

Conflict of Interest Policy

1. Introduction

It is a requirement that apprenticeship providers and Approved Centres identify, manage and mitigate conflicts of interest to protect the development, delivery of apprenticeships and qualifications.

This policy provides guidance to PMG and staff members, individuals and stakeholders on how Xact as an apprenticeship provider and an Approved Centre, complies with DoE, Ofsted and Ofqual requirements to identify, manage and mitigate actual, perceived or potential conflicts of interest.

This includes actual, perceived or potential conflicts of interest in relation to:

- a) Apprenticeship provision, *and*
- b) Approved Centre activities, *and*
- c) Staff, *and*
- d) Individuals and Stakeholders

Appropriate action will be taken via Discipline Policy (employees) or a review of contractual arrangement (contractor, sole trader or stakeholder) if it is found that a conflict:

- i) has not been declared, *or*
- ii) has not been appropriately reviewed, *or*
- iii) results in corrupt, criminal or otherwise undesired conduct

These cases could result in a termination of employment or contractual arrangements.

Please note that it is recognised that a conflict of interest is sometimes unavoidable and therefore PMG members, staff, individuals or stakeholders will not be adversely treated for declaring a conflict of interest.

See Conflict of Interest Procedure on how this policy is implemented.

2. Definitions

2.1 Conflict of Interest definitions

Conflict of interest: A situation in which an individual or organisation has competing interests or loyalties that may adversely affect a judgement, or influence the objectivity of decisions, if not properly managed.

Actual conflict of interest: A situation where it has been found that an individual or organisation has competing interests or loyalties that adversely affects Xact's ability to; meet its obligations set out by the Regulator, maintain its professional standards and protect the integrity of its business in the development, delivery and provision of qualifications.

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Perceived conflict of interest: A situation in which it could be reasonably thought by another party, that an individual's or organisation's conflict of interest may adversely affect a judgement or the objectivity of decision, whether or not this is the actual fact.

Potential conflict of interest: A situation that could develop into an actual or perceived conflict of interest.

Personal interest: Where an individual has an interest that may or actually bring personal benefit, directly or indirectly, to them or another individual that they may want to benefit. This may be private, professional or business and can include financial and non-financial benefit.

Relationship: A person or organisation connected with an individual on a personal or professional basis. Including but not limited to: relative, friend, companion, work colleague, acquaintance, or has an educational, contractual, professional, financial or business connection.

Financial interest: Anything of monetary value including, but not limited to; pay, commission, fees, property and intellectual property rights.

Non-financial interest: Any non-financial benefit or advantage, including, but not limited to enhancement of an individual's employment, education, apprenticeship, career, profession, reputation.

Privileged: Private, restricted, confidential information, resources, facilities etc.

Responsible Officer: Ofsted or Ofqual point of contact concerning compliance matters e.g. apprenticeship provision, standards, conditions of recognition, public confidence, accessibility etc.

2.2 Other definitions

Approved Centre: Centre approved and regulated by an Awarding Organisation to provide qualifications.

Individual: Those receiving our services e.g. apprenticeship provision, courses, assessment, RPL, mentoring, learning support, qualifications, CPD activities etc.

Ofqual: The Office of Qualifications and Examinations Regulation (Ofqual) regulates qualifications, examinations and assessments in England. Ofqual is a non-ministerial department.

Ofsted: The Office for Standards in Education, Children's Services and Skills is a non-ministerial department of the UK government. Responsible for inspecting a range of educational institutions, including state schools and some independent schools, in England

PMG: Performance Management Group consisting of Directors and an Independent Governance Advisor

Staff: Employee, work colleague, contractor, sole trader e.g. manager, tutor, assessor, mentor, internal quality assurer, end point assessor etc.

Stakeholders: Apprentice, apprentice employer, training provider, Xact Assessment, customer, supplier, business support services and those with whom we associate.

Xact: Xact Consultancy and Training Limited.

3. Policy Aim

- a) Maintain professional standards and protect integrity of Xact, individuals and stakeholders
- b) Development, delivery and provide apprenticeships, courses, CPD activities and qualifications

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- c) Minimise risk of any conflicts of interest arising and potential impact it may have on operational effectiveness, or regulatory compliance
- d) Ensure that all conflicts of interest are disclosed immediately and responded to promptly and objectively to mitigate any adverse effects
- e) Ensure that all conflicts of interest that are disclosed are reviewed fairly and objectively
- f) Ensure that all reasonable steps are taken to mitigate any adverse effects and, as far as possible, take action to correct the adverse effect
- g) Standardise the recording, monitoring and management of conflicts of interest

4. Scope

This policy applies to all PMG and staff members, individuals and stakeholders e.g. those involved in all aspects of apprenticeships, training, courses, CPD, assessment, internal quality assurance including; developing, devising, administering, delivery, mentoring, assessing, providing, managing, recruiting, procuring, tendering, support services, business activities any other areas where a conflict of interest may occur.

5. Responsibilities

- a) **Directors** have overall responsibility for ensuring that this policy is implemented
 - b) **PMG** are responsible for:
 - i) reviewing governance, conflicts of interest and performance of Xact
 - ii) ensuring compliance with this policy and that any actual, potential or perceived conflicts of interest are managed appropriately
 - c) **PMG and Managers** have responsibility for ensuring that any development or change to a policy, procedure or process does not result in any corporate conflict of interest
 - d) **Operations Director**¹ responsibilities include:
 - i) Operational responsibility for mitigating and managing any conflicts of interest that may adversely affect Xact activities
 - ii) Ensuring the Awarding Organisation, Department of Education are notified as appropriate where a conflict-of-interest results in an adverse effect e.g. failure in assessment, internal quality assurance processes, malpractice, maladministration etc. Also see 7.1.
 - iii) Ensuring members of staff, individuals or stakeholders are notified as appropriate
- Note**¹: Or an Independent Governance Advisor, if Operations Director is involved in Conflict of Interest
- e) **PMG, Managers and Supervisors** are responsible for mitigating and managing any conflicts of interest in their areas of responsibility. They must also ensure that staff are aware

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of the Conflict-of-Interest Policy and Procedure during induction and that an annual declaration is completed.

- f) **Head of Centre** responsibilities include; ensuring the Awarding Organisation is notified where a conflict of interest results in an adverse effect e.g. failure in assessment processes, malpractice, maladministration etc. Also see 7.1.
- g) **Apprenticeship Manager** responsibilities include:
 - i) Role of Ofqual Responsible Officer
 - ii) Operational responsibility for mitigating and managing any conflicts of interest that may adversely affect the development, delivery and provision of apprenticeships
 - iii) Notifying Ofsted, Ofqual where a conflict of interest results in an adverse effect e.g. failure in provision, assessment, internal quality assurance, malpractice, maladministration etc. Also see 7.1.
- h) **Centre Manager** responsibilities include:
 - i) Operational responsibility for mitigating and managing any conflicts of interest that may adversely affect the development, delivery and provision of qualifications
 - ii) Notifying Head of Centre where a conflict-of-interest results in an adverse effect e.g. failure in provision, assessment, internal quality assurance, malpractice, maladministration etc. Also see 7.1.
- i) **PMG and staff members** must:
 - i) familiarise themselves with Xact's Conflict of Interest Policy and Procedure
 - ii) declare any conflicts of interest on appointment, and thereafter
 - iii) make an annual conflict of interest declaration
- j) **Individuals and Stakeholders** who enter into contracts with Xact must:
 - i) familiarise themselves with Xact's Conflict of Interest Policy and Procedure
 - ii) declare any conflicts of interest on appointment, *and*
 - iii) thereafter, declare any changes to circumstances that may result in, or could be perceived to have, a conflict

6. Identifying Conflicts of Interest

Conflicts of interest can arise in a variety of circumstances and it is not possible to detail every potential conflict of interest within this policy. Potential examples are detailed in the Appendices at the end of this policy.

All conflicts of interest should be identified, including those deemed to be potential, perceived or alleged.

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6.1 Conflicts: PMG member

Any PMG member must be free from conflicts of interest that could adversely influence their judgement, objectivity or loyalty to Xact and its business activities.

Therefore, PMG members are required to disclose¹ to the Operations Director² any activity that may be, or actually is, deemed to be a conflict of interest.

Board members are also required to immediately inform¹ the Operations Director² of any changes to circumstances that may result in, or could be perceived to have, a conflict. An annual declaration is also required.

Note¹: Or an Independent Governance Advisor, if Operations Director is involved in Conflict of Interest

Note²: Should the Operations Director have any conflicts of interest, they must be disclosed to an Independent Governance Advisor

Where a potential or actual conflict of interest is found, Xact will take the necessary steps to mitigate the conflict.

6.2 Conflicts: Organisational

Xact will take reasonable steps to ensure that policies, procedures and processes are designed to mitigate conflicts of interest. We also carefully design roles and responsibilities to mitigate conflict.

Our contractual arrangements with PMG and staff members, clearly define our expectations and the obligations regarding conflict of interest.

In our working relationships with individuals and stakeholders, we ensure that we are transparent in our decision making and declare any conflicts, actual or perceived, in our interactions with them.

This approach has to be balanced with the need to maintain financial stability, meeting Xact's Strategy, Vision, Mission and Value statement to ensure compliance with Regulatory requirements.

Where organisational conflicts occur, PMG members and managers ensure that they are recorded, including details of decisions about the actions taken to resolve or mitigate such conflicts, following Conflict of Interest Procedure.

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Whilst it remains responsibility of PMG members, staff members, individuals and stakeholders to identify and disclose conflicts of interest, there may be occasions where conflicts of interest are identified as a result of other business activities e.g.

- a) Complaints, Discipline and Grievance activities
- b) Appeals, Reasonable Adjustment and Special Conditions Policy applications
- c) Tenders and contracts
- d) Information provided from PMG members, staff members, individuals stakeholders, whistleblowers or other sources

6.3 Guidance and Support

If there are any doubts about whether an activity or personal interest represents a conflict of interest, then guidance should be sought from the Operations Director or Independent Governance Advisor.

7. Record Keeping and Monitoring

The conflict of interest register is kept in accordance with Xact's Data Management Policy.

The register records the nature of the conflict, the mitigating actions to be taken, and timescales for these actions.

The effectiveness of this policy and procedure; including declaration of interest log, is monitored and reviewed by Performance Management Group.

The conflict of interest reviewer is responsible for ensuring that any findings that may affect the integrity of a future apprenticeships, qualification, assessment, internal quality assurance are mitigated as soon as possible and take the following action:

- a) identify all activities, staff, individuals or stakeholders who may have been affected
- b) correct, or mitigate as far as possible, the effect of the conflict, *and*
- c) take action to ensure that this issue does not occur again

7.1 Previous Unidentified Conflicts of Interest

Where a previously unidentified conflict of interest finds that the conflict caused an adverse effect e.g. failure in assessment processes, malpractice or maladministration, the following occurs:

- a) Business activities: Operations Director will notify PMG
- b) Apprenticeships: Apprenticeship Manager will notify PMG, Department of Education, EPA organisation as appropriate. Also see 5
- c) Qualifications: Centre Manager will notify PMG, Awarding Organisation as appropriate. See 5.

8. Related Policies

Policies related to Conflict of Interest Policy include:

- a) Discipline Policy
- b) Equality, Diversity and Inclusion Policy
- c) Complaints Policy
- d) Customer Care Policy
- e) Data Management Policy
- f) Recruitment Policy
- g) Anti-Bribery and Anti-Collusion Policy
- h) Gifts and Hospitality Policy
- i) Employee References Policy
- j) Submission Policy
- k) Assessment Policy
- l) Appeals Policy
- m) Malpractice Policy
- n) Mentoring Policy
- o) Invigilation Policy
- p) Whistleblowing Policy
- q) Reasonable Adjustment and Special Conditions Policy

Note: This list is not exhaustive

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Appendix A: Potential, actual, perceived or alleged conflict of interest examples

Conflicts of interest can arise in a variety of circumstances. They can relate to the individual, or the organisation.

A personal conflict of interest could be as a result of a personal or professional relationship.

An organisational conflict could be where a policy or process requires a manager to make a judgement but a risk that it may not be objective exists owing to their previous involvement.

It is important to remember that situations may arise in which the appearance of a conflict is present, even though no conflict actually exists. It is important that these situations are considered and recorded, due to risk of perception among others that a conflict exists.

It is not possible to detail every conflict of interest situation within this appendix but some potential examples are detailed in the following appendix.

Appendix A1: Conflicts of Interest¹: Personal

Example conflicts: Member of staff:

- a) has a personal relationship with an individual being assessed, internally quality assured, moderated, end point assessed or an individuals' employer
- b) has had or has a professional relationship with an apprentices' end point assessor
- c) has had or has a professional relationship with an individual
- d) involved with recruitment, selection, hiring, promotion of a member of staff with whom they have a relationship
- e) has a position of authority in another organisation (paid or unpaid), or has secondary employment, which conflicts with interests of their role with Xact
- f) makes, or is alleged to have made, a public comment, media statement, endorsement or releases information to third parties, which is perceived to be a conflict of interest
- g) uses Xact's resources or privileged information for personal financial or non-financial benefit, or to benefit a person with whom they have a relationship
- h) uses their position to influence with an organisation or individual with whom they have a relationship or vested interest:
 - financial or operational contract, *or*
 - business arrangement, *or*
 - favourable terms
- i) accepts gifts or hospitality in contravention of the Gifts and Hospitality Policy
- j) obtains a financial or non-financial benefit for themselves or an individual with whom they have a relationship in return for providing an advantage or potential advantage
- k) conducts activities outside Xact, which adversely affects their ability to perform their duties

Note¹: Each conflict of interest is recorded in conflict of interest log and appropriately investigated

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Appendix A2: Conflicts of Interest¹: Organisational

Example conflict

- a) Member of staff investigating a complaint or appeal in which they were involved
- b) Internal quality assurer reviewing evidence they assessed
- c) Member of staff passing on information about an individual's performance to an assessor, moderator or internal quality assurer e.g. information has potential for adverse judgement to be made by assessor, moderator or internal verifier
- d) Member of staff involved in apprenticeship training passing on information about an individual's performance to those involved in end point assessment e.g. information has potential for adverse judgement to be made by an end point assessor
- e) Member of staff involved in apprenticeship provision also involved in end point assessment
- f) Member of staff has a relationship with an organisation in which Xact is responding to a tender specification for that organisation

Note¹: Each conflict of interest is recorded in conflict of interest log and appropriately investigated