



**Responsible Officer Conflict of Interest or Appearance of Bias**

Requesting advice on the appointment of an alternative Responsible Officer

        
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**Responsible Officer Conflict of Interest or Appearance of Bias**

**Requesting advice on the appointment of an alternative Responsible Officer**

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# Introduction

The responsible officer regulations[[1]](#footnote-1) require each designated body to appoint one responsible officer (except for NHS England which may appoint several). However, where a conflict of interest or appearance of bias exists between the responsible officer and one or more of the doctors connected to that designated body, an alternative responsible officer must be nominated or appointed. The regulations also require that there is no conflict of interest or appearance of bias between the doctor and any alternative responsible officer.

When reaching a decision, it is important that the designated body can demonstrate if challenged, that it has complied with the legislation. It is also important that doctors are treated fairly and it is therefore advisable that designated bodies are able to show equality, fairness and objectivity when making a decision to nominate or appoint an alternative responsible officer. This can be achieved by seeking the advice of the higher level responsible officer as described in the document below.

# The process

The process of considering whether to nominate or appoint an alternative responsible officer should protect the doctor, the responsible officer and the designated body. The decision must be based on evidence and factual information. The designated body should follow the principles and process within this policy. Where the designated body has outsourced responsible officer services from an individual or from another organisation, the process to be followed should be confirmed in the contract or service agreement.

## Identification

The doctor, responsible officer or other concerned individual (such as a colleague) should have the opportunity to raise a concern about a potential conflict of interest or appearance of bias. If a responsible officer or other person identifies a potential conflict of interest or appearance of bias between the responsible officer and one of the doctors connected to them they should follow the principles of this policy. A doctor, the responsible officer or other concerned individual must seek advice on the details of the conflict of interest or appearance of bias by contacting the responsible officer’s responsible officer (the 'higher-level responsible officer’[[2]](#footnote-2)) in the first place.

Where there is an on-going disciplinary process or grievance between a doctor and their responsible officer or employer this needs to be dealt with via the local policies and procedures of the organisation engaging the doctor and concluded before a decision can be made about whether a conflict of interest or appearance of bias exists between the doctor and the responsible officer. An open grievance or on-going investigation in itself does not in itself constitute grounds for appointing an alternative responsible officer.

## Notification

If an organisation considers a potential conflict of interest the higher level responsible officer should be notified. The completed notification form should be sent to the responsible officer’s own responsible officer (normally either the regional or national responsible officer) using the form entitled ‘Notification Form for the Appointment of an Alternative Responsible Officer on Grounds of Conflict of Interest or Appearance of Bias’. The responsible officer should complete the notification form (see appendix A), explaining the reasons for the conflict of interest or appearance of bias and include relevant information such as:

* Type of personal or family relationship
* Nature of financial, business or management relationship
* Evidence of breakdown of professional relationship (e.g. where both parties acknowledge their inability to sustain a professional relationship or where it is commonly known within an organisation that there is animosity between the two individuals over a substantial period of time)
* Summary of the history and duration of events should be provided
* Summary of relevant formal procedures (e.g. investigations, disciplinary processes, grievance procedures, suspensions, legal processes, tribunals, formal appeals) and their outcomes

## Advice

Once the notification is received the higher level responsible officer may discuss the case with their revalidation team, other higher level responsible officers, officials in the designated body and/or, a reference group. Based on the information provided, the higher level responsible officer will provide advice as to whether they consider;

The potential conflict of interest or appearance of bias reaches the threshold for an alternative responsible officer to be nominated or appointed by the designated body to perform the responsible officer role in relation to the named doctor

Or

The potential conflict of interest or appearance of bias does not reach the threshold for an alternative responsible officer to be nominated or appointed by the designated body and that the current responsible officer should continue to fulfil the responsible officer role in relation to the named doctor.

## Nomination or appointment of an alternative responsible officer

If the threshold for a conflict of interest/appearance of bias is reached, the designated body will identify a suitable alternative responsible officer. Guidance is given to support this under paragraph 5 below. If the designated body experiences difficulty identifying an alternative then the higher level responsible officer/regional team may be able to advise.

The designated body must then make a formal nomination or appointment of an alternative responsible officer for the doctor and confirm this in writing to the doctor and the responsible officers. Notification of this should then be made by the designated body to the higher level responsible officer for his/her records, again using the Appendix B, this time with the alternative responsible officer’s details included.

Where an alternative responsible officer is appointed, the connection of the doctor with the designated body remains in place, as does the application of that designated bodies appraisal, disciplinary and remediation policies. It is only the connection between the doctor and their responsible officer which changes. To ensure that this is reflected on GMC Connect the following process should be followed;

1. Existing responsible officer declines the doctor and chooses conflict of interest as the reason, then
2. The new responsible officer connects the doctor for reasons of conflict of interest.

(Refer to the user guide on the GMC Connect site or contact [revalidation-support@gmc-uk.org](mailto:revalidation-support@gmc-uk.org))

# Examples of conflict of interest/appearance of bias

It is anticipated that an alternative responsible officer will only need to be nominated or appointed rarely, as the majority of situations can be managed internally through transparent and effective organisational systems.

The responsible officer guidance[[3]](#footnote-3) suggests that a conflict of interest or appearance of bias may occur in the following situations:

**Personal relationships**

* Where there is or has been a personal relationship such as marriage or partnership between a responsible officer and a doctor or where the two are related in any other way
* Where there is a close financial or business relationship between a responsible officer and a doctor
* Instances where a third party is involved (e.g. an affair or marriage breakdown)
* Where there is a known and long-standing breakdown of the professional relationship between a responsible officer and a doctor such as an upheld grievance against the responsible officer.

**Managerial or organisational roles**

Different roles of managers and clinicians might create a situation where a conflict of interest or appearance of bias exists:

* A responsible officer who is managed by a medical chief executive might then have to make a fitness to practise recommendation in respect of the chief executive.
* Where the Medical Director is, exceptionally, a different person to the responsible officer (the responsible officer role was developed to be an integral part of the Medical Director role)

# Situations where it may not be appropriate to appoint an alternative responsible officer

There are situations where it may not be appropriate to appoint an alternative responsible officer. This list is not exhaustive.

* Ongoing disciplinary process or a grievance that has been raised by the doctor against the responsible officer that has not concluded
* The responsible officer has deferred the doctor, this is a neutral act

# Responsibilities of an alternative responsible officer

The alternative responsible officer will meet the requirements for a responsible officer under the responsible officer regulations. It is important that the alternative responsible officer is an external appointment and free from conflict of interest or appearance of bias in relation to the doctor involved.

The alternative responsible officer has the statutory responsibilities set out in the responsible officer regulations in relation to the doctor in question. The alternative responsible officer will necessarily rely on the internal processes within the doctor’s designated body (including appraisal) to fulfil their statutory duties. Arrangements should include:

* an agreed procedure for sharing relevant information about the organisational systems and about the individual doctor,
* the alternative responsible officer is responsible for providing the designated body with appropriate information about the doctor.

The alternative responsible officer must connect to the doctor on GMC Connect (please see section 2.4 for details of the process) giving the reason as a conflict of interest.

The alternative responsible officer may wish to seek assurance from the designated body regarding the effectiveness of these internal processes. The alternative responsible officer should be informed when a cause for concern or patient safety issue arises in relation to the doctor’s practice in any organisation in which the doctor works. The alternative responsible officer will need to review the appraisal outputs and where appropriate inputs together with other relevant information about the doctor’s practice and make a fitness to practise recommendation to the GMC at the appropriate time.

# Ending an alternative responsible officer arrangement

The connection to the alternative responsible officer will exist until such time when the conflict no longer exists. For example, the responsible officer changes role or the doctor’s connection to the designated body changes. The higher level responsible officer should be advised at the time using the template form (Appendix B) Notification to the Higher Level Responsible Officer of the ending of Alternative Responsible Officer arrangement, and the connection should be changed on GMC Connect.

# Points of note

The alternative responsible officer assumes the statutory duties described in the responsible officer regulations in relation to the doctor in question. This involves making a recommendation to the GMC about the doctor’s revalidation when this is due. The alternative responsible officer is also responsible for ensuring that suitable processes are in place for medical appraisal, monitoring of performance and management of concerns of the doctor. The alternative responsible officer will normally delegate these processes to the doctor’s designated body, providing appropriate measures are in place to ensure their objectivity in relation to the doctor.

As part of this assurance the designated body will need to ensure provision in its Fair Processing Notice or equivalent, for circumstances when there is a conflict of interest or appearance of bias between employees, including when this occurs between a doctor and their responsible officer. This needs to include a description of access to data such as appraisal and clinical governance data and information relating to concerns about the doctor.

Since the same information may be used for both organisational governance and individual revalidation-related purposes, the Fair Processing Notice must be particularly clear about the legitimate flows of such information when the medical director is not the responsible officer or when an alternative responsible officer is nominated for a doctor.

Given the ad hoc nature of the need for appointment of an alternative responsible officer, designated bodies are advised to ensure that these considerations are written into their policies and procedures, including their Fair Processing Notice.

Statements on data access and confidentiality are sometimes included in terms and conditions and other accompanying text of appraisal and governance documents. Such statements are commonly worded generically and are not adequate substitutes for a properly detailed document produced by and specific to the designated body, which describes how and by whom a doctor’s personal data will be handled, commonly known as a ‘Fair Processing Notice’ or ‘Privacy Notice’.

# Appendix A

Notification to the Higher Level Responsible Officer of the Appointment of an Alternative Responsible Officer on Grounds of Conflict of Interest or Appearance of Bias

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| --- |
| Section 1. Description of conflict of interest or appearance of bias |
| Designated body details: |
| Name: Click here to enter text. |
| Responsible officer details: |
| Name: Click here to enter text.  GMC number: Click here to enter text.  Telephone: Click here to enter text.  Email: Click here to enter text. |
| Higher level responsible officer details: |
| Name: Click here to enter text.  Organisation: Click here to enter text. |
| Doctor details: |
| Name: Click here to enter text.  GMC number: Click here to enter text. |
| Type of conflict of interest or appearance of bias (tick all that apply): |
| Close personal or family relationship (past or present)  Close financial or business relationship  Inverted or conflicting management relationship  Known or longstanding breakdown of professional relationship |
| Details of conflict of interest or appearance of bias: |
| This should include: Summary of the situation (information as per section 2.3)  Click here to enter text. |
| Supporting documentation maybe submitted when seeking initial advice from the HLRO: |
| Indicate here any documentation submitted in support of this notification.  Click here to enter text. |
| Responsible officer statement: (To be completed by the designated body) |
| Based on the guidance contained in The Role of Responsible Officer: Closing the gap in Medical Regulation – Responsible Officer Guidance 2010and the above information. A conflict of interest or appearance of bias exists between the responsible officer and the doctor named above, preventing the proper discharge of the responsible officer’s duties as set out in The Medical Profession (Responsible Officers) (Amendment) Regulations 2013. The following alternative responsible officer has been appointed to act as this doctor’s responsible officer.  Name of Doctor: Click here to enter text.  GMC number (if applicable): Click here to enter text.  Position/role (if not included above): Click here to enter text.  The following person has been nominated/appointed to undertake the duties of the responsible officer in respect of the doctor named above:  Name of alternative responsible officer: Click here to enter text.  GMC number: Click here to enter text. Click here to enter text.  Name of Designated Body: Click here to enter text.  Date of appointment: Click here to enter text.  Comments: Click here to enter text. |
| Higher level responsible officer response: |
| The higher level responsible officer has reviewed this notification:  Thank you for your notification. We agree with the decision to appoint an alternative RO based on the information provided  Thank you for your notification. We believe that you should consider the following;  Click here to enter text.  The higher level responsible officer should be notified of the outcome of the review |

# Appendix B

Notification to the Higher Level Responsible Officer of the ending of Alternative Responsible Officer arrangement

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| Section 1. Description of conflict of interest or appearance of bias |
| Designated body details: |
| Name: Click here to enter text. |
| Doctor details: |
| Name: Click here to enter text.  GMC number: Click here to enter text. |
| Alternative responsible officer details: |
| Name: Click here to enter text.  GMC number: Click here to enter text. |
| Higher level responsible officer details: |
| Name: Click here to enter text.  Organisation: Click here to enter text. |
| Details of why the conflict of interest or appearance of bias no longer exists: |
| Click here to enter text. |
| Responsible officer statement: (To be completed by the designated body that is ending the alternative RO arrangement) |
| Based on the guidance contained in The Role of Responsible Officer: Closing the gap in Medical Regulation – Responsible Officer Guidance 2010 and the above information. A conflict of interest or appearance of bias no longer exists between the responsible officer and the doctor named above, preventing the proper discharge of the responsible officer’s duties as set out in The Medical Profession (Responsible Officers) (Amendment) Regulations 2013, I am able to carry out the functions of responsible officer in respect of this doctor.  With effect from: Click here to enter text. |
| Responsible officer details: (Please provide the details of the Responsible Officer who is ending the alternative RO arrangement) |
| Name: Click here to enter text.  GMC number: Click here to enter text.  Telephone: Click here to enter text.  Email: Click here to enter text. |

1. The Medical Profession (Responsible Officers) Regulations 2010 as amended by the Medical Profession (Responsible Officers) Amendment Regulations 2013. [↑](#footnote-ref-1)
2. A ‘higher-level responsible officer’ is a responsible officer who operates at a regional or national level and is responsible for other responsible officers. [↑](#footnote-ref-2)
3. [*Closing the gap in medical regulation: Responsible officer guidance* (Department of Health, 2010)](https://www.gov.uk/government/publications/closing-the-gap-in-medical-regulation-responsible-officer-guidance) [↑](#footnote-ref-3)