



Disclosure of Business Interests

Policy and Procedure

<u>Document Control</u>	
Version Number	2.0
Author (Name, Job Title)	Joanne Regan, Head of Assurance & Compliance
Date Approved	22 nd May 2020
Approved By	Sian Curley, Chief Executive
Superseded Version	1.2
Date of Next Review	May 2024

Version Control

Version	Date	Amended By	Reason for Issue/Amendment
1.1	12/01/18	Michelle Vaisey-Baker, Business and Finance Officer	Change in job title from Chief of Staff to Chief Executive
1.2	11/05/20	Joanne Regan, Head of Assurance & Compliance	<ol style="list-style-type: none"> 1) Paragraph 1.2 added to specify approval of business interests is part of the terms and conditions of employment 2) Inclusion of 'Aims & Objectives' at paragraph 2. 3) Update of 'Sanctions' paragraph to reflect the OPCC follows the Gwent Police disciplinary process. 4) Update of Monitoring section to include use of flexi sheets and PDRs to keep interests under review 5) Inclusion of specific paragraphs on Chief Executive and Chief Constable business interests 6) Inclusion of Modern Day Slavery section and requirement for staff with business interests to ensure they comply if applicable 7) Further guidance provided on when business interests may be withdrawn in relation to sickness and disciplinary procedures. 8) Expanding monitoring of working time directive via flexi sheets 9) Expanding monitoring of business interests via the PDR process
2.0	22/05/2020	Joanne Regan, Head of Assurance & Compliance	Chief Executive agreed amendments in v1.2. Policy & Procedure approved.

OFFICE OF THE POLICE AND CRIME COMMISSIONER
BUSINESS INTERESTS POLICY AND PROCEDURE

Policy

1. Introduction

- 1.1 It is essential that the public has confidence in the integrity and impartiality of the Office of the Police and Crime Commissioner for Gwent (OPCC). The OPCC is committed to maintaining a professional image and protecting the health, safety and wellbeing of its staff.
- 1.2 Under their terms and conditions of employment, staff must not engage in any other employment, honorary or otherwise, without the consent of the OPCC. It is emphasised that there is no requirement for staff to seek approval for business interests/secondary employment in relation to family members.
- 1.3 This does not prevent staff from having business interests or secondary occupations but allows the Chief Executive to apply a consistent approach in determining whether a business interest conflicts with the work of the OPCC and whether or not the staff member is able to discharge their duties impartially.
- 1.4 The OPCC expects the highest standards of integrity and personal conduct from all members of staff. As public office holders, all staff members are expected to comply with the Nolan Principles at all times.
- 1.5 Staff who have a business interest or wish to obtain approval for undertaking a business interest should comply with the procedure outlined within this policy. For the purposes of this policy, a business interest also covers any work undertaken on a voluntary basis for which no remuneration is received.

2. Aim

- 2.1 The main aim of this policy is to give OPCC staff the opportunity to pursue legitimate business interests compatible with their duties and the function of the OPCC.
- 2.2 This policy and procedure applies to all staff members
- 2.3 The policy aims to ensure that:
- i. business interests are declared at the earliest opportunity;
 - ii. applications are dealt with promptly;
 - iii. a business interest does not conflict with an individual's role within the OPCC; and
 - iv. consistency, openness and fairness in the consideration of applications.

3. Definition of a Business Interest

3.1 Section 1 of Regulation 7 of the Police Regulations 2003 defines a business interest and or secondary employment as:

Being a member of a police force, the person holds any office or employment for hire or gain (otherwise than as a member of the force) or carries out any business.

3.2 Even though the Police Regulations do not apply to an OPCC directly, for the purposes of this policy and procedure we will adopt compliance with them where appropriate. We will also ensure that this policy and procedure is inline with that of Gwent Police to ensure a consistent approach.

3.3 Staff are required to declare and seek approval to undertake a business interest if, outside their OPCC employment, they carry on any business or employment (paid or unpaid).

3.4 Where the business interest already exists applicants for posts within the OPCC will be required to declare and seek approval as part of the recruitment and selection process. This must be completed prior to commencing employment.

4. Principles

4.1 The Chief Executive has responsibility for the approval of business interests.

4.2 In making that decision the Chief Executive will consider the details of the application along with the following factors:

- whether the activity is one regulated by the police, or where police are involved in licensing.
- whether a conflict of interest could arise.
- whether the business interest has the potential to cause embarrassment or bring disrepute to the OPCC.
- any risk to the personal health and wellbeing of the member of staff. A business interest could involve a risk of injury or increased stress and tiredness that may impact upon the member of staff's ability to perform their duties safely and/or to a satisfactory standard.
- recognition of the Working Time Regulations, with specific regard to the total hours worked (in relation to their employment with the OPCC and their business interest) and the resultant risks to health and safety.
- The sickness record of the staff member as well as any concerns raised by their immediate line manager.
- Any other factors that may be applicable to individual's cases.

5. Modern Day Slavery – Ethical Employment

- 5.1 The Welsh Government has published a Code of Practice: Ethical Employment in Supply Chains.
- 5.2 The Code has been published to ensure public sector organisations take action to eradicate unlawful and unethical employment practices and ensure all workers at every stage of the supply chain are treated fairly and are employed in line with UK, EU and International Law.
- 5.3 The OPCC expect that any employee who is granted a business interest and has employees will adhere to the principles of ethical employment outlined in this Code.
- 5.4 Failure to adhere to legal, ethical and fair employment practices could result in the staff member being subject to disciplinary and/or criminal proceedings.

6. Chief Executive Business Interests

- 6.1 Any business interests submitted by the Chief Executive will follow the same process as detailed above with the request initially submitted to the Police and Crime Commissioner (PCC) for consideration. Any appeal will be dealt with by the PCC.

7. Chief Constable Business Interests

- 7.1 As part of the terms and conditions of their employment the Chief Constable is required to declare any business interest and/or secondary employment to the PCC.
- 7.2 The OPCC will retain a log of the business interests and or secondary employment and ensure that a review is undertaken annually in line with the requirements of the Gwent Police Business Interests Policy and Procedure.

8. Career Break

- 8.1 If a staff member intends to undertake a business interest or other employment during a career break or is already carrying these out whilst undertaking a career break, an application must be submitted in line with this procedure.
- 8.2 If the application is approved for the duration of the career break, the review date will reflect this to ensure the approval is continuous.
- 8.3 Staff members on career breaks must send details of any amendments to the business interest during this period to the Chief Executive in line with this procedure.
- 8.4 An application will not be authorised if the business interest is the main reason for taking a career break, other than in exceptional circumstances.

Procedure

9. Declaring a Business Interest

9.1 The stages in the process are as follows:

- i. The staff member may meet with their line manager to discuss their business interest, prior to making a formal application.
- ii. Following this meeting the staff member will submit an e-mail application to the Chief Executive. Please see appendix 1 for the information required.
- iii. The Chief Executive will issue a final decision within 28 days of the application being received although this may be extended in extenuating circumstances. This time-frame is as stated in Police Regulations 2003 and must be adhered to in relation to police officers. The same time frame has been adopted by Gwent Police in respect of police staff and has also been adopted by the OPCC in order to provide parity for staff.
- iv. Where approval is granted the Chief Executive may impose certain conditions. An explanation will be provided as to why these conditions have been imposed. A copy of the approval letter/email shall be retained on the personal file of the member of staff.
- v. If the staff member does not agree with the conditions attached to the approval (if applicable), representations can be made to the Chief Executive, who will consider them and provide a final decision to the staff member.
- vi. Where approval is not granted a letter/email to the member of staff will record the reasons. A meeting must be held with the individual concerned, fully explaining the rationale for the decision. The application e-mail will be placed on the staff member's personal file.
- vii. Once a refusal notice or approval with conditions notice is provided, the staff member has 10 days from receipt of the letter to appeal to the PCC. The PCC will re-consider the application and the reasons for the refusal/approval with conditions and a decision will be reached. This decision is final and cannot be appealed.
- viii. Members of staff are required to declare any changes concerning the nature of the business interest and the Chief Executive will review these in light of the circumstances. Staff should be aware that depending on the degree of change, continued approval to a previously agreed business interest may not be granted.
- ix. Members of staff are not to commence any business interest until they are notified in writing of the decision by the Chief Executive.

9.2 Further information on business interests related to property rentals/letting (including room letting), product selling and distribution and fostering can be found at appendix 3.

10. Approval of Business Interests – Conditions

10.1 Where business interests are approved staff members must comply with the following conditions:

- Duties/commitments in connection with the business must be carried out in the staff member's own time and away from the OPCC premises.
- They must not advertise their role as a member of the OPCC staff to promote the business or any product of the business, nor should they allow other organisations to do so.
- The individual is responsible for compliance with Working Time Regulations and health and safety requirements.
- Where one or more member of staff holds a joint business interest, each individual concerned must apply for approval in accordance with this policy.
- Attendance levels and performance at work will be considered when an individual seeks approval for a business interest.

11. Withdrawal of Approval of Business Interests

11.1 Where approval for a business interest is withdrawn the circumstances must be recorded in writing. A meeting must be held with the individual concerned, fully explaining the rationale for the decision.

11.2 Consideration will be given to rescinding approval of a business interest if a staff member fails to inform the Chief Executive of any change in circumstances.

11.3 The OPCC reserves the right to suspend or remove approval for business interests where misconduct or gross misconduct is suspected.

Long Term Sickness Absence and Restricted/Recuperative Duties

11.4 If a staff member who holds a business interest is on a period of long-term sickness absence (over 28 days), subject to the absence management procedures or subject of restricted or recuperative duties, then the business interest and or secondary employment will be reviewed.

11.5 In some cases this may result in the business interest being temporarily suspended until the staff member returns to his or her full duties.

11.6 Where a staff member who holds a business interest appears to be abusing the approval whilst on long term sickness absence, restricted or recuperative duties or reduced hours, the circumstances will be reviewed by the Chief Executive in consultation with HR in accordance with the Discipline, Unsatisfactory Performance and Attendance Management Policies and Procedures.

11.7 Once the staff member has returned to full duties the approval will be reviewed.

Performance and Discipline Issues

11.8 Where a staff member who holds a business interest is subject to performance/disciplinary procedures, current approved business interests will be reviewed by the Chief Executive in consultation with HR.

11.9 Each circumstance will be considered individually and in some cases approval may need to be temporarily suspended, amended subject to conditions, or withdrawn pending an outcome of the managing performance or misconduct procedures.

11.10 Once the performance procedures have concluded the approval or change in approval will be reviewed.

12. Working Hours and Time Sheets – Recording of Hours

12.1 The staff member will reflect on their 4 weekly time sheet how much time they have spent on their business interest in addition to their hours worked with the OPCC.

12.2 This is to be reviewed every 4 weeks by the line manager when the time sheet is submitted.

12.3 Where the line manager identifies the Working Time Directive is being breached they must make the Chief Executive aware and a conversation with the staff member must take place.

12.4 If the hours cannot be modified to comply with the Directive, the line manager should discuss with the Chief Executive and consideration given to approval being reviewed.

12.5 An individual can choose to opt out of the Working Time Regulations requirement on maximum weekly working time (appendix 2).

12.6 However, even where a person has signed an individual agreement to be excluded from the maximum weekly working time, line managers must still honour their duty of care by ensuring that staff and the OPCC are not exposed to unacceptable risk through the working of excessive hours.

13. Sanctions

13.1 Staff of the OPCC are also governed by the Gwent Police disciplinary procedure. Any breach of this policy and procedure or anything that may bring discredit to the OPCC and/or Gwent Police may amount to gross misconduct.

14. Monitoring of Business Interests

- 14.1 A register of approved business interests will be retained by the Governance Officer. This may be subject to publication in accordance with the Freedom of Information Act and OPCC Publication Scheme.
- 14.2 All line managers are required to monitor any staff members business interest formally via the PDR process on a quarterly basis. This ensures the business interests are regularly kept up-to-date and any concerns are dealt with in a timely manner eg monitoring of hours worked and the impact that may have on their substantive role with the OPCC.
- 14.3 Any new business interests identified or any amendments that have been made to existing business interests must be sent to the Chief Executive for consideration as per this procedure.
- 14.4 Any concerns raised during this process must be brought to the attention of the Chief Executive for guidance to be provided.
- 14.5 The HoAC will contact all line managers annually as an additional check to ensure the register is updated appropriately.

15. Additional Income

- 15.1 Staff are reminded that any additional income received must be declared to Her Majesty's Revenue and Customs.

16. Review of Policy & Procedure

- 16.1 This policy and procedure will be reviewed when any relevant changes are identified by the HoAC or at least every four years.

Key Areas for Inclusion in Applications of Business Interest

All staff members who have a business interest or who wish to obtain approval for a business interest must send an email to the Chief Executive containing the following details:

- Name
- Job Title
- Date of application
- Details of any other approved business interests
- Details of the work to be undertaken in relation to the proposed business interest, including:
 - Relevant contact details
 - Property rental (via a letting agent) – address of property to be rented and the name and address of the letting agent used.
 - Property rental (direct to tenant) – address of property to be rented and the full details of ALL tenants
- Whether or not any remuneration is received
- How many hours per week you intend to work
 - Would undertaking the additional work result in you exceeding the 48 hour per week rule set out in the Working Time Directive? If yes, then please complete the Opt-Out form at the end of this document.

Please note: It is incumbent on you to ensure that HM Revenue & Customs are informed of any additional income earned.

Working Time Regulations Opt-out Form

Individual Agreement to Dis-apply the 48 Hour Average Working Week

I confirm that I have read and understand the main provisions of the Working Time Regulations.



I note that the Regulations limit the working week (including overtime and voluntary or paid secondary employment) to a maximum average of 48 hours per week over a 17 week period. I would like to make an individual agreement to disapply this limit.

Details of my additional hours of work are as follows:

.....
.....
.....
.....

Should I no longer wish to work in excess of 48 hours per week, I agree to give 1 months notice of my intention to cancel this agreement.

I understand that, whilst I am not required to exceed the 48 hour working week, I wish to do so.

Signed..... Date.....

(Print name).....

PLEASE RETAIN A COPY OF THIS AGREEMENT AND RETURN THE ORIGINAL TOGETHER WITH YOUR BUSINESS INTEREST APPLICATION IN ORDER THAT IT MAY BE PLACED ON YOUR PERSONAL FILE.

Appendix 3

Product Selling and Distribution

The selling and distribution of products through a network of agents is becoming increasingly popular. There is a need to ensure that business interests of this nature are carefully managed due to the prohibition under U.K. law of 'pyramid' selling. This type of scheme relies on agents recruiting other agents and thereby earning commission. Staff are reminded that no such business can be undertaken until it has been approved.

Where such a business interest has been approved, any changes to that business must be raised with the Chief Executive. This would include additional recruitment of agents/distributors and additional responsibilities such as running group sessions or classes as well as distributing. No additional business can be conducted until the application has been approved.

Staff must not recruit/sponsor members of staff within the OPCC. This is to ensure that there is no conflict between members of staff that could impact on their roles within the organisation.

The promotion, selling and distribution of products must not take place during working hours.

No promotional clothing or items will be worn by members of staff on police premises or during working hours.

Renting and Letting of Property

Direct Renting to a Tenant

Staff members who are intending to:

- Rent any property direct to a tenant(s),
- Change tenant(s)
- Renew a contract with an existing tenant(s)

Must gain permission for a business interest in each case and comply with the below process to approve the tenant(s), prior to entering into any contract or renewal arrangements.

In the absence of a letting agent, the relationship between the staff member and the tenant(s) is one of direct contact involving the exchange of monies and is a business association.

To minimise any risk to the organisation, the approval gained via the business interest procedure is required, this includes approval of the tenant(s).

Prior to agreeing any contract or renewal of contract with a tenant(s), the staff member must supply the full details of ALL the proposed tenant(s) in the business interest application in line with this procedure.

The Chief Executive reserves the right to request that the Gwent Police Counter Corruption Unit (CCU) provides advice on whether the proposed tenant poses a risk to the OPCC or Gwent Police, the staff member or constitutes an inappropriate association.

The staff member will receive notification in line with this procedure whether they may proceed with the tenancy agreement or not.

No approval will be given if the proposed tenant:

- i. Poses a possible compromise to either the OPCC or Gwent Police and/or to the employee or to the perception of such a compromise
- ii. Poses a risk to the integrity to either the OPCC or Gwent Police and/or to the employee or to the perception of such a risk

If there is any change in tenant(s), the staff member must provide details of the new tenant(s) in line with business interest procedure prior to entering into any contracts.

At the point of any renewal of any contract with existing tenant(s) to review any real or potential risk to the individual or the organisation a new business interest application must be submitted.

Data Protection Requirements

*To comply with Data Protection Legislation, the officer or staff member **must** gain the permission from **all** the tenant(s) and prospective tenant(s) that their personal details go to Professional Standards for the above process **prior to submitting the application for a business interest.***

*If **any** of the tenants refuse permission, the Business Interest application cannot proceed.*

It is the responsibly of the staff member to ensure they have the tenant(s) permission prior to forwarding the tenant(s) details in line with this procedure to the Professional Standards Department. Failure to comply and gain permission from a tenant(s) could result in disciplinary action taken.

Renting via an Agent

Staff members are required to submit a business interest:

- If they wish to rent property with the services of a letting agent
- If they change agent
- If they are moving to an agent following at the end of a contract with a tenant

Approval must be gained prior to engaging the services of the agent.

The use of property rental companies, like Air BnB, are becoming an increasingly popular choice for people who are seeking to rent out a property, or even a room or rooms at a location where they reside.

All staff intending to use a property rental company must gain business interest approval, in line with this procedure, prior to agreeing any letting or renting arrangements.

Fostering

Fostering is considered to be paid employment and all staff members wishing to undertake fostering should submit an application for secondary employment approval in line with this procedure prior to agreeing to foster.

An application is required if a staff member is living with someone with a fostering arrangement in place or planning to undertake fostering.

From the date of publication of this procedure, fostering should not be undertaken by any staff member without prior approval.

For those who are already engaged in fostering an application in line with this procedure is to be submitted for consideration.

Applications are considered on a case-by-case basis and the decision will be made on the circumstances outlined in the application.