



Llywodraeth Cymru
Welsh Government

Student Finance Wales Information Notice

SFWIN 08/2020

Guidance on Managing Conflicts of Interest in Disabled Students' Allowances (DSAs) – updated February 2020

Introduction

1. The Welsh Government needs assurance that any conflicts of interest in the DSAs process are managed in such a way that they do not create a risk or perception of impropriety. This document sets out Welsh Government's policy on identifying perceived and actual conflicts of interest, as well as offering guidance on managing them.
2. We require the highest level of transparency to demonstrate that conflicts of interest are managed in a way that does not undermine the probity and accountability of DSAs, or of those administering DSAs. Anyone dealing with DSAs funded support must be aware of the high ethical standards expected of them when dealing with public funds, and will need to act in accordance with this note.
3. This guidance replaces previous guidance regarding Conflicts of Interest.

What are conflict of interest statements for?

4. The Welsh Government is required to ensure that public funds are used fairly, transparently, and for the purpose intended. Conflict of interest statements are used to provide assurance that conflicts of interest form part of the usual risk assessments that any organisation undertakes, and that where a conflict is identified it is managed in an appropriate and timely manner.

Principles

5. The Welsh Government wish to give discretion and freedom to individuals involved with DSAs to engage in business activities, but in so doing needs to put in place a mechanism to protect public funds, stakeholders, students and itself from reputational damage and other liabilities. In summary, this Conflict of Interest guidance follows three key principles:
 - Disclose always
 - Manage the conflict where possible, and if not
 - Prohibit the activity when necessary to protect, and be seen to protect, the public interest.
6. The Welsh Government expects all individuals and organisations dealing with DSAs to maintain the highest standards of probity. Mitigating actions that organisations or individuals might take include, for example, encouraging individuals to recuse themselves where a real, potential or perceived conflict of interest is identified, or having regular sample checking of decisions made by an alternative person. It is an organisation's responsibility to ensure that they are able to demonstrate clear and open processes for maintaining transparency.

What is a conflict of interest?

7. A conflict of interest arises where an individual's ability to exercise judgement is, or could be, impaired by their involvement, or association with another person, in another role or activity: in other words a conflict of interest will arise where a person with responsibility for public funds is in a situation where their ability to adhere to the high standards expected could, because of their other interests, be called into question.

8. There is a common misconception that this only includes financial interests. However, *any* interest or relationship, action or omission, that could throw doubt on an individual's ability to achieve the standards expected, or that cast a doubt on that person's impartiality, will constitute a conflict of interest. Non-financial interests may include any benefit or advantage, including, but not limited to, direct or indirect enhancement of an individual's career, or gain to immediate family (or a person with whom the person has a personal relationship).
9. There can be situations in which the appearance of conflict of interest is present even when no conflict actually exists. Thus, it is important for all involved when evaluating a potential conflict of interest to consider how it might be perceived by others. The duty to declare a possible conflict therefore applies to the *perception* of the situation rather than the actual existence of a conflict.
10. Anyone making decisions about the administration, distribution or use of public funds must at all times be conscious of any relationships or links they have, or any actions they take or do not take, that could mean that their impartiality or probity is or could be thrown into doubt. This includes any relationships or links – including personal, financial, business, or familial - that could be seen to have an influence on their decision making.
11. For DSAs this would usually (but not exclusively) be where those relationships or links give an individual or organisation an actual or perceived unfair advantage or financial gain. Examples of behaviours that would be indicative of ineffective management of a conflict of interest include:
 - An assessor has a financial interest in a Non-Medical Help (NMH), equipment or assistive technology supplier. This creates a perception that the supplier may be given preferential treatment and that they gain financially from the relationship.
 - Assessors or providers/suppliers who have family members or associates working within other DSA organisations or bodies. This creates a perception that the bodies involved are given preferential treatment and that there may be financial gains from the relationship.
12. This is not an exhaustive list and it is vital that any relationships or links, however small, are identified and managed.
13. One key area is the selection of quotes to be entered on Needs Assessment Reports. Assessors are responsible for selecting appropriate quotes for NMH and, whilst the final decision on which quote to select lies with the SLC, assessment centres still have a responsibility to ensure that the quotes submitted to the SLC have been selected without the influence of any conflicts of interest or biases .

Declaration of interests

14. The Welsh Government require all Assessment Centres, Assistive Technology and Service Providers and NMH suppliers to maintain a comprehensive and up-to-date statement of interests and submit it using the template proforma when requested. This

is to ensure that we are able to satisfy ourselves that all DSAs funding is being distributed in a fair, open and transparent manner. All DSAs providers and/or suppliers are asked to submit a Conflict of Interest statement on a yearly basis.

ACTION: DSAs providers and suppliers will on Welsh Government request submit an annual Conflict of Interest Statement with regard to their DSAs work.

15. The statement must be provided on a pro-forma which will be issued to suppliers. The statement should be maintained by a named senior responsible person within the organisation, and responsibility for completion of the annual statement will also rest with that person. All original statements must be available to Welsh Government or its agents on request, for example at audit.
16. Information submitted on the pro-forma will be used in accordance with the Privacy Statement for DfE and / or the Privacy Statement for the Welsh Government (attached at Annex 1), as appropriate. The DfE Privacy Statement is included in the DfE Guidance document that can be found; https://www.practitioners.sl.c.o.uk/media/1837/conflicts-of-interest-ssin_july-2020_final.pdf

Providers of services to Welsh (SFW) funded students as well as English (SFE) funded students

17. We are aware that some of the organisations which provide DSAs goods and services to students funded by Student Finance England (SFE) also provide goods and services to students who are funded by DSAs provided by Student Finance Wales (SFW). DfE and the Welsh Government have agreed a joint process for providers in this position. Providers who are, or will be, delivering support to both SFE-funded and SFW-funded students are required therefore to submit their CoI return to both DfE and the Welsh Government (i.e. one copy to each funding body). Where they are or will be supporting SFE-funded students only they will only need to submit their return to DfE. Where they are or will be supporting SFW-funded students only then they will only need to submit their return to the Welsh Government.
18. Where an issue is identified with a supplier who delivers to both SFE-funded and SFW-funded students, DfE and Welsh Government officials will discuss findings and agree any joint actions to take if needed and as appropriate.

Changes to declarations

19. Any material changes to the statement must be notified to DfE and Welsh Government as appropriate. To be clear, this includes additions or deletions of names and/or conflicts identified, or of the methods of managing any conflicts identified. Where new staff are engaged and there is no conflict there is no need for any notification.

ACTION: DSAs providers and suppliers will notify DfE and or the Welsh Government of any material changes to the Conflict of Interest statement

20. Changes must be updated and submitted within the following timescales:
- Within 10 days of the award of a new contract, agreement, etc. or the way DSAs services are delivered which changes the Conflict of Interest statement
 - Within 10 days of a member of staff identifying a new or changed conflict, including new staff members starting who have an identified conflict
 - Within 10 days of any changes to the management of existing conflicts

Managing conflicts of interest

21. The onus is on everyone dealing with public funds to identify where conflicts of interest could occur, and also to take any necessary steps to manage them. This is of paramount importance in maintaining public confidence in the equity of the DSAs system.
22. We expect all organisations to seriously consider management of any conflicts of interest, but it is for individuals and organisations to consider *how* to manage these in a balanced and appropriate manner. However, steps must be taken to ensure that any decision making can be seen to be impartial, transparent and robust. Any steps taken must be clearly documented and details must be provided with the Conflict of Interest statement.

ACTION: DSAs providers and suppliers will clearly document any actions taken to identify and to deal with conflicts of interest. Details of actions taken will be provided with Conflict of Interest statements.

23. The Welsh Government may request providers and suppliers to forward evidence of how conflicts are monitored and managed at any time.

What should a conflict of interest statement contain?

24. The statement should state clearly the process an organisation goes through to identify any potential conflicts of interest, and how often it does so. It should contain details of the declaration all staff must be asked to sign (i.e. not just assessors), and copies of these must be appended to the statement if staff have identified an individual conflict.
25. All staff in an organisation should sign the same conflict of interest statement, and managers must take responsibility for ensuring staff understand their obligations in identifying conflicts. All staff declarations must be signed, and must also be countersigned by a manager or other responsible person, and original signed (or electronically authenticated) statements should be available for audit purposes.
26. Purely as an example, a statement might say something like this about the process for identifying personal conflicts:

“Each year we ask all staff to sign a declaration of interest. The process we follow is that line managers interview each member of their team to ensure they understand the process. Managers also ensure staff understand they must identify any relationships (financial or personal) they have with any other parts of the organisation, or with other DSAs providers, that might raise questions of impropriety in the allocation of DSAs. We then ask the members of staff to sign and

date the declaration, which is at the same time countersigned and dated by the interviewing manager. This same process is followed when any new member of staff is taken on, and will be repeated for all staff if there were any change to the ownership of the organisation. All original signed declarations are stored securely for further reference”.

27. The statement must also contain details of how any identified personal conflicts are managed. The way conflicts are managed must be specific to the conflict(s) identified, appropriate to the conflict(s) identified, and show how the conflict is not allowed to influence DSAs. So a statement on managing a specific personal conflict might say something like the following:

“Our assessor Josephine Smith has identified that her partner Joe Smith works for XYZ who are providers of NMH support via DSAs. To prevent any conflict of interest we have separated Josephine’s role in assessing students for DSA from her role in providing quotations. When Josephine assesses a student and identifies on the Needs Assessment Report that they require NMH support, she passes the completed NAR to me as manager. I identify two suitable quotes for NMH and dispatch the NAR to SFE. Josephine has no contact with the NARs containing NMH recommendations after the interview stage. By separating Josephine’s roles in this way we have identified and managed the conflict of interest in an appropriate way. I attach Josephine’s declaration of interest as required.”

28. Any processes for identifying *organisational* conflicts and managing them should be described in the same way as in the 2 examples above.

What should the statement not be?

29. The statement should not be:
- A statement of the organisation’s policies, except where this specifically impacts on declarations of interest
 - An explanation of the how the organisation assesses students
 - An explanation of how the organisation recruits assessors
 - Concentrating on a single supplier when other suppliers are also relevant
 - An explanation of the organisation’s quality assurance procedure

Ensuring compliance

30. The Welsh Government considers that compliance with any guidelines issued about conflicts of interest is key to ensuring that public funds are distributed correctly. We may, at any time, require any organisation or individual with a role in assessing or providing/supplying DSAs to provide such information as we may request in connection with a conflict of interest or possible conflict of interest.
31. The Welsh Government may, at any time, instigate an investigation into any organisation or individual with a role in assessing DSAs sector where we consider there may be a conflict of interest or a potential conflict of interest. In particular, we may instigate an investigation where an organisation or individual has not declared a conflict

or potential conflict or where we consider the arrangements for managing a conflict or potential conflict are inadequate or are not being complied with. **If the Welsh Government considers anyone involved in assessing DSAs, providing assistive technology and services or supplying NMH has failed to meet the required standards set out in this note, we will take appropriate remedial action.**

32. Where The Welsh Government considers it appropriate this action may include any or all of the following:
- (a) a requirement to take mitigating actions,
 - (b) suspension of accreditation to provide DSAs related services, or
 - (c) withdrawal of accreditation to provide DSAs related services
 - (d) a requirement to repay DSAs funds paid inappropriately
33. Finally, anyone concerned that conflicts of interest are not being declared or managed appropriately may contact the Welsh Government directly at studentfinancedivision@gov.wales . Any disclosures will be investigated as quickly as possible and handled fairly and responsibly. The identity of the individual who raised the concern will not be revealed without their permission.

Annex 1 – Privacy Statement

Providing your service(s) to a student as part of their Student Finance Wales Disabled Support Allowance (DSA) application or entitlement is dependent on your providing personal information (also known as data). The data we refer to here is collected on the Conflict of Interest Form. The personal data you provide, ie name and contact details, will only be used in conjunction with the organisation on behalf of which you are completing the form.

The lawful basis we rely on to process your personal data is Article 6(1)(e) of the General Data Protection Regulation (GDPR). This allows us to meet our legal duties and administer and monitor the funding provided by the Student Loans Company, via Student Finance Wales on behalf of Welsh Ministers.

The Welsh Government will be the data controller for the information you provide.

What will the Welsh Government use the information for?

The Welsh Government will use the information provided to undertake a Conflict of Interest review. It will also be used to prepare statistics and to undertake research about disability support, including monitoring of the service we provide.

Who the Welsh Government shares the data with and why?

The information you provide will be linked to other sources of information held by the Welsh Government and UK Government departments for verification and performance monitoring of the service. These sources include the Student Loans Company, their administrative arms of Student Finance Wales and Student Finance England, and the Department for Education. Sharing your data with these organisations will be for the purpose of consistency and accuracy, and for performance and service standards monitoring. Any concerns raised regarding the information provided will be considered by the relevant teams within the Departments.

We may also share your information with third party contractors acting on behalf of the Welsh Government to carry out data analysis and data linking so that we can measure the performance of the programme.

We will share and receive information from fraud prevention agencies, government bodies and other funding bodies to protect public money and to prevent and detect crime. We, and fraud protection agencies, may use the information you have provided to prevent fraud and money laundering. If fraud is detected, the organisation could be refused certain services or finance in the future.

Rights and choices under the GDPR include:

- Access to the information the Welsh Government holds about you;
- Requiring the Welsh Government to rectify inaccuracies in that information;

- Lodging a complaint with the Information Commissioner’s Office (ICO), the independent regulator for data protection.

In some cases, you also have the right to:

- Object to the processing of your information relating to your particular situation;
- Restrict the processing of your information;
- Have your information erased.

How will your information be kept by the Welsh Government?

We will retain your information for a period of 10 years in line with Welsh Government’s Information Retention Policy.

Contacts

For further information regarding this notice or the associated processes, please contact;

Higher Education Division

Welsh Government

Cathays Park

Cardiff

CF10 3NQ

studentfinancedivision@gov.wales

For further information about the information the Welsh Government holds and how it is used, or if you wish to exercise your rights under the GDPR, please contact:

Data Protection Officer

Welsh Government

Cathays Park

Cardiff

CF10 3NQ

dataprotectionofficer@gov.wales

To contact the Information Commissioner’s Office, please contact

Information Commissioner’s Office

Wycliffe House

Water Lane

WILMSLOW

SK9 5AF

or via the Wales Helpline on 0330 4146421 or the UK Helpline on 0303 123 1113

<https://ico.org.uk/>

Notifications of changes

This Privacy Notice was created February 2020 and we keep it under regular review to make sure that it is up-to-date and accurate. If we are going to use your information in a different way from that stated at the time your information was collected, we will let you know via this Privacy Notice. All of the Welsh Government's processing of information will comply with existing data protection legislation.