



Briefing note to DSFBs on Section 46E (Members' interests) of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (introduced by s20 of the Aquaculture and Fisheries (Scotland) Act 2013)

Introduction

The Code of Good Practice for DSFBs sets out a number of provisions relating to the general conduct of Board members. Section 2.1 states that *'All Board members **must** first and foremost act in the interest of the Board's remit. Any personal or professional conflict of interest **must** be declared at the outset.'*

Section 20 of the Aquaculture and Fisheries (Scotland) Act 2013, amends the 2003 Act to place a number of new duties on DSFBs relating to openness and accountability. The new section 46E requires a DSFB to *'maintain and review arrangements for registering and declaring the relevant financial interests of board members.'* The register of members' relevant financial interests must be made available for public inspection. Such arrangements must, in particular, include provision for—

- (a) further defining what are **relevant** financial interests,
- (b) the clerk to keep a register of members' relevant financial interests,
- (c) members to register their relevant financial interests in the register,
- (d) members to declare any relevant financial interests before taking part in the Boards consideration of any business,
- (e) members to be excluded from taking part in the board's consideration of any business in which the member has a relevant financial interest

The Scottish Government has issued guidance in relation to the Good Governance obligations. Specific guidance relating to Members' Interests can be found in paragraphs 28-32. This briefing is intended to assist Boards in ensuring that they can comply by providing advice and a declaration form which DSFB Clerks may wish to adopt. The following is suggested FMS advice. However, the legislation requires Boards to define relevant financial interests, so individual Boards may wish to take a different approach.

Declaration of Interests

- Relevant financial interests should be defined as including (but not necessarily limited to): interest in a salmon fishery (but due to the nature of DSFBs, this would not normally preclude a member from participating/voting); gifts or hospitality received in connection with a Board function; an interest in a development with the potential to impact upon migratory salmonids within the district; the provision of financial, management or consultancy services to the board.
- Board members and staff must declare their interests and any gifts or hospitality received in connection with their role. A declaration and register of interests (Suggested format in Annex A) must be kept and maintained for this purpose by the Clerk.
- The register of interests should be reviewed regularly and updated when any changes occur. We would recommend that declaration of interests are included as a short standing item at each Board meeting inviting Board members to declare new/amend existing interests. If you are not sure what to declare, or whether/when your declaration needs to be updated, please err on the side of caution.
- The register of interest should also be used to record all gifts of a value over £100 (suggested) received by Board members and staff (see below). The register should be made available to the public, either via the Board website (recommended), or at a suitable location in which the public may view the document.

- A strict policy of conflict of interest avoidance must be adopted by the Board with all interests being declared by the board member and a minuted requirement that they absent themselves from any decision making which could involve that interest. Such potential conflicts might include an interest in a development (e.g. wind farm, hydro scheme, fish farm etc.) with the potential to impact upon migratory salmonids within the district, or the provision of financial, management or consultancy services to the board. These are examples, and there are almost certainly other scenarios which might fall within the definition of a conflict
- A board member shall not vote at a board meeting on any resolution concerning a matter in which he/she has a personal interest which conflicts (or may conflict) with the interests of the board; he/she must withdraw from the meeting while an item of that nature is being dealt with.
- A board member shall be deemed to have a personal interest in a particular matter if any partner or other close relative of his/hers or any firm of which he/she is a partner or any limited company of which he/she is a substantial shareholder or director, has a personal interest in that matter.
- Where a board member provides services to the board or might benefit from any remuneration paid to a connected party for such services, then
 - (a) the maximum amount of the remuneration must be specified in a written agreement and must be reasonable
 - (b) the board members must be satisfied that it would be in the interests of the board to enter into the arrangement (taking account of that maximum amount); and
 - (c) less than half of the board members must benefit from remuneration of that nature.

Gifts and Hospitality

- Board members should never canvas or seek gifts or hospitality.
- Members are responsible for decisions connected with the offer or acceptance of gifts or hospitality and for avoiding the risk of damage to public confidence in the Board. As a general rule, it is usually appropriate to refuse offers except:-
 - isolated gifts of a trivial character;
 - normal hospitality associated with your duties and which would reasonably be regarded as inappropriate to refuse;
 - gifts received on behalf of the Board.
- Board members should not accept any offer by way of gift or hospitality which could give rise to a reasonable suspicion of influence on your part to show favour, or disadvantage, to any individual or organisation. Board members should also consider whether there may be any reasonable perception that any gift received by a spouse or co-habitee or by any company in which the board member has a controlling interest, or by a partnership of which you are a partner, can or would influence your judgement. The terms "gift" includes benefits such as relief from indebtedness, loan concessions, or provision of services at a cost below that generally charged to members of the public.
- Board members should not accept repeated hospitality from the same source.
- Members should not accept any offer of a gift or hospitality from any individual or organisation which stands to gain or benefit from a decision the Board may be involved in determining.

For further information please contact:

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Declaration of Relevant Financial Interests

I hereby declare that, save as set out below, I have no relevant financial interests pursuant to Section 46E of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003.

Register of Relevant Financial Interests		
Name	Interest	Date declared

Declaration

Name	
Signature	
Date	