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**Legacy Investigation Branch**

**CONFLICT OF INTEREST POLICY**

Introduction

The Human Rights Act 1998 (which incorporates the European Convention on Human Rights into UK law) requires that any investigation into a suspicious death be effective. In terms of the work carried out by LIB, this requires that all staff who work on reviews or investigations do so in a clear and consistent manner displaying impartiality at all times and have no conflict of interest with any given case or persons involved in the death. This includes the organisation (if any), individuals responsible for the death, or organisations that may have had direct involvement or close association.

The overarching aim of this policy is to clearly set out the Head of Branch’s expectation for managing conflicts of interest to ensure consistency of approach, enhance accountability and in doing so work to secure and retain the assistance, confidence and support of families.

In developing this document, reference has been made to the Northern Ireland Audit Office Good Practice Guidance Document. [[1]](#footnote-1)

This document covers:

* Recognising a conflict of interest;
* Types of conflicts of interest; and
* Dealing with conflicts of interest.

It clearly sets out our commitment to the effective management of conflicts of interest; and provides a framework for dealing with such conflicts in a consistent and transparent manner.

Recognising a Conflict of Interest (COI)

**Definition of a Conflict of Interest**

At its most basic, a conflict of interest arises when an individual has two different interests that overlap. The Police Service of Northern Ireland has opted for a broad definition:

*“A conflict of interest is any factor which could influence or could be perceived to influence a member of staff in the performance of their duties”****.***

A conflict of interest may arise when a member of staff is allocated or is engaged in a review or investigation where a person who died, their family, suspect or significant witness is (or was) known to them, and, that relationship would or could affect their judgement, impartiality or objectivity. A conflict may potentially arise if a member(s) of staff was previously involved in an investigation currently being reviewed. In addition, a conflict may arise where a person previously served in or worked for an organisation which had an involvement in the death. The LIB Conflict of Interest policy will be applied in every case and is available for reference on the external PSNI LIB website.

A conflict of interest can also be perceived. It may pose no actual risk to the conduct of LIB business, but it requires proper management in order to minimise the risk of reputational damage both to the organisation and the individual(s) concerned.

A perception of a conflict of interest can be just as significant as an actual conflict of interest. The key issue is whether there is a risk that a fair-minded outside observer, acting reasonably, would conclude that there is a real possibility of bias.

It is important that LIB has sufficient information in order to allow for a proper assessment to be made.

**Whose interest?**

The interest in question need not be that of the LIB staff member themselves. It can also include the interests of close relatives or friends and associates who have the potential to influence the staff member. It may also extend to the previous role of staff and their previous colleagues.

As a benchmark a ‘close relative’ would usually refer to the individual’s spouse or partner, children (adult and minor), parent, siblings, in-laws and the personal partners of any of these. For other relatives it is dependent upon the closeness of the relationship and degree to which the decisions or activity of the public entity could directly or significantly affect them. Where an individual has to declare interests of this nature they may wish to seek advice from a senior officer to ensure all potential conflicts are identified.

A ‘friend or associate’ should be considered as someone with whom the individual has a longstanding and/or close relationship, socialises with regularly or has had dealings with, which may create a conflict of interest. This may also include someone where there is a reasonable prospect that contact with the person could be readily resumed.

**Is a Conflict of Interest always wrong?**

In many cases a conflict of interest will be neither wrong nor unethical. The main concern is that the conflict is identified early and any risks are managed appropriately. LIB recognise the best way of dealing with conflicts of interest is to prevent them from arising in the first place, but if they do occur it is important to declare them and then handle them suitably and efficiently.

**Recognising Risks**

Actual, potential or perceived conflicts of interest can lead to doubt about the integrity of a police officer or staff member and can impact on the reputation of the PSNI and LIB.

LIB recognise that a conflict of interest that is concealed, even if unintentionally, through ignorance of proper procedure, or managed poorly, creates at best a risk of allegations or perceptions of misconduct. It could potentially result in more serious consequences, such as disciplinary action against the employee or litigation against the organisation.

Types of Conflicts of Interest

The checklist at Appendix 1 provides a non-exhaustive list of examples of different types of conflict of interests, perceived or otherwise. For this reason LIB utilise this checklist as a guide when personnel are asked to sign a conflict of interest declaration form.

Dealing with Conflicts of Interest

LIB police officers and staff are bound by the:

* PSNI Code of Ethics
* Police Staff Handbook and NICS Handbook

Article 2 of the PSNI Code of Ethics covers Police Investigations and states that ‘A police officer involved in an investigation must immediately report any potential conflict of interest to his or her supervisor, for example, where the investigation concerns a relative, friend, associate or colleague of the police officer’.[[2]](#footnote-2)

In line with the code, LIB requires that conflicts of interest must be declared by staff members and managed effectively by the PSNI to prevent any undermining of the proper conduct of reviews and investigations and any adverse effect on our reputation. All LIB staff involved in any review or investigation are required to complete declarations in respect of each review and investigation they work on. These declarations should be completed fully and honestly. In addition, at the start of any review and investigation, the senior investigating officer will make a record to certify the absence of anything in the officers past that may raise issues relating to the ‘independence’ of an officer or member of staff. A decision that a staff member should not work on a particular review or investigation is in no way a criticism or indicative of a lack of confidence in that staff member. It is simply a determination that it is in the best interests of all concerned that they do not participate in that specific review or investigation.

**Process**

Conflicts of interest and the response to them will be assessed on a case by case basis.

The internal assessment of potential conflicts of interest will begin at case allocation stage, when team leaders will declare to the Deputy Head of LIB (Detective Superintendent), potential conflicts. This is to confirm that no conflict of interest exists, or to set out any information which may be perceived as giving rise to such a conflict, such as but not limited to, where a former colleague or acquaintance makes contact with a member of LIB staff, this should be reported to a line manager. There is an ongoing responsibility for self-disclosure throughout the review or investigation and it is recommended that if in doubt, the matter should always be reported to a line manager.

The LIB Senior Management Team may access original investigation material, or information provided by Human Resources to verify the self-declaration process. Additionally, the management team have identified the resourcing profile of LIB, to enable it to ascertain the potential likelihood of its staff having a conflict of interest.

Individual members of staff have a responsibility to recognise situations where a potential conflict of interest arises, and are advised that where they are in any doubt about whether a conflict of interest may exist, they must disclose it to their line manager at the earliest practical opportunity. If such a disclosure is made, the staff member will not perform any further duties in respect of the area of work where the perceived conflict has arisen unless authorised to do so by their line manager.

As per LIB’s ‘Family Engagement Strategy’ the steps we take to identify conflicts of interest and address potential impartiality issues will be explained at the first ‘Family Engagement Meeting’. Any concerns a family may hold relating to any potential conflicts they perceive will also be discussed at this stage. In dealing with concerns raised by families the aim will always be to take reasonable steps to secure and retain their assistance, confidence and support.[[3]](#footnote-3)

In order to decide whether a conflict of interest exists, the line manager, in consultation with Deputy Head of Legacy Investigation Branch (Detective Superintendent), will determine whether the conflict is likely to interfere, or could be perceived as interfering, with the objective judgement of the member of staff in the performance of their duties. If it is established that a conflict of interest exists or may do, the member of staff will not perform any further duties in respect of the work where the conflict has arisen. The same process will apply irrespective of the rank or grade of personnel.

If it is determined that there is a conflict of interest, the Deputy Head of LIB will arrange for an entry to be recorded in the LIB conflict of interest register and will take necessary and proportionate steps up to and including the role and involvements of specific officers, to manage the conflict going forward. The details of the conflict and any steps taken to address it will be discussed with the relevant family to secure and retain their assistance, confidence and support.

In the event that an undeclared conflict of interest is identified, which could reasonably have been known, the individual identifying the conflict will report the matter through their line management to the Deputy Head of LIB. The Deputy Head will conduct enquiries into the circumstances of the case to establish whether or not a conflict of interest has arisen. If that proves to be the case, the member of staff who did not declare the conflict of interest will be removed from the review or investigation and a decision made as to whether disciplinary proceedings should be initiated.

Any disciplinary investigation will be conducted in accordance with the protocols in place for the employment of that individual.

**Conflict of Interest Register**

All conflict of interest declaration forms will be forwarded to the LIB Senior Management Support Team (SMST) for collation on LIB’s ‘Register of Interests’. The register enhances transparency within the organisation and is a useful tool to help individuals and managers identify conflicts at an early stage and take the necessary steps to manage them. This electronic register is maintained by LIB secretariat office and access will be restricted to authorised staff. The register is reviewed annually and monthly conflict of interest declaration reminders are circulated to all staff. However, staff have a responsibility to report any change of circumstances as they occur. Anonymised data may be the subject of freedom of information or performance disclosures.

**Process map – Dealing with Conflicts of Interest**:

Appendix 1

**Checklist – guidance only**

**Do you think you have an actual, perceived or potential conflict of interest? The following questions may assist in identifying relevant factors in considering whether a conflict of interest might arise in relation to an investigation.**

* Would I or anyone associated with me benefit from, or be detrimentally affected by my involvement in this case?
* Could there be benefits for me in the future that could cast doubt on my objectivity?
* Do I have a current or previous personal, professional or financial relationship or association of any significance with an interested party?
* Would my reputation or that of a relative, friend or associate stand to be enhanced or damaged because of my involvement in this case?
* Do I hold any personal or professional views or biases that may lead others to reasonably conclude that I am not an appropriate person to deal with the matter?
* Have I contributed in a private capacity in any way to the case being considered?
* Have I been offered, as well as received, a substantial gift, benefit or hospitality from someone who stands to gain or lose from my involvement in this case?
* Am I, or have I been a member of an association, club or professional organisation, or do I have particular ties and affiliations with organisations or individuals who stand to gain or lose by my involvement in this case?
* Have I previously been deployed or served in the area in which this investigation took place?
* Have I previously worked in an individual capacity for any organisation that is (or a member of it) the subject of investigation?
* Have I had any connection with any of the members or others involved in events that may give rise to bias on my part, or any perceived bias?
* Is the deceased person (person whose death is being investigated), the family, suspect or significant witness is known to me (now, or previously) in a personal capacity?
* Could there be any other benefits or factors that could cast doubt on my objectivity?
1. NIAO Conflicts of Interest – A Good Practice Guide. March 2015 [↑](#footnote-ref-1)
2. PSNI Code of Ethics [↑](#footnote-ref-2)
3. PSNI Code of ethics Art 1.2 Police officers shall, as far as is practicable, carry out their functions in cooperation with, and with the aim of securing the support of, the local community. (Sourced from: Section 32(5) Police (Northern Ireland) Act 2000. [↑](#footnote-ref-3)