



## Code of conduct

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## Aim and scope

### 1.1 Aim

Ofwat prides itself on having a strong, committed, professional team of people who work together well to deliver our mission and goals, within a supportive, positive working environment.

The aim of this code is to set out the standards of conduct and behaviour that our people are expected to maintain when they represent Ofwat.

Our values are at the heart of everything we do. We expect our people to behave with integrity, impartiality and respect when representing Ofwat at all times.

### 1.2 Scope

This code of conduct applies to Ofwat employees as well as people on loan or on secondment to Ofwat.

This code outlines the conduct expected. However, it does not deal with, for example, such issues as:

- isolated neglect of duty;
- failure to obey a reasonable instruction; or
- other forms of misconduct which may properly be dealt with under the disciplinary procedure.

Compliance with this code is mandatory. A breach of the code may result in disciplinary action being taken.

## 2. Responsibilities

### 2.1 Responsibilities of our people

All employees should read this code and familiarise themselves with it. If you have any questions you should contact the People Hub.

Everyone should uphold the standards of conduct expected of them at work. This code of conduct outlines these key standards and [Ofwat's values](#).

If anyone is unsure of the standards expected of them, they should talk to their resource manager or a member of the People Hub.

### 2.2 Responsibilities of resource managers

Resource managers, rather than project/programme managers, are responsible for dealing with the day-to-day performance management of people and any conduct issues that arise.

Resource managers should inform employees of the expected standards.

When there are concerns about an employee's conduct, they should normally be dealt with in line with the ['Disciplinary policy and procedure'](#).

### 2.3 Responsibilities of project/programme managers

Project/programme managers will work with individuals and their resource manager, both to provide further support and to protect project delivery by ensuring that conflict issues are identified and effectively managed.

### 2.4 Responsibilities of the People Hub

Members of the People Hub will provide advice and support on all aspects and the application of this code to ensure that it operates effectively. They will review this code annually and specifically when there are changes to legislation and guidance.

### 3. Civil Service Code

Ofwat's reputation for integrity and impartiality is underpinned by our people maintaining the very high standards of behaviour expected of them as laid out in the Civil Service Code. The Civil Service Code is a brief and clear statement of the constitutional framework within which all civil servants work and the values they are expected to uphold. A copy of the Civil Service Code has been issued to everyone in Ofwat and will continue to be issued to new employees as part of the induction process.

This code sets out the constitutional and practical role of the Civil Service and the principles on which civil servants should base their conduct in their official dealings.

The core Civil Service values are:

- **integrity** – putting the obligations of public service above personal interests;
- **honesty** – being truthful and open;
- **objectivity** – basing advice and decisions on rigorous analysis of the evidence; and
- **impartiality** – acting solely according to the merits of the case and serving governments of different political parties equally well.

The full Civil Service Code is available on the Civil Service [website](#).

If you have a concern that you are being required to act in a way that is contrary to this Code, you should start by talking to your resource manager or someone else in your resource pool. If for any reason you would find this difficult, you should raise the matter with the Head of People.

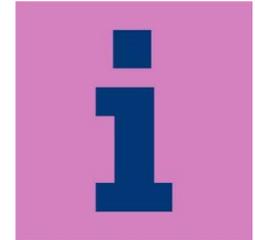
If you become aware of actions by others which you believe conflict with this Code you should report this to your resource manager or someone else in your people management chain; alternatively you may wish to seek advice from the Head of People. You should report evidence of criminal or unlawful activity to the police or other appropriate regulatory authorities and further information can be found in our [Raising concerns in the public interest policy](#) on the bubble. This Code does not cover people management issues.

If you have raised a matter in accordance with the relevant procedures outlined, and do not receive what you consider to be a reasonable response, you may report the matter to the Civil Service Commission

The Commission will also consider taking a complaint direct. Its address is:

Civil Service Commission, G/8, 1 Horse Guards Road,  
London, SW1A 2HQ Tel: 020 7271 0831

email: [info@csc.gov.uk](mailto:info@csc.gov.uk)



## 4. Confidentiality and official information

All employees are reminded on appointment, and when leaving Ofwat, that they are bound by the provisions of criminal law, including the [Official Secrets Acts](#), which protect certain categories of official information, and by their duty of confidentiality owed to the Crown. Official information is any information, document or article which a civil servant or government contractor has or has had in his or her possession by virtue of his or her position.

We all have an explicit duty to protect official information which is held in confidence and to seek authorisation before disclosing that information. We also have a duty of care to Ofwat and our people not to make public comments which might damage its authority or standing. Breach of this trust would be a serious offence, which could lead to disciplinary action and the risk of dismissal.

### 4.1 Statutory controls

Employees in Ofwat are also covered by other statutory controls where unauthorised disclosure of information could result in criminal proceedings, including:

- Section 206 of the Water Industry Act 1991: unpermitted disclosure of information with respect to any particular business obtained by virtue of any of the provisions of the Act that relates to the affairs of any individual or to any particular business.
- Section 52 of the Criminal Justice Act 1993: offence of insider dealing, which includes the disclosure of insider information, otherwise than in the proper performance of the functions of your employment, office or profession, to another person.
- Part 9 of the Enterprise Act 2002: unpermitted disclosure of information relating to the affairs of an individual or the business of an undertaking that came to Ofwat in connection with any function under the Competition Act 1998, the Enterprise Act 2002 or other specified legislation.

## 5. Conflicts of interest

Our people should never put themselves in a position where their role as a civil servant and private interests conflict, nor make use of their official position to further those interests. Our people have a duty as civil servants to ensure that their public position is not, and raises no reasonable suspicion of being, abused in their own personal interest. Our expectations on conflicts of interest seek to protect our people and the organisation from risks associated with conflicts.

Conflicts of interest can involve financial or non-financial interests of the employee and the interests of a business partner or associate, family member, friend or person in a close personal relationship with the employee.

Both resource managers and project managers have responsibilities in the management of potential and actual conflicts of interest. Project/programme managers are responsible for the delivery of the project objectives through the leadership and management of a project team. Where an actual or potential conflict issue impacts a member of the project team, the project/programme manager should work with that individual and their resource manager, both to provide further support and to protect project delivery by

ensuring that conflict issues are identified and effectively managed.

You may come into official contact with matters concerning a business organisation in which you or a close relative or partner has an interest. If you do, you must declare the interest to your resource manager, project/programme manager and People Partner and follow any instructions regarding the retention, disposal or management of such interests.

Your resource manager may seek advice from Procurement or the People Hub or relevant Senior Directors. After receiving advice your resource manager will discuss with you how the actual or perceived conflict can be actively managed. Examples of strategies which may be appropriate to manage the actual or potential conflict of interest can be found in [appendix 2](#).

It is not unusual for our people to know people within the water industry or in consultancy or advisory firms who might work in the sector or for us, either as a result of having worked with them previously or through a personal, non-work relationship. Close personal or social relationships between Ofwat people can also create potential conflicts, especially in relation to matters which involve pay, bonuses and career development.

We will adopt a proportionate, case by case approach which will take account of the facts of the particular relationship, the nature of the interest, the closeness of the relationship and whether impartiality may be or perceived to be undermined by the relationship. But it is critically important that all our people are aware of the potential for conflict in these areas and disclose any actual or potential conflict. Non-disclosure of a conflict of interest may result in disciplinary action being taken.

Specific guidance on conflict of interest declarations relating to procurement or recruitment matters can be found in section 6.2 and [appendix 1](#).

## **5.1 The conflict of interest register**

All Ofwat people will be asked to disclose any conflicts or potential conflicts of interest on appointment. This information will be retained on a conflict of interest register, which will be maintained as a dynamic, living document.

The People Hub will undertake an annual exercise to update this information however the onus will be on individuals to notify the People Hub of any changes. This means that you

should update your declaration as soon as possible after a new potential conflict arises. As a backstop to protect our people, the People Hub will send a quarterly reminder to all employees about the need to update their declaration. If you have any doubts as to whether a conflict of interest should be disclosed then you should err on the side of caution and make the disclosure.

The information will be held centrally on your personal files and on a register held jointly by the People Hub and Procurement. Where necessary, we may need to make a judgement to share information about your declarations with the Senior Leadership Team and members of the Audit and Risk Assurance Committee. We do not intend to publish any of the information unless you are an executive member of our Board (the Water Services Regulation Authority) and the Board's Rules of Procedure require the information to be published in the register of Board Members' disclosable interests. We will treat all personal data in accordance with our obligations under the Data Protection Act 1998 and, in particular, ensure that it is used fairly and lawfully and only when prescribed conditions are met. If we are legally required to do so, we may exceptionally need to disclose information externally (for example, to the National Audit Office or the Information Commissioner's Office), but will redact or anonymise data where possible.

We will inform you in advance if we decide there is a need to share your declaration with anyone outside of the People Hub.

## **5.2 Procuring services and recruiting employees**

Our effectiveness as an independent economic regulator – our ability to deliver our strategy and the benefits it brings for customers - is influenced significantly by stakeholders' perceptions of our integrity and professionalism. As part of our work of our people are regularly involved in the process of procuring external services (for example, consultancy advice, interim management services), or in external recruitment decisions. It is important that any conflict of interest which may arise as a result of our involvement is declared and correctly managed. We have included guidance on this in [appendix 1](#).

## **5.3 Relationship with suppliers**

In delivering the Ofwat strategy, we require the support of various suppliers to provide technical advice and resource. It is important to maintain effective professional relationships with key suppliers so that they are comfortable working with Ofwat. However, we must also be mindful of the need to be

open to new suppliers and broadening our base of commercial partners. Whilst we may look to keep suppliers up to date on progress against the strategy - we must be aware that relationships can become too cosy and be perceived as giving an unfair advantage to particular suppliers. This type of relationship may mean we are less likely to be able to demonstrate value for money, may increase reputational risk and may increase Ofwat's procurement risk if we are seen to have had a fixed idea of which supplier we wish to appoint rather than selecting openly against a pre-defined requirement.

To create an interest, keep suppliers abreast of developments and promote open, fair and transparent dialogue with suppliers, we should make the same information available to all suppliers, through Twitter, the website, news bulletins and supplier briefing events.

## **5.4 Share ownership, dealing and disclosure of price sensitive data**

We rely for our effectiveness on the confidence that the water companies have in passing us information which is commercially confidential or price sensitive. We also need the companies to trust that we will treat them equally and fairly.

And customers need to have confidence that we will look after their interests in our dealings with the companies.

We have to protect ourselves as individuals, and Ofwat as an organisation, from any possible allegations that our actions may have been motivated by personal interest – the most obvious being that we stood to gain financially.

#### **5.4.1 Share ownership and dealing**

It is not possible for us to demonstrate and maintain our independence if our people deal in shares in the water sector. Without this restriction there will always be understandable concern that the decisions we take will be affected by our individual financial interests in the future prosperity of the companies. Equally, it would bring Ofwat's standing into disrepute if it were thought that our people were dealing in shares based on their privileged information about the companies and the likely effect of our proposed actions.

You may not and shall ensure that none of your family (including your spouse or civil partner and any children or step-children under the age of 18 who still live at home, or any other member of your household) own, purchase or deal in the shares of the water companies and their holding companies. However where a holding company has less than

2% of its investment portfolio (debt or equity) in a water company, then you and your family may hold these shares.

Special arrangements will apply for secondees from the water sector who have holdings. Such shares should be placed in trust for the duration of the secondment and no purchases or dealing carried out. Approval should be sought from a Senior Director before any shares are sold.

#### **5.4.2 Insider dealing**

You are reminded that unauthorised disclosure of information about a company for gain is not only gross misconduct but may also be a criminal offence. Section 52 of the Criminal Justice Act 1993 makes it an offence (among other things) for any Ofwat employee to disclose inside information about a company, obtained in an official capacity, to any other person if they know (or have reasonable cause to believe) that the other person will use the information to deal in the shares or other securities of that company or will pass on such information to a person who will so deal.

## 5.5 Political activities

Ofwat's people are servants of the Crown; the Government of the day is the vehicle through which the Crown's authority is applied. Our people must therefore carry out the work which the Government gives to them, whatever its political outlook.

Public confidence in the political impartiality of the Civil Service depends upon members of staff ensuring that their personal political views do not influence the way in which they carry out their official work. You must not take part in any political activity when on duty or on official premises and must not attend an outside conference or function convened or hosted by a party political organisation in your official capacity, unless you are on official Ofwat business.

Political activities that may be subject to restriction are defined as:

- **at national level:** holding, in a party political organisation, office which impinges wholly or mainly on party politics in the field of Parliament or the European Parliament; speaking in public on matters of national political controversy; expressing views on such matters in letters to the press, or in books, articles or leaflets; being announced publicly as a candidate for Parliament or the European Parliament; and canvassing on behalf

of a candidate for Parliament or the European Parliament or on behalf of a political party; and

- **at local level:** candidature for, or co-option to, local authorities; holding in a party political organisation, office impinging wholly or mainly on party politics in the local field; speaking in public on matters of local political controversy; expressing views on such matters in letters to the press, or in books, articles or leaflets; and canvassing on behalf of candidates for election to local authorities or a local political organisation.

Ofwat employees in band 5 and above must not take part in national political activities. They must seek permission from the Chief Executive to take part in local political activities and must comply with any conditions laid down.

All employees must seek permission from the People Hub to take part in national or local political activities.

Civil servants in Ofwat must not allow the expression of their personal political views to constitute so strong and so comprehensive a commitment to one political party as to inhibit or appear to inhibit loyal and effective service to Ministers of another party. They must take particular care to express comment with moderation, particularly about matters for which Ofwat is responsible; to avoid comment altogether

about matters of controversy affecting the responsibility of their own Ministers, and to avoid personal attacks.

They must also take every care to avoid any embarrassment to Ministers or to Ofwat which could result, inadvertently or not, from bringing themselves prominently to public notice, as civil servants, in party political controversy.

Civil servants in Ofwat who have not been given permission to engage in political activities must retain at all times proper restraint in matters of political controversy so that their impartiality is beyond question.

Civil servants given permission to take part in political activities must give up those activities if they are moved to a job where permission cannot be granted. They must also inform Ofwat if they are elected to a local authority.

Further information on the restrictions on political activity for Civil Servants can be found in the [Civil Service Management Code](#)

### **5.5.1 Parliamentary candidature**

All employees are disqualified from election to Parliament (House of Commons Disqualification Act 1975) and must

therefore resign from the Civil Service before standing for election.

## **5.6 Buying and selling surplus government property**

You are free to buy surplus Government items which are on sale to the public, unless through your work, you have been:

- able to get special knowledge about the condition of the goods because of your official duties;
- officially associated with the disposal arrangements; or
- been able to get a discount that would not be available to a member of the public.

## **5.7 Bankruptcy and insolvency**

If you become bankrupt or insolvent you must immediately report full details of the case to your resource manager and the People Hub.

## 5.8 Arrests or convictions

It is important that our people do not bring discredit on Ofwat or the Civil Service in general. If an employee is arrested and subsequently charged or convicted of any criminal offence (except a traffic offence with a non-official car for which the penalty did not include imprisonment or disqualification from driving) they must report this to their resource manager and the People Hub. Any action taken by Ofwat will take account of the Rehabilitation of Offenders Act 1974 and the Exceptions Order 1975 (amended in 1986) as appropriate.

## 5.9 Voluntary public activities/outside employment

If you are considering either taking another job outside normal working hours, or engaging in voluntary public activities (e.g. as a special constable or school governor), you should bear in mind the points set out below. Such an activity:

- should not in any way have an adverse effect on your Ofwat work, either because of its nature or because it involves long hours and extra stress;
- should not require frequent attendance during normal hours of work; and

- should not bring any conflict of loyalty to your position as a civil servant or conflict of interests with Ofwat.

You should inform the People Hub in writing of any voluntary public activity or outside employment you wish to take up or already participate in.

Anyone invited to become a Justice of the Peace or magistrate may accept the position provided that it is understood that it must not interfere with their official work and that they cannot, under any circumstances sit on cases involving Ofwat employees. Unpaid special leave may be approved for these particular activities.

Those in any doubt about whether they should take up a voluntary public or outside activity should consult with the People Hub.



## 6. Hospitality and gifts

Everyone must comply with the Civil Service Code and [Cabinet Office guidance on civil servants receiving gifts and hospitality](#). Further guidance can be sought from the [Finance Hub](#).

Generally, you should not accept gifts, hospitality or benefits of any kind from a third party, if they might reasonably be seen to compromise your personal judgement or integrity. This ensures Ofwat complies with its obligations under the Bribery Act (2010).

However, senior employees will inevitably have working lunches/dinners with key stakeholders from time to time. These can be accepted and must be declared and made publicly available under our Freedom of Information Act publications scheme.

Whenever you accept or decline an offer of gifts or hospitality, you should notify the Principal, Finance in writing so that the information can be included in the hospitality register. Senior Managers' Personal Assistants will maintain a log for the relevant member of the Senior Leadership Team and submit this quarterly to the Principal (Finance) to consolidate into the central register.

If it would be impolite to refuse a gift (other than advertising material such as calendars and diaries) this should be logged in the Gifts and Hospitality register kept by Finance. Gifts will be raffled for the WaterAid charity annually.

Full guidance on Ofwat's policy on travel expenses, overnight accommodation, GPC, hospitality and gifts can be found on the [bubble](#).

## 7. Fraud and bribery

All staff should be fully conversant with Ofwat's anti-fraud and bribery policy and response plan, which is available on the [bubble](#).

Ofwat requires our people at all times to act honestly and with integrity and to safeguard the public resources for which they are responsible. We will not accept any level of fraud, bribery or corruption. So, any case will be investigated thoroughly and dealt with appropriately. In line with our obligations under the Fraud Act (2006) and Bribery Act (2010), we are committed to ensuring that opportunities for fraud, bribery and corruption are reduced to the lowest possible level of risk.

The circumstances of individual frauds will vary. We take fraud very seriously. All cases of actual or suspected fraud will be vigorously and promptly investigated and appropriate action will be taken, as per the Disciplinary policy and procedure.



## 8. Business appointments outside of the Civil Service

Further information on the business appointment rules is in [appendix 3](#).

It is in the public interest that people with experience of public administration should be able to move into business or other bodies outside central government, and that such movement should not be frustrated by unjustified public concern over a particular appointment. It is equally important that when a former civil servant takes up an outside appointment there should be no cause for justified public concern, criticism or misinterpretation.

Business appointment rules apply to Ofwat employees who intend to take up an outside appointment or employment after leaving the Civil Service. The approval process for applications under the rules differs depending on your seniority. People who require approval before taking up an outside appointment must apply to the People Hub for details of the application procedure.



## 9. Use of social media

### 9.1.1 Social media at work

Ofwat recognises the importance of using social media as a way to communicate with our stakeholders and helping us deliver the work we do. This carries legal risks for Ofwat as we handle a lot of market sensitive information. Therefore access to use social media for work purposes is restricted to certain roles as detailed in our [Internet Acceptable Use Policy](#).

Anyone who operates an Ofwat social media account in order to deliver their work must not:

- Breach confidentiality
- Breach copyright
- Disclose market sensitive information
- Bring Ofwat into disrepute; or
- Do anything that is considered discriminatory against, or bullying or harassment of an individual

Further guidance and support on handling market sensitive information can be found on the Bubble.

### 9.1.2 Social media for personal use

Ofwat recognises that you may use social media in a personal capacity when you are not at work.

Ofwat trusts you to act honestly and respectfully in line with our values and we expect you to not post anything through social media that is harmful or potentially detrimental to

- Ofwat for example by affecting Ofwat's reputation, or your colleagues/stakeholders for example by doing anything that is considered discriminatory against, or bullying and harassment.
- The views expressed by Ofwat's people on personal social media accounts should not be interpreted as those of Ofwat. Opinions expressed on personal social media accounts should be clearly indicated as such. Everyone must note that the duty of confidentiality applies across all forms of communication, including social media, used both in official and personal capacities.
- We expect you to act with impartiality and integrity and remain neutral on political issues when posting on social media in accordance with the Civil Service Code

### **9.1.3 Staying safe online**

Social media channels are a very public space and this is frequently forgotten. We would recommend that you use the available privacy settings of the social media channels where possible. Further advice on how to keep yourself safe online, can be found on [www.getsafeonline.org](http://www.getsafeonline.org).

### **9.1.4 Breach of social media guidelines**

Where a potential breach of the social media guidelines has occurred your resource manager will initially talk to you informally about it. Your resource manager will ask you to explain your actions so they can assess the potential impact it has on Ofwat or our people.

If your online posts are considered harmful or detrimental to Ofwat or our people, or you fail to comply with the informal process set out above you will be subject to the [Disciplinary Policy and Procedure](#).

If the breach in these guidelines concerns an agency worker or contractor we will contact their employer to discuss our concerns in the first instance and jointly agree an appropriate approach.

## Appendix 1: Conflicts of interest in relation to procurement and/or recruitment processes – guidance note

### A1.1 Introduction

As part of our work our people are regularly involved in the process of procuring external services (for example, consultancy, interim management, expert panel advice), or in external recruitment decisions. It is important that any conflict of interest which may arise as a result of our involvement is **declared** and **correctly managed**. The purpose of this is to protect our people and the organisation by providing clear but proportionate guidance on the handling of actual or potential conflicts of interest.

Our effectiveness as an independent economic regulator is significantly influenced by the perceptions formed by our stakeholders of our integrity and professionalism. This guidance is designed to help all of our people know what this means in practice and help them protect themselves and Ofwat from risks associated with conflicts.

It is not unusual for our people to know people within the water industry, or in consultancy or advisory firms who might work in the sector or for us, either as a result of having worked

with them previously or through a personal, non-work relationship. Equally, potential conflicts of interest can arise because of close personal or social relationships with other Ofwat employees. We will adopt a proportionate, case by case approach which will take account of the facts of the particular relationship, the nature of the interest, the closeness of the relationship and whether impartiality may be or perceived to be undermined by the relationship.

### A1.2 Declaration

Ofwat's basic starting point is that all people involved in a procurement or recruitment process **must on all occasions** (and irrespective of the size of the procurement), declare whether they do or do not have a conflict of interest with their involvement in the procurement or recruitment selection exercise. This declaration must be documented (using a signed form or an email), so that there is a clear and unambiguous audit trail, which can be checked when decisions are audited or if they are challenged or questioned at a later point.

For involvement in a procurement exercise your declaration must be logged with the Principal, Finance and for recruitment with the People Hub. It is the responsibility of the individual member of staff to ensure that this is done.

Sometimes an actual or potential conflict of interest arises during the course of a procurement or recruitment exercise which did not exist at the beginning. The guidance to our people is that you should declare and document this as soon as the situation arises.

### **A1.3 Perception**

A conflict of interest refers to a situation where a conflict arises for an individual between two competing interests. These are often, but not exclusively, interests of public duty versus private interests. This refers to a reasonably perceived, potential or actual conflict of interest. Conflicts of interest can involve your financial or non-financial interests and the interests of a business partner or associate, family member, friend or person in a close personal relationship, whether inside or outside Ofwat.

It is impossible to define all the potential areas where a conflict of interest may arise and some conflict of interests may be easier to spot than others. If you are in any doubt as to whether a conflict may exist, you should seek advice from Procurement or the People Hub.

In all cases where there is any possibility of a conflict of interest or the perception of a conflict of interest, however

tenuous, you must declare the potential conflict of interest and document it. The guidance is straightforward – if in doubt assume the potential conflict of interest may exist or could be perceived as existing and declare it immediately.

### **A1.4 Situations when a conflict of interest may arise**

Conflicts of interest may arise from financial interest such as ownership of shares in companies and more broadly from official dealings with, or decisions in respect of, individuals who share your private interests. Where a conflict of interest arises as a result of your involvement or potential involvement in a specific procurement or recruitment decision, you must declare that interest to Procurement or the People Hub as appropriate so that they can decide how best to proceed.

### **A1.5 Reviewing a declared conflict of interest**

In our work, knowledge of a potential supplier or candidate is not unusual; the economic regulatory ‘world’ is a relatively small one and our people will often have had contact with those who may be seeking to provide services to the organisation or seeking to join it as an employee.

In those circumstances where the existence or perception of a conflict of interest is not clear cut, our policy is that you must discuss the nature of the potential conflict immediately with your resource manager and mutually agree whether you should continue to be involved and on what basis. The steps necessary for eliminating, mitigating or managing a perceived, potential or actual conflict of interest will be made on a case by case basis. For example there is a clear difference between having a direct financial interest in a company tendering for work and having worked with a job applicant a decade previously. This discussion and agreement must be documented and it is the responsibility of the individual member of staff to ensure this happens.

Similarly, if the potential conflict of interest affects one of Ofwat's Senior Directors, they must discuss and agree their response with the Chief Executive in the same way. Again, the test is how would the nature of your involvement be perceived by others (either inside or outside the organisation), who have not been part of the procurement or recruitment exercise.

These principles are designed to protect you and the organisation by ensuring that all our procurement and recruitment decisions are taken fairly and transparently and that our reputation as a professional and effective economic regulator is both protected and enhanced.

## A2 Appendix 2: Possible approaches to managing different types of conflicts

Type of conflict of interest	Possible action to remove or mitigate conflict of interest
<p>1. where a person is or may be in a position to influence the organisation or the decisions it takes in ways which could lead to any form of personal gain, or give improper advantage to others to the detriment of Ofwat.</p>	<ul style="list-style-type: none"> <li>• not taking part in discussions of certain matters, for example in SLT, WLT, casework or other management meetings. The relevant declaration will be recorded in the meeting minutes;</li> <li>• not taking part in decisions in relation to certain matters. This should be recorded in relevant meeting minutes or other documents relating to a particular decision;</li> <li>• referring to others certain matters for decision</li> <li>• standing aside from the project.</li> </ul>

Type of conflict of interest	Possible action to remove or mitigate conflict of interest
<p>2. when commitments and obligations are likely to be compromised by a person's other interests or commitments, especially economic, particularly if those interests or commitments are not disclosed.</p>	<ul style="list-style-type: none"> <li>• if interests are disclosed the member of staff may be asked to abandon the interest if practical to do so;</li> <li>• non-disclosure of interest may result in disciplinary action being taken;</li> <li>• standing aside from the project.</li> </ul>

<b>Type of conflict of interest</b>	<b>Possible action to remove or mitigate conflict of interest</b>
<p>3. when an individual has a financial interest in a decision. A financial interest is a direct or indirect interest in the contract being awarded such as:</p> <ul style="list-style-type: none"> <li>• a position as director, officer, partner, trustee, employee, advisor or any other position of management in a company to whom a contract is being tendered;</li> <li>• a person may receive or is receiving income or gifts from a company or is promised income or a gift within 12 months prior to</li> </ul>	<ul style="list-style-type: none"> <li>• the individual may be asked to divest or place in trust certain financial interests;</li> <li>• standing aside from the project.</li> </ul>

<p>the time the award is made. This may constitute bribery which is an offence under the Bribery Act 2010 (further guidance can be found in the Ofwat Anti-Fraud and Bribery Guidance and Response Plan).</p>	
<b>Type of conflict of interest</b>	<b>Possible action to remove or mitigate conflict of interest</b>
<p>4. when an individual has a close personal or social relationship with another member of Ofwat staff and is in a position of influence for matters such as pay or career development</p>	<ul style="list-style-type: none"> <li>• Ofwat may change the resource manager arrangements</li> <li>• The individual may be asked not to take part in discussions or decisions on matters</li> </ul>

	that relate to the relevant employee.
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## A3 Appendix 3: Business appointment rules for civil servants

The following Rules cover the Civil Service. Equivalent versions of the Rules are in place for the Diplomatic Service/Intelligence Agencies/Armed Forces. The Rules apply to civil servants who intend to take up an appointment or employment after leaving the Civil Service.

The approval process for applications under the Rules differs depending on the applicant's seniority. **For members of the Senior Civil Service and equivalents**, including special advisers of equivalent standing, the Rules continue to apply for **two years** after the last day of paid Civil Service employment.

For **those below the Senior Civil Service** and equivalents, including special advisers of equivalent standing, the Rules continue to apply for **one year** after leaving the Civil Service, unless, exceptionally, the role has been designated as one where a longer period of up to two years will apply.

### A3.1 Key Principles

These Rules are designed to uphold the core values in the **Civil Service Code**:

- **integrity** – you must not misuse your official position, for example by using information acquired in the course of your official duties, to further your private interests or those of others;
- **honesty** – you must not be influenced by improper pressures from others or the prospect of personal gain;
- **objectivity** – you must take decisions on the merits of the case; and
- **impartiality** – you must not act in a way that unjustifiably favours or discriminates against particular individuals or interests.

It is in the public interest that people with experience of public administration should be able to move into other sectors, and that such movement should not be frustrated by unjustified public concern over a particular appointment. It is equally important that when a former civil servant takes up an outside appointment or employment there should be no cause for justified public concern, criticism or misinterpretation.

## A3.2 Aim

The aim of the Rules is to avoid any reasonable concerns that:

5. a civil servant might be influenced in carrying out his or her official duties by the hope or expectation of future employment with a particular firm or organisation, or in a specific sector; or
6. on leaving the Civil Service, a former civil servant might improperly exploit privileged access to contacts in Government or sensitive information; or
7. a particular firm or organisation might gain an improper advantage by employing someone who, in the course of their official duties, has had access to:
  - information relating to unannounced or proposed developments in Government policy, knowledge of which may affect the prospective employer or any competitors; or

- commercially valuable or sensitive information about any competitors.

## A3.3 Who must apply, when and how

**The Rules apply to all civil servants.** This includes:

- Permanent civil servants;
- Civil servants employed on fixed term contracts;
- Civil servants on secondment to other organisations; and
- Special advisers.

For those at SCS1 level and above (and equivalents), the Rules apply for two years after leaving the Civil Service. **For those below SCS1 level (and equivalents), they normally apply for one year after leaving the Civil Service<sup>1</sup>.** In circumstances where an individual is undertaking a role on temporary promotion immediately prior to leaving the Civil

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<sup>1</sup>Departments have discretion to apply the Rules for up to two years for specific roles below SCS1 level (and equivalents) where there is an exceptional case for doing so.

Service, it will be the temporary grade that will determine how the Rules are to be applied.

**Before accepting any new appointment or employment, whether in the UK or overseas, which they intend to take up after they have left the Civil Service, individuals must consider whether an application under the Rules is required.** If it is required, they should not accept or announce a new appointment or offer of employment before it has been approved. The model application form for this purpose is available at: <https://www.gov.uk/new-business-appointments-for-senior-public-servants>. This form should be used for all applications under the Rules.

**Retrospective applications will not normally be accepted.**

## **A3.4 When approval is required**

### **A3.4.1 Permanent Secretaries and SCS3 (and equivalents, including special advisers of equivalent standing)**

An application is required for any new appointment or employment that individuals wish to take up during the two year period after leaving office. All applications at this level must be referred by Ofwat to the Advisory Committee on Business Appointments (the Advisory Committee). The Advisory Committee provides advice to the Prime Minister, who makes the final decision<sup>2,3</sup>.

Because of their role at the highest level of Government, and their access to a wide range of sensitive information, all Permanent Secretaries, including Second Permanent Secretaries, will be subject to a minimum waiting period of three months between leaving paid Civil Service employment and taking up an outside appointment or employment. The

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<sup>2</sup>Where applications are from civil servants who serve/formerly served in the Devolved Administrations in Scotland and Wales, the Advisory Committee will provide advice to the relevant First Minister who will make the final decision.

<sup>3</sup> Final decisions on applications from special advisers are made by the relevant Permanent Secretary.

Advisory Committee may advise that this minimum waiting period should be waived if, in its judgement, no questions of propriety or public concern arise from the appointment or employment being taken up earlier. Equally, the Advisory Committee may consider that public concern about a particular appointment or employment could be of such a degree or character that a longer waiting period is appropriate. Taking account of the maximum waiting period of two years that may be applied, the Advisory Committee may, exceptionally, add a rider to their advice to the Prime Minister stating that they view the appointment or employment to be unsuitable.

As a general principle, there will be a two year ban on all Permanent Secretaries and SCS3 (and equivalents, including special advisers of equivalent standing) lobbying Government on behalf of their new employer after they leave the Civil Service. The two year lobbying ban may be reduced and/or modified by the Advisory Committee if they consider this to be justified by the particular circumstances of an individual application. Lobbying in the context of these Rules means that the former civil servant should not engage in communication with Government (including Ministers, special advisers and officials) with a view to influencing a Government decision or policy in relation to their own interests, or the interests of the organisation by which they are employed, or to whom they are contracted. In certain cases, due to the nature

of the proposed appointment or employment, the Advisory Committee may, at its discretion, recommend that the lobbying ban need not prevent communications with Government on matters that are an integral part of the normal course of business for the organisation concerned. The model application form prompts applicants to provide the relevant details about the proposed employment or appointment that will assist with the formulation of an appropriate lobbying condition.

#### **A3.4.2 SCS2 and SCS1 (and equivalents, including special advisers of equivalent standing)**

For those at this level, the Rules apply for two years after the last day of paid service. An application for a new appointment or employment during this two year period is only required if the individual's circumstances match one or more of the

triggers set out below. Decisions on applications from those at this level are made by Ofwat <sup>4</sup>.

### **A3.4.3 Below SCS1 (and equivalents, including special advisers of equivalent standing)**

For these grades, the Rules normally<sup>5</sup> apply for one year after the individual's last day of paid service. An application for a new outside appointment or employment during this one year period is only required if an individual's circumstances match one or more of the triggers set out at below. Decisions on applications from staff in this category are made within Ofwat.

As set out above, an application under the Rules is only required from those at SCS2 and below (and equivalents) if the individual's circumstances match one or more of the following:

- They have been involved in developing policy affecting their prospective employer, or have had access to unannounced Government policy or other privileged

information affecting their prospective employer, at any time in their last two years in the Civil Service.

- They have been responsible for regulatory or any other decisions affecting their prospective employer, at any time in their last two years in the Civil Service.
- They have had any official dealings with their prospective employer at any time in their last two years in the Civil Service.
- They have had official dealings of a continued or repeated nature with their prospective employer at any time during their Civil Service career.
- They have had access to commercially sensitive information of competitors of their prospective employer in the course of their official duties.
- The proposed appointment or employment would involve making representations to, or lobbying the Government on behalf of a new employer.
- The proposed appointment or employment is consultancy work, either self-employed or as a member of a firm, and they have had official dealings with outside bodies or organisations in their last two years in

<sup>4</sup> Decisions on applications are delegated to departmental officials who should consult the Secretary of State on the most sensitive applications.

<sup>5</sup> Departments have discretion to apply for the Rules for up to two years for specific roles below SCS1 level (and equivalents) where there is an exceptional case for doing so.

the Civil Service that are involved in their proposed area of consultancy work.

In cases of doubt, the People Hub is able to advise individuals on whether or not an application is required.

#### **A3.4.4 Special Advisers**

Under the terms of their contract, special advisers are required to submit an application to the head of their former Department for a new appointment or employment they wish to take up after leaving the Civil Service. This requirement applies to special advisers of equivalent standing to the Senior Civil Service for two years after leaving the Civil Service, and to other special advisers for one year<sup>6</sup>.

Applications from special advisers of equivalent standing to Director General and above are referred to the Advisory Committee on Business Appointments (the Advisory Committee). The Advisory Committee provides its advice to

the relevant departmental Permanent Secretary, who makes the final decision based on that advice. Applications from other special advisers are handled within the relevant Department, and the Permanent Secretary makes the decision on the application. A special adviser who is unhappy with the decision may appeal to the Lead Non-Executive Director of their former Department.

#### **A3.5 How to apply for approval**

Applicants must approach the People Hub as early as possible, and before any announcements or commitments are made. The People hub will have a process in place for handling business appointment applications. This involves completion of the application form which will need to be countersigned by an appropriate person, normally someone within the people management chain.

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<sup>6</sup> No application is required under the Rules when a special adviser takes up a role with the Party when they leave the Civil Service. If, during the two years after leaving the Civil Service (one year in the case of more junior special advisers), they

take up an appointment in a different organisation, approval under the Rules is required.

Notification of decisions on applications will be made through Ofwat.

Applications may be approved unconditionally, or approved subject to conditions applying for a maximum of two years from the individual's last day of paid service. Such conditions may include a waiting period and/or a prohibition on the individual being involved in lobbying Government on behalf of their new employer. When a lobbying prohibition or other restriction is applied to an individual at any level, this information will be made available to key staff within Ofwat. Other restrictions could include a condition that for a specified period, the former civil servant should stand aside from involvement in certain activities, for example, commercial dealings with his or her former Department, or involvement in particular areas of the new employer's business.

Where it is proposed that an application be approved with conditions or a waiting period, the applicant will be offered an opportunity to discuss any concerns he or she may have with an appropriate departmental officer, or for applicants at SCS3 level and above (and equivalents, including special advisers of equivalent standing) with the Advisory Committee on Business Appointments (the Advisory Committee), before a final decision is made.

For those cases considered by the Advisory Committee, in addition to the maximum two-year waiting period, the Advisory Committee may, if they judge the propriety concerns to be substantial, add a rider to their advice saying that they also view the appointment to be unsuitable. It is for the Prime Minister (or relevant Permanent Secretary in the case of special advisers) to take the final decision on the application based on the advice received from the Advisory Committee.

### **A3.5.1 Payment for Waiting Periods**

It may be appropriate to continue to pay former civil servants, including special advisers, who are required to observe a waiting period before taking up an external role. Such a payment would be subject to the particular circumstances of the individual case, and it would be important to ensure that decisions take account of all relevant factors including, for example, whether there was a reasonable expectation of a waiting period under the Rules. Where a waiting period is required, departments should seek to redeploy individuals for the duration of the period. Where there is no alternative suitable employment available, Ofwat can consider whether there is a case for the individual to be compensated for serving a waiting period. The Cabinet Office must be consulted when payment is proposed either by Ofwat or the individual.

### **A3.5.2 Transparency**

In addition to notifying the applicant of the outcome of their application Ofwat must also inform prospective employers of any conditions which have been attached to the approval of the appointment or employment. For those applications considered by the Advisory Committee, their advice, alongside summary details of the applicant's last Civil Service post, will usually be made public once the appointment or employment has been taken up by the applicant or announced, and Departments will make public on their departmental websites summary information in respect of individuals at SCS2 and SCS1 level (and equivalents, including special advisers of equivalent standing), setting out the advice given to their former civil servants, and the restrictions (if any) imposed upon them. In all other respects, the business appointment process is a confidential one<sup>7</sup>.

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<sup>7</sup>The Advisory Committee handles personal information provided to it in accordance with the Data Protection Act 1998. Such information may on limited

### **A3.6 Where to find out more**

Guidance and advice on the Rules is available from the People Hub and the Bubble. More about the operation of the Rules, including details of appointments approved and taken up by the most senior members of the Civil Service, can be found on the website of the Advisory Committee on Business Appointments (the Advisory Committee):

<http://acoba.independent.gov.uk>

The Advisory Committee's Secretariat is available to provide advice and support to Ofwat on the application of the Business Appointment Rules and the handling of individual cases at any level. Contact details are:

Office of the Advisory Committee on Business Appointments

G/08, Ground Floor, 1 Horse Guards Road, London, SW1A 2HQ

Tel: (020) 7271 0839, e-mail to: [acoba@acoba.gsi.gov.uk](mailto:acoba@acoba.gsi.gov.uk)

Website: <http://acoba.independent.gov.uk>

occasions be published, for example, if the Committee is required to publish information in accordance with the Freedom of Information Act 2000.

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## Document control

### Version history

Version	Status	Date	Author	Summary of changes
0.1	Final Draft	April 2017	Kate Hilditch	Updated to reflect new roles/responsibilities and values. Added social media section. Minor wording change to conflict of interest sections.

### Sign off

Name	Date	Version No.	Date of Next review
Natasha Harris	25 April 2017	0.1	April 2019