



FREEDOM OF INFORMATION REQUEST

FOI Reference number: 34/2014

Date: 3 November 2014

Request:

I request the Boards policy, practice, guidance or procedure for the determination of appeals referred to it under Regulation 7 & 8 of the Police Service of Northern Ireland Regulation 2005 to against the Chief Constable's refusal of a business interest. I would also request the number of appeals determined by the Board in the last 5 years, the number of those appeals that were successful; the number of refusals by the Board that were referred to the Minister for Justice NI or Secretary of State; the number of those appeals that were successful.

Answer:

The guidance documents used by the Policing Board when considering such matters are as follows:

- Police Service of Northern Ireland Regulations 2005, and the
- PSNI Service Procedure re Off Duty Standards

Relevant extracts from these documents are attached to this response as Appendices A and B. Where redactions have been made this is to protect the personal data of third parties in accordance with Data Protection principles.

Appendix C provides details of the number of business interest cases considered by the Policing Board over the last 5 years.

If you have queries about this request or the decision please contact the Board quoting the reference number above. If you are unhappy with the service you have received and wish to make a complaint or request a review you should write to the Board's Chief Executive at the following address:

Northern Ireland Policing Board
Waterside Tower
31 Clarendon Road
Clarendon Dock
Belfast BT1 3BG

Email: foi@nipolicingboard.org.uk

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner. Generally, the Information Commissioner's Office cannot investigate or make a decision on a case unless you have exhausted the complaints procedure provided by the Board. The Information Commissioner can be contacted at:-

The Information Commissioner's Office – Northern Ireland
3rd Floor
12 Cromac Place
Gasworks
Ormeau Road
Belfast
BT7 2JB.

Telephone: - 0303 1231114
Email: - ni@ico.org.uk

Please be advised that all Policing Board replies under Freedom of Information will be released into the public domain via our website @ www.nipolicingboard.org.uk.

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

STATUTORY RULES OF NORTHERN IRELAND

2005 No. 547

POLICE

Police Service of Northern Ireland Regulations 2005

Made - - - - 1st December 2005

Coming into operation 13th January 2006

POLICE SERVICE OF NORTHERN IRELAND REGULATIONS 2005

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STATUTORY RULES OF NORTHERN IRELAND

2005 No. 547

POLICE

Police Service of Northern Ireland Regulations 2005

Made - - - - *1st December 2005*
Coming into operation *13th January 2006*

The Secretary of State, in exercise of the powers conferred upon him by section 25 of the Police (Northern Ireland) Act 1998(1) read with section 18 of the Administrative and Financial Provisions Act (Northern Ireland) 1962(2) and after consulting, in accordance with section 25(8) of the Police (Northern Ireland) Act 1998, the Northern Ireland Policing Board and the Police Association for Northern Ireland, and after taking into account the recommendations made by the Police Negotiating Board for the United Kingdom and supplying that Board with a draft of the regulations in accordance with section 62(1) of the Police Act 1996(3), hereby makes the following Regulations:

PART I

General

Citation and commencement

1.—(1) These regulations may be cited as the Police Service of Northern Ireland Regulations 2005.

(2) These regulations shall come into operation on 13 January 2006.

Revocations

2. The following provisions are hereby revoked—

- (a) the Royal Ulster Constabulary Regulations 1996(4);
- (b) the Royal Ulster Constabulary (Amendment) Regulations 1997(5);
- (c) the Royal Ulster Constabulary (Amendment) Regulations 1999(6);

(1) 1998 c 32
(2) 1962 c 7 (NI)
(3) 1996 c 16
(4) S.R. 1996 No 473
(5) S.R. 1997 No 362
(6) S.R. 1999 No 412

- (d) regulation 23 of the Royal Ulster Constabulary (Unsatisfactory Performance) Regulations 2000(7);
- (e) the Police Service of Northern Ireland Regulations 2002(8);
- (f) the Police Service of Northern Ireland (Amendment) Regulations 2003(9);
- (g) regulation 3 of the Police (Appointments) Regulations (Northern Ireland) 2003(10);
- (h) regulations 2(1) and 3 of the Police (Appointments) Regulations (Northern Ireland) 2004(11);
- (i) the Police Service of Northern Ireland (Amendment) Regulations 2004(12).

Interpretation

3.—(1) In these regulations, unless the context otherwise requires—

“the Act” means the Police (Northern Ireland) Act 1998;

“the Board” means the Northern Ireland Policing Board;

“British Transport Police Force” means the force of constables appointed under section 53 of the British Transport Commission Act 1949(13);

“central committee” has the meaning assigned to it in regulation 14 of the Police Association for Northern Ireland Regulations 1991(14);

“the Conduct Regulations” means the regulations relating to conduct and discipline for the time being in force;

“the police service” means the Police Service of Northern Ireland;

“member” means a member of the police service and includes a member who is suspended under the Conduct Regulations;

“the Pensions Regulations” means the regulations relating to Police Service of Northern Ireland pensions for the time being in force;

“the Police Advisory Board” means the Board established under section 45 of the Police (Northern Ireland) Act 1998;

“the Police Association” means the Police Association for Northern Ireland;

“police force in Great Britain” has the meaning assigned to a police force in the Police Act 1996(15) or a police force in the Police (Scotland) Act 1967(16), as the case may be;

“police support staff” has the meaning given by section 4(6) of the Police (Northern Ireland) Act 2000(17);

“police trainee” has the meaning given by section 36(3) of the Police (Northern Ireland) Act 2000;

“police trainee regulations” means the Police Trainee Regulations (Northern Ireland) 2001(18);

(7) S.R. 2000 No 316

(8) S.R. 2002 No 95

(9) S.R. 2003 No 184

(10) S.R. 2003 No 372

(11) S.R. 2004 No 379

(12) S.R. 2004 No 402

(13) 1949 c. xxix

(14) S.R. 1991 No 168

(15) 1996 c. 16

(16) 1967 c. 77

(17) 2000 c. 32

(18) S.R. 2001 No 369

“the Promotion Regulations” means the regulations relating to qualifications and selection for promotion for the time being in force;

“public holiday” means—

- (a) New Year’s Day, St. Patrick’s Day, first Monday in May and last Monday in May, 12th July, last Monday in August, Christmas Day and 26th December; and
- (b) (in addition) in any year where New Year’s Day, Christmas Day or 26th December falls on a Saturday or Sunday, any substitute day;

“university scholar” means a member on a course of university study nominated by the Secretary of State or by the Board following arrangements approved by the Secretary of State.

(2) Nothing in these regulations shall be construed as authorising pay or allowances payable to any person to be reduced retrospectively.

(3) In these regulations a reference to another police force, or to a police force in Great Britain, shall include a reference to the National Crime Squad, and a reference to the chief officer of police of such a force shall include a reference to the Director General of the National Crime Squad.

PART II

Government

Ranks

4. The ranks of the police service shall be known by the following designations—

Chief Constable

Deputy Chief Constable

Assistant Chief Constable

Chief Superintendent

Superintendent

Chief Inspector

Inspector

Sergeant

Constable.

Part-time appointments

5.—(1) The Chief Constable may, after consultation with the Police Association, appoint persons to perform part-time service in any rank.

(2) In these regulations a person appointed to perform part-time service includes a person appointed to share a job with another person.

(3) A person appointed to perform part-time service may not be appointed to serve as a full-time member without his consent.

(4) A person appointed to perform part-time service immediately after serving as a full-time member may give notice in writing of his intention to be re-appointed as a full-time member and shall be so appointed—

- (a) within one month of the date on which the notice is received by the Chief Constable, where there is a suitable vacancy, or

- (b) except where sub-paragraph (a) applies, when 3 months have elapsed since the day on which the notice was received, or from an earlier date if reasonably practicable.
- (5) A person serving as a full-time member may not be appointed to perform part-time service without his consent.
- (6) In this regulation “full-time member” means a member appointed otherwise than under this regulation.
- (7) In relation to persons appointed under this regulation to perform part-time service—
 - (a) regulation 12(1) has effect as if the words “, other than a member who, having completed the required period of probation in a police force in Great Britain, left that force to become a police trainee,” were omitted; and
 - (b) regulation 24 has effect as if—
 - (i) in paragraph (1) for all the words after “compensated in respect of time” there were substituted “spent on duty in excess of such period as the Secretary of State may determine”; and
 - (ii) paragraph (2) were omitted.

Restrictions on the private life of members

- 6.—(1) The restrictions on private life contained in Schedule 1 shall apply to all members.
- (2) No restrictions, other than those designed to secure the proper exercise of the functions of a constable, shall be imposed by the Chief Constable on the private life of members, except—
 - (a) such as may temporarily be necessary, or
 - (b) such as may be approved, by the Secretary of State after consultation with the constituent bodies of the Police Advisory Board.
- (3) Any restriction temporarily imposed under paragraph (2)(a) shall be reported forthwith to the Secretary of State.

Business interests incompatible with membership of the police service

- 7.—(1) If a member proposes to have, or has, a business interest within the meaning of this regulation, the member shall forthwith give written notice of that interest to the Chief Constable unless that business interest was disclosed at or before the time of his appointment as a member.
- (2) If a member is or becomes aware that a relative proposes to have, or has, a business interest within the meaning of this regulation 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 written notice of that interest to the Chief Constable unless that business interest was disclosed at the time of his appointment as a member.
- (3) In a case where it appears to the Board that—
 - (a) the member has adduced substantive reasons why he or a relative should be permitted to have the business interest in question and those reasons have not been considered by the Chief Constable, or
 - (b) in reaching his determination under paragraph (4) the Chief Constable failed to apply fair procedures, then the Board may refer the matter back to the Chief Constable for redetermination under paragraph (4).
- (4) On receipt of a notice given under paragraphs (1), (2) or a referral given under paragraph (3) the Chief Constable shall determine whether or not the interest in question is compatible with the member concerned remaining a member and, within 28 days of the receipt of that notice, or, as the case may be, that referral, shall notify the member in writing of his decision.

(5) Within 10 days of being notified of the Chief Constable's decision as aforesaid, or within such longer period as the Board may in all the circumstances allow, the member concerned may appeal to the Board against that decision by sending written notice of his appeal to the Board.

(6) Upon receipt of such notice, the Board shall forthwith require the Chief Constable to submit to it, within the next following 10 days, a notice setting out the reasons for his decision and copies of any documents on which he relies in support of that decision; and the Board shall send to the member concerned copies of such notice and documents and shall afford him a reasonable opportunity, being in no case less than 14 days, to comment thereon.

(7) Where a member has appealed to the Board under paragraph (5) the Board shall, subject to paragraph (3), within 28 days of receiving his comments on the notice and any other documents submitted by the Chief Constable under paragraph (6), or of the expiration of the period afforded for making comments if none have by then been received, give him written notice of their determination of the appeal.

(8) Where, on an appeal by a member under paragraph (5)—

- (a) the Board gives notice to the member of its determination to uphold the decision of the Chief Constable, and
- (b) within 10 days of being so notified, or within such longer period as the Board may in all the circumstances allow, the member makes written request to the Board for the reference of the matter to the Secretary of State,

the matter shall be so referred and, unless and until the determination of the Board is confirmed by the Secretary of State, it shall be of no effect and in particular, no action in pursuance thereof shall be taken under paragraph (9).

(9) Where a member, or a relative, has a business interest within the meaning of this regulation which the Chief Constable has determined, under paragraph (4), to be incompatible with his remaining a member and either the member has not appealed against that decision under paragraph (5) or, subject to paragraph (8), on such appeal, the Board has upheld that decision, then, the Chief Constable may, subject to the approval of the Board dispense with the services of that member; and before giving such approval, the Board shall give the member concerned an opportunity to make representations and shall consider any representations so made.

(10) For the purposes of this regulation, regulation 8 and regulation 9 "relative", in relation to a member means—

- (a) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter of that member or that member's spouse or former spouse, or
- (b) the brother, sister, uncle, aunt, niece or nephew (whether of the full blood or the half blood or by affinity) of that member or of that member's spouse or former spouse

and includes, in relation to a member who is living or has lived with another person as husband and wife, any person who would fall within paragraph (a) or (b) if the parties were married to each other.

Business interests: supplementary

8.—(1) For the purposes of regulation 7, a member or, as the case may be, a relative, shall have a business interest if—

- (a) the member holds any office or employment for hire or gain (otherwise than as a member) or carries on any business; or
- (b) the member, or any relative holds, or possesses a pecuniary interest in, any such licence or permit as is mentioned in paragraph (2).

(2) The licence or permit referred to in paragraph (1)(b) is 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 in Northern Ireland.

(3) If a member or a relative has a business interest within the meaning of regulation 7 and, on that interest being notified or disclosed as mentioned in regulation 7(1), the Chief Constable has, by written notice, required the member to furnish particulars of such changes in that interest, as respects its nature, extent or otherwise, as may be mentioned in the notice then, in the event of any such change in that interest being proposed or occurring, regulation 7 shall have effect as though the changed interest were a newly proposed, or newly acquired, interest which has not been notified or disclosed as aforesaid.

(4) In its application to a senior officer, regulation 7 and this regulation shall have effect as if—

- (a) for any reference therein to the Chief Constable there were substituted a reference to the Board;
- (b) for any reference in regulation 7(5), (7), (8) or (9) to an appeal there were substituted a reference to a request for reconsideration; and
- (c) the references in regulation 7(9) to the approval of the Board were omitted;

but the Board shall not dispense with the services of a senior officer under regulation 7 without giving him an opportunity of making representations and shall consider any representations so made.

Business interests precluding appointment to the police service

9.—(1) Save in so far as the Chief Constable may allow at the request of the candidate concerned, a person shall not be eligible for appointment to the police service if he or a relative has a business interest within the meaning of regulation 7, and paragraphs (1) and (2) of regulation 8 shall apply for the purposes of the interpretation of this regulation as they apply for the purposes of regulation 7.

(2) In its application to a candidate for appointment as a senior officer, paragraph (1) shall have effect as if for any reference to the Chief Constable there were substituted a reference to the Board.

Qualifications for appointment (where no service as police trainee)

10.—(1) A candidate for appointment to the police service, other than a person who has completed a period of service as a police trainee, shall—

- (a) if not a national of a Member State, Norway, Iceland or Liechtenstein, have leave to enter or remain in the United Kingdom for an indefinite period;
- (b) produce satisfactory references as to character and, if he has served in any police force, in the armed forces, in the civil service or as a seaman, produce satisfactory proof of his good conduct while so serving;
- (c) have attained the age of 18 years;
- (d) be certified by a registered medical practitioner approved by the Chief Constable to be fitted both physically and mentally to perform the duties on which he will be employed after appointment;
- (e) satisfy the Chief Constable that he is sufficiently competent in written and spoken English, and sufficiently numerate, by passing such assessments in written and spoken English, and numeracy, as may be approved by the Secretary of State;
- (f) meet the standard of eyesight determined by the Secretary of State;
- (g) if a candidate for appointment to the rank of sergeant or inspector, be qualified for promotion to such rank in accordance with the provisions of the Promotion Regulations;



Service Procedure

OFF DUTY STANDARDS

SP Identification Number	6/2013
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Procedure Approved By:	
Service Executive Department or Branch Head Date Of Approval	N/A C/Superintendent Noble 19 September 2014
Date First Issued:	7 May 2013
Version Number	2
This Version Issued:	2 October 2014
Review Date:	2 years from issue date
Governing Policy Directive:	<u>Professional Standards In The Police Service Of Northern Ireland</u>

ABSTRACT:

This procedure provides guidance and direction to officers and staff regarding acceptable off-duty behaviour and activities.

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1. INTRODUCTION

- (1) The PSNI (the Police Service) and the public expect the highest standards from our officers and staff both on and off duty. Whilst encouraging police officers and staff to play an active part in the communities in which they live, the Police Service is duty bound to prevent and deal with any behaviour or activity that may damage the reputation of the Police Service or call into question a Police Service employee's ability to carry out their duties effectively, impartially and with integrity. By doing so we protect not only the integrity and reputation of the officer or staff member concerned but also that of the organisation itself. The Police Service is committed to upholding the rights and freedoms of all members of society, including those of Police Service employees.
- (2) This procedure provides guidance and direction regarding acceptable behaviour or activity from a member of the Police Service. Some aspects of this procedure apply only to police officers, and some to both officers and staff, for example, inappropriate associations. Further guidance as to applicability is at paragraph 1(4) below.
- (3) This procedure covers the following areas:
 - (a) Business Interests - the procedure provides a structured process for application and approval of a business interest or secondary occupation. Guidance is provided on factors for consideration.
 - (b) Registration of Notifiable Memberships - the procedure provides direction regarding the process involved and the statutory obligations placed on individual officers and the Chief Constable.
 - (c) Political Activity - the procedure outlines what is and what is not acceptable behaviour or activity by officers.
 - (d) Civil or Criminal Proceedings Involving Members of the Police Service – the procedure outlines the personal responsibility of officers in reporting to the Chief Constable any legal proceedings initiated against them, whether in relation to a criminal or motoring offence or a civil action. The issue of responsible debt management is also addressed.
 - (e) Inappropriate Associations – the procedure provides guidance regarding appropriateness of associations.

Whilst this procedure provides guidance, it cannot cover every eventuality. Guidance should be sought from a line manager in cases of doubt. Officers and staff are reminded of their responsibilities to act ethically at all times. The PSNI Code of Ethics 2008 and the PSNI Staff Handbook govern the standards expected of our officers and staff.

(4) **Application**

The table below outlines which procedures and guidance contained within this Service Procedure apply to different types of Police Service employees. Where other guidance applies, this has been indicated below.

	Police Officers	Police Staff (including Temporary workers)	Designated staff (direct employees)	Designated staff (contracted staff)	Student Officers
Business Interests	Yes	Ch6 Police Staff Handbook refers	Police Staff Handbook refers	Employer's terms and conditions	Yes
Registration of Notifiable Memberships	Yes	Ch 7 of the Police Staff Handbook refers	Yes	Yes	Completed at time of attestation
Political Activity	Yes	Police Staff Handbook refers (Annex 8)	Police Staff Handbook refers (Annex 8)	Employer's terms and conditions	Yes
Civil or Criminal Proceedings	Yes	Ch 6 of the Police Staff Handbook refers	Ch 6 of the Police Staff Handbook refers	Employer's terms and conditions	Yes
Debt Management	Yes	Yes. See also Ch 6, para 20 of the Police Staff Handbook	Yes. See also Ch 6, para 20 of the Police Staff Handbook	Employer's terms and conditions	Yes
Inappropriate Associations	Yes	Yes	Yes	Yes	Yes

Police officers and staff intending to avail of a career break should be aware that they remain bound by the Code of Ethics 2008 and the PSNI Staff Handbook - Code of Conduct. Therefore these procedures apply not only to serving officers and staff but also to officers and staff on career breaks.

(5) **Human Rights and Section 75**

(a) These procedures have the potential to engage a number of rights under the ECHR, including Article 8 – Right to respect for private and family life; Article 9 – freedom of thought, conscience or religion, Article 10 – Freedom of expression; and Article 11 – Freedom of Assembly and association. All of these rights are qualified rights, which can be interfered with in certain defined situations. Any interference with these rights must be:

- (i) in accordance with the law;
- (ii) in pursuance of a legitimate aim; and
- (iii) necessary in a democratic society.

- (b) The procedure has been screened for Section 75 considerations with no issues identified.

2. BUSINESS INTERESTS AND SECONDARY OCCUPATIONS

(1) Introduction

There may be occasions when an officer wishes to pursue an additional business interest or secondary occupation (collectively referred to Business Interest). Reasons for this may be to pursue a hobby, to prepare for retirement, or to supplement income. Whatever the reason, the police service and the public have a right to expect that police officers are primarily focused on the needs of the public. All secondary occupations and business interests should rank after their police duties. This procedure is designed to:

- (a) provide guidance as to what factors should be taken into consideration when considering business interest applications;
 - (b) provide guidance in relation to what business interests are likely to be incompatible with employment in the Police Service;
 - (c) to outline an applicant's responsibilities with regard to applications, record keeping and conduct;
 - (d) to outline the application, decision-making and review processes.
- (2) These procedures apply to police officers of all ranks, and student officers. Separate arrangements will be published for Police Officers Part-Time.
- (3) Whilst police staff are not subject to the same level of restriction as police officers in terms of their activities outside of work, they are still required to inform the Chief Constable of any other occupation or business interest in order that the Service can be satisfied that there is no conflict of interest and that the duty of care with regard to Health and Safety and Working Time Regulations is discharged. The Police Staff Handbook refers. Contracted staff are subject to their employer's terms and conditions, but are expected to abide by the spirit of this procedure in terms of the suitability of business interests and secondary occupations.

(4) Definition of Business Interest

- (a) The legislation governing police officers' business interests is contained in Regulations 7, 8 & 9 of the Police Service of Northern Ireland Regulations 2005¹.
- (b) Within that, a business interest is defined as 'the holding of any office or employment for hire or gain, or carries on any business; or holds or possesses a pecuniary interest in any licence or permit relating to licensed premises or gaming'.

(5) Requirement to declare a Business Interest

- (a) Any officer holding or intending to hold a business interest or secondary occupation is required to notify the Chief Constable as per this procedure. This requirement also extends to relatives² who hold a business interest, where the interest interferes, or could be seen as interfering with the impartial discharge of the duties of the officer.

¹ Police Trainee Regulations (NI) 2001 also refer.

² Relative is defined in the legislation as 'father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter, or the brother, sister, uncle, aunt, niece or nephew (whether full blood or half blood or by affinity) of that member or of that member's spouse or former spouse and includes, in relation to a member who is living or has lived with another person as husband and wife, any person who would fall within the above if the parties were married to each other.' Whilst this definition is very broad, a common sense interpretation should be applied. There is only a requirement to notify a relative's business interest if it could reasonably be perceived to interfere with the impartial discharge of the officer's duties. The definition of relative should also be interpreted to include civil partner.

- (b) This procedure also refers to officers who are on career breaks.³
- (c) Applicants to the Police Service are required to declare any existing business interest or secondary occupation which they intend to continue should they be appointed. Applicants will not be eligible for appointment if they intend maintaining a business interest that is not compatible with employment in the Police Service.
- (d) The Police Rehabilitation and Retraining Trust (PRRT) supports officers in preparing for retirement. Whilst they may fund or provide training courses to serving officers, this does not imply permission or support for a business interest whilst the officer is still serving.
- (e) There may be occasions where work, even if it is unpaid, would still be considered to be a business interest or secondary occupation. Advice should be sought from Discipline Branch in cases of doubt.
- (f) Failure to declare a business interest, breaching conditions placed on a business interest, or conducting a business interest that has been rejected under this procedure may result in misconduct action, and in some cases, criminal investigation.
- (g) An officer may not pursue a business interest pending approval or any appeal process.

(6) **Factors for consideration**

Whilst each case will be considered on its own merits, a number of factors must be taken into account in determining whether to approve an application for a business interest or secondary occupation. ACPO have identified the following areas (expanded upon below) as:

- (a) Impact on the Police Service – potential and perceptions;
- (b) Integrity & Impartiality - predicted, expected or evidenced;
- (c) Attendance, conduct & performance;
- (d) Health, Safety and Wellbeing;
- (e) Proportionality – in relation to the applicant's seniority & role;

These factors are not exhaustive, and there may be other considerations which apply to individual cases.

- (a) **Impact on the Police Service – this relates to the risk of the business interest or secondary occupation either discrediting the Police Service or undermining confidence in the Service. To include:**
 - (i) The nature of the business interest or secondary occupation – how reputable is it in its own right in the eyes of the public and in association with the Service?
 - (ii) Whether the activity could lead to the public losing confidence in the honesty and integrity of the individual or the Service or if it would be likely to cause confusion in the minds of the public as to whether the individual was operating in an official or unofficial capacity;
 - (iii) Whether the activity could lead to the individual being improperly beholden to any person or organisation;
 - (iv) Whether the business interest could lead to conflicting contractual commitments to a third party, for example, providing advice to a training company who are then contracted to work for the Police Service.

³ Annex O of the Determinations associated with the PSNI Regulations 2005.

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- (b) **Integrity and Impartiality – relates to the risk of the business interest or secondary occupation interfering with an individual's ability to impartially discharge his or her duties, or the extent to which the public would be likely to perceive this is the case. To include:**
- (i) Whether the activity is one regulated by the police, or where the police are involved in the licensing of the activity;
 - (ii) Whether the business interest or secondary occupation is merely an extension of an individual's duty or the extent to which training, skills, or experience provided by the Police Service are relied on;
 - (iii) Whether the individual's status as a police officer could be used to promote the business interest or secondary occupation;
 - (iv) The potential to use for personal benefit police duty time, equipment, information or intellectual copyright;
 - (v) Whether an individual's fairness or impartiality in their dealings with the public or colleagues might be compromised.
- (c) **Attendance, Conduct & Performance – this relates to the risk of a decline in attendance, performance or conduct of the applicant, coupled with evidence as to the individual's current suitability through performance monitoring.**
- (i) **Attendance:** When an individual who holds a business interest or secondary occupation 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 or impacted by the business interest or secondary occupation.
 - (ii) Claiming sick pay whilst carrying on a business interest / secondary occupation could amount to fraud and may result in a criminal / misconduct investigation. In these circumstances, prior to any action being taken, the views of the Occupational Health and Wellbeing Unit must be obtained on the potential for the business interest to have a detrimental effect on an individual's health.
 - (iii) **Conduct:** Consideration should take place of any previous or current misconduct issues which may be relevant to the business interest application. If it is considered that a misconduct issue relates directly to an existing business interest / secondary occupation, approval may be modified or withdrawn.
 - (iv) **Performance:** Evidence from IPRs will be considered during the annual review of business interests / secondary occupation. Additionally, where an individual with an existing approved business interest or secondary occupation is subject to formal performance procedures, this will initiate a review of the business interest / secondary occupation.
 - (v) Consideration should be given to the extent to which the business interest / secondary occupation could interfere with the ability for a police officer to be recalled to duty.
- (d) **Health, Safety & Wellbeing – this relates to the duty of care to the individual. To include:**
- (i) The risk of injury or increased stress and fatigue which could impact on the individual's ability to perform duties to a satisfactory standard;

- (ii) As part of any consideration of a business interest or secondary occupation it is essential that the Police Service 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 or his or her ability to work safely, either as an individual or part of a team. Further information about the Working Time Regulations (1998) can be found here [Working Time Directive](#). Consideration should be given to the total number of hours, times of day, frequency and overall commitment required by the business interest. If the business interest would result in the officer's working time being in excess of the 48-hour week limit, they should be requested to waive their rights to the maximum 48-hour week.
 - (iii) The business must not involve activities that would be a threat to the security of the officer, their immediate family, colleagues or the public.
- (e) **Proportionality in relation to Seniority and Role – relates to the requirement to take account of the seniority, role and nature of duties of the applicant.**

It may be relevant to reflect on the nature of the work carried out by the applicant, the different employment status of police officers and police staff, and the public impact of their proposed interest or secondary occupation, prior to making a decision. Each case should be considered on its merits. For example, whilst it may be acceptable for a police officer at the rank of Constable to work as an extra for film or TV productions, it may not be appropriate for a senior officer who is regularly appearing within the media in a police related capacity to do so.

(7) **Examples of incompatible occupations**

Whilst every case is considered on its own merits, ACPO Guidance indicates that the following types of business interests and secondary occupations are likely to be refused under this procedure as being incompatible with the role of police officer.

- (a) An activity that would present a conflict of interest in the administration of justice (e.g. magistrate, practising solicitor, barrister, paralegal, fine enforcement officer);
- (b) An activity that involves investigation or use of force for other than police purposes (e.g. loss assessor, private detective, security guard, door staff);
- (c) 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);
- (d) 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 on them to buy or rent, including recruiting others to sell on his or her behalf;
- (e) An activity using specialist skills or knowledge obtained through the police service (e.g. training or consultancy relating to core policing activities);
- (f) Renting or letting accommodation to a member of staff who is in the same line management structure (excluding short-term arrangements, such as holiday lets);
- (g) Appearing in any commercial filming production in which they portray a police officer or other uniformed member of police staff, whether on or off duty, or undertake any role where it could be construed that they are representing the police service;
- (h) The writing and publication of books, articles or other material for gain about their policing or work experiences;
- (i) Holding a licence or permit, or working in premises, relating to liquor licensing, or betting and gaming or any other area in which police have a role in licensing.

This list is not exhaustive, but gives an idea of those interests that could be incompatible with being a police officer.

(8) **Application process**

A summary of the application, authorisation and review process is contained at Appendix A.

- (a) Any officer who wishes to apply to register a business interest or secondary occupation must submit a written application, via their line manager, to their Inspector (or immediate line manager if the applicant is of Inspector rank or above). The application Form BI 1 can be accessed via Service Forms on PoliceNet, and must be completed and submitted electronically to the appropriate line manager. It is the responsibility of the officer concerned to provide full detail in the application to allow an informed decision to be made (to state that the business interest is, for example, 'Consultant' is clearly not sufficient and will result in the application being returned to the individual concerned requesting greater detail/clarity or rejected).
- (b) On receipt of an application to register a business interest, the applicant's Inspector (or line manager if the applicant is Inspector rank or above) will examine the application to ensure that all relevant information has been included and append any further information on the suitability of the applicant, for example issues relating to performance, attendance or misconduct issues. The application should then be forwarded to zBusinessInterests.
- (c) On receipt of the application, Discipline Branch will ensure that the application is recorded onto SAP and may convene a Business Interest Decision Panel. The panel will consist of Human Resources and Superintendent, S5 – Discipline Branch or their designated representatives and such other persons as may be deemed necessary to enable an informed decision to be made. In the interests of efficiency, this may be done remotely.
- (d) The panel will consider all relevant material and give careful consideration as to whether or not the proposed business interest is compatible with an individual being a police officer. The panel will also consider any potential conflict with the aims and reputation of the Police Service, the PSNI Code of Ethics 2008, and Working Time Directive. There may be occasions where the proposed business interest conflicts with the current role of the officer and it may be rejected on that basis. The panel can arrive at one of the following decisions:
 - (i) Request further information. Should requested information not be supplied by the applicant, the application will be rejected;
 - (ii) Approve the application;
 - (iii) Approve the application but set conditions or make it subject to more frequent monitoring or review;
 - (iv) Reject the application.

Once a decision on an application has been made, the applicant will be informed in writing and the approval or otherwise recorded on SAP by Discipline Branch. The original application and accompanying documentation will be retained in the applicant's personnel file.

Request for Chief Officer Determination

- (e) If a business interest application is rejected, the applicant may request that the Chief Constable make a determination on the issue. In the interests of efficiency, the Chief Constable may delegate this to another member of the Service Executive Team. Written requests for determinations must be made in writing to zBusinessInterests within 10 calendar days of receipt of notification of the decision to refuse the application, and must be accompanied by written reasons for why the applicant believes the application should be approved. The officer appealing can request that this 10 day period be extended, if they have reasonable grounds for making this request.
- (e) At each stage of the process there must be a full record of all decision-making. This is essential because Regulation 7(6) of the Police Service of Northern Ireland Regulations (2005) requires the Chief Constable, in any Appeal, to submit copies of documents relied on in support of a decision in relation to a police officer.

(9) Appeals process

- (a) Regulation 7 of the Police Service of Northern Ireland Regulations 2005 outlines the appeal process for police officers, which is considered by the Northern Ireland Policing Board (NIPB).
- (b) Any officer wishing to appeal a decision must submit the appeal in writing to the NIPB via zBusinessInterests within 10 calendar days of the notification of the Chief Officer's determination to refuse an application. The officer appealing can request that this 10 day period be extended, if they have reasonable grounds for making this request.
- (c) If the NIPB reject an appeal, legislation permits a further appeal to the Minister for Justice, under Regulation 7(8)(b).
- (d) Regulation 7(9) outlines that if the Chief Constable has determined that a business interest is incompatible with the office of Constable, and an officer still wishes to pursue the business interest, then after consultation with the NIPB, he may dispense with the police officer's services.

(10) Monitoring / Review

- (a) Upon publication of this procedure, all existing business interests will be reviewed to ensure they are compatible with this procedure. Further information may be sought from the officer to assist with a review.
- (b) It is the responsibility of the officer to report any changes in circumstances between reviews to zBusinessInterests, via local management. Discipline Branch may ask for any further information as necessary. Consideration should also be given to rescinding approval if an officer fails to report any change of circumstances, provide an annual declaration (below), or supply any additional information requested.
- (c) All officers who hold a business interest / secondary occupation are required to record how many hours they have spent on the business interest, on a monthly basis, to ensure there is no breach of the European Working Time Directive. Officers will be required to sign a waiver to indemnify the Police Service against claims under the Working Time Directive.
- (d) Following approval of a business interest / secondary occupation, there may be circumstances that lead to a review of the approval. These may include performance and attendance issues, conduct, welfare and well-being issues, or any change in role. Such a review will be conducted by a business interest panel, as set out at paragraph 8(e) above. Enquiries may also be made to ensure that a business interest or secondary occupation is being conducted within the limits of any approval.

- (e) Officers holding a business interest or secondary occupation are required to submit to zBusinessInterests an annual declaration on Form BI 2 stating:
- (i) whether the interest is still current;
 - (ii) whether or not there have been any material changes to the business interest;
 - (iii) average number of hours per week spent on business interest;
 - (iv) that all tax liabilities arising from the business interest have been discharged.

Discipline Branch will review this information, along with any other relevant information including misconduct, sickness absence or performance matters. Upon review, should it be considered that the business interest is no longer compatible, a business interest panel will be convened to consider the issue.

3. REGISTRATION OF NOTIFIABLE MEMBERSHIPS

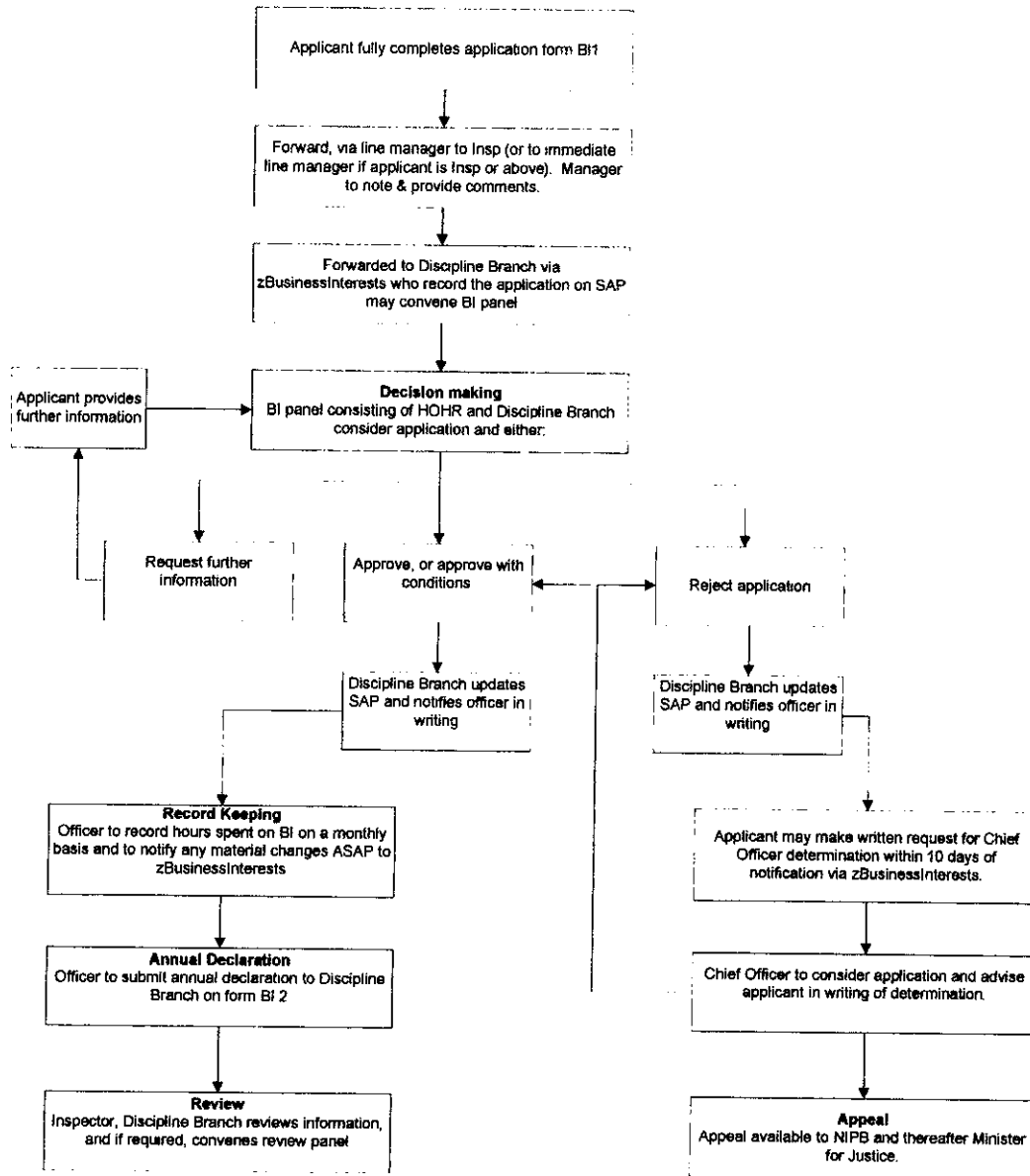
- (1) The Chief Constable has a statutory obligation under Section 51(5) of the Police (Northern Ireland) Act (2000) to require each police officer to inform him of any notifiable membership that the police officer believes they have, or if they believe that they have no notifiable membership, of that belief. Section 51(1) of the Act states that a police officer has a notifiable membership if membership of the organisation in question might reasonably be regarded as affecting the officer's ability to discharge their duties effectively and impartially.

This requirement applies to all police officers, and also extends to police staff with designated powers. Student officers complete their notifiable membership declaration at the time of attestation. Instructions relating to police staff are contained in the Chapter 7 of the Police Staff Handbook.

(2) Background

- (a) The Chief Constable has produced 'Notes for Guidance' and a list of organisations which in his opinion, membership of any one of these organisations could reasonably be regarded by some members or sections of the public as affecting a police officer's ability to discharge their duties effectively and impartially. These notes for guidance were developed following statutory consultations on the matter. Notes for Guidance are attached at Appendix 'B'.
- (b) The organisations are:
1. Ancient Order of Hibernians.
 2. Apprentice Boys of Derry Association.
 3. Freemasons.
 4. Independent Orange Order.
 5. Knights of St Columbanus.
 6. Loyal Orange Institution (including the Women's Orange Order).
 7. Royal Black Institution.
 8. Any other organisation, membership of which, an officer believes might reasonably be regarded as affecting his/her ability to discharge his/her duties effectively and impartially.

**Business Interests & Secondary Occupations
Process for application, decision, appeals and reviews**



NIPB Ref: FOI 34/2014

PSNI business interest cases considered by the Northern Ireland Policing Board over the last 5 years

Year	Total Cases	Appeal Successful	Appeal Rejected	Referred to Minister of Justice
2010/11	1	0	1	0
2012	1	0	1	0
2013	2	0	2	1 (rejected)
2014	3	0	3 (note 1 case still within time limits to be referred to the Minister of Justice)	1 (rejected)
TOTALS	7	0	7	2 (rejected)