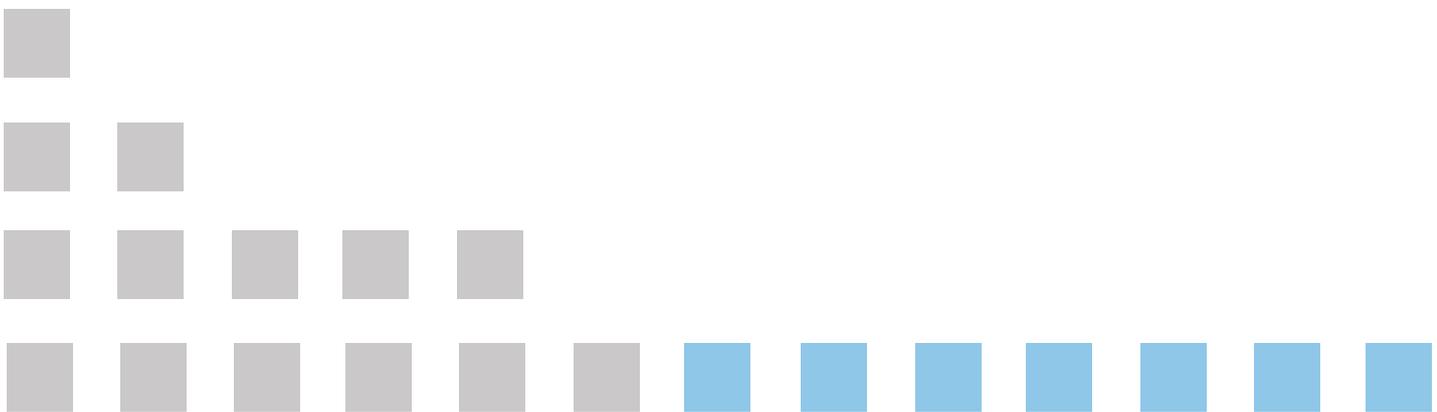


Conflicts of Interest Policy for Members



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Purpose

1. This policy sets out the GFSC's approach to the disclosure of members' disqualifying interests and the management of those interests that arise in respect of matters before the GFSC. The GFSC's approach accords with the relevant provisions of the Financial Services Commission Act 2007 (the Act).
2. Disqualifying interest includes any conflict of interest and any interest that reasonably means the member would be biased and any situation where there is a reasonable perception that the member is biased.
3. As part of their professional and statutory obligations towards the GFSC, members must disclose all interests they consider are likely to amount to a disqualifying interest to the GFSC. The disclosure must be made on an ongoing basis, in accordance with the procedure outlined in this policy. The GFSC will manage any disqualifying interest that arises in relation to a particular matter in accordance with this policy.

Policy Owner

4. Given the role and responsibility for advising on conflicts of interest the owner of this policy is the Chairman. Changes to the policy are to be determined by the GFSC, on the recommendation of the Chief Executive.

Statutory Provision

5. Section 11 of the Act provides:

Disclosure of interest.

11. (1) A member of the Commission who has any direct or indirect personal, professional, business or pecuniary interest in any matter coming before the Commission shall on each and every occasion on which the matter comes before the Commission declare his interest and thereafter, unless the Chairman directs that a conflict of interest thereby arising is insufficiently significant to require the withdrawal of that member, shall withdraw from the meeting, take no further part in the proceedings of the Commission in relation to such matter nor vote on such matter and the quorum necessary for that meeting shall be reduced by the number of members withdrawing under this section.

(2) A declaration, withdrawal or direction referred to in subsection (1) of this section shall be recorded.

(3) Unless the Chairman shall otherwise direct, any decision reached by the Commission on a matter in which a member has declared an interest in accordance with subsection (1) of this section shall be recorded in the normal way save that proceedings of the Commission on such a matter prior to the making of a decision shall be recorded separately and that record shall be provided only to those Commission members who were present at those proceedings.

Principles

6. This policy is based on the following principles. Members must ensure that they perform all aspects of their work impartially, by:

- avoiding any situation where actions they take or decisions they make in their role as a member of the GFSC could be seen to influence or be influenced by their private interests (eg company directorships, shareholdings, partnerships, professional interests and/or financial rewards);
- avoiding situations that could impair objectivity or lead a fair-minded lay observer to reasonably apprehend that the member might not bring an open mind to resolution of a matter (i.e. the perception of bias is as important as actual bias); and
- ensuring they are free from any obligation to another party (such as the receipt of gifts);
- complying with their duties to act with honesty and integrity, in good faith and in the GFSC's interests;
- applying principles of fairness in all their dealings as a member so that preference is not given to any individual or organisation with which a member is connected over any others; and
- applying these principles whether involved in determining a matter before the GFSC, appointing consultants, expediting an investigation, initiating a complaint or otherwise.

Procedure

Disclosure Procedure

Ongoing Disclosures

7. Members must disclose their relevant interests (as discussed below) to the GFSC by completing the disclosure form at Schedule 1 and submitting it to the “appropriate person” (also discussed below). The appropriate person will provide these disclosures to the Board Secretary, who will maintain the GFSC’s Interests Register.
8. Members must ensure that their disclosures are kept up-to-date by submitting a new form as soon as practicable after becoming aware that their interests have changed. The disclosure form must be used to request the addition of new interests to the register of actual or potential disqualifying interests and the removal of interests from the register where the interest is no longer relevant.
9. Members may disclose a “standing” conflict where they have an ongoing interest in an entity and consider that they should not be involved in any decisions affecting that entity, provided that this disclosure is also kept up-to-date. Any standing conflict will be shown on the register.

Appropriate Person

10. In normal circumstances, the appropriate person is the Chairman. If the Chairman is unavailable, or has an interest, the Chairman of the Audit and Risk Committee is the appropriate person. If both members are unavailable, or have an interest, the appropriate person is the Chief Executive.

Extent of Disclosures

11. Disclosure of any relevant interest must be made in sufficient detail that the appropriate person can determine whether the member may act on a particular matter.

Members must disclose not only the name of an entity in which they have an interest, but the nature and value of the interest in that entity. Where the interest is because of association with a relevant individual the full particulars of that association must be declared.

Confidentiality

12. The GFSC will take all reasonable steps to keep the details of members' interests confidential in accordance with the GDPR. In most cases, the information disclosed will be kept confidential and will only be disclosed to other parties as is necessary for the appropriate person to obtain advice on any conflict of interest that arises.

Managing Disqualifying Interests

Interests Register

13. The Secretary will maintain an Interests Register, which will:
 - be the GFSC's central file of information relating to the disclosure and management of members' interests;
 - contain a mix of information confidential to the appropriate person and the member, information available to GFSC employees, and information that may be made available to the public on request;
 - consist of all disclosure forms, decisions of the appropriate person, any requests for reconsideration, the appropriate person's final decisions and any advice obtained by the appropriate person; and
 - include a summary schedule called the Interests Schedule listing the entities that may give rise to a conflict for each member, bias or perception of bias (this will be made available to GFSC employees for the purpose of managing members' disclosed interests, although the reasons for the interest will be kept confidential). Interests that are to be kept confidential will not be included on the Interests Schedule.
14. At each GFSC meeting, there will be an agenda item reminding members of their obligation to ensure that their disclosures are up-to-date.

Decision on Conflict

15. The appropriate person may seek advice from the Director of Legal, Enforcement and Policy on the appropriate course of action in relation to any actual, potential or perceived disqualifying interest.
16. Once the appropriate person has made a decision about how to manage the disqualifying interest, the appropriate person must advise the disclosing member. If the disclosing member disagrees with the decision, that member may ask the appropriate person to reconsider the decision by notice in writing. The appropriate person must then reconsider the decision. A decision following reconsideration is final and must be accepted by the disclosing member.

Disqualifying Interests

17. Disqualifying interests to be disclosed are prescribed in section 11 of the Act. Further guidance and commentary on the nature of the interests prescribed in section 11 of the Act is provided in Schedule 2.

- 18 The GFSC is a public body making decisions in the public interest. As an administrative law body it is necessary that its decisions are made independently and objectively and free from bias or perceived bias.
19. In summary, recent case law emphasises the importance of full and ongoing disclosure of the nature of any interests to enable a statutory entity to assess whether these interests may give rise to a disqualifying interest in a particular case and to manage them.
20. The Act does not provide any guidance as to when an interest should be regarded as so insignificant that it cannot reasonably be regarded as likely to influence a member in carrying out his or her responsibilities. This needs to be assessed on a case-by-case basis. Commentary on this matter is also set out in Schedule 2.

The GFSC approved this policy on Wednesday 19 September.

SCHEDULE 1 - INTEREST DISCLOSURE FORM

Private & Confidential

To: The Chairman / Chairman of the Audit and Risk Committee / *(Delete as applicable)*

From: Member

A Interests:

I have the following interest(s) /no longer have an interest(s) in *(delete as applicable)*.

Name of party(s) <i>(company/organisation /individual)</i>	Nature of Interest(s) <i>(Description e.g.: shareholder/friendship/membership and monetary value of the interest if applicable)</i>
•	•
•	•
•	•
•	•

I am clear that the interests do not disqualify me from acting/I am unclear whether the interest(s) disqualifies me from acting and request that the Chairman/ Chairman of Audit and Risk determine if I have a disqualifying interest(s). / I consider that the interest(s) disqualifies me from acting. *(delete as applicable)*.

B Gifts: -

I have received the following gift(s) / benefit(s) amounting to a value of more than £25

Name of party(s) <i>company/organisation /individual)</i>	Nature of gift(s)/benefit(s) <i>(description e.g.: wine/other)</i>
•	•
•	•

I have returned the gift(s) / provided the gift(s) to the GFSC/Social Club / disposed of the gift(s) at the direction of the Chairman/Deputy Chairman *(delete as applicable)*.

Date:

Signature:

Noted: Chairman _____

Schedule 2 - Guidance on Relevant Interests

TYPE OF INTEREST	COMMENTARY
<p>Financial interest</p> <p>A person is interested in a matter if he or she may derive a financial benefit from the matter.</p>	<p>A financial interest in an entity appearing before the GFSC may arise in various circumstances, including from a shareholding in a company, an interest in a partnership, owning a business, another such source of income, owning or occupying land, being owed or owing debts, or as a result of being a trustee or beneficiary of a trust.</p> <p>In relation to trusts, if a member has an interest in a blind trust (ie a financial investment instrument, such as an investment trust or pension plan, where the instrument does not disclose the identity of the organisations that are invested in), the GFSC is likely to consider such interests to be so remote that they cannot reasonably be regarded as likely to influence a member in carrying out his or her responsibilities. This is because the interest is in the blind trust and not in the entity appearing before the GFSC and, where a member is not aware that they have an interest in a matter, the interest cannot influence the member in his or her decision making.</p> <p>In relation to debts, if a member is owed a debt by, or owes a debt to, an entity before the GFSC, the interest arises because the decision the GFSC makes may affect the financial position of the entity and hence the likelihood either that the entity will repay any debt owed to the member, or that the member will be called upon to repay any debt that it owes to the entity. However, some forms of debt will be too remote to be a disqualifying interest. For example, a mortgage with the GIB should not prevent a member from deciding a matter affecting GIB.</p> <p>In general, securities that carry fixed interest rates will not give rise to an interest that needs to be disclosed because the rate will not normally be influenced by any GFSC decision. Similarly, an interest will not generally arise if securities are held in unit trusts or managed funds, including index funds, and a member does not have any active trading involvement in the trust or fund.</p> <p>A financial interest worth £1,000 or less is likely to be regarded as so insignificant that it cannot reasonably be regarded as likely to influence a member in carrying out his or her responsibilities. Financial interests worth between £1,000 and £10,000 will be considered on a case-by-case basis by examining whether the financial interest is likely to be affected by the GFSC decision so as to result in an increase or decrease in the value of the interest (this will often be the case because the GFSC is dealing in commercial matters) and, if so, whether the decision is so likely to affect the value of the interest that it cannot be regarded as remotely related to that outcome, or resulting in an insignificant adjustment to the value. The GFSC is likely to consider that any financial interest worth in excess of £10,000 amounts to a disqualifying interest.</p>

<p>Familial interests</p> <p>A person is interested in a matter if he or she is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter.</p>	<p>The GFSC will apply the guidelines for direct financial benefits above. If a member is not aware that a family member has an interest in a matter before the GFSC because, for example, they are merely a partner or employee of a law firm representing the entity, the GFSC is likely to consider the interest as being too remote or insignificant to influence the member. If a member is aware that a family member has an interest in a matter before the GFSC because, for example, that family member seeks to appear in person before the GFSC, or is likely to be a material witness for an entity, the GFSC is likely to consider the interest as not being too remote or insignificant to influence the member.</p>
<p>Interests in a person</p> <p>A person is interested in a matter if he or she may have a financial interest in a person to whom the matter relates.</p>	<p>A “person” in this context includes a company or other body corporate. The GFSC interprets a financial “interest” as potentially including a broader category of situations than is contemplated under the financial “benefit” headings above. For example, this may include being employed by an entity appearing before the GFSC, or by any related entity, or being engaged in any other professional capacity by an entity appearing before the GFSC, or by any related entity.</p> <p>Members should declare any potential personal conflicts “as and when” and they arise.</p>
<p>Positional interests</p> <p>A person is interested in a matter if he or she is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates.</p>	<p>As noted above, a “person” in this context includes a company or other body corporate. The GFSC will apply the guidelines for financial interests above. The GFSC considers that this is a subset of the broader financial interests described above (being specific types of positional interest). For example, an interest is likely to arise if a member is a trustee or director of a finance company that invests in a number of public companies and one of those companies is an entity before the GFSC; or if the member is a partner in a law/consultancy firm acting for an entity and, while they may not be directly involved in acting on the matter, as a partner, they may have an indirect financial interest due to the fees that the firm receives from that entity.</p>

<p>Other (Non-Financial) Interests</p> <p>A person is interested in a matter if he or she is otherwise directly or indirectly interested in the matter.</p>	<p>This covers any non-financial interest in a matter before the GFSC, including the following:</p> <p><i>Family/friends:</i> An interest may arise where a member has a family member or close friend with a non-financial interest in a matter where this may lead to a reasonable apprehension of bias. What is a close friendship is to be assessed on a case by case basis.</p> <p><i>Acquaintances:</i> An interest is unlikely to arise where a member has an acquaintance with a non-financial interest in a matter, or where a matter affects the interests of a professional organisation to which he or she belongs.</p> <p><i>Prior business relationships:</i> An interest may arise where, prior to joining the GFSC, a member had a close professional association for a significant amount of time with an entity or person that has an interest in a matter. The member may have acted as an advocate, adviser or material witness to an entity or person involved in a matter that is now before the GFSC, or have a business partner or professional acquaintance that has done so. If this association occurred within 6 months of the relevant matter appearing before the GFSC, the interest is likely to be regarded as disqualifying.</p> <p><i>Personal beliefs:</i> An interest may arise where a member has a strong personal bias or prejudice toward a person or entity appearing before the GFSC that gives rise to a risk of predetermination, especially where they have expressed their beliefs publicly.</p> <p><i>Gifts:</i> An interest may arise where a member has received a gift from an entity appearing before the GFSC. A member must disclose all gifts they receive to the Chairman. At the discretion of the member or the Chairman, any gifts received must be returned to the provider or, if appropriate, such as with gifts of bottles of wine, provide the gift to the GFSC Social Club.</p> <p><i>Other dealings:</i> An interest may arise where the GFSC proposes to enter into a contractual relationship with any party in which the member has an interest. An interest may also arise where a member seeks to register a personal complaint about unlawful business conduct within the GFSC’s jurisdiction. The complaint should be notified to the Chief Executive in the first instance for action before it is forwarded to the appropriate Division.</p>
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