

The Commissioner – for information

Date: October 2016

Reference No:

Prepared for: Elizabeth Denham, Information Commissioner

Topic: Political Activities

Issue: Review the political activities policy, its application and perceived conflicts of interest with reference to a recently highlighted issue.

Background:

A review of the Political Activities policy was requested by the Commissioner.

This followed publicity regarding the political responsibilities of Alex Ganotis, a Group Manager who is a Labour councillor and also now the Leader of Stockport Council. The publicity questioned whether it was appropriate for Alex to manage work involving local authorities and political parties given his political activities and role with Stockport Council.

There were also questions about the governance of the process involved in declaring political activities and the allocation of tasks where there is the potential for a conflict of interest to be perceived.

The Head of Organisational Development consulted with Alisa Beaton, one of the ICO's non-executive management board members and the PCS and FDA to review the political activities policy and recommend any changes necessary.

The specific circumstances which led to publicity regarding the perceived independence of the Alex Ganotis were also reviewed with Ailsa Beaton as part of this process.

Review of ICO Political Activities Procedures

The ICO's procedures were written with due regard for those of the UK Civil Service as set out in the Civil Service Management Code. Those procedures require staff to seek permission to participate in political activity unless they are in industrial roles, and therefore 'politically free' or in Senior Civil Service roles, and therefore 'politically restricted'.

By requiring all staff to apply for permission to participate in political activity, the ICO's approach mirrors that taken for the majority of Civil Servants. The requirement for political neutrality and declaring potential conflicts of interest as they arise is also set out in the ICO Staff Code of Conduct.

As part of this review, further comparison was also made with the Civil Service's policies to ensure that the ICO approach still reflected that taken in the Civil Service.

Comparison was also drawn with the policies of the Parliamentary and Health Service Ombudsman (Code of Conduct and Conflict of Interest Policies) and the staff handbook of the UK Parliament. Reference was also made to the Guidance Document for Participating in Non-Candidacy Political Activities of the Public Service Commission of Canada.

The review of the ICO policy found that, although there are some areas which could benefit from being updated, the policy was generally adequate and robust.

The policy was clear about the requirement of staff to notify the ICO of political activity whilst ensuring staff retain reasonable freedom to act in a political manner in matters outside the remit of the ICO.

Areas in which the policy would benefit from being updated include:

- Stipulation that staff must avoid party political activities which may reasonably be argued as having the potential to impair their ability to perform their duties in an impartial manner.
- Greater clarification of the political activities in which staff are involved and declaration of portfolios or areas of responsibility for elected representatives.
- A requirement to inform the ICO in writing if the nature of activity or areas of responsibility changes.
- Adding scope to remove permission to undertake political activities if an individual changes role within the ICO or if the nature of the individual's political activity changes.
- A simplification of the process by which permission to engage in political activity is sought.
- An annual reminder for staff to declare their involvement in political activity.

Ailsa Beaton also recommended that the ICO considers developing its policy in relation to declarations of interest or conflicts of interest. Although this is stipulated within the staff code of conduct, more explicit policy and guidance was recommended particularly where the staff



member may have a controlling role in another organisation for which the ICO has a regulatory function. This could include the development of a register of interests for all staff.

Ailsa also recommended that staff in managerial or decision making roles should notify the ICO if they are a member of a political party – thus creating a lower threshold for notification than under the updated political activity policy. A register could then be developed which could be consulted by those allocating and supervising work.

There is a recognition that this has privacy implications for individuals - this must be balanced against the need to ensure that there is no question of the ICO's independence being compromised.

The practical and policy implications of this recommendation warrant discussion by the SMT.

The Stockport Council case

A document setting out the background to the specific case involving Alex Ganotis who became leader of Stockport Council is attached.

A review of the compliance with the political activities process showed:

- Alex complied with the Political Activities Policy. A signed declaration was received and on file declaring his role as a Labour Councillor. This dated back to 2008 when the Political Activities Policy was introduced. He has kept his manager informed of his continuing political role.
- Alex kept his Head of Department and the Commissioner informed about developments to his political role having become leader of Stockport Council in 2016.
- Discussions took place with the Commissioner but the decision to allow Alex to continue with existing operational responsibilities was not documented.
- Alex has declared that he works at the Information Commissioner's Office in the Stockport Council Register of Interests which is available on the council's website.

Alex's team's responsibilities for DP and FOI cases included government departments, parliament, MPs, political parties and local authorities beginning with the letters S and T.

The DP work relating to political parties was managed by a Team Manager within Alex's group, however this work has now been re-assigned to another group.



An external commentator has, however, called also into question the appropriateness of Alex having an overview of cases involving local councils as well as political parties.

The Head of Department allocates Decision Notices and ensures that none are allocated to individuals where there is potential scope for conflicts of interest to arise. This includes ensuring that Alex is not involved in any cases concerning local authorities in Greater Manchester.

All of the Performance Improvement Groups which have responsibility for FOI cases have some involvement with local authorities. Without a complete reconfiguration of the distribution of local authority cases it would not be possible to entirely separate Alex from even indirect connection to local authority work.

It is also possible that Alex's responsibility for a team working on cases concerning government departments could be perceived as having scope to cause a conflict of interest.

However, the nature of the activity of all the FOI Groups could be interpreted in this way eg matters involving schools, health services, police and so on could all potentially be viewed as having scope to cause some conflict of interest for Alex given the interaction between local authorities and other parts of the public sector, or the political dimension to government policy decisions.

Andy Laing, who is Alex's head of department, is confident that a reasonable separation of Alex's ICO and Council/political responsibilities has been achieved because of the way workload is allocated. Andy also has knowledge of the matters which could be perceived to cause a conflict of interest.

Recommendations and options

Firstly, it should be made clear that Alex has fully complied with the ICO's expectations regarding political activities and that he has made the declarations required of him. He has followed procedures and has been open about his role with the council. Indeed, he was allowed to change his working pattern to accommodate his council workload, so there is no question that his council and political roles were fully known by the ICO.

The extent of the actions we now take concerning this issue are, in many ways, dependent on the degree to which the ICO is concerned about the public perception of the expectations placed on our officials.

Some of those perceptions may be based on incomplete information, or a lack of appreciation of the mechanisms in place to ensure that conflicts of interest are acknowledged and appropriately managed.

Nonetheless, it is important that the ICO demonstrates that integrity, independence and professionalism are core principles to the organisation and how we operate.

Cases about political parties

It is easy to understand how the Alex's former responsibilities for political parties, although indirect, could be perceived as being inappropriate. He has a high profile role outside work which operates in a political context.

The ICO work concerning political parties has now been reallocated, thus avoiding inferences about this work being inappropriately influenced by his political opinions.

To help avoid the perception of conflicts of interest, ICO should ensure that staff who are politically active are not involved in complaints made about political parties. It is therefore important that the Head of Department is aware of those staff who have permission to be politically active. The updated Political Activities policy involves the Head of Department in the process to grant permission for political activity for this reason.

The Staff Code of Conduct places clear responsibilities on staff to avoid work which could produce a conflict of interest. Operational procedures relating to work allocation could also be used to make this a clear expectation.

In this case, the decision to move responsibilities for political parties to another group is regarded as being an appropriate approach. What is more, there are no political activity declarations from members of the team now dealing with political party cases.

Alex Ganotis' on-going responsibilities – option 1

If the approach of the ICO is to be very cautious in respect of public perception of conflicts of interest, then a change to Alex's operational responsibilities should be taken forward such that he is not involved in any work related to local authorities or government departments.

It should be considered, however, that a clear separation of Alex's work from anything that could be regarded as having a political, governmental



or local authority context would effectively prevent him from working on a wide range of Freedom of Information cases.

This would have a very limiting effect on the areas of activity available to Alex and the team that he manages. It would significantly reduce the experience available to the ICO to deal with such matters, which itself carries a level of organisational and reputational risk.

There are also potentially further ramifications of such a move, for example it could be seen to question the professionalism of Alex and other members of staff and their ability to apply the law without bias or political influence.

Alex Ganotis' on-going responsibilities - option 2

The second option would involve Alex continuing to conduct his current responsibilities on the basis that the ICO is clear and transparent about Alex's political and council role and ensuring that the safeguards in place are documented and articulated effectively.

The processes employed by the ICO all mitigate against the possibility of inappropriate influences on the decisions made by ICO officials, and in this case by Alex and his team. These processes include the means by which cases are allocated; internal scrutiny of decisions; the ability for requestors and public bodies to appeal decisions; and ultimately the availability of public scrutiny of those decisions at the point of publication.

The safeguards in place within the ICO and the department, and the public scrutiny should provide assurance that work is conducted in an appropriate manner.

This option also enables the ICO to retain expertise in the areas of PID Group activity, which would be diluted if there were to be a redistribution of responsibilities.

Nonetheless, it is accepted that this is more challenging to articulate in a shorthand manner which counters perceptions that there is scope for impropriety to occur. This option therefore runs the risk of being interpreted as the ICO ignoring possible conflicts of interest.

On the basis that there are multiple checks and balances in place, my recommendation is to allow Alex to continue to manage a group with responsibilities for local authorities, providing that they do not neighbour Stockport or are part of the Association of Greater Manchester Authorities. The ICO should formally record that Alex (and his teams) will not be involved in cases concerning Greater Manchester, Cheshire East and Derbyshire authorities.

His group should also be able to continue to work on cases involving government departments, providing that the cases continue to be allocated appropriately. As indicated in the staff code of conduct, if a member of staff feels there is scope for a conflict of interest to arise in one of their cases, they should liaise with an appropriate manager at an early stage.

In short, the ICO would need to document the parameters of cases involving Alex's teams to enable him to and his teams to continue to fully contribute to the ICO's work.

Next steps:

1. Confirm updates to the Political Activities Policy and agree sign off with trade unions. This has already been completed.
2. Confirm if Option 1 or 2 is being taken and so decide if Alex's remit and the structure of groups in PID need to be changed, or if the ICO is content for Alex to continue with his current remit.
3. Develop a specific policy and procedure for declarations of interest. This should include a general principle which bars staff from involvement in activities for which there may be perceived to be a conflict of interest.

It is recommended that the policy includes the capacity for some discretion from the Commissioner, and so where there is any scope for potential conflicts of interest which would be difficult to avoid, the decision is taken at the most senior level in the organisation and appropriately documented.

4. SMT to discuss the recommendation about the declaration of membership of political parties for managers and decision makers. This will need to balance the requirements of the ICO to be clearly politically neutral as a regulator with the implications for requiring the declaration of sensitive personal data and staff perceptions of intrusion.

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Reviewed/cleared by: