

HEALTH AND SAFETY COMMISSION

Code of Practice for Commissioners

as agreed at Commission meeting on 25 May 1999 (HSCI99/128)

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Introduction

1. The Health and Safety Commission (the Commission) is a statutory non-departmental public body established by the Health and Safety at Work etc. Act 1974 (the 1974 Act). The Commission is responsible to appropriate Ministers for the administration of the 1974 Act.

2. The Commission's statutory powers and functions are set out in the *Health and Safety Commission and Health and Safety Executive's Framework of Accountabilities*. The Commission has particular responsibility for:

- reviewing health and safety legislation and submitting proposals for new and revised legislation to Ministers after consultation with appropriate government departments and other bodies;
- making arrangements for the provision of information, advice, and guidance;
- making arrangements for research to be carried out and its results to be published and encouraging research by others;
- arranging for the provision of information and encouraging its provision by others;
- paying to the Health and Safety Executive (the Executive) sums considered appropriate for the Executive to perform its functions.

3. The Commission's constitution - which is governed by the 1974 Act - allows for a Chair and not less than six or more than nine members. The Chair and Commissioners are appointed by the Secretary of State for the Environment, Transport and the Regions (The Secretary of State). The current Commission consists of 9 members in addition to the Chair, appointed after statutory consultation with representatives of employers (3 members), employees (3 members), and other organisations concerned with health and safety including local authorities (3 members). Detailed provisions for the Commission's constitution can be found in Schedule 2 of the 1974 Act. The Financial Memorandum gives further details.

4. The aims of the Commission, reflecting its statutory purposes, are to protect the health, safety and welfare of employees, and to safeguard others, principally the public, who may be exposed to risks from work activity. A full statement of these aims can be found in its annual published Plan of Work, known as the Strategic Plan.

5. In line with Government policy on standards in public life, openness and accountability, the Commission has agreed this Code of Practice which Commissioners are expected to follow in carrying out duties associated with the Commission.

Standards in Public Life

6. The Commission will at all times:

- observe the highest standards of propriety involving **impartiality, integrity and objectivity** in relation to the stewardship of public funds and the exercise of its functions;
- maximise **value for money** through seeking to ensure the most economical, effective and efficient use of its resources and be accountable to Parliament for its stewardship of public funds;
- be **accountable** to Ministers, and through them to the public more generally, for its activities and for the standard of advice it provides; and
- act in accordance with Government policy on **openness**, and comply fully with the Code of Practice on Access to Government Information and the Environmental Information Regulations 1992 as amended and any relevant legislation on disclosure of information.

7. Commissioners are expected to:

- follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life as they apply to service on the Commission. These principles are printed at appendix A;
- comply at all times with the Commission's Code of Practice and ensure that they understand their duties, rights and responsibilities, and that they are familiar with the role and functions of the Commission and any relevant statements of Government policy;
- act in good faith and in the best interests of the Commission.

The Commission and its relationship with the Government and Parliament

8. The Secretary of State appoints the Commission and is primarily answerable to Parliament for the policies and performance of the Commission, including its use of resources and the policy framework within which it operates.

9. The respective roles and responsibilities of the Commission and the Government, the Commission and Parliament, the Commission and the Department for the Environment, Transport and the Regions, and the Commission and the other Ministers it reports to, are set out in the Health and Safety Commission and Health and Safety Executive's Framework of Accountabilities. This information is supplemented by the Financial Memorandum specifying the terms on which the Commission receives and spends its funds. Taken together with the HSC Strategic Plan 1999/2002 and the HSC Annual Report and HSC/E Accounts, the Document and its Annexes constitute an Executive Non Departmental Public Body (NDPB) Management Statement as required by the Cabinet Office.

The role of the Commission Chair

10. The Chair is responsible for providing effective leadership on matters such as:

- formulating the Commission's strategy for discharging its statutory duties;
- ensuring that the Commission meets at regular intervals throughout the year and that the minutes of meetings accurately record the decisions taken and, where appropriate, the views of individual Commissioners;
- ensuring that new Commissioners, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities, and encouraging new Commissioners to attend an induction course on the duties of members of public bodies as part of their induction programme;
- providing an assessment of performance of individual Commissioners, on request, for example when they are being considered either for re-appointment to the Commission or for appointment to some other public body;
- encouraging high standards of propriety and promoting the efficient and effective use of staff and other resources;
- representing the views of the Commission to the general public.

11. The Chair is Accounting Officer for the Commission and is responsible for ensuring the efficient and economical conduct of Commission business, the propriety of Commission expenditure and that appropriate provision is paid to the Executive to enable it to perform its functions, and within the policies and priorities which the Commission sets the Executive with the approval of the Secretary of State.

12. More detailed guidance on the role of an accounting officer is set out in *The Responsibilities of a NDPB Accounting Officer*, and in the letter of appointment as an Additional Accounting Officer sent to the Chair by the Permanent Secretary of the Department of the Environment, Transport and the Regions.

The collective role of Commissioners

13. The Commission's responsibilities and powers are defined by the 1974 Act and its subordinate instruments.

14. Commissioners have collective responsibility for conduct of the Commission's business. They should engage fully in the collective consideration of issues, taking account of the full range of relevant factors, including any guidance issued by the sponsor Departments and the responsible Ministers.

15. Commissioners have corporate responsibility for ensuring that the Commission complies with any statutory and administrative requirements for the use of public funds. Other important responsibilities of Commissioners include:

- ensuring that high standards of corporate governance are observed at all times;
- establishing the overall strategic direction of the organisation within the policy and resources framework agreed with the responsible Minister;
- ensuring that the Commission operates within the limits of its statutory authority, and in accordance with any other conditions relating to the use of public funds;
- drawing up a policy statement on access to health and safety information, taking in to account statutory requirements and Government policy and initiative; and
- ensuring that the Commission operates sound environmental policies and practices in accordance with Government policy.

Delegation of functions

16. The Commission may delegate functions to individual Commissioners, for example to enable the Chair to act on its behalf in specified matters between meetings. The Commission has general oversight of the work of the Executive and has power to delegate to the Executive which is its main operational arm. The Commission has used Section 11(4)(a) of the 1974 Act to direct the Executive to carry out certain functions. Further details can be found in the *Health and Safety Commission and Health and Safety Executive's Framework of Accountabilities*.

Openness

17. The Commission will conduct all its dealings with the public in an open and responsible way and will comply fully with the requirements of the Code of Practice on Access to Government Information, the Environmental Information Regulations 1992 as amended and any other relevant legislation on disclosure of information.

Public access to papers

18. The Commission has given approval for its meeting papers to be made publicly available except in a limited range of circumstances which are covered by the Code of Practice on Access to Government Information. Papers are not made public before the meeting at which they are due to be considered. The paper will indicate the passages which it is proposed should and should not be made public. Papers submitted to the Commission are given one of four proposed openness classification markings:

- fully open (the whole paper can be disclosed to the public);
- partially open (some sections exempt from disclosure under the Code of Practice on Access to Government Information - the remainder of the paper can be disclosed);
- fully closed (whole paper exempt from disclosure);
- personal to members only (whole paper exempt from disclosure and restricted to Commissioners only).

19. It is for the Commission at the meeting at which the paper is considered to decide that the proposed openness classification on the paper is correct.

Consultation on papers by Commissioners before meetings

20. It is long established practice that before the meeting Commissioners can consult on all papers - apart from those marked "personal to members only" - with Those groups whose interests they represent in order to carry out their duties effectively. Such consultations and discussions should be undertaken on a need-to-know basis. Commissioners must make sure that those whom they consult are made aware of, and respect, the need to act discreetly.

21. Commissioners should treat papers which are marked as "personal to members only" as confidential to themselves, and not discuss them with others outside the Commission and the Executive. Such papers may contain matters of a particularly sensitive nature and Commissioners must take extra care not to leave them unattended and where others may obtain access to them.

Disposal of papers

22. Commissioners must ensure that their papers are kept and disposed of safely and ideally for papers which are "Personal to members only" should dispose of them by shredding or by returning them to the Commission Secretariat.

Making information available

23. The Commission has published a statement Access to health and safety information by members of the public which sets out its policies on making information available. The Executive has been given responsibility for implementing this policy, including operation of a proper procedure for handling complaints against non-disclosure.

Plan of work, Annual Reports and Accounts

24. The Commission prepares an annual plan of work, known as the Strategic Plan. The Commission must act in accordance with plans approved by The Secretary of State and within the resources made available. The Commission submits an Annual Report and Accounts to The Secretary of State.

25. Full details of the Commission's management, financial and planning arrangements can be found in the *Health and Safety Commission and Health and Safety Executive's Framework of Accountabilities and the Financial Memorandum*.

Terms of appointment

26. The Secretary of State appoints the Commission and is responsible for it. The appointment and conditions of service of Commissioners are conveyed in a formal letter of appointment from The Secretary of State and in a memorandum issued to Commissioners under his authority. This also sets out the Commissioner's term of office.

27. Commissioners may at any time resign as a member of the Commission by giving to The Secretary of State notice in writing.

28. The Secretary of State has the power to declare a Commissioner's office vacant under the statutory provisions governing the appointment found in Schedule 2, paragraph 4 to the 1974 Act.

Quorum and attendance at Commission meetings

29. The Commission has agreed that the quorum for Commission meetings should be the Chair or a Commission member elected by a majority of the other members present at the meeting to be acting Chair of the meeting, plus three other members, one representing employers, one representing employees, and one not representing either of these groups. It is important therefore that Commissioners notify the Commission Secretary as soon as possible if they are not able to attend a Commission meeting.

30. Commissioners are expected to attend the great majority of Commission meetings during the year, and in any case should not miss more than two consecutive meetings without the prior agreement of the Chair.

31. Under Schedule 2, paragraph 4 to the 1974 Act The Secretary of State may terminate an appointment if a Commissioner has been absent from meetings of the Commission for a period longer than six months without the permission of the Commission.

Remuneration

32. Commissioners receive an annual sum plus a fee for each day worked. There are two meetings per month which usually last for half a day, and which each involve a further half day in preparation time (each meeting attended usually counts as one day worked).

33. Commissioners may also be involved in other activities such as visits to industry, and may be called upon from time to time to represent the Commission at conferences, press launches, etc. The level of remuneration will be subject to review in the context of decisions taken by Ministers from time to time in relation to salaries of this kind.

Political activities

34. Commissioners are expected to follow the guidance on political activities set out in the terms and conditions sent to them on their appointment to the Commission.

35. In general Commissioners should not engage in specific political activities on Matters directly affecting the work of the Commission. When engaging in other political activities, Commissioners should be conscious of their public role and exercise a proper discretion, particularly in regard to the work of the Commission.

Travel and subsistence expenses

36. Commissioners are entitled to travel and subsistence expenses incurred on official Commission business away from their normal place of work, and other expenses necessarily incurred on HSC business. Tax liabilities arise on elements of these payments which have been regarded as part of a Commissioner's income and are therefore taxable. Arrangements have been made whereby HSC meets the cost of the tax. This is explained in the note *Travelling and Subsistence Expenses: Income tax* which is sent to Commissioners on appointment.

Gifts and hospitality

37. Commissioners are expected to act in accordance with the standards required of civil servants in respect of gifts and hospitality. Commissioners should not accept or offer a gift, hospitality or some other benefit as a reward, either for doing or not doing something in their official capacity or for showing advantage to someone or to an organisation. As a general rule there are unlikely to be objections to the acceptance of isolated gifts of a trivial nature or minor seasonal items such as calendars or diaries. Offers of conventional hospitality may also be accepted provided it is normal and reasonable in the circumstances. Such offers include a working lunch or a working dinner and refreshments offered during meetings.

38. The Secretariat keeps a gifts and hospitality register. Conventional hospitality and trivial gifts do not need to be recorded. Commissioners should inform the Secretariat about all other gifts and hospitality which do not clearly fall into either of these categories. These will be recorded in the register.

Register of interests

39. The Commission is required to maintain a Register of Commissioners' Interests which Commissioners are required to complete on appointment. This is maintained by the Commission Secretariat. The Register lists direct or indirect pecuniary interests which may or may be perceived (by a reasonable member of the public) to influence his or her judgement when acting as a Commissioner. Guidance prepared by the Department for the Environment, Transport and the Regions on the kinds of interests that should be declared for the purposes of Commission's Register can be found at appendix B.

40. The Register is made available to the public in the Commission's Annual Report and on request (for example in answer to Parliamentary Questions and enquiries from the media). Commissioners must notify the Commission Secretariat, immediately, of any changes to their declaration.

Conflicts of interests

41. It is an important part of Commissioners' responsibilities that they have access to the advice and opinions on behalf of organisations representing one of the following three categories, employers, employees or others (for example, organisations representing local authorities and others with an interest in health and safety). This enables Commissioners to make an informed contribution to Commission business.

42. However, Commissioners should avoid situations where they are influenced, or appear to be influenced, by their private interests in the exercise of their public duties. In addition to interests included in the Commission's Register (paragraph 39 above) Commissioners should declare any interest, pecuniary or other, where it relates specifically to a particular matter under consideration and which may, or may be perceived, (by a reasonable member of the public) to conflict with their responsibilities as Commissioners. Commissioners should also consider whether they need to disclose relevant interests of other persons or organisations (for example, close family members) which members of the public might reasonably think could influence their judgement. The Secretariat will record any declaration in the minutes.

43. Where a Commissioner has declared an interest he or she, with the agreement of the Chairman, may contribute to the discussion of the matter under consideration.

44. Where a Commissioner has declared a significant and relevant interest he or she should not participate in the determination of that matter. It may on occasion be appropriate for that Commissioner to withdraw from the meeting during consideration of the matter.

Personal liability of Commissioners

45. Although any legal proceedings initiated by a third party are likely to be brought against the Commission, in exceptional cases proceedings (civil or, in certain cases, criminal) may be brought against the Chairman or other individual Commissioners. For example, a Commissioner may be personally liable if he or she makes a fraudulent or negligent statement which results in loss to a third party. Commissioners who misuse information gained by virtue of their position may be liable for breach of confidence under common law or may commit a criminal offence under insider dealing legislation.

46. However, the Government has indicated that individual board members of Non-Executive Departmental Bodies (for example, Commissioners) who have acted honestly and in good faith will not have to meet out of their own personal resources any personal civil liability which is incurred in execution or purported execution of their functions, except where the person has acted recklessly.

Official Secrets Act

47. The provisions of the Official Secrets Acts 1911 to 1989 apply to members of the Commission. Unauthorised disclosure of any information gained in the course of this appointment or its use by Commissioners or others for personal gain or advancement would be regarded as a grave breach of trust. A copy of the Basic Guide to the Official Secrets Act 1989 is sent to Commissioners on appointment.

48. Commissioners who need further advice should consult the Commission Secretary or Commission solicitor.

THE SEVEN PRINCIPLES OF PUBLIC LIFE

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merits.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.

Leadership

Holders of public office should promote and support these principles by leadership and example.

The Government endorsed the Seven Principles of Public Life in "Spending Public Money. Governance and Audit Issues", Cm 3179, March 1996.