

BMA conflicts of interest policy



What is a conflict of interest?

A conflict of interest can be defined as a 'set of circumstances that creates a risk that an individual's ability to apply objective judgement or act in one role is, or could be, impaired or influenced by a secondary interest.' (National Audit Office 'Conflicts of interest', 27 January 2015).

Conflicts of interests occur where a person acting in a representative capacity (in this case, elected and appointed members, BMA directors and representatives¹ (**hereafter referred to in the collective 'member/s'**)), could be influenced by financial interests or other positions they hold to fail to impartially represent their constituency or discharge their responsibilities in their appointed or elected position.

It is important, therefore, that there is openness and transparency about such potential conflicts of interests – whether actual or perceived. By ensuring that any potential conflicts of interest are disclosed and known to others, such actual or perceived conflicts can be managed proactively.

The information provided by members will be processed as defined by the General Data Protection Regulation (EU) 2016/679. Data will be processed only for the purposes set out in this policy and not for any other purpose.

Do I have to declare?

Where there is a potential for such relationships or external appointments to be material and relevant to BMA business, all such interests should be disclosed and any changes should be declared and recorded as and when they occur, and no later than fourteen (14) days after the change occurring. Any potential conflict of interest should then be declared before or at the commencement of any discussion or debate as well as on appointment to any BMA position. For senior elected positions (chairs, deputy chairs, officers and executives), conflicts of interests must be declared at the nomination stage. Please see the procedure that should be followed.

Where a conflict of interest arises during a term of office, this must be declared and the same assessment procedure should be followed.

The intention is not to forbid participation in other activities outside of the normal responsibilities of a member, indeed these additional activities can be a source of strength to the BMA. However, members are obligated and have a duty to declare any personal, pecuniary interest in proposed transactions/arrangements, donations made, or any other interest that they think may relate to their elected position or to any debate or decision being taken. Members must also be alert to and declare conflicts of interest arising through business associations, spouses, partners and other close relatives. Where their conflict of interests makes it appropriate to do so, members' participation in debate and/or decision-making will be restricted.

Members must ensure that they declare any potential conflicts of interests in advance if they wish to speak in debate where the subject of the debate could potentially lead to a conflict. Note that members must declare any relationship, connection or association with another person on the same or another BMA committee that could give rise to an actual or perceived conflict of interest.

The responsibility for avoiding any conflict of interest lies with the individual. Care should be taken by members so as not to place themselves under any obligation, or perceived obligation, to any individual or organisation that might influence them in the performance of any BMA duties. However, if this does happen, steps should be taken swiftly to resolve any conflicts arising in a way that protects the BMA's interests.

1 Representatives include: non-members who are elected, observers, visitors and lay members.

Members should take responsibility for ensuring that they notify the BMA staff member of any change in circumstance (using the 'Declaration of Interests' form) and if a member has a conflict of interest, they should not be a party to any decision-making, unless authority to do so is given by the chair of the meeting. This could range from absenting themselves from a meeting during the discussion of an issue or abstaining from voting, depending upon the nature of the conflict. Any individual who thinks that they may have a conflict should in the first instance speak to the chair of the committee. It will be a matter for the chair to decide whether the person's interest can be regarded as likely to give rise to a conflict of interest, as well as the appropriate course of action. Some conflicts may be deemed too great for a member to hold a position on a BMA committee or body.

When should I declare a potential conflict of interest?

All members must complete and return to the BMA staff member a 'Declaration of Interest' form as soon as possible. Members will be responsible for notifying any changes in their registrable interests within fourteen (14) days of the change occurring to ensure that the record is kept updated.

At the start of any meeting, members should declare any potential conflicts that may arise in relation to agenda items. Conflicts of interest should also be declared when pertinent matters come up in discussion, either on listservers or during meetings.

What type of information should I declare?

Some guidance on the type of information which members should consider declaring as potential conflicts of interest is set out below. It is important to note that this list is not exhaustive and it is impossible to list every potential situation or circumstance that could give rise to a conflict of interests. Members should therefore use their judgment to decide whether any of their interests should be disclosed.

- **Directorships and appointments to external bodies:** Both paid and unpaid directorships (including non-executive directors or senior employees) of any public or private company or other body, together with any roles or positions with other bodies or committees.
- **Alternative trade union membership:** any membership of another trade union must be disclosed.
- **Other remunerated work:** Any paid employment or other sources of income outside their normal medical work. Examples might be paid consultancy or advisory positions with government departments, pharmaceutical companies or the medical press, articles sold to the paramedical press, or remunerated speaking engagements. Also included should be work for companies active in other healthcare fields, NHS Trusts, health authorities, any NHS commissioning body or health boards and endorsements or appointments which could be used by other organisations for marketing purposes.
- **Gifts, benefits and hospitality:** This includes any substantial gift or material advantage received by a member which in any way relates to his/her membership of BMA committees. This would include trips or visits arising out of membership, where the cost has not been wholly borne by the member or the BMA. Gifts of less than £500 in value and other benefits of less than £500 in value would be exempt, as would events to which all members are invited.
- **Shareholdings or other positions:** Declaration of the name of any public or private company (including any not-for-profit), business, partnership or consultancy active in the field of healthcare or certain other sectors where a conflict of interest might arise (eg retail financial services, STM (scientific, technical and medical) publishing in which the member holds significant shareholdings, interests or control. Significant in the context of shareholdings is defined as either (a) greater than 1 per cent of the issued share capital of the company or body, or (b) less than 1 per cent of the issued share capital but more than £25,000.
- **Indirect social/business relationships and family interests:** These would include any close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest (and any other interests) of close family members/friends/business partners that might be considered relevant to an individual's position as a member of any BMA committee.
- **Appointments which could lead to a commercial conflict of interests.**

- **Potential conflicts arising from the possession of confidential information.**
- **Miscellaneous and unremunerated interests:** This includes other interests which do not fall clearly within any of the above categories, for example, membership of societies such as the Freemasons or of other organisations. Membership of, or work for, other bodies such as charities or trusts which could possibly influence a member's position with regard to his/her BMA associated activities should also be included, as well as membership of UK Governments or Department of Health committees/working groups (or their equivalents in Scotland, Wales or Northern Ireland), GMC (General Medical Council) committees/working groups on which the member is not a designated BMA representative or elected roles outside the BMA.

How are we recording conflicts?

It is essential that declarations of interest and actions arising from any declarations are recorded formally and consistently across all BMA committees and meetings. The checklist below will provide support and guidance in conflicts of interest management to the chair of the meeting prior to, during and following the meeting.

Timing	Checklist for chairs	Responsibility
In advance of the meeting	<ol style="list-style-type: none"> 1. The agenda should include a standing item on declaration of interests, including a definition of conflicts of interest, to enable individuals to raise any issues and/or make a declaration prior to or at the meeting. The agenda should be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered. 2. Members should contact the chair or committee secretariat as soon as an actual or potential conflict is identified. 3. Chair to review a summary report from preceding meetings i.e., sub-committee, working group, etc., detailing any conflicts of interest declared and how this was managed. 4. A copy of the records is checked to establish any actual or potential conflicts of interest that may occur during the meeting and the chair should consider how the potential conflict will be perceived externally. 	<p>Meeting chair and BMA staff member</p> <p>Each individual member</p> <p>Meeting chair and BMA staff member</p> <p>Meeting chair and BMA staff member</p>
During the meeting	<ol style="list-style-type: none"> 5. Check and declare the meeting is quorate and ensure that this is noted in the minutes of the meeting. 6. Chair requests members to declare any interests in agenda items, including the nature of the conflict. 7. The records will be made available for inspection at the meeting and any updates made at the meeting will need to be dealt with before the meeting can proceed. 8. Chair, in consultation with the relevant secretariat and/or staff director, makes a decision as to how to manage each potential conflict which has been declared, including whether/to what extent the individual member should continue to participate in the discussion of an item (including whether they should leave the room for its duration) or the meeting as a whole. This is on a case by case basis, and this decision is recorded. Where the chair themselves has a potential conflict of interest, their deputy or equivalent should chair the relevant part of the meeting. 9. As a minimum requirement, the following should be recorded in the minutes of the meeting: <ul style="list-style-type: none"> – Declaration of any interest or any reference to previous declarations and how these were dealt with; – At what point the interest was declared; – The nature of the interest; – The chair's decision and resulting action taken; – An explanation of reasons for any broader decisions taken. – Visitors in attendance who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner. <p>While the 'Declaration of Interests' form should be completed in advance of any meetings, template forms for recording any interests during meetings should be made available by the BMA staff member.</p>	<p>Meeting chair</p> <p>Meeting chair</p> <p>Meeting chair and BMA staff member</p> <p>BMA staff member</p>
Following the meeting	<ol style="list-style-type: none"> 10. All interests should be promptly updated onto the declaration of interest form; 11. All new completed declarations of interest are held by the chief executive officer/BMA staff member. A declaration of interest may be made available to any BMA member for inspection on request in writing, setting out the reason for any such request. 	<p>Individual(s) declaring interest(s)</p> <p>Designated person responsible for record keeping</p>

What happens if I fail to disclose a conflict of interest?

Failure to disclose an actual or perceived conflict of interest, or to cease involvement in the situation until the conflict has been resolved, constitutes a breach of the BMA code of conduct and may be subject to the BMA resolution process. In applying the resolution process, consideration will be given to the extent to which the member was aware of the actual or perceived conflict of interest and/or made a reasonable decision not to declare it and the time and manner in which the failure to disclose is remedied, if applicable.

What if I am aware of a breach of this policy by another member?

In the spirit of good collegiate working, it is recommended that the individual concerned is approached privately in the first instance so that the matter may be resolved informally. If concerns remain then it would be appropriate to give notice to the individual that the matter will be raised with the BMA staff member. If the matter cannot be resolved at this stage, and bearing in mind that this policy is not going to be applied unreasonably or disproportionately, then the allegation may be considered in line with the BMA resolution process.

Procedure to assess conflicts declared at the nomination stage for senior elected positions (chairs, deputy-chairs, officers and executives) or during a member's tenure in such positions.

The procedure to determine whether a perceived or actual conflict of interest exists at the application stage of senior elected positions is as follows:

Declarations on nomination

Two questions will be added to the nomination forms for elections (paper or electronic via the online elections system) to allow individuals to declare any conflicts of interest:

1. Do you have any actual or potential conflicts of interest, or interests that could be perceived as such, relevant to the role you are nominating yourself for? Please describe below.
2. If yes, how do you propose to manage these conflicts should you be elected? Please describe below.

As well as the member declaring any conflicts of interest at the nomination stage, the committee chair and the committee secretariat shall identify any potential conflicts of interest from the members' application form.

Declarations in office

If a potential conflict arises during a member's tenure in a senior elected position, they must update their declaration and the potential conflict will be assessed as below.

Assessment

NB: If the current chair is standing in the election or declares a potential conflict during their tenure they should not be involved in assessing their own conflicts or those of other candidates. The secretariat, with the support of Corporate and member development, will be responsible for this to avoid any conflicts in applying the procedure.

Stage 1. The committee chair and/or secretariat will consider the declaration and decide whether an actual or potential conflict exists. The secretariat will keep a record of the consideration and reasons given for the decision made.

If the chair and secretariat consider that any matter needs further exploration, they will refer it to the Corporate and member development directorate for consideration by an independent conflicts of interest assessment group. The group shall be comprised of a non-executive director from the BMA Board of Directors, the Director of Legal Services (or a person to whom they delegate), and the chair of the BMA audit and risk committee. The chair and secretariat will provide a briefing paper to the assessment group which must include input from the member as to how the member proposes to mitigate any actual or potential conflict.

Stage 2 of the procedure will then apply.

Stage 2: The independent conflicts of interest assessors group will advise as to whether a conflict exists. The group will send their advice along with their reasoning directly to the committee chair and secretariat with a copy to the director of Corporate and member development.

Where it is determined that there is a conflict, the advice may be, for example, that:

- the conflict cannot be accommodated and the member should therefore either divest themselves of the conflict or withdraw their nomination/step down; or
- the conflict can and should be carefully managed.

The committee chair will consider the advice and reach a final decision. If the member does not accept the chair's decision, they may lodge an appeal. The appeal must be made in writing within five working days of the date of the decision and explain the member's reasons for disagreeing with the decision. The committee chair will then consider the appeal and inform the member in writing of their final decision.

If it is not possible to determine whether a conflict exists before the election result is known, the procedure may be undertaken retrospectively.

Queries

If members have any questions with regard to those interests which should be declared, they should seek advice from the relevant BMA staff member.