

## Management of Interests (Mol) Policy – Equality Impact Assessment

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### Step 1: Scoping the EIA

**Name of the policy/function:** Management of Interests (Mol) policy

**Assessor:** Lisa Harmshaw (Governance Manager)

**Date EIA started:** 28 March 2016

**Date EIA completed:** 18 April 2016

**Date of next EIA review:** June 2017

**Purpose of EIA:** To review the draft Mol policy prior to the trial beginning.

### **Q1. Has a screening assessment been used to assess which of the equality groups the policy is relevant to?**

No, an EIA screening has not been completed prior to this full EIA.

### **Q2. What are the main aims, purpose and outcomes of the policy? You should be clear about the policy proposal: what do you hope to achieve by it? Who will benefit from it?**

**Aims:** The policy supports the principles of transparency and probity to maintain confidence in the GOC and protect our employees and members from any appearance of impropriety, to ensure that those who work for and on behalf of us make decisions in the best interests of the public. This means decision making is independent, fair and free from improper influence and bias. We are responsible for promoting and setting standards for optometrists, dispensing opticians, optical students and optical businesses as well as making decisions about whether their fitness to practise has been impaired. Therefore our conduct both as an organisation and as individuals must reflect the same high standards.

**Purpose and Outcome:** The policy has been developed to ensure well defined and transparent arrangements for managing conflicts of interest, both real and perceived, in order to demonstrate to the public and stakeholders that our decisions are made in the best interests of the public.

Desired outcomes include:

- having a robust method for declaring interests of employees and members based on the principles of transparency and probity;
- the ability to demonstrate to the public and stakeholders that our decisions are made in the best interests of the public;
- clear guidance on what interests must be declared, how and when to declare interests, how to identify and manage a conflict of interest and how interests will be published;
- improved understanding on the different types of interest and how these might affect individuals and their GOC role;
- managing interests in a staged manner, as set out in the policy, in order to determine appropriate and proportionate remedies in the instance of actual or perceived conflicts; and
- provision of guidance on what to do if non-compliance is suspected and the potential consequences of non-compliance with the policy.

**Who will benefit:**

- those who it applies to (employees and members) – in order to protect them from any appearance of impropriety, to ensure that those who work for and on behalf of us make decisions in the best interests of the public and by ensuring they have well defined and clear guidance on what interests must be declared, how and when to declare an interest, how to identify and manage a conflict of interest, and understanding how the GOC will publish interests; and
- the general public and stakeholders – to provide assurance that the decisions we make are made transparently and in the best interests of the public.

**Q3. Which aspects/activities of the policy are particularly relevant to equality? At this stage you do not have to list possible impacts, just identify the areas.**

<b>Activity/Aspect</b>
• Fairness
• Clarity and accessibility
• Scope

**Q4. Gathering the evidence**

**1.5. List below available data and research that will be used to determine impact on the different equality groups**

<b>Available evidence – used to scope and identify impact</b>
<p>We have reviewed a number of policies from our fellow healthcare regulators including the General Medical Council (GMC), Nursing and Midwifery Council (NMC), General Pharmaceutical Council (GPhC) and the General Osteopathic Council (GOsC). We have also reviewed a number of non-related policies including from the Human Tissue Authority, Public Health England and the Charity Commission.</p> <p>In addition, we have taken into account guidance from the Charity Commission on conflicts of interest, the Good Governance code for the voluntary and community sector and guidance issued from the Institute of Chartered Secretaries and Administrators (ICSA: the governance institute) which was specifically written for charity trustees.</p>

**1.6. Q5. Evidence gaps**

**1.7. Do you require further information to gauge the probability and/or extent of impact?**

Employee feedback is potentially an area of further information required to assess the impact. Their feedback is planned to be received during the trial period..

**1.8. Q6. Involvement and consultation**

**Consultation that has taken place, who with, when and how:** The Senior Management Team (21 March 2016); Management Forum (4 April 2016); Audit and Risk Committee (25 April 2016) and Council (11 May 2016).

In addition we have sought feedback from the Council Governance Champions (Gareth Hadley and Scott Mackie) which has been incorporated into the draft presented to ARC.

The 12 month trial will be used as an opportunity to engage and seek feedback from employees (especially as they have not previously been subject to this policy) and members.

**Consultation has taken place with the following stakeholders:** No external consultation is currently scheduled. We have considered how best to consult with employees and SMT have decided that a trial would be the best way to identify any impacts of the policy and collate employee feedback.

**Summary of the feedback from consultation:** feedback received from each of the meetings attended has been carefully considered and addressed in subsequent versions of the policy. In addition, specific details of what each meeting commented on is documented in annex one of the ARC paper ARC27(16).

Management Forum (4 April 2016) raised the following points:

- Will all employee disclosures (rather than just SMT) be published on the website? Is this in line with data protection?
- Is it against someone's human rights to disclose being a member of a political party? Or a member of a trade union?
- Are all of the items asked to be declared relevant for employees?
- Is there a difference between disclosures required from employees in a decision-making level to front line employees? Is that Heads of or SMT?
- Would all interests/declarations be published?

**Link to any written record of the consultation to be published alongside this assessment:** N/A

**How engagement with stakeholders will continue:** We will report progress to the SMT and ARC as the trial progresses if any impacts are identified.

**Q7: Using the evidence you have gathered what if any impacts can be identified.**

Step 3: Strengthening your policy

What can be done to remove or reduce any impact identified? Please use the table below to document your strengthening actions.

Activity/ Aspect	Potential/actual Impact	Strengthening actions to remove or reduce impact. For actions, include timeframes.
Fairness	Detrimental impact on job role as a result of exclusion due to a conflict	<ul style="list-style-type: none"> <li>• Policy details various options to remedy a conflict which go beyond exclusion. (see 7.8 in the policy)</li> <li>• Policy includes a meeting to discuss potential conflicts, if required. (see 7.4 in the policy)</li> </ul>
	Process of determining whether a declared interest is a conflict might not be fair	<ul style="list-style-type: none"> <li>• The approach to managing interests is undertaken in a staged manner (see 1.5 in the policy).</li> <li>• Three people are involved in the decision regarding potential conflicts – the individual making the declaration, their line manager / Chair and the Head of Governance (see 7.4 in the policy)</li> <li>• There is an appeal process (see 7.4 in the policy)</li> </ul>
	Inadequate training means process might not be fair	<ul style="list-style-type: none"> <li>• The policy owner will use the 12 month trial period to engage and seek feedback from those affected by this policy. This may include attendance at committee meetings, team meetings, staff meetings and individual or adhoc guidance. Feedback will be recorded in order to inform the development of a final policy following the end of the trial. <b>On-going consultation, due completion on: 17 June 2017.</b></li> <li>• The draft policy has been communicated to all managers and they have been asked to advise employees within their teams of the policy and direct any queries to the Governance Team.</li> </ul>
	Risk that individuals may fail to make a declaration to avoid being 'kept out of the loop' or excluded from decisions	<ul style="list-style-type: none"> <li>• Compliance with the policy is mandatory. (see 8.1 in the policy)</li> <li>• Policy details various options to remedy a conflict, including holding a meeting to discuss matters. (see 7.4 and 7.8 in the policy)</li> <li>• Engagement at the early stages during the trial period will help to embed trust in the process and understanding about the process (see paragraphs 30-31 of the cover paper for the communications plan).</li> </ul>

Activity/ Aspect	Potential/actual Impact	Strengthening actions to remove or reduce impact. For actions, include timeframes.
Clarity and accessibility	Individuals do not make declarations because they are unsure of how to do so / don't know if they need to	<ul style="list-style-type: none"> <li>• Policy has clear format with 'checklist questions' – these will be consulted on to check they are clear. (see 5.3 in the policy) <b>Owner: Lisa Harmshaw, due: during trial.</b></li> <li>• The checklist will be reviewed after the trial to see patterns of unnecessary declarations made. <b>Owner: Lisa Harmshaw, due: after trial.</b></li> <li>• Use of a standardised form for all declarations which will be published on the GOC website, intranet and H drive. (See Appendix 3 of the policy)</li> <li>• Communication to all employees and members will include attendance at meetings and face to face guidance opportunities during the trial period. (see paragraph 30 of the cover paper). <b>Owner: Lisa Harmshaw Due: during trial</b></li> </ul>
	Lack of awareness of the policy	<ul style="list-style-type: none"> <li>• Policy will be published on the GOC website, intranet and as part of the 'Member Focus' Bulletin. <b>Owner: Lisa Harmshaw. Due: Council approval.</b></li> <li>• All Council and Committee meetings include an opportunity at the start of each meeting to declare any interests. <b>No further action required.</b></li> <li>• The contracts and procurement policy should cross reference to this policy and the process include an opportunity to declare any interests. <b>Owner: Finance. Due: Q4 2016/17.</b></li> <li>• Communication to all employees and members will include Governance attendance at meetings and face to face opportunities during the trial period. (see paragraph 30 of the cover paper). <b>Owner: Lisa Harmshaw Due: during trial</b></li> </ul>
Scope	Decisions to restrict activity due to a conflict might be influenced by unconscious biases	<ul style="list-style-type: none"> <li>• Those involved in deciding how a conflict might be remedied will undertake training in unconscious bias. <b>Owner: Philippa Mann Due: during trial</b></li> </ul>
	Scope of declaring interests may be disproportionate to the conflict that may come from different levels of	<ul style="list-style-type: none"> <li>• Policy to be reviewed with on-going consultation to check scope is proportionate to job role. Feedback received to be presented to SMT. – <b>Owner: Lisa Harmshaw, Due: during trial</b></li> </ul>

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Activity/ Aspect	Potential/actual Impact	Strengthening actions to remove or reduce impact. For actions, include timeframes.
	responsibility in roles	
Right to be free from discrimination	Breach of an individual's human rights on the basis of discrimination because of political opinion	<ul style="list-style-type: none"> <li>• Recommendation to remove the political question. <b>Owner: Lisa Harmshaw. Completed, for review by ARC and Council.</b></li> </ul>
Data Protection	Publishing of information may breach data protection rights of individuals	<ul style="list-style-type: none"> <li>• Currently, the policy states that decision-makers' declarations will be published (for employees this is case examiners, SMT, Heads of, those named in the Scheme of Delegation and budget holders). Other employee declarations will be held in HR and will not be published. There is concern that only those with their names in the public domain should have their declarations disclosed. <b>ARC and Council to review this query, alongside Privacy Impact Assessment.</b></li> <li>• Any information provided will only be used for the clear purpose of managing interests that might have a conflict with their role, it will not be used for any other purpose.</li> <li>• Information Governance impact screening completed by <b>Robert Mannall, 06 April 2016.</b></li> </ul>

**Q8: What can you do further to maximise opportunities to further promote equality. Please document below.**

We will continue to monitor the impact of the policy during the trial period (against the protected characteristic groups) which will be used to inform future iterations of the policy.

Step 4: Monitoring and review

**Q10. What monitoring mechanisms do you have in place to assess the actual impact of your policy?**

The 12 month trial will be used to monitor feedback and any impacts. The Audit and Risk Committee (ARC) is responsible for annually reviewing the Register of Interests. They are expected to undertake this in July 2016. We will provide a brief update to the ARC at this meeting to advise that the trial has started and to highlight any issues which may have arisen. In addition, we will update the ARC at future meetings during the trial, as necessary.

Please provide a review date to complete an update on this assessment.

**Date: June 2017**

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**ANNEX: Feedback from SMT (21 March 2016), Management Forum (4 April 2016) and Council Governance Champions.**

Part of the policy	Feedback			Our response
	SMT	Management Forum	Council Champions	
Whole policy	Agreed that the draft policy covered the right areas and welcomed the firmer guidance which would apply to all employees (including case examiners) and members.			Noted.
	Suggested the policy is trialled for a period of 12 months which will be used as an opportunity to engage and seek feedback from employees especially (as they have not previously been subject to this policy) and members.			Noted and included in the paper going to ARC and Council.
		Clarification sought on the guidance to be provided to experts, witnesses and other advisers or consultants who are not members which the GOC might use as this policy does not apply to them.		Those engaged with the GOC who are not identified as employees or members will have their contracts reviewed to ensure they include appropriate clauses relating to the declaration of interests.
	Requested feedback from the Management Forum as to what support they would need in order to ensure compliance with the policy within their teams	Suggested attendance at team meetings/employee meetings, and face to face guidance on request.		Included in the communications plan (see paragraph 30 of the cover paper).
Para 5.3 of the policy: questions to answer in relation to current or previous interests	Agreed that the questions were appropriate and the right ones to ask of both employees and members.	Questioned whether it was proportionate to ask all the questions listed in paragraph 5.3 of all employees.		We consider that asking a standardised set of questions of all employees and members will prevent misunderstanding about which questions apply to each group.
5.3 (F) of the policy: shareholdings and investments	Agreed that the policy should not specify a minimum level, and any			Noted and included in the policy.

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Part of the policy	Feedback			Our response
	SMT	Management Forum	Council Champions	
	shareholding or investment of any company either regulated by the GOC or contracted to work with the GOC would need to be declared.			
5.3 (I) of the policy re political activity		Questioned whether asking an employee or member about whether they engaged in political activity is an infringement of an individual's human rights.	Suggested that this section apply to any political activity – not just main political parties.	Refer to paragraphs 18 - 19 of the cover paper
5.3(J): are you (or a connected person) acting as a lay/non-expert character witness on behalf of a registrant who is appearing before the GOC FTP Committee?		Case Examiners cannot be witnesses.	Requested that the policy make it clear that any member (and also case examiner) are not able to act as a lay (i.e. non-expert) or character witness on behalf of a registrant who is to be appear before the FTP Committee.	There could be a perceived conflict of interest for employees or members to be a witness and to allow an employee or member to do this would impair the Council's work by removing their skills and experience from our wider activities. We have therefore added this to the policy.



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Part of the policy	Feedback			Our response
	SMT	Management Forum	Council Champions	
7.5.2 of the policy (individuals cannot be a member if they are subject to investigation by the GOC or other professional body in relation to FTP concerns which have been referred to the GOC FTP Committee / disciplinary committee)		Clarification was sought at which point a member would be suspended.	The wording should be clear that the member would not need to demit from office entirely – but would be suspended dependent upon the outcome of the hearing.	Suspension takes effect from the point that a case is referred to an FTP Committee. Disqualification, suspension and removal of Council and Committee members is explained in the Council and Committee appointments process which is published on the GOC website. We have reworded the paragraph as requested.
7.6.2 (a gap of two years between being an independent committee member and other members roles)			Felt to be too restrictive and questioned the rationale for this separation.	See paragraph 20 of the cover paper.
Publishing the Register of Interests	Include case examiners, heads of department, budget holders and any role named in the GOC Scheme of Delegation (parts one and two). All declarations to include the name and the role held by the individual.	Clarification of whose interests will be published, and whether it is proportionate and compliant with Data Protection Act.		See paragraph 22 of the cover paper
Declaration Form		Questioned whether the form could include a 'prefer not to say' box (as found on equality and diversity monitoring forms) or what would		We have not included a 'prefer not to say option' on the basis that this could give the perception that an individual did not wish to be transparent about their declarations. In the event that an employee or member refuses to complete a declaration (either

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Part of the policy	Feedback			Our response
	SMT	Management Forum	Council Champions	
		happen if an employee or member refused to answer a certain question or complete the form		entirely or in relation to certain questions) this will be referred to the relevant Chair/Manager and Head of Governance in the first instance.
		Suggested that it might be more suitable to have two forms – one which applied to those with statutory decision making powers and one for other employees and members.		In order to avoid confusion we will keep one declaration form which allows the ‘declarer’ to advise whether they are an employee or member. The information collated for those employees who do not fall within the ‘publishable’ category will be collected and the process outlined in the policy at paragraph 1.5 undertaken to determine whether any declared interests requirement management.