



The Health & Safety Commission

A Code of Practice for Members of the Commission's Advisory Committees

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Introduction

1. The Health and Safety Commission's (HSC's) Advisory Committees (ACs) provide the Commission and HSE with an additional and major source of expertise and advice on specific health and safety matters and issues. Industry Advisory Committees (IACs) are concerned with health and safety in a particular industry or sector, whilst Subject Advisory Committees (SACs) are concerned with particular hazards that may be present across a range of industry sectors.

2. Generally, each AC functions to:

- give closer and more detailed attention to the problems of various hazards and particular industries than the Commission itself is able to do
- make use of available expertise and advice using a balance of employer, employee, technological, professional, consumer and public interest representatives
- encourage the participation of all concerned in improving health and safety at work, through consultation and providing recommendations on policy and appropriate standards and guidance
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3. ACs are managed by HSE on behalf of the Commission, and do not normally report directly to the Commission. ACs are not constituted for a fixed period, but to deliver the outcomes in their Work Plans. These outcomes should, with very few exceptions, be achievable within a five-year period. Members of ACs are nominated by organisations representing employers, employees and other relevant interests on the basis of role and person specifications drawn up for the AC concerned, and are appointed by the Director General of HSE. Members may also be appointed because of their particular expertise or after open competition and interview procedures. Membership should be representative of the health and safety interests of those in the industry or in relation to the specific subject. It is also Commission policy that each AC has a public interest member.

4. Each individual AC's aim, under its terms of reference, are

- to translate and disseminate the Commission's priorities to its constituencies; and
- to engage stakeholders in appropriate accident/ill-health reduction programmes.

ACs may also deal with any other associated matter referred to them by the Commission or HSE, and matters which the Committee feels the Commission should be made aware of.

5. In line with Government policy on standards in public life, openness and accountability, the Commission has agreed this Code of Practice as a supplement to the current Terms and Conditions of Appointment on behalf of all ACs. All AC members are expected to follow this Code when carrying out duties associated with their particular Committee.

6. The principles of this Code should also apply to all Observers, Assessors, Advisors and other types of member not appointed by the Commission itself or by the Director General of HSE on its behalf. Members, Assessors, Observers and Advisors should receive a copy of the Code. It is expected that as a matter of good practice, these individuals should follow the principles of the Code of Practice. ACs may take action (such as disbarment from meetings) against any individual who acts against the spirit of the code in an inappropriate manner.

Standards in Public Life

7. All AC members 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 an AC. These principles are listed in annex A
 - comply at all times with the AC's Code of Practice by ensuring that they understand their duties and responsibilities, and that they are familiar with the role and functions of the AC and any relevant statements of Commission policy
 - act in good faith and in the best interests of whoever may be exposed to risks or hazards arising from work activities
8. ACs 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 their functions
 - maximise value for money through seeking to ensure the most economical, effective and efficient use of their resources and be accountable to the Commission for their stewardship of public funds
 - be accountable to the Commission (which is itself accountable to Ministers), and through them to the public more generally, for their activities and for the standard of advice and guidance they provide

The collective role of Advisory Committee Members

9. AC members have a collective responsibility for conduct of the AC business. AC members should engage fully in the collective consideration of issues, taking account of the full range of relevant factors, including any guidance issued by the Commission.
10. Other important responsibilities of AC members include:
- establishing the overall strategic direction of the AC by means of producing a Work Plan;

- ensuring that the AC operates within the limits of its authority as set out in the ACs Terms of Reference, and in accordance with any other conditions relating to the use of public funds; and
- acting, in discussions within the AC, to safeguard the interests of those who bear the health and safety risks arising from workplace activities.

Openness

11. ACs will conduct all their 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 Data Protection Act 1998, the Environmental Information Regulations 1992 (as amended 1998) and any other relevant legislation on disclosure of information, in particular section 28 of the Health and Safety at Work etc. Act 1974. AC Secretaries should ensure that AC Members are aware of the implications of relevant legislation. It is also Commission policy to encourage ACs, where practicable, to hold at least one of their meetings in public each year. The purpose of such meetings would be to help the public to have a greater understanding of the work of the body. Open meetings may, in certain circumstances be a useful means of consultation.

Consultation on papers by ACs before meetings

12. It is long established practice that before a meeting, AC members can consult on all papers - apart from any marked "personal to members only" in order to carry out their duties effectively. The AC Secretariat should ensure that all papers are circulated to AC members in good time, to allow consultation to take place. Such consultations and discussions should be undertaken in a responsible manner in accordance with the standards and principles contained in this code. ACs are required to ensure that those whom they consult are made aware of, and respect, the need to act discreetly.

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

Disposal of papers

14. AC members must ensure that their papers are kept and disposed of safely. Ideally papers which are "personal to members only" should be disposed of by shredding or by returning them to the AC Secretariat. In the unlikely event of papers being lost or stolen, members should advise the AC Secretariat immediately.

Making information available

15. The Commission has endorsed the HSE Board's statement on openness, a copy of which can be obtained from the AC Secretariat. The Board statement will in due course be incorporated in a joint HSC/HSE statement on openness. If members receive requests for disclosure of information, these should be routed through the AC Secretariat. HSE is responsible for implementing the openness policy, including operation of a proper procedure for handling complaints against non-disclosure.

Terms and conditions of appointment

16. The Director General of HSE normally appoints the Chair and members of an AC, though the Commission may wish to do so itself for some ACs. The appointment and conditions of service of members are conveyed in a formal letter of appointment. This letter also sets out the member's term of office - which may be for the duration of a programme of work or related to particular components in it.

17. Members may at any time resign their membership of an AC by giving notice in writing. AC members are expected to attend the majority of AC meetings during the year.

Political activities

18. When engaging in political activities, members should be conscious of their public role and exercise proper discretion, particularly in regard to the work of the AC.

Gifts and hospitality

19. AC members are expected to act in accordance with standards set out in this Code and in their Terms and Conditions of appointment. Members 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.

Register of interests

20. Members of ACs are nominated by the TUC, CBI and other relevant stakeholder organisations to represent employee, employer and other interests (e.g. consumer interests, local government, professional and academic bodies, etc.). AC members should represent the health and safety interests of those in industry, those affected by an industry or hazard. As such, many members will legitimately have interests which they bring to, and represent at, Committee meetings.

21. The Commission requires each AC to maintain a Register of Members' Interests which each member is required to complete on appointment. This is maintained by the AC Secretariat. The Register should, as a minimum, list 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 an AC member. Registration of such interests is helpful in ensuring the transparency of, and public confidence in, AC work. Guidance on the kinds of interests that should be declared for the purposes of Committee Registers can be found at annex B. Members may also wish to add a personal profile to their declaration, to explain the nature of their everyday work and what other positive interests they may have.

22. The register will be placed on the Internet and will be made available to the public on request. Members must notify the AC Secretariat, as soon as is reasonably practicable, of any changes to their declaration.

Conflicts of interests

23. Members should avoid situations where they are influenced, or appear to be influenced, by their private interests in the exercise of their AC duties. In addition to interests included in the AC Members Register (paragraphs 20-22 above) Members 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 AC members. Members 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 may influence their judgement. The Secretariat will record any declaration in the minutes of the meeting where the matter is considered. For additional information please see the attached guidance in annex C. Where a Member has declared an interest he or she, with the agreement of the Chair, may contribute to the discussion of the matter under consideration.

Conduct of AC Members and Observers

24. The integrity and objectivity of members and observers should never be in doubt and they are, at all times, expected to act in good faith and in the best interests of the objectives and aims of their Committee. Members and observers should not use the opportunities offered by membership or access to a Committee to promote private interests or the interests of connected persons, businesses or other organisations in a way which is inappropriate or may be perceived, by a member of the public, to be inappropriate.

Personal liability of AC Members

25. Advisory Committees may produce draft guidance, Approved Codes of Practice and other papers intended to be published under the Commission's or HSE's logo - and are directly accountable to the Commission for what they produce in its or HSE's name.

26. The Commission is ultimately responsible to industry and the public in general for advice published in its or HSE's name. Individual AC members would therefore not be liable for any AC advice or guidance produced that has been published in the Commission's/HSE's name, or cleared by the Commission itself.

27. 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 AC Chair or other individual AC members. For example, a member may be personally liable if he or she makes a fraudulent or negligent statement which results in loss to a third party. Members 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.

28. However, the Government has indicated that individual AC members 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

29. The provisions of the Official Secrets Acts 1911 to 1989 apply to Members of ACs. Unauthorised disclosure of any information gained in the course of AC work or its use by AC Members or others for personal gain or advancement would be regarded as a grave breach of trust.

30. Members who need further advice should, in the first instance, consult the Secretary of their AC.

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.

INTERESTS TO BE ENTERED IN THE REGISTER

The following are the kinds of interests that Advisory Committee members should be asked to declare for the Register:

1. Companies, partnerships, trusts or other bodies of which the member is a paid employee.
2. Companies and organisations in which the member or their family or close associates:
 - a. has/have a controlling interest, or
 - b. is/are a Director or partner, or
 - c. has/have shares or securities with a nominal value of more than £25,000 or one hundredth of the total issued share capital, and
 - d. could be involved in the supply of goods or services to, or have business dealings with, the organisation (i.e. the Advisory Committee).
3. Non-profit making organisations (e.g. charities, housing associations) where the member or their close family are Trustees, or on the Committee of Management or other controlling body and which might receive grants, or carry out activities designed to promote or develop the organisation (i.e. the Advisory Committee), or have other significant dealings with the organisation.
4. Any land or property in which a member has a direct interest and is clearly within the organisation's (i.e. the advisory Committee's) sphere of activities. The sphere of activities might be a limited and specific geographical area of operation, or a particular type of land and property relevant to the organisation's business. It should be clearly defined by the organisation and may not be relevant to many of the NDPBs which operate across the whole country.
5. Membership of local authorities, health authorities and trusts, Training and Enterprise Councils, the Magistrates Bench, and relevant voluntary sector bodies.

ADDITIONAL GUIDANCE TO SUPPLEMENT THE CODE OF PRACTICE FOR MEMBERS OF HSC ADVISORY COMMITTEES

The Code of Conduct for Advisory Committee Members is based on the Commission's own Code of Practice for Commissioners - and is designed to increase the level of openness and transparency with regard to the way Advisory Committees work and make decisions.

Register of Interests - Guidance

The Code of Conduct for Advisory Committee Members includes general guidance about what interests should be declared in a register (see annex B of the Code). Members are asked to register interests they may have - not necessarily to preclude them from any discussions or determinations within the Committee - but as a way of increasing openness in AC workings.

Example: The Agriculture Advisory Committee is, in the main, made up of farmers and the representatives of farm workers. Each brings a wealth of experience to the Committee, and the interests which they represent should not stop them from taking part in discussions and the decisions of the Advisory Committee. However, it is best to declare an interest where it might be seen that the interest may motivate the particular position taken. In this way, a 'reasonable member of the public' would be unlikely to take the members contribution in the wrong context.

There may be occasions where information placed in a register could directly impact on the health and safety of an AC member. For example a member may have an interest, which if made public, may leave the member open to physical threats and/or abuse. In such cases, AC secretaries will produce two versions of the register. One, to be put in the public domain - without the relevant sensitive information. The other - which will contain full details of the members declaration - will be held by the AC secretary, and available to members only, so that members can satisfy themselves that the AC is correctly observing Nolan principles.

If a member has concerns that information they disclose for the purposes of the register could harm their health and safety, they should consult their AC secretary who will advise the member on the course of action to take.

Frequently Asked Questions

Question: Why should I have to declare and register my interests? I would like this information to remain personal to me.

Answer: *As a Member of a public body - in this case, one of the Commission's Advisory Committees, you work on behalf of the public, trying to solve health and safety problems and issues. The government, in endorsing the principles laid down by the Committee for Standards in Public Life - requires government and all public bodies to be open, transparent and accountable. This is why Members are asked to declare all relevant interests - so that the public can be assured of the openness and transparency of the Advisory Committee. If a Member accepts the invitation to sit on an Advisory Committee then they are also accepting the open government obligations that go with that invitation.*

Question: I have been nominated to an Advisory Committee by a representative body and as such my role is to represent their interests. How does the register apply to me and what do I need to declare in the Register?

Answer: *Members should register their (and any relevant family members) interests, such as the fact that their work for a specific employer if these interests relate to the Advisory Committee. Members of Advisory Committees are often appointed for their expertise gained through membership of, or employment by, other organisations. Given this, their registered interests will not prevent them from participating in discussions and decisions on particular issues. The reason such interests should be registered is that it is helpful in ensuring transparency and public confidence.*

Question: Do I need to register the fact that I may be a member of an organisation in which I do not have a financial interest - such as a charity or public interest group?

Answer: *Whilst it is not necessary to place such interests formally in the Register, members may wish to declare to a meeting such an association where it may have a bearing on, or be relevant to, the business of the Advisory Committee. This will prevent claims that a Member has acted inappropriately if such an association later becomes publicly known - but was not declared at the time a decision was made.*

Question: I have already declared an interest in the Members Register. Do I also need to declare this interest at the start of a meeting where my interest would be relevant?

Answer: *If your interest is already declared in the Register, it is already in the public domain. If you feel that, given this interest, you are able to participate objectively in an advisory committee meeting, this interest does not need to be declared again (however, you may wish to remind the Chair and Secretary of your interest for completeness). It is up to the Chair or Secretary to decide whether your interest should disbar you from the specific discussion.*

Conflicts of Interest - Guidance

Personal Interests

Members should consider whether participation in a discussion of a matter would suggest a real danger of unacceptable bias. There may be occasions and possibilities for conflict which Members themselves may not recognise, but which may cause the public some concern. Although Members may feel that their personal interest(s) would not make a difference to their view, the public may feel that the interest is relevant and in order to ensure that the Members integrity is not brought into question this interest(s) should be declared.

Frequently Asked Questions

Question: I work for a firm that is tendering for a contract. My Advisory Committee is discussing the production of guidance that will directly affect the profitability of that contract. What should I do?

Answer: *The fact that you work for a firm associated with the work of your Advisory Committee should already be declared in the Register of Members Interests. If you feel that you are unable, in the light of the facts, to take part in the discussion you should disbar yourself from the matter in question. However, if the Committee is in agreement and you feel that you are still able to act impartially, you should declare your interest at the start of the meeting and participate in the discussion and decision. Your declaration will be recorded in the minutes of the meeting.*

Question: Before an agenda item is discussed it becomes clear that I have a personal interest in that particular item. This has not been declared. What is the procedure?

Answer: *In such cases, you should declare, before the start of the agenda item, your interest to the Committee. This declaration will then be minuted. The Chair and Secretary of the meeting would then decide if they felt you should be able to take part in the discussion and decision making process.*

Members should speak to the Advisory Committee Secretary or Chair if they have any doubts as to whether or not they have an interest which may give rise to a conflict and should be disclosed. However, it is obvious that in some cases a personal interest may be so indirect or small that the interest need not be declared and should not prevent the Member from participating in the discussion or decision.

Use of Membership of an Advisory Committee, or status as an Observer on an Advisory Committee, for Private Gain

An Advisory Committee Member should not use their position for their own, or others, private gain.

Frequently Asked Questions

Question: Under what circumstances might this type of incident occur?

Answer: *An Advisory Committee Member may find themselves negotiating, on behalf of their firm, for a contract. They should not use the fact that they are a Member of an Advisory Committee to try and influence a decision and increase their firm's chances of winning the contract.*

Members or Observers should also not try to mitigate punishment handed down - such as that made by a court - by using their status as an Observer or Advisory Committee Member.

As a general rule of thumb, an Advisory Committee Member should never use the fact that they are a Member of an Advisory Committee in dealings outside the committee or any associated committee actions or activities.

The Use of Information gained as a Member of an Advisory Committee

A Member of an Advisory Committee should not engage in a financial transaction using information not in the public domain, which may be commercially sensitive gained directly from their Membership of an Advisory Committee to further their own, or others, private gain.

Frequently Asked Questions

Question: *What sort of information might be deemed to be commercially sensitive?*

Answer: *Commercially sensitive information is that which an individual knows, or should reasonably know, has not been made available to the public. For example a Committee might be dealing with the approval of a substance. Much of the information discussed by the Advisory Committee would be in confidence and should not therefore be released to the public. Also, as the approval of a substance could impact on the financial situation of a firm - a Member should not use this information to make financial investments, until such information has become publicly available.*

Question: What could be defined as a 'private gain'?

Answer: *A further example would be if a Member learns in the course of an meeting that a small firm will be awarded a specific contract. The Member should not purchase, or advise any relatives or friends to purchase, shares in this firm - until the announcement has been made public.*

Members are reminded that dealing (or encouraging another to deal) in securities while in possession of relevant price-sensitive information acquired through membership of an Advisory Committee (or disclosing such

information) is potentially a criminal offence under section 52 of the Criminal Justice Act 1993.

Gifts and Hospitality - Guidance

Most Advisory Committee members will not normally receive gifts or hospitality as a direct result of their position on an Advisory Committee. However, in keeping with the direction of the Committee for Standards in Public Life, there are certain rules regarding the acceptance of gifts (should they be offered) that Advisory Committee members should bear in mind. Members should not accept a gift in return for carrying out acts as a member of an Advisory Committee.

Members may receive gifts or benefits in their private capacity. However, if that gift could be reasonably linked to an act or action taken as a member of an Advisory Committee then this gift or benefit should be declared. Any such declaration will then be recorded in the minutes of the meeting.

Any gift or benefit received by an Advisory Committee member in a purely private capacity, which does not bear any relevance to the members position on an Advisory Committee, does not need to be disclosed.

Frequently asked questions

Question: What sort of gifts need to be declared, and in what circumstances should a gift or benefit be declined?

Answer: *Any gift given to a member because of their membership of an Advisory Committee should be declared. Any gift given to a member which has been made in order to obtain a specific decision or to sway the mind of the member should be declined. For example a large firm which will be affected financially by a proposed Code of Practice, offers an Advisory Committee Member a large gift. The underlying meaning is that the firm would like the Code of Practice changed to it's advantage. The Advisory Committee member should decline this gift as it would be given in order to get a member to use their influence for the firms benefit.*

Question: What sort of gift does not need to be disclosed?

Answer: *Any gift that is given to the member in a purely private capacity. For example, the firm for which a member works has just completed a piece of work for another firm. To show their gratitude, this firm sends a gift to the member. This is unrelated to the fact that the member is part of an Advisory Committee and therefore does not need to be declared. However, were that gift given in appreciation of a decision made by the members Advisory Committee - it should not be accepted.*

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In all cases, if a member is unsure as to the right course of action then they should consult the Advisory Committee Chair or Secretary for advice.