



## Summary of Operational Policy: Conflicts of interest in Investigations

**April 2024: Version 1.0**

### Introduction

1. This summary of the operational policy: conflicts of interest in investigations, sets out the Commission's position in relation to conflicts of interest that are actual, potential or perceived in relation to the involvement of ICRIR officers in their operational duties.
2. The Commission will require a commitment from all those engaged in operational work to:
  - identify actual, potential and perceived conflicts of interests
  - take all reasonable steps to avoid conflicts of interest
  - seek advice if uncertain whether a conflict of interest exists
  - report any conflicts of interest when they become aware of them
  - cooperate in the management and resolution of conflicts of interest
  - report any change in circumstances relating to conflicts of interest
3. The Commission's [Code of Conduct](#) emphasises the importance of operating to high standards to gain public trust and confidence.

### Scope of the policy

4. All staff employed by the Commission, whether directly, as contractors or on secondment, are required to complete a Declaration of Interest before taking up post. The Declaration and Management of Interests requires an annual update and there is an on-going duty on staff to update it if there is any change to the declaration over the course of the year. This policy should be read in conjunction with the [Declaration and Management of Outside Interest Policy](#), the Commission's internal Raising a Concern policy and the [Code of Conduct](#).
5. This policy applies to all operational staff in the Investigations Directorate and the Findings Team, including secondees and agency workers. It applies to both those with permanent and fixed term arrangements, including those on probation. It can also apply to officers in the General Counsel's Directorate to the extent that their advice or support to an investigation is such as to give rise to conflict concerns.

6. It should be read alongside the general policy in the [Declaration and Management of Outside Interest Policy](#).

## Rationale for the policy

7. The Commission must take account of the clear and constant line of decisions of the Strasbourg Court which establish the need for an effective investigation where individuals were killed by the use of force. To be effective, the investigation must be independent from those implicated in the events. Such independence has two elements:
  - there must be a lack of hierarchical or institutional connection between the investigators and those implicated in the events and
  - the investigation must have practical independence.
8. Compliance with Article 2 and 3 mandates that the persons and bodies responsible for the investigation are sufficiently independent of the persons and structures who may be responsible for the death or inhuman or degrading treatment which is the subject of the investigation. The investigation must be structured in such a way that the Commission is able to demonstrate that it is an independent investigation.

## Managing conflicts of interest

9. All staff who work on the Commission's cases (including before they are formal requests for investigations) must always display impartiality and must have no conflict of interest in any given case on which they are working or in which they are involved, including direct management responsibility.
10. The Commission will define a conflict of interest, as set out in paragraph 7 of the Declaration and Management of Outside Interests policy 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. It can occur in any situation where an individual or organisation can exploit a professional or official role for personal or other benefit. Conflicts can exist if the circumstances create a risk that decisions may be influenced, regardless of whether the individual benefits. The perception of competing interests, impaired judgement or undue influence can also be a conflict of interest**'.
11. The Commission is committed to ensuring a clear and consistent approach is taken to managing conflicts of interest. It is essential that ICRI officers consider actual or perceived conflicts of interest in every case that they are involved in, are made aware of, discuss, or actively work on. This includes, but is not limited to, any knowledge an investigator has of a requesting individual or family, as well as any knowledge of a person of interest in any investigation carried out by the Commission or anyone who may be named in a Commission report. The [Declaration and Management of Outside Interests](#) policy gives further details on areas of potential conflicts.

## Identifying a conflict

12. The central question for the officer in each case to answer is **'is there a risk that a fair and impartial member of the public would not have confidence in the independence of the investigation by the Commission if they knew of my involvement in it'**.
13. Conflicts can exist if the circumstances create a risk that decisions may be influenced, regardless of whether the individual is caused a benefit or a detriment. The perception of competing interests, impaired judgement or undue influence can also be a conflict of interest.
14. The questions to be applied by the ICRIR officer to themselves should also be considered in view of the position of the interests of their close family members or even close friends or associates. The officer should consider broadly whether any person who could influence them has a conflict in relation to the case.

## **Process to be followed**

15. Every ICRIR officer at the point they are tasked with becoming involved in an investigation in a capacity which would enable them to influence decision making in an investigation (including in a supervisory capacity) must complete a declaration to confirm that they have considered whether they have an actual, potential or perceived conflict of interest in relation to the case. The Conflict of Interest Declaration must be completed.
16. In any case in which a perceived, potential or actual conflict of interest is identified, the officer must send the Declaration to their line manager for consideration and decision. If the Declaration has been sent to a line manager to consider, the officer must not conduct any work on the case until they have received confirmation that is permitted.
17. Conflicts of interest can also develop over time. ICRIR officers must ensure that conflicts of interest are considered and reviewed as cases develop.

## **Governance**

18. If a conflict of interest is concealed through failure to follow proper procedure this could result in more serious consequences, such as disciplinary action against the ICRIR officer.
19. There is also a duty on ICRIR officers to highlight a potential conflict of interest affecting another member of staff.
20. HR will retain a Register of Conflicts of Interests from the Declaration Forms. This is separate to the Register of Declarations of Interest, which is reviewed annually.
21. The Commissioner for Investigations will review the Register of Conflict of Interests as it relates to officers in the Investigations Directorate on a Quarterly basis through the Investigations Oversight Committee.