

# **Professional Conduct Procedure**

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## **Conflicts of interest**

## About this document

The Institution's member conduct and disciplinary procedures are governed by its Royal Charter, By-laws and Regulations. As a supplement to these the Institution publishes a series of information documents, of which this is one. The relationship between these different types of document is shown below.

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<b>1</b>	<b>Royal Charter</b>	The Royal Charter is an instrument of incorporation granted by the UK monarch. It confers independent legal personality on the Institution and defines its objectives, constitution and powers to govern its own affairs including the power to make By-laws.
<b>2</b>	<b>By-laws</b>	The By-laws are approved by the Privy Council. They set out the rules that govern the actions of the Institution. They set out the general standards of conduct required of Institution members and require the Trustee Board to make Code of Conduct Regulations. They also define improper conduct, require the Trustee Board to make Disciplinary Regulations and set out members' liability to be penalised if found guilty of improper conduct.
<b>3</b>	<b>Regulations</b>	The Regulations set out the directives made by the Institution Trustees in defined subject areas, including the Code of Conduct Regulations and the Disciplinary Regulations.
<b>4</b>	<b>Information</b>	Information documents supplement the Regulations and are intended to help people who engage with the Disciplinary Procedures.

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All of the documents listed above are available on the Institution's website.

## Conflicts of interest

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1. All those serving as Assessors or as members of the Investigating Panel, Disciplinary Panel and Appeals Panel are required to declare any conflicts of interest when asked to take part in disciplinary procedures. When there is doubt about a conflict of interests, the chair of the relevant Panel will decide. The principle is, however, that where there is doubt about a possible conflict of interest, the member and the Panel should err on the side of caution and the conflicted member should not participate.
2. All members should also be alert to any significant risk of a conflict of interests developing or the potential for there to be a perception of a conflict of interests on the part of an independent observer. For the purposes of the Institution's disciplinary procedures, these are considered synonymous with an actual existing conflict of interests.

### Definition

3. For the purposes of its disciplinary procedures, the Institution defines a conflict of interests as **a set of circumstances that creates a risk that an individual's ability to apply judgement or act in one role is, or could be, impaired or influenced by a secondary interest.** This definition is based on generally accepted standards and, in particular that used by the National Audit Office<sup>1</sup>.
4. Conflicts of interest can occur in any situation where an individual or organisation could exploit a professional or official role for personal or other benefit. They can exist if the circumstances create a risk that decisions may be influenced, regardless of whether the individual actually benefits. The perception of competing interests, impaired judgement or undue influence can also be a conflict of interest.
5. Conflicts might occur if individuals have, for example:
  - a. a direct or indirect financial interest; or
  - b. non-financial or personal interests; or
  - c. conflicts of loyalty where decision-makers have competing loyalties between an organisation they owe a primary duty to and some other person or entity.

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<sup>1</sup> *Conflicts of interest*; Report by the Comptroller and Auditor General; National Audit Office; 2015; [www.nao.org.uk/wp-content/uploads/2015/01/Conflicts-of-interest.pdf](http://www.nao.org.uk/wp-content/uploads/2015/01/Conflicts-of-interest.pdf) (accessed 10 August 2020)

### Managing conflicts

6. It is important to manage conflicts of interest. Not only can they bring decision-making into disrepute but often the perception of conflict alone is enough to cause concern. This can lead to reputational damage and undermine public confidence in the integrity of institutions.
7. A failure to recognise a conflict of interest can give the impression that the organisation or individual is not acting in the public interest. More seriously, if left unresolved, some conflicts can result in criminal action, for example fraud, bribery or corruption through abuse of position.
8. There is also a potential risk of legal challenge to decisions made by public bodies. If a decision-maker has a conflict of interest, then the decision is potentially vulnerable and could be overturned on judicial review<sup>2</sup>.

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<sup>2</sup> Article 6 of the European Convention on Human Rights and Articles 41 and 47 of the EU Charter of Fundamental Rights enshrine the principle that decisions should be made free from actual and apparent bias.