

Practice Name:
**Guidance on
Identifying, Managing
and Monitoring
Conflicts of Interest
within ERDF and ESF**

Practice category:

- Guidance and template models



Contact:

- Ministry of Housing, Communities & Local Government, Department for Work and Pensions, and Department for Business, Energy & Industrial Strategy
- [Website](#)
- [Email](#)
- [Email](#)

Country:

United Kingdom

Fraud risk(s) countered

- Conflict of interest

Context and objective(s)

In the context of ERDF/ESF, conflicts of interest can arise in a number of situations. Failure to properly identify, manage and monitor a conflict of interest can compromise the decision-making process and lead to reputational damage and, in some cases, the application of a financial sanction.

The topic of conflicts of interests was identified in audits and the Ministry of Housing, Communities & Local Government therefore established in 2016 external guidance for ESIF committees, Intermediate Bodies and grant recipients complementing already existing practises for managing conflicts of interest.

This guidance is primarily concerned with:

- a) decisions on the allocation of funding by the Managing Authority and Intermediate Bodies, and
- b) procurement by all grant recipients including non-contracting authorities.

It includes a definition and examples for conflicts of interest, contact details for reporting alleged conflicts of interest and a Model declaration for conflicts of interest which can be used by authorities.

It is the responsibility of members of the ESIF Committees, Intermediate Bodies and grant recipients to ensure they comply with the requirements set out in the guidance and any obligations under EU or domestic legislation. The guidance is covered in regular training and awareness-raising sessions, discussed during fraud risk assessments and its application is the subject of audits.

Description of the practice

The guidance was developed by the Ministry of Housing, Communities & Local Government in cooperation with the network of dedicated Counter Fraud Officers across the country (Counter Fraud Leads Network). The network includes Counter Fraud Designated Officers for each Growth Delivery team. In addition, auditors and investigators within the government were consulted as well as the National Audit Office.

This collaborative approach identified a wide range of areas and levels where conflicts of interest might appear and the elaboration of concrete and practical guidance. The inclusion of different interlocutors also ensured the buy-in from the people who eventually implemented the specifications.

The guidance was communicated through the gov.uk website and external communications bulletins. The management of conflicts of interest is also regularly featured in internal bulletins.

Conflicts of interest are covered in annual training for civil servants on fraud prevention and since its creation, the guidance is mentioned in these training sessions. The topic is also covered during regular fraud risk assessments.

Reporting mechanisms were also created in 2016. Any concerns around fraud or misconduct in relation to expenditure under the ERDF must be reported in line with the ERDF and ESF Counter Fraud Strategy.

The guidance is reviewed annually to include any lessons learnt from its implementation. In addition, updates are made:

- as a result of audits, verification actions or recommendations,
- through any issues picked up by the Counter Fraud Leads Network,
- conflicts raised at ESIF Committees.

General content of the guidance

Following the definition of the National Audit Office, the guidance defines a conflict of interest as a “set of circumstances that creates a risk that an individual’s ability to apply judgement or act in one role is, or could be, impaired or influenced by a secondary interest.”

Conflicts of interest are not necessarily criminal offences. As the definition highlights, a conflict can arise even if the individual doesn’t actually benefit from the conflict. It is sufficient that an individual’s ability to decide may be at risk of being impaired or influenced by a secondary interest.

Secondary interests might include direct or indirect financial interests; non-financial or personal interests (such as gifts or hospitality) and competing loyalties between an organisation the decision-maker owes a duty to, and some other person or entity.

Financial actors and other persons involved in budget implementation and management, audit or control are not to take any action which may bring their own interests into conflict with those of the European Union.

In the context of the ESIF, conflicts of interest can arise when an individual or organisation:

- provides recommendations on funding decisions while also working, or consulting, for grant recipients (this concerns **ESIF Committees**);
- is responsible for making funding decisions while also being a grant recipient or for monitoring compliance by grant recipients to which they may be linked (this concerns **Intermediate Bodies**); and
- is responsible for awarding contracts to organisations to which they may be linked (this concerns procurement by **grant recipients**).

The guidance lists examples for conflicts of interest for better understanding.

Guidance for ESIF committees

The Chair and Secretariat must ensure members are aware of their obligations relating to conflicts of interest and take appropriate action in the case of any breaches of those obligations.

Members are required to complete a register of relevant interests at least once in every 12-month period (including pecuniary and non-pecuniary, personal or other interests, and declaring any gifts or hospitality received in their capacity as members) and any changes in such interests that occur whilst they are members.

Members are also required to declare an interest in any agenda item where an approval, view or opinion is required and may cause a direct material impact, financial or otherwise, negatively or positively, either personally or to the organisation or institution they are representing or where such approval, view or opinion may be regarded as tainted by the participation of that member.

It will be a matter for the Chair to decide if the member can attend and/or contribute to the discussion, notwithstanding, members themselves may also choose to be absent for the duration of that discussion.

Conflicts of interest should be recorded in the minutes by the Chair. Where there are no interests declared, the minutes shall also record this.

Guidance for Intermediate bodies

A Memorandum of Understanding (MoU) must be signed by each Managing Authority (MA) and IB which will delegate the functions and tasks specified therein. An IB team will be in place to administrate tasks and functions delegated by the MAs.

A statement of 'Management and Control Arrangements for Conflicts of Interest' should be prepared by each IB and this will form part of the MoU documentation. This statement should set out the specific arrangements for handling conflicts of interest and must be approved by each MA, who will consult each other to ensure that there is a single view on the proposals.

In addition, the corporate governance of the IB team should be described. The governance must be designed in such a way to ensure a separation of functions, e.g. between the IB team and teams funded by ESIF, applicants and parts of the Authority with an interest in the scope and activities within the call.

Where risks are identified, clear and effective mitigation arrangements should be set out.

Guidance for grant recipients

Grant recipients must ensure that all stages of a procurement process undertaken (preparation, implementation or closure) are free from conflicts of interest. A form of declaration must be signed by the project manager at the start of the procurement process and retained on file for audit purposes. This states that there are no known conflicts.

Where, following the completion of such a declaration, a person declares any conflict of interest or if there are any doubts about their impartiality, grant recipients shall ensure this person no longer participates in the procurement exercise. If, due to exceptional circumstances, it is not possible to exclude this person, grant recipients should ensure the decision taken is fully transparent.

Grant recipients should ensure that procurement processes are continually reviewed to capture any change in conflicts of interest over time. They must conduct additional checks where they received any information about a potential conflict of interest from outsiders with no connection to the procurement exercise.

If a conflict of interest has already compromised the decision-making process, grant recipients should cancel and re-run the procurement exercise.

To increase staff awareness, grant recipients are also urged to maintain continuous training on the identification, managements and monitoring of conflicts of interest.

Unique features

- Provision of concrete examples to understand conflicts of interest
- Clear process description to manage conflicts of interest considering the specific organisation of the different target groups
- Templates for a declaration for conflicts of interest and a conflict of interest register
- Reporting mechanism (inboxes) for reporting conflicts of interest
- Implementation of the guidance is part of audits.

Outcomes and results

Given that the guidance is an external guidance for ESIF Committees, Intermediate Bodies and grant recipients, the Ministry of Housing, Communities & Local Government do not have any statistics about its implementation, or the conflicts of interests detected.

Where a conflict of interest is identified in recommendations by ESIF Committees or decision making by Intermediate Bodies and is not properly managed and monitored, this constitutes a breach of Article 57 of the Financial Regulation and is likely to result in a financial sanction being applied to the Managing Authority.

The decision in question may also be challenged in domestic courts.

Where a conflict of interest is identified in public procurement and is not properly managed and monitored this could lead to the possible application of a financial sanction to grant recipients.

Financial sanctions were rarely applied. The reporting mechanisms (inboxes) also received a limited number of allegations about conflicts of interest which were consequently managed.

Key success factors

- Consultation of various departments and practitioners for the elaboration of the guidance
- Inclusion of the topic of conflicts of interest in regular training, communication (internal and external bulletins) and fraud risk assessments
- Discussion of conflicts of interest as a standard agenda item in meetings, e.g. of ESIF committees
- Use of Counter Fraud Leads Network with Counter Fraud Designated Officers who present any issues /queries for their respective team in the network and communicate any key issues and best practice.

Challenges encountered & lessons learned

- Silo approach to develop a guidance is not purposeful, instead consultation of different parties is key to have buy-in
- Effective management of conflicts of interest needs to be included in training, communication and regular meetings.

Potential for the transferability

The general content of the guidance is easily transferrable to other countries. However, the processes of authorities and bodies that take decisions in relation to ESIF need to be analysed for each country in order to identify all levels where conflicts of interest can arise and address them appropriately in the guidance.

The effective implementation will require an analysis of how the management of conflict of interests can be included in mandatory training and procedures in order to promote a cultural change.

Depending on the management of ESIF, countries could also implement a mandatory policy instead of an external guidance and have central conflict of interest registers.