

Conflicts of interest

Professional standards
guidance note 2

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RTPI

Royal Town
Planning Institute

Professional standards guidance note 2

Conflicts of interest

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The RTPI Code of Professional Conduct (the Code) sets out the required standards of professional conduct and practice expected of RTPI members. Its purpose is to protect and guide practitioners, and to serve as a tool to maintain public trust in the profession. All members, irrespective of their class of membership, are required to adhere to its five core principles:

- Honesty and integrity;
- Professional competence;
- Independent professional judgment;
- Professional practice and duties;
- Professional behaviour and respect.

This guidance note has been prepared to support RTPI members with their professional responsibilities in identifying, avoiding and managing actual or perceived conflicts of interest.

The issue of whether an actual or potential conflict of interest arises often challenges members and this is specifically governed within clauses 2 and 3 of the Code which state:

2. Members must take all reasonable steps to ensure that their private, personal, political and financial interests do not conflict with their professional duties.

3. Members must disclose to their employer or clients, as appropriate, any potential conflicts of interest and must take all reasonable precautions to

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ensure that no conflict of duty arises between the interests of one employer, client or business associate and the interests of another.

Identifying conflicts

The Code requires RTPI members to act honestly and take all reasonable steps to ensure their personal and professional interests do not conflict. A conflict of interest occurs when personal or other interests affect your ability to exercise independent professional judgment and can call into question your professional integrity. Such conflicts may arise at any time and RTPI members should be alert to situations where potential conflicts could occur and declare an interest to their employer or client as soon as they become aware of one.

Potential conflicts can exist in a wide range of circumstances including when a member is not charging for advice, and when a member has had an association in the past, such as a previous employer or client. In all instances members should consider how their actions might be viewed by others and take steps to avoid a situation where their actions can be questioned.

Case study example:

An RTPI member had been advising a neighbourhood planning group in a voluntary capacity. The member owned a parcel of land within the plan area, which the group had identified as suitable for residential development. Concerned about the appearance of bias, the RTPI member declared an interest and stepped down from their commission. Had they continued to act and been party to decisions in which they stood to benefit financially (i.e. that they had a pecuniary interest), they would have been in breach of the Code for failing to take reasonable steps to ensure their personal and professional interests did not conflict.

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Avoiding conflicts

Identifying a conflict does not necessarily mean you have to stop work, but it does mean that you need to take reasonable steps to ensure that it does not affect your decision. This might mean declining or standing down from a commission, or requesting that someone else deals with a planning application, or in some circumstances having clearly laid out internal safeguards in instances where members within the same organisation are advising on different sides of a planning matter.

Case study example:

An RTPI member working in local government is asked to handle a planning application submitted by a former school friend. The officer has not been in contact with their former friend for a number of years; however, concerned about the appearance of bias to members of the public, the officer requests that a colleague handles the application.

RTPI members changing their employment are particularly vulnerable to conflicts of interest arising. You may wish to choose to not work for clients known through previous employment, or within the same geographical area for a period of time in order to prevent such a conflict from arising. The length of time that needs to pass will vary on the circumstances, the amount of involvement in the site or with a client, and the level of responsibility or influence that was held. For example, a former Chief Planning Officer may need to avoid working within that local authority area for a considerable length of time as they may have been involved in significant strategic decisions within the area which may not be publicly available, they may also have a level of influence over staff due to the seniority of their role. The perception by others of a potential conflict is also important.

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Case study example:

A former local authority planner took on an instruction to appeal a planning application refusal where they were the case officer who determined the refused application. This was considered to be a conflict of interest and the RTPI member received a sanction for their conduct.

RTPI members undertaking any private consultancy work in addition to their primary (e.g. local authority) employment should obtain the written agreement of their employer before taking a commission. This also applies to staff working on a part-time or contract basis. You should not undertake any private planning work in the area where you are in the position to recommend the making of any decision materially affecting the development or use of land. Exceptions to this include your own residence or where you are giving free planning advice to the public as part of your employment.

RTPI members who engage in planning activities in their spare time (both paid and voluntary) should make clear that any advice given is provided in a private capacity. members should also check whether they need to hold professional indemnity insurance (PII), details of which are given in the Supplementary Regulations on PII.

Managing conflicts

Where a potential conflict has been identified members should discuss with colleagues, clients and employers the appropriate steps to take. Those discussions and actions should be clearly recorded to be able to demonstrate adherence with the Code of Professional Conduct.

In instances where consultancies merge, any information which each company has obtained will pass to the new company and conflicts of interest could arise. This may be overcome by putting in place arrangements which safeguard each area of work, however the new company should not now continue to act for two opposing parties engaged in litigation or a formal inquiry against each other. For local authority

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planners it is also important to recognise that the role of the council as local planning authority is separate from that of the council as a landowner.

Case study example:

A large consultancy advertises a close alignment with a large retailer client on its website and one of its regional offices is instructed by the local authority to provide independent advice in respect of retail assessments submitted by the same retailer. This could lead members of the public to perceive a conflict of interest. However, provided the necessary checks and a clear record how this will be implemented are in place and both clients are aware and are content, this would not necessarily amount to a breach of the Code, as it is accepted that within a large national company with many offices across the country it is quite usual and legitimate for different branch offices to act for the private / public sector in support of and / or against the same retailer.

The RTPI would normally request information such as:

- the company's conflict check procedures and how these are applied;
- internal policy documents to manage the safeguarding of clients where a possible conflict may arise (sometimes known as ethical walls);
- whether files are held electronically or via hard copy and how access to these are monitored; how staff are instructed on the operation of any such policy; and
- any correspondence the company sends to the local authority or client regarding any potential conflict of interest.

As an employer or manager you must act upon any information disclosed to you by a staff member or consultant and decide how best to manage the situation to ensure that no conflict arises. This might mean reallocating the task to another member of the team or, where the risk to your independence is too great, standing down from a commission.

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In all cases, the client or employer should be provided with the full facts of the conflict or potential conflict so they can make an informed decision as to whether or not they would like you to continue to act. Written confirmation should be sought to confirm this.

Case study example:

A complaint was received about an RTPI member working as a private consultant and renting office space from a former client, a developer, while sitting on a parish council advisory group promoting the allocation of a site owned by the developer. The member was found in breach of the Code for failing to take reasonable precautions to prevent a conflict of duty from arising. The member received a warning for their conduct.

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