

# **Annex 2 - Code of Conduct for members of the COC/COM/COT**

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## **Public service values**

Members of the COC/COM/COT (hereafter referred to as “the Committee”) must at all times:

- observe the highest standards of impartiality, integrity and objectivity in relation to the advice they provide and to the management of their Committee.
- be accountable, through the Chair of the Food Standards Agency and the Chief Medical Officers, to Ministers, Parliament and the public for its activities and for the standard of advice it provides.
- in accordance with Government policy on openness, fully comply with the Freedom of Information Act 2000.

The Ministers of the sponsoring departments are answerable to Parliament for the policies and performance of the Committee, including the policy framework within which it operates.

## **Standards in Public Life**

Members are expected to:

- comply with this Code, and ensure they understand their duties, rights and responsibilities, and that they are familiar with the function and role of their Committee and any relevant statements of Government policy. If necessary members should consider undertaking relevant training to assist them in

carrying out their role.

- not misuse information gained in the course of their public service for personal gain or for political purpose, nor seek to use the opportunity of public service to promote their private interests or those of connected persons, firms, businesses or other organisations.
- not hold any paid or high profile unpaid posts in a political party, and not engage in specific political activities on matters directly affecting the work of the Committee. When engaging in other political activities, Committee members should be conscious of their public role and exercise proper discretion. These restrictions do not apply to MPs (in those cases where MPs are eligible to be appointed), to local councillors, or to Peers in relation to their conduct in the House of Lords.
- follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life [Committee on Standards in Public Life - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

## **Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

## **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

## **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

## **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

## **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

## **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.

## **Leadership**

Holders of public office should promote and support these principles by leadership and example.

These principles apply to all aspects of public life. The Committee has set them out here for the benefit of all who serve the public in any way.

## **Role of Members**

Members have collective responsibility for the operation of their Committee. Members are appointed as individuals to fulfil the role of their respective Committees, not as representatives of their particular profession, employer or interest group and have a duty to act in the public interest. Members are appointed on a personal basis, even when they are members of stakeholder groups and organisations. If a member declares an organisation's view rather than a personal view they should make it clear at the time of declaring that view.

Members must:

- engage fully in collective consideration of the issues, taking account of the full range of relevant factors, including any guidance issued by the Food Standards Agency, Health Protection Agency and the Department of Health.

- undertake on appointment to comply with the Code of Practice for Scientific Advisory Committees.
- not divulge any commercially sensitive information, pre-publication or unpublished research data provided to the Committee.
- agree an annual report.
- ensure that an appropriate response is provided to complaints and other correspondence, if necessary with reference to the sponsor department.
- ensure that the Committee(s) does not exceed its powers or functions.

A member's role on the Committee should not be limited by the expertise or viewpoint she or he was asked to bring to it. Any statement/report belongs to the whole Committee. Members should regard themselves free to question and comment on the information provided or the views expressed by any of the other members, even though the views or information provided do not relate to their own area of expertise.

If members believe the committee's method of working is not rigorous or thorough enough, they have the right to ask that any remaining concerns they have be put on the record. Individual members should inform the Chair (or the Secretariat on his or her behalf) if they are invited to speak in public in their capacity as a Committee member. Communications between members and the Food Standards Agency (FSA) Board, CMOs and/or Ministers will generally be through the Chair except where the Chair has agreed that an individual member should act on its behalf. Nevertheless, any member has the right of access to the FSA Board and/or the CMO on any matter that he or she believes raises important issues relating to his or her duties as a Committee member. In such cases the agreement of the rest of the Committee should normally be sought.

Committee appointments can be terminated early by either party, by giving 3 months' notice, in writing. Should the Committee be disbanded before the end of the period of appointment, appointments will terminate on dissolution.

In the event that a member is found guilty of grave misconduct their appointment will be terminated immediately, in the case of the COT by the Chair of the FSA. The Department of Health has delegated the powers for appointments to the COC and COM to the NHS Appointments Commission and it will terminate appointments in consultation with the PHE/DH.

## **Role of the Chair**

The Chair has particular responsibility for providing effective leadership on the issues above. In addition, the Chair is responsible for:

- ensuring that the Committee meets at appropriate intervals,
- ensuring that the minutes of meetings accurately reflect proceedings and any reports to the FSA Board and/or Ministers accurately record the decisions taken,
- ensuring that where appropriate, the views of individual members have been recorded,
- representing the views of the Committee to the general public,
- ensuring that new members are briefed on appointment (and their training needs considered), and providing an assessment of their performance, on an annual basis or when members are considered for re-appointment to the Committee or for appointment to the board of some other public body,
- providing urgent advice to the FSA and HPA on issues within the remit of the Committee, in liaison with the Secretariat.

## **Role of the Deputy Chair**

The Deputy Chair will assume the role of the Chair as described above if the Chair is not available.

## **Role of the Secretariat**

The primary function of the Secretariat is to facilitate the business of the Committee. This includes supporting the Committee by arranging its meetings, assembling and analysing information, and recording conclusions. An important task is ensuring that proceedings of the Committee are properly documented and recorded. Minutes of all Committee meetings will be taken. These will accurately reflect the proceedings and discussions that take place and will be recorded on a non-attributable basis except where the views of one or more individual members need recording (for example, when declaring an interest).

The Secretariat is also a source of advice and guidance to members on procedures and processes. The Secretariat is drawn from staff of the Food Standards Agency and Public Health England. However, it is the responsibility of the Secretariat to be an impartial and disinterested reporter and at all times to respect the Committee's independent role. The Secretariat is required to guard against introducing bias during the preparation of papers, during meetings, or in the reporting of the Committee's deliberations. Current contact details for each of the Secretariats are shown on the back page of this report.

## **Role of the Assessor**

Meetings of the Committee (and working groups) may be attended by Assessors. The Assessors are nominated by, and drawn from, the Agencies and Departments that sponsor the Committee, receive its advice, or have other relevant policy interests. Assessors are not members of the Committee and do not participate in Committee business in the manner of members.

The role of an Assessor is to keep their parent Department or Agency informed about the Committee's work and act as a conduit for the exchange of information. They do this by:

- advising the Committee on relevant policy developments and the implications of Committee proposals,
- informing the Committee work through the provision of information,
- being informed by the Committee on matters of mutual interest,

- sharing with the Secretariat the responsibility of ensuring that information is not needlessly withheld from the Committee. Assessors should make the Committee aware of the existence of any information that has been withheld from the Committee on the basis that it is exempt from disclosure under Freedom of Information legislation unless that legislation provides a basis for not doing so,
- ensuring that their parent Department or Agency is promptly informed of any matters which may require a response from Government.

## **Role of other Officials, Invited Experts and Contractors**

Officials from Government Departments (not departmental assessors), Regulatory Agencies and Devolved Administrations may be called upon to advise the Committee on relevant developments in order to help the Committee formulate its advice. Invited experts and contractors may also bring particular technical expertise, which may be requested by the Committee on some occasions. In the event of an official, invited expert or contractor not being able to attend written submissions may be sent via the Secretariat.

## **Role of Observers**

Members of the public and other interested parties may attend meetings as observers. However, they should not attempt to participate in Committee discussions. If an interested party wishes to provide information relevant to a topic for consideration by the Committee, they should be submitted in writing to the Secretariat at least seven (7) working days before the meeting. The Secretariat will discuss with the Chair the most appropriate way to present the information to the committee and the Chair's decision will be final.

Observers who have submitted information in advance of the meeting may be invited to provide further explanation or to make brief comments at the discretion of the Chair. Observers and/or organisations must not interfere in the work of the Secretariat or input from invited experts, contractors, officials from Government Departments and Agencies in any way which, in the view of the Chair, constitutes harassment and/or might hinder the work of the Committee. Observers and/or

organisations must allow other observers and other interested parties to attend items free from interference before, during and after a meeting.

Observers and/or organisations are required to respect the work of the Committee. The Committee's discussions represent the development of its view and any comments made in developing the agreed Committee view should not be attributed to individuals. Where a subject will be considered over several meetings, observers are asked to maintain the confidentiality of the discussion until an agreed Committee opinion is finalised. The Committee's conclusions are not finalised until completion of any necessary consultation and publication of a statement or report.

Under no circumstances will Observers be permitted to record Committee proceedings, on the basis that this might inhibit free discussion. The published minutes of the meeting would provide a record of the proceedings.

Failure to observe this code of conduct may lead to exclusion of individual observers and/or organisations from meetings of the Committee.

**All observers and/or organisations are requested to read follow the Committees Openness policy (Annex 3).**

## **Declaration of Members' Interests**

### **Definitions**

In this Code, 'the industry' means:

- Companies, partnerships or individuals who are involved with the production, manufacture, sale or supply of products subject to the following legislation.

General Food Regulations 2004,

The Food Safety Act 1990 (Amendment) Regulations 2004,

The Medicines Acts 1968 and 1971, 1981, 1986 & 2003,

The Food and Environmental Protection Act 1985,

The Consumer Protection Act 1987,

The Cosmetic (Safety) (Amendment) Regulations 2008,

- Trade associations representing companies involved with such products.
- Companies, partnerships or individuals who are directly concerned with research, development or marketing of a product which is being considered by the Committees on Toxicity, Mutagenicity, or Carcinogenicity of Chemicals in Food, Consumer Products and the Environment.
- ‘the Secretariat’ means the Secretariat of the COC, COM and COT.
- ‘the Agency’ means either the Food Standards Agency or the Health Protection Agency.
- references to “member(s)” includes the Chair.

## **Different types of Interest**

The following is intended as a guide to the kinds of interests which should be declared. Where members are uncertain as to whether an interest should be declared, they should seek guidance from the Secretariat or, where it may concern a particular product which is to be considered at a meeting, from the Chair at that meeting.

If members have interests not specified in these notes but which they believe could be regarded as influencing their advice they should declare them.

However, neither the members nor the Secretariat are under any obligation to search out links of which they might reasonably not be aware. This Code suggests that interests of close family members are declared, members have in the past limited such declarations to personal partners, parents, children (minor and adult), brothers, sisters and the personal partners of any of these with the emphasis on disclosure only where the interest may or may be perceived (by a reasonable member of the public) to influence a members’ judgement.

The Secretariat is required to publish an up-to-date register of members’ interests, and these can be found on the relevant Committees website.

## **Personal Interests**

A personal interest involves the member personally. The main examples are:

- Consultancies and/or direct employment: any consultancy, directorship, position in or work for industry which attracts regular or occasional payments in cash or kind.
- Fee-Paid Work: any work commissioned by industry for which the member is paid in cash or kind.
- Shareholdings: any shareholding in or other beneficial interest in shares of industry. This does not include shareholdings through unit trusts or similar arrangements where the member has no influence on financial management.
- Membership or Affiliation: any membership role or affiliation that you or a close family member has to clubs or organisations with an interest or involvement in the work of the Agency.

## **Non-Personal Interests**

A non-personal interest involves payment which benefits the organisation in which the member works but is not received by the member personally. The main examples are:

- Fellowships: the holding of a fellowship endowed by industry.
- Support by Industry: any payment, other support or sponsorship which does not convey any pecuniary or material benefit to a member personally, but which does benefit their position or organisation, e.g.
- A grant for the running of a unit or department for which the member is responsible.

- A grant or fellowship or other payment to sponsor a post or a member of staff or a post graduate research programme for which the member is responsible. This does not include financial assistance for students.
- The commissioning of research or other work by, or advice from, staff who work in a unit for which the member is responsible.

Members are under no obligation to seek out knowledge of work done for, or on behalf of, the industry or other relevant bodies by departments in which they work, if they would not normally expect to be informed.

- Trusteeships: where a member is a trustee of a charity with investments in industry, the Secretariat can agree with the member a general declaration to cover this interest rather than draw up a detailed portfolio.

At meetings members are required to declare relevant interests and to state whether they are personal or non-personal interests and whether they are specific or nonspecific to the matter, product or substance under consideration.

## **Specific Interests**

A member must declare a personal specific interest if they have at any time worked on a matter, product or substance under consideration and have personally received payment for that work, in any form.

A member must declare a non-personal specific interest if they are aware that the organisation in which they work has at any time worked on the matter, product or substance under consideration, but they have not personally received payment for that work, in any form.

## **Non-specific Interests**

A member must declare a personal non-specific interest if they have a current personal interest in a company concerned with a matter, product or substance under consideration, which does not relate specifically to the matter, product or substance under discussion.

A member must declare a non-personal non-specific interest if they are aware that the organisation in which they work is currently receiving payment from the

company concerned which does not relate specifically to the matter, product or substance under discussion.

If a member is aware that a substance, product or matter under consideration is or may become a competitor of a substance, product or matter manufactured, sold or supplied by a company in which the member has a current personal interest, they should declare their interest in the company marketing the rival product, substance or matter.

## **Handling conflicts of interests**

The purpose of these provisions is to avoid any danger of Committee members being influenced, or appearing to be influenced, by their private interests in the exercise of their public duties. All members should declare any personal or business interest which may or may be perceived (by a reasonable member of the public) to, influence their judgement. A guide to the types of interest that should be declared is mentioned above.

## **Declaration of Interests to the Secretariat**

Members are required to inform the Agency in writing prior to appointment of their current personal and non-personal interests, including the principal position(s) held. Members are not required to disclose the amount of any salary, fee, shareholding, grant etc. An interest is current if the member has an on-going financial involvement e.g., if he or she holds shares in industry, has a consultancy contract, or if they or the organisation for which they are responsible is in the process of carrying out work for the industry.

Following appointment members are asked to inform the Secretariat at the time of any change in their personal interests. However, the Secretariat will contact each member on an annual basis to update their declaration of interests. Changes in non-personal interests can be reported annually, and those involving less than £1000 from a particular company in the previous year need not be declared. The register of interests is kept up-to-date and open to the public via the website.

## **Declaration of Interest at Meetings**

Members of the Committee are required to verbally declare any direct interests relating to salaried employment or consultancies, or those of close family members in matters under discussion at each meeting, and if items are taken by correspondence between meetings. The declaration should note whether the

interest is personal or nonpersonal, whether it is specific to the item under discussion, or non-specific and whether it is current or lapsed. Having fully explained the nature of their interest the Chair will, decide whether and to what extent the member should participate in the discussion and determination of the issue, and it should be recorded in the minutes of the meeting.

## **Withdrawal from meetings**

If a declaration of interest has been made and the Committee decides that the member should not participate in the discussion and should withdraw from the meeting (even if held in public) and it should be recorded in the minutes of the meeting. The Chair may first allow them to make a statement on the item under discussion.

## **Personal liability of Committee members**

The Department of Health has a formal statement of indemnity for its advisory committee members, which includes the COC and COM, its guidance is taken from the Cabinet Office “Model Code of Practice for Board Members of Advisory Non-Departmental Public Bodies” and states that “Legal proceedings by a third party against individual board members of advisory bodies are very exceptional. A board member may be personally liable if he or she makes a fraudulent or negligent statement which result in a loss to a third party; or may commit a breach of confidence under common law or criminal offence under insider dealing legislation, if he or she misuses information gained through their position. However, the Government has indicated that individual board members who have acted honestly, reasonably, in good faith and without negligence will not have to meet out of their own personal resources any personal civil liability which is incurred in execution or purported execution of their board functions. Board members who need further advice should consult the sponsor department.”<sup>9</sup> except where the person has acted recklessly.

The FSA has also drawn up a formal statement of indemnity for its advisory committee members.

Indemnity by the Food Standards Agency to Members of the

## **Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment**

The Food Standards Agency hereby undertakes with the members (including the Chair) of the Committee on Toxicity of Chemicals in food, Consumer products and the environment (COT) to indemnify them against all liability in respect of any action or claim which may be brought, or threatened to be brought, against them either individually or collectively by reason of or in connection with the performance of their duties as members, including all costs, charges and expenses which the Members may properly and reasonably suffer or incur in disputing any such action or claim.

The Members shall as soon as practicable notify the Food Standards Agency if any action or claim is brought or threatened to be brought against them in respect of which indemnity may be sought and if an action or claim is brought, the Food Standards Agency shall be entitled to take conduct of the defence, dispute, compromise or appeal of the action or claim and of any incidental negotiations relating to the action or claim.

The Food Standards Agency shall notify the Members as soon as practicable if it intends to so take conduct and the Members shall then provide to the Food Standards Agency such information and assistance as it shall reasonably request, subject to all out of pocket expenses properly and reasonably incurred by them being reasonably reimbursed. The Food Standards Agency shall, to the extent reasonable and practicable, consult with and keep the Members informed as and when reasonably requested by the Members in respect of any action or claim. If the Food Standards Agency does not so take conduct the Members shall keep the Food Standards Agency fully informed of the progress of the action or claim and any consequent legal proceedings and consult with the Food Standards Agency as and when required by the Food Standards Agency concerning the action or claim.

The indemnity shall not extend to any losses, claims, damages, costs, charges, expenses and any other liabilities:

- In respect of which the Members are indemnified by or through any defence organisation or insurers or,
- which may result from bad faith (including dishonesty), wilful default or recklessness on the part of the Members,
- which may result from any of the following circumstances:
  1. any settlement made or compromise effected without the knowledge or consent of the Food Standards Agency on behalf of the Members of any action or claim brought, or threatened to be brought, against the Members.

2. Any admission by the Members of any liability or responsibility in respect of any action or claim brought, or threatened to be brought, against them.
3. Members taking action that they were aware, or ought reasonably to have been aware, might prejudice the successful defence of any action or claim, once the Members had become aware that such an action or claim had been brought or was likely to be brought.

## **Remuneration and Committee finance**

In the financial year 2020/2021 the budget for the COT, excluding Secretariat resources was £87,800. Costs were met by the Food Standards Agency (FSA).

### **Committee members may claim a fee for Committee meetings:**

COT Committee Chair £400 per day

COT Committee Member £300 per day

COT Members are able to claim for work undertaken between meetings at the above rates.

Different provisions apply to COC and COM Members. Details can be obtained from their respective Secretariats.

### **Review of fee rates**

Fees in respect of the COT are set by the FSA and for COC and COM by the Department of Health and Social Care. The FSA will review and revise COT rates every 2 years with the intention that rates should rise in line with the recommendations of the Senior Salaries Review Board with regard to pay in the Senior Civil Service. The FSA will also take into account comparisons with rates paid in similar advisory bodies in the UK.

### **Travel and other expenses**

Committee members are entitled to reimbursement of reasonable travel and subsistence expenses necessarily incurred on official committee business. Members must seek value for money and are encouraged to use the most cost effective and environmentally sustainable options for travel and accommodation.

## **Working Groups**

The Committee may establish Working Groups to consider particular topics in depth or to make brief assessments of particular issues and advise the main Committee on the possible need for further action. Such Groups contain a number of Committee members (supplemented, as necessary, by external expertise in the particular subject being considered). A Committee Chair will play a leading role in deciding which Committee members should be invited to join such groups, which may meet on a number of occasions in a particular year. Committee members may claim an allowance for participating on a Working Group.

## **Terms and conditions of appointment**

Appointments of members may be staggered so that only a proportion retire or are re-appointed each year, to help ensure continuity. COC and COM Chairs are ex officio members of each other's Committees.)

COC and COM members are usually expected to attend 3 meetings in a year. COT members are expected to attend 7 meetings in a year. Members should allow appropriate preparation time. Meetings will usually be in London.

The COC/COM/COT Chair must also be available for a number of other activities including: attending, with the FSA Chief Scientist, the FSA Board's annual discussion of the Agency's science; engaging with the media on any high-profile relating to the Committee's work, and discussion with the Agency Chief Scientist and GACS Secretariat in planning and developing the Committee's work (including discussing and agreeing with the Agency's Chief Scientist a framework for providing assurance on the work of the Scientific Advisory Committees in providing advice to the Agency). It is expected that these additional activities might require 5-10 days input per year.

## **Feedback on performance**

The COT Chair and members are asked to provide brief feedback on their experience on the committee each year to help the Agency ensure that the Committee operates effectively and identify any areas for improvement.

Committee members are normally appointed for a term of 3 years (a maximum 10 years/3 terms per member). The COT uses the feedback self-assessment form as one of the tools used to determine whether or not a committee member should be reappointed at the end of their (3 year) term.