of this guidance, is one where there is or appears to be opportunity for personal financial gain, financial gain to close relatives or close friends, or where it might be reasonable for another party to take the view that financial benefits might affect that individual's actions.
14. Financial interest means anything of monetary value, for example:
 - a. payments for services;
 - b. equity interests (e.g. stocks, stock options or other ownership interests);
 - c. intellectual property rights (e.g. patents, copyrights and royalties from such rights); and/or
 - d. hospitality and/or gifts (refer to Register of gifts and hospitality in the manual of financial rules: <https://intranet.birmingham.ac.uk/finance/manual/Receiving-Gifts-or-Hospitality.aspx>).
15. The level of financial interest is not the determining factor as to whether a conflict should be disclosed. What might be 'not material' or 'not significant' for one person might be very significant for another. Good practice in many situations will mean the disclosure of any financial interest, however small. A conflict will arise if the interest might provide, or be reasonably seen by others to provide, an *incentive* to the individual which affects his/her actions and where s/he has the *opportunity* to affect a University decision or other activity (because for example s/he is the decision-maker or the principal investigator on a research project).

Examples

16. Examples of situations in which financial declarations of conflicts of interest should be made include (although not limited to):
 - a. Staff of the University serving on other bodies, e.g. research council committees, grant review panels, editorial boards etc, will typically be asked by those parties to declare financial interests.
 - b. Authors submitting a manuscript must disclose any 'significant financial interest' or other relationship with the manufacturers of any commercial products or providers of commercial services discussed in the manuscript and any financial supporters of the research. The intent of such disclosures is not to prevent an author with a significant financial or other relationship from publishing a paper, but rather to provide readers with information upon which to make their own judgments.

Non-financial conflicts of interest

17. Non-financial interests can also come into conflict, or be perceived to come into conflict, with an individual's obligations or commitments to the University or to other bodies. Such non-financial interest may include any benefit or advantage, including, but not limited to, direct or indirect enhancement of an individual's career or gain to immediate family or a person with whom the individual has a close personal relationship*.

* A close personal relationship may include: spouse or partner; parent or child (including in-laws and step-children); grandparent/grandchild; aunt, uncle or cousin; close friend; business/commercial/ financial relationship outwith the University's business; or a romantic or sexual relationship.

Examples

18. Some examples of situations that could give rise to non-financial conflicts of interest include:
- Pressure or temptation to accept gifts, inducements or hospitality (see below)
 - Participating in the appointment, hiring, promotion, supervision or evaluation of a person with whom the individual has a close personal relationship
 - Acting as a trustee of a charity which makes grants to the University
 - A member of staff has or develops a close personal relationship with a colleague

Research

19. Some examples of situations that could give rise to conflicts of interest in research include:
- The researcher has a financial interest in the company sponsoring the research, this being exacerbated if the value of the researcher's interest may be affected by the outcome of the research. The researcher is an inventor of patents or creator of other intellectual property, the value of which may be affected by the outcome of the research.
 - The researcher holds a position in an enterprise (e.g. as director) that may wish to restrict (or otherwise manage) adverse research findings for commercial reasons or not wish to publish the results of the research.
 - A researcher or a related body in which the researcher has an affiliation or a financial interest may benefit, directly or indirectly, from dissemination of research results in a particular way (including any unwarranted delay in or restriction upon publication of such results).
 - A researcher conducts a clinical trial which is sponsored by any person or organisation with a financial interest in the results of the trial.
 - A doctoral researcher conducts research on a project that receives support from a company in which the researcher has a financial interest or position of responsibility.
 - Some research funding agencies set specific disclosure requirements related to financial interest. They may require, for example, direct notification to them or to University officials where a principal investigator's financial interests might reasonably appear to be affected by the outcomes of the research. Some types of research, e.g. clinical trials, also require additional declarations related to financial interest. Researchers need to be aware of and comply with those specific requirements. Further information can be found in the terms and conditions of the grant or contract. Researchers should contact Research and Commercial Services if they are in any doubt as to the requirements. See also the Research Code of Conduct www.birmingham.ac.uk/Documents/university/legal/research.pdf

Teaching

20. Some examples of situations that could give rise to conflicts of interest include:
- A member of teaching staff has or develops a close personal relationship with a student or member of the family of a student for whom they have responsibility for grading work
 - A member of staff investigating a potential disciplinary matter has or develops a close personal relationship with a student involved in the investigation or a member of that student's family
 - Working as a visiting lecturer at another institution

21. Other examples of possible conflicts of interest:

- A researcher has a financial interest in the licensee (or proposed licensee) of University intellectual property.
- A staff member takes part in the negotiation of a contract between the University and a company, where the staff member or his or her family or a close personal friend has a financial or non-financial interest (e.g. a directorship) in that company.
- An academic who has a senior editorial position with a commercial journal is also responsible for recommending journal subscriptions within the University.

Declaring a potential conflict of interest

22. The general rule is that a declaration should be made at the time the conflict first arises, or when it is recognised that a conflict might be perceived, using the form available at intranet.birmingham.ac.uk/hr/employment/conflict/interest.aspx, to the Head of School or Budget Centre. If the Head of School (or Budget Centre) has an interest in the matter to be discussed, the disclosure shall be made to the person at the next higher level of authority. In most cases this will be to the Head of College.
23. For University Senior Officers, the line of disclosure is to the Registrar and Secretary, while for Heads of College and Pro-Vice-Chancellors it is to the Vice-Chancellor. The Registrar and Secretary will disclose any potential conflicts of interest to the Vice-Chancellor, and the Vice-Chancellor will report any conflicts of interest that arise to the Pro-Chancellor. In addition, University Senior Officers and members of College Boards confirm any longstanding or ongoing interests annually in line with Council's Code of Practice on Corporate Governance and Related Procedural Matters.
24. Many situations will require nothing more than a declaration on the attached form and a brief written record of that declaration, which must be held in the School's or College's records. Records of declarations by Senior Officers or members of UEB may be held by the Assistant Secretary to Council.

Guidance for Heads of School/Budget Centre on considering declarations of potential conflicts of interest

25. When advising individuals on conflicts of interest, Heads of School/Budget Centre should consider the following:
 - The seven principles of public life identified by the Nolan committee: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
 - The register of gifts and hospitality (see Manual of Financial Rules <https://intranet.birmingham.ac.uk/finance/manual/Receiving-Gifts-or-Hospitality.aspx>).
26. Advice can be sought from the Head of College, Human Resources or Legal Services if the Head of School/Budget Centre is unclear as to whether a conflict of interest exists in the given situation.
27. Having considered the potential conflict of interest, the Head of School/Budget Centre may make the following decisions:
 - a. There is no perceived conflict of interest and the individual can be advised to proceed as originally proposed
 - b. The conflict of interest is recognised as such, a note is made and appropriate action is taken:
 - i. The individual is permitted to continue with the activity
 - ii. The activity continues, but other parties are informed of the possible conflict
 - iii. The activity is altered to avoid the possible conflict of interest
 - iv. The individual is advised to withdraw from the activity
 - c. If the individual is reluctant to withdraw from the activity, the Head of School/Budget Centre should seek advice from Legal Services as to the existence of a conflict of interest if this advice has not already been received. If an ongoing problem is identified, the issue is to be referred to HR.