



Business Interests & Secondary Occupations (Policy & Procedure)

OFFICIAL

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Policy

Version History

Version Number	Date	Detailed rational behind amending/updating policy or procedure.	Policy Owner Details	Policy Author Details
V2.0	12.05.2011	The policy and procedure has been completely re-written as a consequence of ACPO Guidance and changes to the Police Regulations and Police Conduct Regulations. The policy is now applicable to all members of Merseyside Police		
V3.0	11.06.2012	To reflect and address the concerns of HMIC 'Fear or Favour' Report and to better reflect revised ACPO guidance.		
V4.0	08.02.2016	Updated to reflect application process being electronic rather than paper based.		
V4.1	23.02.2016	Para 5.1 amended to include "In cases where the applicant works within PSD, the decision making role will transfer to the Superintendent ACU".		
V4.2	05.11.2018	Updated to reflect the transition of ACPO to NPCC. To provide clarity for staff on secondment. Addition of appeals process guidance. Annexe D		
V4.3	14.05.2019	Updated following review.		
V5.0	08.12.2021	Updated following Smartforce introduction and change to application process		
V5.1	01.02.2022	Updated following review	Chief Supt Jenny Wilson	D/Insp Darren Wilson

Statement

It is essential that the public has confidence in the integrity and impartiality of the police service. Merseyside Police Force is committed to maintaining such a professional image and protecting the health, safety and wellbeing of its staff. This does not prevent members of the force from having business interests or secondary occupations but allows the Chief Constable to apply a consistent approach in determining whether a business interest conflicts with the work of a police officer or police staff member and the ability to discharge their duties impartially.

Individual decisions will be informed by the “Guidance on the Management of Business Interests and Additional Occupations for Police Officers and Police Staff” published by the Association of Chief Police Officers.

Special constables are dealt with separately in terms of their employment outside the service as detailed in NPIA Circular 01/2011. The considerations in this circular are broadly similar to those contained within this guidance and must be decided on a case-by-case basis.

Aims

The main aim of this policy is to give members of the Force, and members of their families where applicable, the opportunity to pursue legitimate business interests compatible with the duties of police officers and police staff and the function of the Force. It is designed to provide a framework for interpretation of relevant legislation and regulations.

Objectives

Main objectives are to:

- a) Ensure that business interests are declared at the earliest opportunity
- b) Ensure that applications are dealt with promptly
- c) Provide information on activities considered to be incompatible with the office of constable
- d) Ensure consistency, openness and fairness in the consideration of applications

Application and Scope

All police officers and police staff, including the extended police family and those working voluntarily or under contract to Merseyside Police must be aware of, and are required to comply with, all relevant policy and associated procedures.

There is now a requirement under this policy for all members of Merseyside Police to register business interests with the Force, not just police officers.

The Chief Officer lead for this policy is the Deputy Chief Constable.

Outcome Evaluation

Outcomes should reflect the above objectives. Success in achieving desired outcomes will be measured on an annual basis. Activities involved in measurement will be determined by the Chief Superintendent Head of Professional Standards Department and included in a separate deployment plan.

Procedure

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1. Introduction

- 1.1 This procedure describes the local practices used by the Force to manage the application, approval, appeals, and renewal of a business interests, and should be seen as supplementing the 'NPCC Guidance On The Management Of Business Interests and Additional Occupations For Police Officers And Police Staff'. The Force adopts the principles contained in that document in determining the registration of a relevant business interest or secondary occupation.

2. Definition of Business Interest & Secondary Occupation

- 2.1 In summary a business interest can be defined as:
- a) The member of staff holds any position or employment¹ for hire or gain (otherwise than as a member of a police force) or carries on any business; or
 - b) The member of staff, their spouse, civil partner or partner (in each case not being separated from them) or any relative included in their family living with them² holds, or possesses a pecuniary interest in, any such licence or permit relating to liquor licensing, refreshment houses or betting and gaming or regulating places of entertainment in the area of the police force in question.
- 2.2 If a member of the force proposes to have, or has, a business interest within the meaning of this procedure, the member shall forthwith give notice of that interest to the chief officer unless that business interest has previously been disclosed. Such notice shall be by way off application as outlined in Section 5 of this document.
- 2.3 If a member of the force is aware or becomes aware that a relative included in their family proposes to have, or has, a business interest within the meaning of this procedure which in the opinion of that member interferes, or could be seen as interfering, with the impartial discharge of his duties, then that member shall forthwith give notice of that interest to the chief officer unless that business interest has previously been disclosed. Such notice shall be by way off application as outlined in Section 5 of this document.

3. Principles in the determining of a Business Interest

- 3.1 When considering the appropriateness of an application for a business interest Chief Officers should start from the premise that only those interests or occupations that are compatible with the ethos and values of the police service will be considered. Each case should be decided on its own merits however there are a number of factors that should be considered by those asked to support an application or when making a decision in relation to approval, in addition to simply considering whether the type of interest or second occupation may be compatible.

¹ Employment covers paid work, outside of the police service or a business owned by the member of staff.

² Reference to a relative included in a member of staff's family shall include a reference to spouse, parent, son, daughter, brother or sister, civil partner or any person living with the member of staff as if they were their spouse or civil partner

3.2 Consideration of any business interest or additional occupation will, as a minimum, cover the following:

- **Impartiality – predicted/expected or evidenced**
- **Impact on the force**
- **Current performance of the individual applying for business interest**
- **Proportionality**
- **Equality and Diversity**
- **Health, Safety and Well-being**

These six areas are expanded on in more detail at Annex A below to assist in identifying specific issues relevant to each application.

3.3 It is accepted that the grounds to approve or reject an application to register a particular interest may vary both between officers and staff and between different roles within those groups.

3.4 The above list should not be considered an exhaustive list.

4. Business interests or secondary occupations considered incompatible with members of the Police Service

4.1 Annex B below lists potential examples of where Business Interests may be incompatible or be considered high risk, and also gives examples of minimising any risk by the use of conditions.

4.2 This is not intended to be an exhaustive list but provides some additional guidance as to those which have been previously risk assessed as incompatible. Decision makers are advised to apply their judgement on a case-by-case basis.

5. Application Process

5.1 The application and renewal process for both police officers and police staff will be the same and is outlined below.

The application form can be accessed via Smartforce Oracle and the Document Records Tab. Staff on secondments must also apply via Smartforce Oracle.

5.2 The system will direct all completed applications and renewals to the applicant's first line manager via the workflow, for them to ensure that it is compatible with the policy and eligibility criteria. The line manager must then certify that they have read the BI policy, before endorsing the application with their recommendations outlined in paragraph 3.2 of this policy. They should consider discussing the application / renewal with their Strand Command Team or Head of Department for their comments for inclusion in their response prior to this being work flowed to the Professional Standards Department.

The Superintendent, PSD has delegated authority from the Chief Constable to make the final decision to approve or reject applications. Where the Superintendent PSD rejects the application then the individual concerned has a right of appeal as outlined in section 8.

5.3 Police Regulations 2003 (as amended) state that when making a determination in respect of an application for approval of a business interest the chief officer shall have regard to whether as a result of the interest in question a police officer's conduct fails, or would fail, to meet the appropriate standard set out in the Police Standards of Professional Behaviour. Similar regard shall also be given in respect of police staff and their standards of professional behaviour.

5.4 **Line Manager's Responsibilities**

5.4.1 Applications will be submitted via the line manager within Smartforce, who will make reference to the below;

- **Impartiality – predicted/expected or evidenced**
- **Impact on the force**
- **Current performance of the individual applying for business interest**
- **Proportionality**
- **Equality and Diversity**
- **Health, Safety and Well-being**

Any 'live' discipline outcomes recorded on the individual's personal file should also be recorded at this stage (this information can be found on Smartforce or via HR).

5.4.2 Line managers should take into consideration the individual's current role and their working hours, including any regular overtime, in deciding whether the business interest concerned is likely to interfere with the individual's ability to perform that role.

5.4.3 Line managers should discuss the application with the Strand Command Team or Head of Department and include any considerations raised.

5.5 **Role of Strand Lead or Head of Department**

5.5.1 All applications will be discussed with the Command Team Strand Lead or Head of Department who will indicate their approval or rejection to the line manager for inclusion in their support / rejection.

5.5.2 The Strand Lead/Head of Department in giving their supporting comments may recommend that their approval is given subject to the imposition of appropriate conditions. Any imposing of conditions should be seen as necessary to reduce any risk or concern that would have had the potential to result in the rejection of the application.

A meeting with the individual concerned may assist in resolving any areas of concern.

5.5.3 Any decision to approve or reject should be consistent with the NPCC principles reproduced in [Annex A](#)

5.5.4 All applications whether supported or not will be forwarded to the Superintendent Professional Standards Department who is the delegated decision maker on behalf of the Chief Constable.

5.6 **Role of the Superintendent, Professional Standards Department**

5.6.1 The Chief Constable has delegated his authority for determining business interest applications to the Superintendent, PSD. The decision to approve or reject an application should be made within 28 days of submission by the Line Manager.

5.6.2 The Professional Standards Department Support and Assessment Unit will review all applications whether they have been supported or not at Strand or Departmental level and if the policy has been complied with, they will forward to the Superintendent, PSD. Any decision should be in line with NPCC guidance principles. They may reject the application without further consultation even if it has been supported at Strand /Departmental Head level.

- 5.6.3 Approval may be subject to conditions as per Para 5.5.2 if they are supported and agreed with Superintendent, PSD.
- 5.6.4 Where the Superintendent PSD decides to reject an application then this may be the subject of an appeal by the individual concerned as outlined in Section 8 below.

6. Recording and Monitoring Process

- 6.1 PSD will be responsible for the administrative process of all applications. It is the responsibility of the SAU Inspector to ensure that a record of the final decision is recorded. Those applications that are approved will be retained on Smartforce, those that are rejected will be recorded in the Centurion record of the staff member and will be retained for a period of seven years from the date the individual concerned leaves the force. This is deemed necessary should the need arise to respond to any complaint or civil claim related to the individual and their business interest.
- 6.2 The applicant will be sent an electronic record via Smartforce to show the decision of approval or rejection. This notice will indicate any conditions of approval, obligations of the applicant and the individual's appeal rights.
- 6.3 Where an applicant is employed, they must submit a record of hours worked to their line manager NOT PSD every 15 weeks in the case of police officers and 17 weeks for police staff. Line managers will manage any breaches of the Working Time Regulations accordingly.
- 6.4 Police officers should note that as well as potential misconduct that may arise as the result of any breaches of the policy, Police Regulations 2003 allow the Chief Constable to dispense with the services of an officer who continues with a business interest where the Chief Constable has declared the interest as being incompatible with the officer remaining as a member of the force.
- 6.5 The Force already publishes anonymised information on its website regarding types of business interests held by officers and staff.

6.6 Reviews and Notification of Changes to Interest

- 6.6.1 The Business Interest authority is only valid for a maximum period of twelve months. It is the responsibility of the applicant to ensure that a new application is submitted upon the expiry of any previous approved business interest, this should be before the end of the previous approval.
- 6.6.2 Where the annual review raises concern that the individual has failed to comply with this policy and procedure or that the interest may be interfering with the discharge of their duties, then this should be brought to the attention of the Professional Standards Department.
- 6.6.3 A review can be triggered at any time where there is concern that the business interest may be interfering with the individual's performance or health, the health & safety of any person whilst the individual is at work or is in any way affecting the individual's ability to meet the Standards of Professional Behaviour. If a misconduct matter is recorded at any time, a review of the application will be considered by the Appropriate Authority.

7. New Entrants to the Force

- 7.1 Regulation 9 of the Police Regulations 2003 precludes a person being appointed as a police officer if they or a specified member of their family have a business interest as defined in Regulation 7. Where potential new recruits have indicated such an interest on their application form then prior to their appointment the Head of People Services will be responsible for assessing whether such interest can continue using the rationale outlined in Annex A, for assessing any potential issues that might arise either generally or specific to the student officer programme. The decision of the Head of People Services will then be forwarded to the Superintendent PSD for final approval to ensure consistency of decision-making.
- 7.2 Whilst not governed by Police Regulations a similar process will exist for all potential new police staff.

8. Appeals Process

- 8.1 Police officers and police staff have the right to appeal against decisions taken under this procedure via Professional Standards Department to the Chief Constable using a form BIA/1. The procedure for an appeal is detailed in Annex C.

Annex A

The following is reproduced from the ACPO Guidance on the Management of Business Interests and Additional Occupations for Police Officers and Police Staff 2012.

Impartiality – this relates to the risk of whether the business interest or additional occupation could interfere with an individual's ability to impartially discharge his or her duties or the extent to which a member of the public would be likely to perceive or form an impression that it would so interfere:

- Whether the activity is one regulated by the police or where police are involved in the licensing of the activity;
- Whether the business interest is merely an extension of an individual's duty or the extent to which training, skills and experience provided by the force are to be relied upon;
- Whether the office of constable or being an employee of the force could be used to promote the business or a product of the business or would allow other organisations or commercial interests to do so;
- Whether an individual's fairness or impartiality in their dealings with the public or colleagues might be compromised

Impact on the Force or Service - this relates to the risk of the business interest or additional occupation either discrediting the police force or undermining confidence in the police service:

- The nature of the business interest or additional occupation – how reputable it is in its own right in the eyes of the public and in association with the police service;
- Whether the activity could lead to the public losing confidence in the honesty and integrity of the individual or of the police service or if it would likely cause confusion in the minds of the public as to whether the individual was operating in an official or unofficial capacity;
- Where the activity could lead to the individual being improperly beholden to any person, organisation, or institution;
- Whether the business interest could lead to conflicting contractual commitments to a third party e.g. providing advice to a training company which is then contracted to work for the police force.

Current Performance - this relates to the risk of a decline in performance of the individual coupled with evidence as to the individual's current suitability through performance monitoring. Unsatisfactory attendance and misconduct should not necessarily be a reason for refusal unless either has a direct bearing on the business interest or additional employment. An example of a business interest that may be accommodated with performance issues is allowance for a rental accommodation that provides additional income without incurring additional work pressures:

- **Attendance:** When an individual is absent from work on sick leave or returns to work on restricted or recuperative duties, consideration should be given to suspending approval of the business interest, providing the medical issue is related to the business interest or other employment so as to make it relevant;
- **Misconduct:** Consultation with the force's Professional Standards Department (PSD) or Human Resources Department should take place to consider any current or previous misconduct and the impact or risk of any relevant misconduct on the approval of any business interest or additional occupation. Care should be taken to ensure any misconduct can be shown

to directly relate to the business interest or additional employment, and the rationale for this should be fully evidenced. Where an individual with an existing approved business interest or additional occupation is subject to police performance procedures, police misconduct procedures or managing performance procedures for police staff, current approved business interests and additional occupations should be reviewed by the chief officer, providing it is relevant to the business interest or other employment.

Proportionality in relation to Seniority and Role - relates to the requirement to take account of the seniority, role and nature of the duties of the police officer, police staff or police support volunteer. For example, it would be sensible to reflect on the nature of work carried out by the individual and the public impact of their proposed business interest prior to making a decision. There should be no one-size fits all approach to decision-making on business interests.

Equality and Diversity - decisions on business interests must take full cognizance of equality and diversity considerations. Forces must ensure that all decisions can be justified by reference to relevant equality legislation and the duty on police forces under the Equality Act 2010 to actively promote equality.

Health, Safety and Well-being - relates to the duty of care to the individual and the risk of injury or increased stress and fatigue which could impact on the individual's ability to perform duties to a satisfactory standard. As part of any consideration of a business interest it is essential a police force monitors the total number of hours an individual will be working to comply with the duty to protect their health and safety and to ensure that the total demands of the jobs do not pose a risk to the health of the individual concerned or his or her ability to work safely, either as an individual or part of a team. A sensible starting point for these purposes would be to examine the requirements of the Working Time Regulations (1998).

Annex B

Guide to inappropriate business interests

Applications for the granting of a business interest or additional employment are decided on a case by case basis involving careful consideration of a number of factors including the nature of the business interest or additional employment and the current role and responsibilities of the applicant. Those with delegated powers as decision makers (usually the Appropriate Authority or Head of Professional Standards) should start from the premise that only those interests that are compatible with the ethos and values of the police service will be permitted and will give careful consideration to the potential for adverse reputational damage to the service arising from any perception of any shortfall in the integrity of a member of a police force being associated with the prospective interest or additional occupation.

Once satisfied there are no adverse reputational matters or conflict of compatibility with the values and ethos of the police service, decision makers should start from the presumption that an application for a business interest or additional employment will be granted unless there is sufficient justification for it to be rejected and will determine whether conditional approval may be warranted. The reasoning behind any imposition of conditions or any outright rejection must be fully recorded.

It is not possible to provide a definitive list of specific occupations, interests or activities that are likely to lead to an application being rejected because of the need to consider each case on its merits and to assess the risks involved. However, the framework that follows is provided in order to provide service-wide consistency of approach to the type of activities which are likely to lead to the rejection of an application. The list of activities and examples of specific jobs provided are not exhaustive.

- Holding a licence or permit granted in pursuance of the law relating to liquor licensing, refreshment houses or betting and gaming or regulating places of entertainment within the force area (all of which are activities specifically covered by Regulation 8 of Police Regulations 2003);
- Working in licensed premises where there would be a conflict of interest with policing duties;
- An activity that would present a conflict of interest in the administration of justice (e.g. magistrate, practising solicitor, barrister, fine enforcement officer);
- An activity that involves investigation for other than police purposes (e.g. loss assessor, private detective);
- An activity that mirrors police responsibilities or is an extension of police functions (e.g. close protection, private security or surveillance, crime prevention or personal safety);
- An activity that is connected with the lending of money or recovery of debts for others or an activity that involves "hard selling" to colleagues or members of the public by placing undue pressure upon them to buy or rent, including recruiting others to sell on his or her behalf;
- An activity using specialist skills or knowledge obtained through the police service;

- Renting residential accommodation from or letting residential accommodation to a member of staff who is in the same line management structure;
- Appearing in any commercial filming production in which they portray either a police officer, police community support officer or other uniformed role, whether on or off duty, or undertake any role where it could be construed that they are representing the police service;
- The writing and publication of books or articles for gain by serving members of the police service about their policing or work experiences

Annex C

APPENDIX B: BUSINESS INTERESTS – APPEALS PROCEDURE

1. INTRODUCTION

All appeals against the non-authorisation of an application for a business interest or secondary occupation will be heard by the Chief Constable.

Appeals must be made via email to PSD using a form BIA/1, which is now attached to the Business Interest policy. Appendix D.

An appeal may be made on the grounds of process and / or be a substantive appeal against the decision. In either case the Chief Constable must consider all the information made available to them.

For the avoidance of doubt, all references in this guidance to 'days' mean actual days rather than working days.

2. LODGING AN APPEAL

If an applicant (hereafter referred to as the Appellant) for a business interest, having been given an opportunity to make oral and written representations (with trade union or staff association assistance as required) and notwithstanding any such representations, has had an application for a business interest or secondary occupation rejected by the decision maker within the force, he or she must be given a written rationale on the grounds upon which this decision had been taken.

An Appellant may send written notice of appeal to the Chief Constable within 10 days of being notified of the decision to not authorise an application. Appeals received outside of this period will be accepted only at the discretion of Chief Constable. A notice of appeal should state briefly the reasons for the appeal.

3. GROUNDS OF APPEAL AND COLLATION OF THE APPEAL PAPERS

On receipt of a notification of appeal, the Chief Constable will aim to write to the delegated decision maker within 5 days of receipt of the appeal, requiring him or her to submit a notice setting out the reasons for his or her decision and to provide copies of all evidence on which they relied in support of that decision. The decision maker should provide the requested information within 10 days of receiving the request from the Chief Constable.

On receipt of these documents, the Chief Constable will send one copy of each of the documents to the Appellant and will give the Appellant a reasonable opportunity to comment on these documents, which should never be less than 14 days. In commenting, the Appellant will supply to the Chief Constable any further details concerning the grounds of the appeal. The Chief Constable will forward a copy of the Appellant's comments and further documentation to the decision maker. Once the comments have been received, or if the period for making comments expires with none having been received, the Chief Constable should within 28 days give the Appellant written notice of their decision.

4. NEW REASONS

If the Appellant adduces new or additional substantive reasons for seeking or retaining a business interest over and above those set out in their original notification to the decision maker, the matter will be referred back to the decision maker for reconsideration before the appeal hearing. The decision maker will provide reasons in the event that the decision is again to refuse the application.

5. CONSIDERATION OF THE APPEAL

The Chief Constable will have before them all the documents produced by the Appellant and by the decision maker under the foregoing paragraphs and will normally make his or her determination solely on the basis of these documents.

Where an appeal has been made on the grounds that the process applied by the decision maker was flawed, and the Chief Constable uphold that appeal, the case will be remitted to the decision maker for reconsideration (and the Appellant will need to appeal in accordance with paragraph 2 of this procedure if the Officer wishes to challenge any refusal of the decision maker on reconsideration). Where the appeal is a substantive appeal against the decision made by the decision maker, the Chief Constable will consider the full case on its merits and reach a decision in the light of all the evidence available to them.

6. ORAL STATEMENTS AT THE APPEAL STAGE

The Chief Constable will normally be able to consider appeals on the basis of the documentation made available to it by both the Appellant and the decision maker, but may, at their discretion, invite both the decision maker and the Appellant to make an oral statement prior to making a determination. This may be appropriate, for example, where the Chief Constable considers, as a result of the particular circumstances of the case, that further clarification on an aspect of the appeal is required. In such circumstances, the decision maker and Appellant will appear before the Chief Constable at the same meeting and will be entitled to hear each other's oral statement. The Chief Constable may ask further questions of clarification of either party following the oral statements.

7. NOTIFICATION OF THE APPEAL OUTCOME

The Chief Constable's decision will be given to both parties to the appeal at the conclusion of the meeting, with written reasons for the decision provided within 7 days. There is no further right of appeal against the decision of the Chief Constable.

8. REPRESENTATION

Both the Appellant and the decision maker may at all stages of this procedure be represented by a representative of a trade union or staff association and may also be legally represented.

Business Interest Appeal Form (BIA/1)

Merseyside Police

Professional Standards Department

Appeal against the none approval of Business Interest application

This form is to be used when appealing the decision not to grant a Business Interest.

An Appellant may send written notice of appeal to the Chief Constable within 10 days of being notified of the decision to not authorise an application. Appeals received outside of this period will be accepted only at the discretion of Chief Constable.

1. Personal Details

Name.....Rank.....

Collar/ID Number.....Open Door Number.....

Strand / Location.....

Current Role.....

Date of application/renewal

Date of decision

I have read and understand the business interest policy and the conditions laid down within. I wish to appeal against the decision of the Superintendent, PSD on the following grounds:

2. Amendment(s) to applications as follows:

3. Supporting documentation

Please attach to this form

1. Copy of the amended contract terms and conditions connected with the business interest
2. Add details of any other supporting evidence

Signed

4. To be completed by Supervisor / Line Manager

Does this amendment result in application falling outside the existing criteria for approval? Yes / No

If Yes, please state reasons why

Signed.....

5. To be completed by Strand Lead / Head of Department

Would you support this application Yes / No

If no. please state reasons why

Signed.....

On completion, this form is to be forwarded to the Superintendent,
Professional Standards Department

Chief Constable's Recommendations

6. To be completed by the Chief Constable Of Merseyside Police

Date of review:

Decision upheld: Yes/No

Rationale:

Signed.....