**Procurement Services**

**Conflict of Interest Declaration Form PA23**

The Procurement Act 2023, requests that conflicts of interest or perceived conflicts of interest are assessed throughout the sourcing cycle. More information on carrying out conflicts of interest are set out in the [Procurement Code](https://enfield365.sharepoint.com/sites/intranetprocurement/Shared%20Documents/Procurement%20Policy%20&%20Guidance/Procurement%20Manual.pdf). The Cabinet Office has provided guidance on [conflicts of interest](https://www.gov.uk/government/publications/procurement-act-2023-guidance-documents-define-phase/guidance-conflicts-of-interest-html) under the Procurement Act 2023.

[Sections 81 to 83](https://www.legislation.gov.uk/ukpga/2023/54/part/5/enacted) of the Procurement Act 2023 apply to any situation where ‘*a person acting for or on behalf of the contracting authority in relation to the procurement*’ has a direct or indirect personal, professional or financial interest which might be perceived to create a conflict. A person acting ‘in relation to the procurement’ is defined as a person who influences a decision made by the Council in relation to a procurement/contracting activity, such as:

1. the senior responsible officer, the budget holder, the commercial director, members of the management board, commercial staff, people who will assess tenders, external experts, private sector secondees and consultants, non-executive board members, special advisers, private office employees and, Members.

A full list of what might constitute a conflict of interest is listed in the [Procurement Code](https://enfield365.sharepoint.com/sites/intranetprocurement/Shared%20Documents/Procurement%20Policy%20&%20Guidance/Procurement%20Manual.pdf). This conflict-of-interest assessment must be completed at the procurement planning stage and as a minimum reviewed before the publication of a Tender Notice; a Transparency Notice; a Dynamic Market Notice in relation to the establishment of a dynamic market; a Contract Details Notice relating to a public contract, or a Contract Change Notice.

The [conflicts assessment guidance publication](https://www.gov.uk/government/publications/procurement-act-2023-guidance-documents-define-phase/guidance-conflicts-of-interest-html) includes the following suggestions to mitigate conflict:

* + reassigning individuals with a conflict or potential conflict of interest away from situations where they can influence decisions.
  + providing for more than one person to assess tenders and carrying out and recording moderation meetings.
  + cancelling and re-running the procurement.
  + including an independent observer in the procurement team.
  + ensuring that management with appropriate oversight is aware of the conflict of interest and that they review and sign-off outputs from the individual.
  + monitoring the situation and having checkpoints to review whether it has led to an unfair advantage or disadvantage for a supplier; or
  + sharing procurement and process information with all relevant suppliers in a timely manner and at the same time.

Note: It is mandatory to **exclude** a supplier from the procurement where a conflict of interest puts the supplier at an unfair advantage that cannot be mitigated, or the supplier refuses to take any necessary steps. Regulation 57(8)(e) of the PCR 2015 included a discretionary exclusion ground.

|  |  |
| --- | --- |
| Project Title: |  |
| Procurement Project / Contract Reference Number: |  |
| Name: |  |
| Department: |  |
| Position/ Job Title: |  |
| Role in the Contracting Activity Process: |  |
| Date of assessment/review: |  |
| Stage in the Contracting Activity cycle: |  |
| Notification to be published: |  |
| Project CDP Unique Identifier: |  |

# PART ONE

## Statements

1. I acknowledge that my official duties require me to have access to documents or data relating to the above procurement, and that in carrying out my duties I may be in a position to influence the procurement process.
2. I understand that I am under a duty to disclose details of any conflicts of interest, whether actual, potential or perceived, and that I may be required to take steps to mitigate such conflicts.
3. I understand that the details of any conflict of interest I may have (whether actual, potential or perceived, and any steps taken to mitigate this conflict) may[[1]](#footnote-2) be recorded within a conflicts assessment and that my interests will be kept under review (as required). I also understand that the conflicts assessment may be disclosed to a third party in the event that any investigations and/or proceedings are brought against the Contracting Authority in respect of the above procurement.
4. In carrying out my duties, I am aware that I will have access to confidential documents or data and that unauthorised disclosure of information could damage the integrity of the procurement and that transmission or revelation of such information to unauthorised persons will subject me to disciplinary action.
5. I will not divulge, publish or reveal by word, conduct, or any other means such information or knowledge, except as necessary to do so in the performance of my official duties related to this procurement and in accordance with the laws of the United Kingdom. Otherwise, I will need special authorisation in writing in each and every case by an **“Authorised Individual”**[[2]](#footnote-3) of the Contracting Authority.
6. If at any time during the procurement my participation might result in an actual, potential or perceived conflict of interest, or my circumstances change in respect of an interest already disclosed, I will immediately report the circumstances to the appropriate Authorised Individual.

## Individual declaration (choose from Declaration A or Declaration B)

Please consider any interests relevant to the procurement. An “interest” includes a personal, professional or financial interest and may be direct or indirect.

* An **‘actual conflict of interest’** exists where there is a conflict of interest **now**.
* A **‘potential conflict of interest’** exists where a conflict of interest will arise in **future** if certain circumstances occur.
* A **‘perceived conflict of interest’** exists where there are circumstances which the Contracting Authority considers likely to **cause a reasonable person to wrongly believe there to be a conflict** or **potential conflict of interest**.[[3]](#footnote-4)

|  |  |
| --- | --- |
| **Declaration A (if no conflicts of interest)**  By signing this Form, I declare that:   1. I have read, understand and accept the Statements above; 2. I confirm that there are no conflicts of interest of any nature which are relevant to this procurement; and   if any actual, potential or perceived conflicts of interest arise in the future, I will inform an Authorised Individual immediately. | |
| **Signature:** |  |
| **Date:** |  |

|  |  |
| --- | --- |
| **Declaration B (if actual, potential or perceived conflicts of interest exist)**  By signing this Form, I declare that:   1. I have read, understand and accept the Statements above; 2. I confirm that I have declared any conflicts of interest of any nature relevant to the above procurement in the table below; 3. I will carry out any agreed mitigations as may be set out in Part Two of this Form, in consultation with the Authorised Individual; and,   if any other actual, potential or perceived conflicts of interest arise in the future, or if my circumstances in respect of the interests identified below change, I will inform an Authorised Individual immediately. | |
| **Signature:** |  |
| **Date:** |  |

|  |  |  |
| --- | --- | --- |
|  | **My actual, potential, or perceived conflict(s) of Interest** | **Type of Conflict** |
| 1. |  | Choose an item. |
| 2. |  | Choose an item. |
| 3. |  | Choose an item. |

**PART TWO**

**Conflict of interest Mitigations**

|  |  |  |
| --- | --- | --- |
| **Interest (s)**  **Identified in Part One** | **Supplier(s) impacted** | **Details of Agreed Mitigations (steps taken or will be taken).** |
| 1. |  |  |
| 2. |  |  |
| 3. |  |  |

**Declaration**

Upon discussion with the Individual in respect of the Interests identified in Part One, I consider that:

1. **Mitigations are sufficient** and therefore [INSERT INDIVIDUAL]’s role in the procurement will be [BRIEF DESCRIPTION OF ROLE].

or,

1. **Mitigations are not sufficient** and therefore [INSERT INDIVIDUAL] will not have a role in the procurement.

1. The [Procurement Act 2023 guidance](https://www.gov.uk/government/collections/procurement-act-2023-guidance-documents), on conflicts of interest, outlines when the Council must prepare a conflicts assessment (though the Council may also opt to use a Conflicts Assessment for other procurements). [↑](#footnote-ref-2)
2. An “Authorised Individual” is any person(s) to whom management has been delegated (for example from an accounting officer) to be responsible for managing the disclosure of procurement information and conflicts of interest. For example, this may be a Commercial Officer, Manager or Lead. [↑](#footnote-ref-3)
3. It is the Individual’s responsibility to consider whether there may be any circumstances which the Contracting Authority should be made aware of that may amount to a perceived conflict of interest. [↑](#footnote-ref-4)