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Our Ref: eCase: FOI 2020/05873
RFI:149/20

Date: 18 June 2020

Dear [REDACTED]

FREEDOM OF INFORMATION ACT 2000: MINISTRY OF DEFENCE POLICE: APPROVED BUSINESS INTERESTS.

We refer to your email dated 20 May 2020 to the Ministry of Defence Police which was acknowledged on the same date.

We are treating your email as a request for information in accordance with the Freedom of Information Act 2000 (FOIA 2000).

In your email you requested the following information:

- “1. Can you provide the total number of police officers with approved business interests as of 6th of April 2020.**
- 2. Can the data be broken down into gender and rank please?**
- 3. Do the force provide any business support or guidance to those with business interests? if so, where can it be found?”**

A search for information has now been completed by the Ministry of Defence Police and I can confirm that we do hold information in scope of your request.

- 1. Can you provide the total number of police officers with approved business interests as of 6th of April 2020.**

232

- 2. Can the data be broken down into gender and rank please?**

Male	Female
198	34

Rank	Total
Chief Constable	1
Chief Inspector	4
Inspector / Temp Inspector	10
Sergeant / Temp Sergeant	38
Constable	179

3 - Do the force provide any business support or guidance to those with business interests? if so, where can it be found.

Please see the attached document.

If you have any queries regarding the content of this letter, please contact this office in the first instance.

If you wish to complain about the handling of your request, or the content of this response, you can request an independent internal review by contacting the Information Rights Compliance team, Ground Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.gov.uk).

Please note that any request for an internal review should be made within 40 working days of the date of this response.

If you remain dissatisfied following an internal review, you may raise your complaint directly to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not normally investigate your case until the MOD internal review process has been completed. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website at <https://ico.org.uk/>.

Yours sincerely

MDP Secretariat and Freedom of Information Office

MINISTRY OF DEFENCE POLICE



MANAGEMENT OF BUSINESS INTERESTS AND ADDITIONAL OCCUPATIONS FOR POLICE OFFICERS

PSD STANDARD OPERATING PROCEDURE

Owner	DCC Portfolio: Hd Standards
Author / SME	████████████████████
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CONTENTS

Introduction	3
Aims	3
Applications to Join MDP	3
Definition of a Business Interest	4
Reserve Forces	4
Application Process	5
Application Refused	5
Authorisation Principles	6
Impartiality	6
Impact on Force or Service	7
Proportionality in relation to Seniority and Role	7
Current Performance	7
Attendance	8
Misconduct and Performance	8
Equality and Diversity	8
Health / Safety and Well Being	8
Promotion / Secondments / Transfers	9
Appeals Process	9
Monitoring and Reviewing Process	9
Annex A: Incompatible Business Interests and Additional Occupations	10
Annex B: Appeals Process	11

INTRODUCTION

1. This SOP incorporates good practice from ACPO guidance, which has been issued for the wider Police Service. That guidance has been amended for MDP use and applies to all officers in the Force. The purpose of this SOP is to assist officers who submit applications for business interests and additional employment and those who are the approving authority. It will be updated according to legislative and policy changes with republication as required. Any queries relating to this document should be directed to Hd PSD in the first instance.
2. It is essential that the public have confidence in the integrity and impartiality of the MDP. This guidance does not constrain police officers from holding a business interest or additional occupation. It is designed to promote consistent decision making in the authorisation process and to ensure the application will not adversely affect the reputation of the individual, the Force, or the wider police service.
3. It is important that any external appointment or employment, whether paid or unpaid, that an officer may undertake is compatible with membership of the Force and does not compromise or give the impression of compromising the police officer's impartiality or integrity. For these reasons, officers must declare and seek permission for all such activities.
4. This SOP should be read in conjunction with the MOD Statement of Civilian Personnel Policy \Outside Appointments and Activities which applies to MDP officers within an MOD context.
5. The DCC is the approving authority for all outside appointments and activities. This authority is delegated to the Hd Standards (but see exemption below for Reserve Forces). Applications are registered centrally and reviewed on a prescribed basis to ensure they are still current, valid and appropriate.
6. For the purposes of this guidance, 'Additional Occupations' includes activities which are undertaken on non-payment basis. If there is any doubt whether to declare an 'activity' the officer should contact Hd PSD.

AIMS

7. The aims of this guidance are to:
 - Give officers and members of their families (where applicable) the opportunity to pursue legitimate business interests compatible with the office of constable;
 - Provide a framework for authorisation, review, monitoring and appeal;
 - Provide information on activities considered to be incompatible with the office of constable;
 - Ensure consistency, openness and fairness in the consideration of the application.

APPLICATIONS TO JOIN THE MDP

8. Applicants to the MDP are required to declare any existing business interest they intend to continue should they be appointed. Applicants will not be eligible for appointment if they intend maintaining a business interest that is not compatible with

being a member of the MDP. Decisions on compatibility will be based on this guidance. If an appropriate officer deems an applicant's existing business interest as not compatible, then either the applicant will be required to cease their involvement with that business interest or their application to join the MDP will be rejected. There is no right of appeal for such applicants.

DEFINITION OF A BUSINESS INTEREST

9. The following definition is taken from the ACPO Guidance and will be used for the purposes of this SOP:

An officer has a business interest if:

- a) Being an officer in the MDP holds any office or employment for hire or gain (otherwise than as an MDP officer) or carries on any business; or
- b) Being an officer of the MDP or a relative included in such an officer's family, the person holds or possesses a pecuniary interest in a licence or permit granted in pursuance of the law relating to liquor licensing, refreshment houses or betting and gaming or regulating places of entertainment.

"Relative" in relation to an MDP officer means a:

- (i) Spouse or civil partner who is not separated from the officer;
- (ii) Person living with the officer as if they were the officer's spouse or civil partner; or
- (iii) Parent, son, daughter, brother or sister of the officer

10. In terms of paragraph b) and the term 'relative' described above, it is only necessary for the officer to declare their relative(s) involvement or association. The specific requirement to obtain written approval does not apply in these circumstances.

11. In addition, officers who intend to carry out regular voluntary work are also required to submit an application (this is in accordance with MOD policy).

RESERVE FORCES

12. With the exception of those police officers with higher-level nuclear security responsibilities, all MDP officers may join the Reserve Forces and take an active part in it. The posts with the higher level security responsibilities are designated as SEG, TSG, OSU and CSG (including NSF responsibilities).

13. MDP officers who are currently deployed in the higher level posts, and who have previously been granted permission to be a member of the Reserve Forces, will not be required to relinquish membership of it. However new applications from officers in such posts will not be approved.

14. Officers who are currently members of the Reserve Forces may not be selected for the higher level posts if they have Reserve responsibilities.

15. The policy on Reserve Forces is introduced to comply with the Chief Constable's responsibilities for nuclear security which take priority. Any abstractions of MDP officers (e.g. for Reserve Forces) available to undertake these roles would have a disproportionate and potentially damaging impact on the capabilities of the Force.

16. The Divisional Commander (or equivalent) may approve local applications for Reserve Forces using the criteria above. A copy of the application must be sent to Hd PSD for data recording.

APPLICATION PROCESS

17. Officers should not undertake a business interest or additional occupation without first obtaining the necessary written approval. Officers should also notify PSD if any of the circumstances change or they have ceased such involvement. Conducting a business interest or additional occupation without permission will be dealt with as a breach of the Standards of Professional Behaviour under the Conduct Regulations.

18. Officers should submit a general application form via their line and Divisional/Departmental management chain to Hd PSD who will register the interest and undertake necessary initial scrutiny prior to formal consideration by Hd Standards. The officer will generally be notified of the outcome within 28 working days.

19. In making a decision Hd Standards will start from the presumption that an application for a business interest or additional occupation should be granted once satisfied that there are no adverse reputational matters or conflicts with the values and ethos of the police service and will determine whether conditional approval may be warranted. The reasoning behind conditions imposed or any outright rejection will be fully recorded.

20. Hd Standards may wish to take into account the views of the Divisional Commander and other key staff (where appropriate) when determining if the prospective business interest or additional occupation is compatible, as they may be best placed to identify and assess any risk surrounding compatibility with the individual's role, duties and responsibilities. In determining whether to approve an application each case will be considered on its own merits and in doing so will take into account the principles expanded upon below.

21. Where an application is granted, Hd Standards should provide the applicant with written authority to undertake a business interest or additional occupation together with any conditions that may be applicable.

APPLICATION REFUSED

22. Where Hd Standards determines that an application should not be authorised, or should only be authorised subject to certain conditions, the applicant should be notified in

writing. The officer should be provided with an opportunity to make oral and written representations (and in doing so may be assisted or accompanied by a police friend or representative) before a final decision is made.

23. After receiving representations, Hd Standards may either:

- Approve the original application
- Approve the application but subject to conditions
- Decide approval should not be granted

24. The reason for the rejection of an application or the imposition of conditions must be fully recorded and communicated to the officer and a right of appeal to the Chief Constable must be granted (see Annex B).

AUTHORISING PRINCIPLES

25. There are specified activities which should never be permitted. These are the holding of a licence or permit granted in pursuance of the law relating to liquor licensing, refreshment houses or betting and gaming or regulating places of entertainment.

26. While each case is considered on its own merits, a number of factors will be taken into account in determining whether to approve an application for a business interest or additional occupation:

- a. Impartiality - predicted, expected or evidenced
- b. Impact on the force - potential and perceptions
- c. The applicant's current performance
- d. Proportionality - in relation to seniority and role
- e. Equality and Diversity
- f. Health, Safety and Well-being

27. These six areas are expanded in more detail below to assist in identifying specific issues relevant to each application. This list is not exhaustive and there may be other considerations that apply to individual cases.

28. In making a decision the presumption is that an application for a business interest or additional employment should be granted once satisfied that there are no adverse reputational matters or conflicts with the values and ethos of the police service.

Impartiality

29. This relates to the risk of the business interest or additional occupation interfering with the officers' ability to impartially discharge his or her duties or the extent to which the public would be likely to perceive or form an impression that it would so interfere:

- Whether the activity is one regulated by the police or where police are

involved in the licensing of the activity

- Whether the business interest or additional occupation is merely an extension of an officer's duty or the extent to which training, skills and experience provided by the Force are to be relied upon
- Whether the office of constable could be used to promote the business or additional occupation or a product of the business or additional occupation or would allow other organisations or commercial interests to do so
- Whether an officer's fairness or impartiality in their dealings with the public or colleagues might be compromised

Impact on the Force or Service

30. This relates to the risk of the business interest or additional occupation either discrediting the MDP or undermining confidence in the police service:

- The nature of the business interest or additional occupation - how reputable it is in its own right in the eyes of the public and in association with the police service
- Whether the activity could lead to the public losing confidence in the honesty and integrity of the officer or of the Police Service or if it would be likely to cause confusion by the public as to whether the officer was operating in an official or unofficial capacity
- Where the activity could lead to the officer being improperly beholden to any person, organisation, or institution
- Whether the business interest could lead to conflicting contractual commitments to a third party e.g. providing advice to a training company which is then contracted to work for the police force/MOD

Proportionality in relation to Seniority and Role

31. This relates to the requirement to take account of the seniority, role and nature of the duties of the police officer. For example, it would be sensible to reflect on the nature of work carried out by the officer, the different employment status of police officers and the public impact of their proposed business interest or additional occupation prior to making a decision. There should be no one-size fits all approach to decision-making on business interests or additional occupations.

Current Performance

32. This relates to the risk of a decline in performance of the officer coupled with evidence as to the officer's current suitability through performance monitoring. Unsatisfactory attendance and misconduct should not necessarily be a reason for refusal unless either has a direct bearing on the business interest or additional employment. An example of a business interest or additional occupation that may be accommodated with performance issues is allowance for a rental accommodation that provides additional income without incurring additional work pressures.

Attendance

33. When an officer is absent from work on sick leave or returns to work on restricted or recuperative duties, consideration should be given to suspending approval of the business interest providing the medical issue is related to the business interest or additional occupation - so as to make it relevant

Misconduct and Performance

34. Hd Standards should consider any current or previous misconduct and the impact or risk of any relevant misconduct on the approval of any business interest or additional occupation. If it is considered that the misconduct relates directly to the business interest or additional occupation approval may be modified or withdrawn

35. Where an officer with an existing approved business interest or additional occupation is subject to police performance procedures or police misconduct procedures current approved business interests and additional occupations should be reviewed by Hd Standards, provided the conduct or performance is directly related to the business interest or additional occupation.

Equality and Diversity

36. Decisions on business interests or additional occupations must take full cognisance of equality and diversity considerations. The Force must ensure that all decisions can be justified by reference to relevant equality legislation and the duty on police forces under the Equality Act 2010 to actively promote equality.

Health / Safety and Well-being

37. This relates to the duty of care to the officer and the risk of injury or increased stress and fatigue, which could impact on their ability to perform duties to a satisfactory standard. As part of any consideration, it is essential that the Force monitors the total number of hours an officer will be working. This complies with the duty to protect their health and safety and to ensure that the total demands do not pose a risk to the health of the officer or their ability to work safely, either as an individual or part of a team. A sensible starting point for these purposes would be to examine the requirements of the Working Time Regulations (1998).

38. Annex A to this guidance provides more specific guidance on those business interests or additional occupations which are likely to be incompatible with the interests of the police service. The examples will have a high probability of raising questions as to the ability of the officer to discharge duties with impartiality and the standard of integrity expected. The fact that an activity is on the list may not in itself justify rejection without full consideration of the risk and impact factors. Equally, the absence of any proposed interest or occupation from this framework should not give rise to an assumption of reasonableness.

PROMOTION / SECONDMENTS / TRANSFERS

39. Business interests and additional occupations should be declared in all applications for promotion, specialist posts, secondments and training courses

requiring commitment in terms of private study, and attendance on residential modules out of force (where there could be an impact). They should also be declared in all change of postings or role. This should not prejudice any application but, for successful applications, the implications of a business interest may require further consideration.

APPEALS PROCESS

40. Annex B to this guidance outlines the procedure for appeals against the non-authorisation of a business interest or additional occupation or the imposition of conditions, for police officers.

MONITORING AND REVIEWING PROCESS

0. All approved applications will be reviewed on an annual basis or sooner if required.

41. It is the responsibility of the officer to report any changes in circumstances between reviews to Hd PSD through line/Divisional or Departmental management chain. In these circumstances, Hd PSD may ask for any additional information deemed necessary.

42. Consideration should be given to rescinding approval if the officer fails to inform Hd PSD of any change of circumstances or to supply any additional information requested.

43. Consideration should also be given to rescinding approval if an officer fails to submit a review when prompted to do so.

44. Data pertaining to business interests will be retained in PSD and processed in accordance with the DPA 1998. It will be disclosed in accordance with force statutory obligations under the Freedom of Information Act 2000.

45. Officers are under an obligation to notify HM Revenue and Customs or other relevant agency of any additional income or occupation and to appropriately discharge any liabilities and/or satisfy any requirements.

INCOMPATIBLE BUSINESS INTERESTS AND ADDITIONAL OCCUPATIONS

This list is not exhaustive. Equally, it should not be assumed that an activity (other than the first) will automatically be rejected because it appears in the list below:

- a. Holding a licence or permit granted in pursuance of the law relating to liquor licensing, refreshment houses or betting and gaming or regulating places of entertainment
- b. Working in licensed premises where there would be a conflict of interest with policing duties
- c. An activity that would present a conflict of interest in the administration of justice, e.g. magistrate, practising solicitor, barrister, fine enforcement officer
- d. An activity that involves investigation for other than police purposes (e.g. loss assessor, private detective)
- e. An activity that mirrors police responsibilities or is an extension of police functions, e.g. close protection, private security or surveillance, crime prevention or personal safety
- f. An activity that is connected with the lending of money or recovery of debts for others or an activity that involves "hard selling" to colleagues or members of the public by placing undue pressure upon them to buy or rent, including recruiting others to sell on his or her behalf
- g. An activity using specialist skills or knowledge obtained through the police service
- h. Renting accommodation from or letting accommodation to a member of staff who is in the same line management structure (excluding short-term arrangements, such as holiday lets)
- i. Appearing in any commercial filming production in which they portray either a police officer, police community support officer or other uniformed policing role, whether on or off duty, or undertake any role where it could be construed that they are representing the police service
- j. The writing and publication of books, articles or other material for gain by serving members of the police service about their policing or work experiences

BUSINESS INTERESTS - APPEALS PROCEDURE

Introduction

1. All appeals against the non-authorisation of an application will be heard by the Chief Constable. An appeal may be made on the grounds of process and / or be a substantive appeal against the decision. In either case, the Chief Constable must consider all the information made available to him or her.

[For the avoidance of doubt, all references in this guidance to 'days' mean actual days rather than working days.]

Lodging an Appeal

2. An Appellant may send written notice of an appeal via line management and Hd Standards to the Chief Constable within 10 days of being notified of the decision not to authorise an application or to impose conditions. Appeals received outside of this period will be accepted only at the discretion of the Chief Constable. A notice of appeal should state briefly the reasons for the appeal.

Consideration of the Appeal

3. An Appellant has a right to make written and/or oral representations to the Chief Constable in support of an appeal. Where the appeal is a substantive appeal against the decision made by Hd Standards, the Chief Constable will consider the full case on its merits and reach a decision in the light of all the evidence available to him or her.

4. Where it appears to the Chief Constable that the Appellant has:
- Adduced substantive reasons why he or she should be permitted to have the business interest or additional occupation; or
 - Why conditions should not be imposed, which were not considered by Hd Standards; or
 - Where the Chief Constable considers Hd Standards failed to apply fair procedures; then

Chief Constable may remit the matter back to Hd Standards for reconsideration.

Notification of the Appeal Outcome

5. The Chief Constable's decision will be given to both parties to the appeal at the conclusion of the meeting and within 28 days of receipt of the notice of appeal (unless the Chief Constable decides to extend this period in which case the Appellant must be given written notice of the reasons for the extension). It is good practice to provide written reasons for the decision within 7 days of the meeting. There is no further right of appeal against the decision of the Chief Constable.

Representation

6. During all stages of this procedure the Appellant may be represented by a police friend or representative.