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**Code of conduct for:  
National Advisory Committees**

March 2019

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## Overview

It is essential that Ofcom maintains a reputation for impartiality, integrity and high professional standards.

There should never be any legitimate reasons for people outside Ofcom to question that Ofcom's decisions may be influenced by the private interests or political interests and opinions of Members or that Members may be able to profit from information available to them through their advisory work for Ofcom.

Accordingly, Ofcom's Advisory Committee Members should comply at all times with this Code of Conduct (and any modifications the Ofcom Board might make to it) and act in good faith and in the best interests of Ofcom.

# 1. Introduction

- 1.1 It is essential that Ofcom maintains a reputation for impartiality, integrity and high professional standards. There should never be any legitimate reasons for people outside Ofcom to question that Ofcom's decisions may be influenced by the private interests or political interests or opinions of Members or that Members may be able to profit from information available to them through their work.
- 1.2 Ofcom's National Advisory Committees are established by the Communications Act (2003); they exist to provide Ofcom with independent advice about the interests and opinions, in relation to communications matters, of persons living in England / Northern Ireland / Scotland / Wales. The National Advisory Committees may also, at the request of the Consumer Panel, provide advice about those interests and opinions to the Consumer Panel but only with the consent of Ofcom.
- 1.3 Working within the necessary standards of impartiality, integrity and probity, it is important that Ofcom is able to attract Members with knowledge and experience, at a senior level, of the sectors that Ofcom regulates.
- 1.4 However, it is important that Members avoid any perception of, or actual, conflict of interest arising in relation to their other undertakings. It is, therefore, necessary for Ofcom to manage, sensibly and appropriately, potential conflicts of interest that Members may have or that may arise from time to time.
- 1.5 In addition, Ofcom needs to ensure that the actions of Members do not bring into question Ofcom's impartiality and objectivity. Members are expected to avoid conduct that might bring Ofcom (or the National Advisory Committees) into disrepute or create a perception of bias/lack of impartiality. Members must ensure that their conduct accords with the Seven Principles of Public Life (attached as an annex to this Code).
- 1.6 Members serve on the National Advisory Committees to advise Ofcom on policy initiatives. The National Advisory Committees might be described as a 'critical friend'. Members should exercise that function thoughtfully and with consideration. Ofcom colleagues are expected to adhere to Ofcom's four behavioural values of Excellence, Collaboration, Agility and Empowerment and Members are expected to do the same. Members should treat all Ofcom colleagues with respect and dignity in the same that Ofcom colleagues will treat Members with respect and dignity.

## 2. The role of the National Advisory Committees, the Chair and Members

### The role of Members of the National Advisory Committees

- 2.1 The responsibilities of Members include:
- a) as outlined in the Communications Act 2003 (the "Act")<sup>1</sup>, to represent the interests and opinions, in relation to communications matters (as defined in the Act), of persons living in that part of the UK, for which the Advisory Committee has been established;
  - b) the provision of advice to the Ofcom Board, when requested, on Ofcom's policy work, consultation exercises and other matters including:
    - i) any relevant annual report that covers issues within the communications sector; and
    - ii) the promotion of media literacyin relation to those parts of the UK, for which the Advisory Committee has been established;
  - c) the provision of advice, at the request of the Communications Consumer Panel, of those interests and opinions of the Communications Consumer Panel (subject to the consent of the Ofcom Board);
  - d) the provision of advice, when requested by the Content Board, on matters relating to television, radio and other content services regulated by Ofcom;
  - e) ensuring that the highest standards of corporate governance are observed always; and
  - f) ensuring that the Advisory Committee effectively fulfils its remit, as set out in its terms of reference, as amended from time to time.

### The role of the Chair of each of the National Advisory Committees

- 2.2 The Chair of the Advisory Committee has particular responsibility for leading the Advisory Committee in:
- a) agreeing with the Ofcom Board a strategy for discharging its statutory duties as set out in the Communications Act 2003; a planning session will usually be held at the beginning of each calendar year to discuss Ofcom's draft work programme, as published in the Annual Plan consultation, with each Advisory Committee to identify priority areas of national interest that they would like to engage with;

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<sup>1</sup> and any other relevant supplementary legislation or Orders thereto

- b) providing advice to the Ofcom Board on matters reserved to the Ofcom Board in relation to communication matters, including through direct engagement with the relevant Board Member for their nation;
- c) ensuring that the Advisory Committee meets regularly throughout the year and that the minutes of meetings accurately record meeting proceedings; and
- d) providing an assessment of the performance of individual Advisory Committee Members on an annual basis, to inform any proposed reappointment to the Advisory Committee.

## Confidentiality

- 2.3 Members of the National Advisory Committees (“Advisory Committees”) will be expected to show complete confidentiality in respect of information or materials supplied to them for the purposes of and in connection with their duties on the Advisory Committee.
- 2.4 Section 393 of the Communications Act sets out restrictions on individuals on the disclosure of any information without the consent of the person who provided the information.
- 2.5 Any disclosure of information in contravention of that provision is a criminal offence subject to up to two years imprisonment and/or a fine.
- 2.6 These restrictions continue to apply once Members have ceased being Members of an Ofcom advisory body in relation to information received while they held office. This is in order for people to avoid the risk that a particular firm might gain an improper advantage over its competitors by employing someone who, in the course of their Ofcom duties, has had access to technical or other information which those competitors might legitimately regard as their own trade secrets or to information relating to proposed developments in Government policy which may affect that firm or its competitors.

## Concerns about malpractice

- 2.7 If a Member wants to raise a concern about malpractice, they should in the first instance raise their concerns with the Chair of the respective National Advisory Committee and the Corporation Secretary.

## Security policy

- 2.8 Members are asked to read and comply with Ofcom's Security Policy. This policy covers a number of areas, including acceptable use of information systems, information security, retention and disposal of information, dealing with third parties and premises security.

## 3. Interests

- 3.1 The interests of the Member and their close family members (i.e. partners and dependent children) must not create the impression that Advisory Committee's collective advice might be influenced by personal circumstances. All Members of the Advisory Committee must operate within the agreed principles for conflicts of interest for such posts.
- 3.2 In all cases, Ofcom reserves the right to determine what constitutes a potential or actual conflict of interest and to decide whether conflicts can be sensibly managed through declarations and recusals. Where this is not possible, Ofcom reserves the right to terminate the Member's position with immediate effect.

### Declaration of interests

- 3.3 Members must declare any such actual or potential interests before taking up their appointment and as and when they arise during the course of such appointment. Members are asked to declare whether there have been any changes in their interests at each meeting and must complete a fresh declaration on an annual basis.
- 3.4 Before a relevant item is discussed, Members of the Advisory Committee should declare any direct or indirect interests or connections they may have. Interests which should be declared are not only financial ones but those which involve some material benefit to either party. Personal friendships, other than mere acquaintances, and family interests may also constitute a connection. If in doubt, Members are advised to declare the connection in order to give other Members the opportunity to determine whether it is an actual or potential interest. A general notification of interest may be given, which would apply to all meetings of the Advisory Committee.

### Register of interests

- 3.5 Ofcom maintains a register of Members' interests, which is updated annually, and relevant information is published on Ofcom's website.
- 3.6 This register provides details of Members' public and charitable appointments, directorships, related employments, relevant financial interests/shareholdings and relevant activities of family members (as defined in 3.1 above).
- 3.7 Members will be expected to make an annual declaration of any relevant interests. Between annual updates, Members must notify the Corporation Secretary of any changes to their interests, so that consideration can be given to the nature of the interest and, if appropriate, the Register amended accordingly.

## Interest in the sectors we regulate

### Employment

- 3.8 Overall, Ofcom will aim to ensure that the range and balance of the skills on the Advisory Committee is such that no one voice nor interest can be seen to unduly influence the advice that it gives.
- 3.9 Members must avoid any suspicion that their decisions might be influenced in the hope or expectation of future employment with a particular firm or organisation, and Ofcom reserves the right to judge whether conflicts of this type are manageable.
- 3.10 Financial interests in companies licensed or regulated by Ofcom are not completely prohibited, provided they are unlikely to be material in terms of affecting the perceived or real independence of Members in offering advice to Ofcom. However, during their term of office, Members must not be directly employed by organisations that Ofcom regulates or licenses or derive the majority of their employment income from such a company even if not so employed.
- 3.11 Occasional consulting work by Members for companies that Ofcom regulates or licenses might be permissible, but only if the proportion of income derived from such activity is not significant, and that the role with that licensee or regulatee does not and would not appear to place in jeopardy their ability to offer impartial advice to Ofcom. The matter must be discussed with the Chair and the Corporation Secretary and consideration will be given to any perceived or actual conflict of interest and what action should be taken – which may include advising the Member that they can no longer continue in their role with the Advisory Committee. Any Member who might wish to contract with Ofcom as a third party for specialist services should go through the usual competitive tendering process.

### Restrictions on financial investments

- 3.12 We recognise that historic employment in the communications sector may add value to the contribution that a Member can make to their work on the Advisory Committee. It is possible, therefore, that from time-to-time Members may hold financial investments in (and pensions from) organisations operating in industries that Ofcom regulates, as a result of previous employment.
- 3.13 For Members of the Advisory Committees we use a 'hold or divest' policy. This means that Members should either dispose of their financial investments in organisations that Ofcom regulates or hold on to them for the duration of their term and declare them. If the investments are held, they should be declared on Ofcom's register of interests.
- 3.14 Under no circumstances should Members, during their term of office, trade in investments in organisations that Ofcom regulates.



## Close family members

- 3.15 Members should declare any investments that their close family members (as defined in 3.1 above) might hold in organisations that Ofcom regulates or licenses. Whilst there is nothing preventing close family members trading relevant shares, Ofcom expects Members to exercise due caution in relation to any such trading, so as to avoid any possible perception that any trade was influenced by their role as a Member or that the Member, individually or as part of a couple/family, could have benefitted as a result.
- 3.16 Members should also declare any paid employment in organisations that Ofcom regulates or licenses (whether permanent employment or consulting) of any near family members (e.g. partners, siblings, children).

## Avoiding other potential conflicts in discussions and decisions

- 3.17 If there are any other potential conflicts, not covered by paragraphs 3.1 to 3.16 above, a person with such an interest must not take part in any relevant discussion unless the Members present decide unanimously that the interest can be disregarded. Decisions on participation must be in favour of the most severe exclusion suggested by a Member.

## 4. External communications

### General principle

- 4.1 The conduct of Members when performing duties in a personal capacity or for other organisations can have a bearing on Ofcom's reputation for independent and impartial evidenced-based decision making.
- 4.2 The points set out below are designed to ensure that Members' outside interests do not conflict with the advice they give to Ofcom.

### Relationship with Government

- 4.3 The main point of contact between Ofcom and the UK Government, Scottish Government Welsh Government or Northern Ireland Executive on day-to-day matters will normally be the Chief Executive or other members of staff who are authorised to act on behalf of Ofcom. Members must give their advice independently from the UK Government and the devolved Governments in Scotland, Wales and Northern Ireland.

### Public speaking or appearances on television, radio, online, in print

#### On behalf of Ofcom

- 4.4 Members must not speak on Ofcom's behalf at any stakeholder, industry events or in public. Particular care should be taken about any invitation to speak publicly, including speaking to journalists, in their capacity as a Member of the Advisory Committee. While the Advisory Committees are separate from Ofcom and their Members do not take decisions for Ofcom, that distinction may not always be readily understood by wider stakeholders and Members should be conscious of that in any public speaking they undertake.
- 4.5 In any such instance, Members should in the first instance consult the Chair of the Advisory Committee and relevant Nations Director, who will in turn speak to Ofcom's Corporation Secretary or the Communications Director as appropriate. If consent is given, Members should not express views that might give rise to the perception of political bias or partisanship of any other kind.
- 4.6 Members should also avoid publicly stating personal opinions on matters where Ofcom policy is under consideration (bearing in mind that Members may well have been offering advice – and privy to information – as part of the policy development process) which they have obtained as a result of their position with Ofcom. Members should not state personal opinions where Ofcom's reputation may be harmed.

## **In a personal capacity on matters unrelated to the Advisory Committee/Ofcom**

- 4.7 Members are not restricted outright from access to the media in their personal non-Advisory Committee capacity, or in pursuit of a professional interest, for example as performers, experts, critics, or commentators. Appearances on television or radio, the production of television or radio programmes and the writing of online, newspaper or magazine columns/blogs or contributions to social media (e.g. Twitter, Facebook, LinkedIn and Google etc) (together the 'permitted activities') by Members are not prohibited outright.
- 4.8 Personal views may be expressed so long as it is made clear that the Member is speaking or writing in a purely personal capacity and stating his or her own private opinion on matters outside the Advisory Committee's range of responsibilities or matters of public, political and industrial controversy that relate to them.
- 4.9 Members should, however, undertake them with care. For example, comments which might have an adverse impact on the Advisory Committee's/Ofcom's reputation (noting that all comments or posts on social media should be considered to be in the public domain) and comments on Ofcom policy should be avoided. Caution is necessary in respect of matters of political, industrial or public controversy which could be thought to compromise the Advisory Committee's reputation for offering impartial or objective advice. For example, a Member, appearing in another capacity, may express a personal opinion on a matter unrelated to the Advisory Committee/Ofcom. However, lobbying or frequent expressions of opinion on matters of public controversy which might be thought to influence the Advisory Committee's judgments would be incompatible with membership.
- 4.10 In support of the above, Members will be invited to draw to the attention of the Advisory Committee Chair and the Nations Director (who will liaise with Ofcom's Corporation Secretary and the Communications Director, as appropriate) on any proposed online, newspaper or magazine article - or appearance on, or production of, television or radio programming. This will allow for a discussion about how such engagement might be sensibly managed.

## **Attending conferences**

- 4.11 Members are free to attend industry or stakeholder events in a personal capacity but should have regard to the provisions of this code on speaking publicly in relation to any comments they make at events.

## **Dealing with stakeholders during purdah periods**

- 4.12 Members should avoid visiting and/or socialising with stakeholders during 'purdah' periods – that is, where a significant decision involving or affecting that stakeholder is imminent.

## 5. Other matters

### Conduct and the seven principles of public life

5.1 It is essential that both individual Members and Ofcom maintain a reputation for impartiality, integrity and high professional standards. There should never be any legitimate reasons for external observers to question that our advice or decisions might be influenced by the private interests, or political interests or opinions, of Members, or that Members might be able to profit from information available to them through their work.

5.2 The [7 principles of public life](#) apply to anyone who works as a public office-holder. This includes people who are elected or appointed to public office, nationally and locally, and all people appointed to work in:

- the civil service
- local government
- the police
- the courts and probation services
- non-departmental public bodies
- health, education, social and care services

The principles also apply to all those in other sectors that deliver public services. They were first set out by Lord Nolan in 1995 and they are included in the [Ministerial code](#).

For further information on the 7 principles and the work of the Committee on Standards in Public Life, visit the Committee's [website](#) and [blogsite](#).

5.3 Members must ensure that their conduct accords with the [7 principles of public life](#) annexed to this Code.

### Political activities

5.4 To comply with Ofcom's status as an independent regulator, it is inappropriate for any Member to engage in active politics. This includes holding, or being a candidate for, political office at a national, regional or local level, active political campaigning in support of a candidate/political party and making a donation or donations to a candidate/political party in a calendar year in excess of £7,500. Working full time for any Central Government department or as an official in the civil service (including in the devolved nations) or for local government is also not acceptable.

5.5 Members are asked in case of doubt to consult the Chair of the Advisory Committee and the Corporation Secretary.

### Criminal and civil liability

5.6 Although any legal proceedings initiated by a third party are likely to be brought against Ofcom as a corporate entity, in exceptional cases proceedings (civil or, in certain cases, criminal) may be brought against the Chair or other individual Members. For example, a

Member may be personally liable if he or she makes a fraudulent or negligent statement which results in loss to a third party. A Member may also be liable for breach of confidence under common law or under insider dealing legislation if he or she misuses information gained by virtue of his or her position.

- 5.7 However, individual Members who act honestly, reasonably and in good faith and without negligence will not have to meet any personal civil liability which is incurred in execution or purported execution of their Ofcom duties. Ofcom will indemnify Members against claims in these circumstances.

## Expenses

- 5.8 Travel and other expenses are only recoverable if the expenditure is reasonably and necessarily incurred on behalf of the Advisory Committee in accordance with Ofcom's Expenses Policy. First-class travel is generally not possible and will only be accommodated in exceptional circumstances. All expense claims must be made on the appropriate Ofcom claim form and must be submitted within 45 days of the date of the expenditure. Expenses submitted after this time period are unlikely to be paid.

## Gifts and hospitality

### Gifts

- 5.9 It is Ofcom policy not to accept, provide or receive gifts either from an individual or an organisation. If an individual or organisation insists on making a gift to a Member in their capacity as a Member, and its value is greater than £10, it should be donated to a charity of Ofcom's choice. Gifts of less than £10 in value may be accepted.
- 5.10 All gifts with a retail value of more than £10 must be declared and recorded on the Gifts and Hospitality Register.

### Hospitality

- 5.11 The problems and advantages associated with the acceptance of hospitality vary widely across the industries subject to regulation by Ofcom.
- 5.12 Members should pay careful attention to the advice set out in the following paragraph in determining whether or not to accept offers of hospitality. There should be a presumption against accepting offers of hospitality from those organisations that Ofcom regulates. The burden falls to the Member to explain why an offer of hospitality should be accepted.
- 5.13 Members should consider the following broad guidelines which may be of help in assessing the relative merits of accepting an invitation:
- a) **Category 1:** Event-based hospitality that presents networking opportunities with Ofcom's stakeholders, and which might therefore inform or promote the work of Ofcom, may be acceptable. An example would be attendance at an industry awards dinner.

- b) **Category 2:** Work-related hospitality from a single stakeholder or licensee is acceptable where it can clearly be seen to be of value to Ofcom's work and to the wider industry in question. A working lunch may be an example.
- c) **Category 3:** Hospitality that benefits the recipient personally should be politely declined if it is difficult to justify the benefit to Ofcom, or if there is a risk of perceived bias or malign comment. An example would include invitations by Ofcom stakeholders to cultural or sporting events, such as the offer of tickets to the BBC Proms, or to the FA Cup final, or to a concert at the O2 Arena.

## Register of gifts and hospitality

- 5.14 Ofcom will keep a publicly-available register of gifts and hospitality in which, for purposes of accountability and consistency, all relevant hospitality received or given by committee members should be logged.
- 5.15 This register is published on the Ofcom website. Members are required to inform the Secretary to the Corporation of all hospitality and gifts given or received.
- 5.16 The Secretary to the Corporation is able to give Members advice on relevant offers of gifts and hospitality. Those that are accepted by Members should be drawn to the attention of the Corporation Secretary, who will keep the Register of Gifts and Hospitality regularly updated. This process is not intended as a censoring mechanism but, first, to ensure an appropriate level of Ofcom representation at events or functions, and, secondly, to ensure that there can be no suggestion of actual or apparent bias towards any particular stakeholder.

## Data protection

- 5.17 For the purposes of complying with Data Protection legislation, Members give their consent for all purposes to the holding, processing and accessing of personal data about them held by Ofcom. In the case of the Advisory Committee Members, this will be shared with officials in the DCMS/devolved governments.

## Exit restrictions

- 5.18 On termination of office, Members must return to Ofcom all property (including, but not limited to, documents and software, credit cards, computer equipment, keys and security passes) belonging to it.

# Annex

## The Seven Principles of Public Life

### 1. Selflessness

Holders of public office should act solely in terms of the public interest.

### 2. Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### 3. Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### 4. Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### 5. Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### 6. Honesty

Holders of public office should be truthful.

### 7. Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.